

## TOWN OF PETERSBURG

### **Water Revenue Bonds, Series 2009 A; Water Revenue Bonds, Series 2009 B; and Water Revenue Bonds, Series 2009 C (West Virginia DWTRF Program/ARRA)**

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**TOWN OF PETERSBURG**

**WATER REVENUE BONDS, SERIES 2008 A; and  
WATER REVENUE BONDS, SERIES 2008 B  
(WEST VIRGINIA DWTRF PROGRAM)**

**BOND ORDINANCE**

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**TOWN OF PETERSBURG**

ORDINANCE AUTHORIZING THE PAYMENT OF THE WATERWORKS SYSTEM REFUNDING BOND ANTICIPATION NOTES, SERIES 2005 AND THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC WATERWORKS SYSTEM OF THE TOWN OF PETERSBURG AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE TOWN OF PETERSBURG OF NOT MORE THAN \$4,700,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2008 A (WEST VIRGINIA DWTRF PROGRAM); AND NOT MORE THAN \$6,000,000 IN ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2008 B (WEST VIRGINIA DWTRF PROGRAM) PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING LOAN AGREEMENTS RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

BE IT ORDAINED AND ENACTED BY THE COUNCIL OF THE TOWN OF PETERSBURG:

**ARTICLE I**

**STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS**

Section 1.01.      Authority for this Ordinance. This Ordinance (together with any ordinance, order or resolution supplemental hereto or amendatory hereof, the "Bond Legislation") is enacted pursuant to the provisions of Chapter 8, Article 19 and Chapter 16, Article 13 C of the West Virginia Code of 1931, as amended (collectively, the "Act"), and other applicable provisions of law.

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

A.      The Town of Petersburg (the "Issuer") is a municipal corporation and political subdivision of the State of West Virginia in Grant County of said State.

B.      The Issuer presently owns and operates a public waterworks system. However, it is deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer that there be acquired and constructed certain additions, betterments and improvements for the existing public waterworks system of the Issuer, consisting of the upgrade and expansion of its existing water treatment plant to increase its capacity from the current 1,200 gallons per minute

(gpm) to 2,400 gpm, replacement of the existing 350,000 gallon Hospital Hill water storage tank with a 1.5 million gallon storage tank, and the repainting of the Point water storage tank in Petersburg, Grant County, together with all necessary appurtenances (collectively, the "Project") (the existing public waterworks system of the Issuer, the Project and any further additions, betterments and improvements thereto are herein called the "System"), in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have heretofore been filed with the Issuer.

C. The Issuer has heretofore temporarily financed the design and other preliminary costs of the Project by the issuance of the Waterworks System Refunding Bond Anticipation Notes, Series 2005, dated April 13, 2005, issued in the original aggregate principal amount of \$450,000 (the "Prior Notes").

D. The Prior Notes were issued pursuant to an ordinance of the Issuer previously enacted for such purpose (such ordinance, as so amended and supplemented, is here called the "Prior Notes Ordinance").

E. It is deemed necessary and desirable for the Issuer to pay in full the Prior Notes.

F. The Issuer intends to pay in full the Prior Notes and permanently finance the costs of acquisition and construction of the Project through the issuance of its revenue bonds to the West Virginia Water Development Authority (the "Authority"), which administers the West Virginia Drinking Water Treatment Revolving Fund.

G. It is deemed necessary for the Issuer to issue its Water Revenue Bonds, in the total aggregate principal amount of not more than \$10,700,000 in two or more series (collectively, the "Series 2008 Bonds") initially planned to be (i) the Water Revenue Bonds, Series 2008 A (West Virginia DWTRF Program) in the aggregate principal amount of not more than \$4,700,000 (the "Series 2008 A Bonds") and (ii) the Water Revenue Bonds, Series 2008 B (West Virginia DWTRF Program) in the aggregate principal amount of not more than \$6,000,000, (the "Series 2008 B Bonds") to permanently finance a portion of the costs of acquisition and construction of the Project, pay the Prior Notes, and pay the costs of issuance thereof. Such costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor; interest, if any, upon the Series 2008 Bonds prior to and during acquisition or construction and for a period not exceeding 6 months after completion of acquisition and construction of the Project; amounts which may be deposited in the Reserve Accounts (as hereinafter defined); engineering and legal expenses; expenses for estimates of costs and revenues, expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense, commitment fees, fees and expenses of the Authority including the Administrative Fee (as hereinafter defined) for the Series 2008 Bonds; discount, initial fees for the services of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Series 2008 Bonds and such other expenses as may be necessary or incidental to the financing herein authorized, the acquisition or construction of the Project and the placing of same in operation, and the performance of the things herein required or permitted, in connection with any thereof, provided, that reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Series 2008 Bonds or the

repayment of indebtedness incurred by the Issuer for such purposes shall be deemed Costs of the Project, as hereinafter defined.

H. The period of usefulness of the System after completion of the Project is not less than 32 years.

I. It is in the best interests of the Issuer that its Series 2008 A Bonds be sold to the Authority pursuant to the terms and provisions of a loan agreement by and between the Issuer and the Authority, on behalf of the West Virginia Bureau for Public Health (the "BPH"), and that the Series 2008 B Bonds be sold to the Authority pursuant to the terms of a loan agreement by and between the Issuer and the Authority on behalf of the BPH both in the form satisfactory to the respective parties (collectively the "Loan Agreements") approved hereby if not previously approved by resolution of the Issuer.

J. Upon the payment of the Prior Notes, the Issuer will have the following outstanding obligations: (1) Water Revenue Bond, Series 1975 (United States Department of Agriculture), dated November 10, 1976, issued in the original aggregate principal amount of \$474,000 and (2) Water Revenue Bonds, Series 1996 (West Virginia Water Development Authority), dated August 29, 1996, issued in the original aggregate principal amount of \$492,590, (collectively, the "Prior Bonds"). The Prior Bonds are payable from and secured by a first lien on the Net Revenues of the System.

The Series 2008 Bonds shall be issued on a parity with the Prior Bonds, with respect to liens, pledge, source of and security for payment and in all other respects. Prior to the issuance of the Series 2008 Bonds, the Issuer will obtain (i) a certificate of an Independent Certified Public Accountant stating that the coverage and parity tests of the Prior Bonds are met, and (ii) the written consent of the Holders of the Prior Bonds to the issuance of the Series 2008 Bonds on a parity with the Prior Bonds. Other than the Prior Bonds, there are no outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System. The Issuer is in compliance with covenants of the Prior Bonds and the Prior Ordinance.

K. The estimated revenues to be derived in each year after completion of the Project from the operation of the System will be sufficient to pay all costs of operation and maintenance of the System, the principal of and interest on the Series 2008 Bonds and the Prior Bonds and to make payments into all funds and accounts and other payments provided for herein.

L. The Issuer has complied with all requirements of West Virginia law and the Loan Agreements relating to authorization of the acquisition, construction and operation of the Project and the System and issuance of the Series 2008 Bonds, or will have so complied prior to issuance of any thereof, including, among other things, the approval of the Project and the financing thereof by the Council and the obtaining of a Certificate of Public Convenience and Necessity from the Public Service Commission of West Virginia by final order, the time for rehearing and appeal of which will either have expired prior to the issuance of the Series 2008 Bonds or such final order will not be subject to appeal.

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

Section 1.03.      Bond Legislation Constitutes Contract. In consideration of the acceptance of the Series 2008 Bonds by the Registered Owners of the same from time to time, this Bond Legislation shall be deemed to be and shall constitute a contract between the Issuer and such Bondholders, and the covenants and agreements herein set forth to be performed by the Issuer shall be for the equal benefit, protection and security of the Bondholders of any and all of such Series 2008 Bonds, all which shall be of equal rank and without preference, priority or distinction between any one Bond and any other Bonds and by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

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

“Act” means, collectively, Chapter 8, Article 19 and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended and in effect on the date of enactment hereof.

“Administrative Fee” means the Administrative Fee required to be paid pursuant to the Loan Agreements for the 2008 Bonds.

“Authority” means the West Virginia Water Development Authority, which is expected to be the original purchaser and Registered Owner of the Series 2008 Bonds, or any other agency, board or department of the State that succeeds to the functions of the Authority, acting in its administrative capacity and upon authorization from the BPH under the Act.

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

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

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

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

“Bonds” means, collectively, the Series 2008 Bonds and the Prior Bonds and, where appropriate, any bonds on a parity therewith subsequently authorized to be issued hereunder or by another ordinance of the Issuer.

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

“BPH” means the West Virginia Bureau for Public Health, a division of the West Virginia Department of Health and Human Resources, or any successor thereto.

“Closing Date” means the date upon which there is an exchange of the Series 2008 Bonds for all or a portion of the proceeds of the Series 2008 Bonds from the Authority.

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

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

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

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

“Depository Bank” means the bank designated as such in the Supplemental Resolution, and its successors and assigns, which shall be a member of FDIC.

“DWTRF Regulations” means the DWTRF regulations set forth in the West Virginia Code of State Regulations, as amended from time to time.

“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 Town Council of the Issuer, as it may now or hereafter be constituted.

“Grants” means any grants committed to the Project.

“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.

“Gross Revenues” means the aggregate gross operating and non-operating revenues of the System, determined in accordance with generally accepted accounting principles, after deduction of prompt payment discounts, if any, and reasonable provision for uncollectible accounts; 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.

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

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

“Issuer” means the Town of Petersburg, a municipal corporation and political subdivision of the State of West Virginia, in Grant County, West Virginia, and, unless the context clearly indicates otherwise, includes the Governing Body of the Issuer.

“Loan Agreements” means, the Loan Agreements heretofore entered, or to be entered into by and between the Issuer and the Authority, on behalf of BPH, providing for the purchase of the Series 2008 Bonds from the Issuer by the Authority, the form of which shall be approved, and the execution and delivery by the Issuer authorized and directed or ratified by the Supplemental Resolution.

“Mayor” means the Mayor of the Issuer.

“Net Proceeds” means the face amount of the Series 2008 Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds, if any, deposited in the Series 2008 Bonds Reserve Account.

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

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

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

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

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

“Prior Bonds” means the Series 1975 Bonds and the Series 1996 Bonds.

“Prior Notes” mean the Issuer’s Waterworks System Refunding Bond Anticipation Notes, Series 2005, dated April 13, 2005, issued in the original aggregate principal amount of \$450,000.

“Prior Notes Ordinance” means the ordinance of the Issuer, as supplemented, authorizing the Prior Notes.

“Prior Ordinance” means the ordinances of the Issuer, as supplemented by the supplemental resolutions of the Issuer, authorizing the Prior Bonds.

“Project” means the Project as described in Section 1.02B hereof.

“Qualified Investments” means and includes any of the following, unless otherwise set forth in the Supplemental Resolution:

- (a) Government Obligations;
- (b) Government Obligations which have been stripped of their unmatured interest coupons, interest coupons stripped from Government Obligations, and receipts or certificates evidencing payments from Government Obligations or interest coupons stripped from Government Obligations;
- (c) Bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Banks for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Bank System; Export-Import Bank of the United States; Federal Land Banks; Government National Mortgage Association; Tennessee Valley Authority; or Washington Metropolitan Area Transit Authority;
- (d) Any bond, debenture, note, participation certificate or other similar obligations issued by the Federal National Mortgage Association to the extent such obligation is guaranteed by the Government National Mortgage Association or issued by any other federal agency and backed by the full faith and credit of the United States of America;
- (e) Time accounts (including accounts evidenced by time certificates of deposit, time deposits or other similar banking arrangements) which, to the extent not insured by the FDIC, shall be secured by a pledge of Government Obligations, provided, that said Government Obligations pledged either must mature as nearly as practicable coincident with the maturity of said time accounts or must be

replaced or increased so that the market value thereof is always at least equal to the principal amount of said time accounts;

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

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

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

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

"Recorder" means the Recorder of the Issuer.

"Registrar" means the Bond Registrar.

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

"Renewal and Replacement Fund" means the Depreciation Account created by the Prior Ordinance.

"Reserve Accounts" means, collectively, the reserve accounts established for the Prior Bonds, the Series 2008 A Bonds.

"Reserve Requirement" means, collectively, the respective amounts required to be on deposit in any Reserve Account for the Prior Bonds, and the Series 2008 Bonds.

"Revenue Fund" means the Revenue Fund established by the Prior Ordinance.

"Series 1975 Bonds", means the Issuer's Water Revenue Bond, Series 1975 (United States Department of Agriculture), dated November 10, 1976, issued in the original aggregate principal amount of \$474,000.

“Series 1996 Bonds” means the Issuer’s Water Revenue Bonds, Series 1996 (West Virginia Water Development Authority), dated August 29, 1996, issued in the original aggregate principal amount of \$492,590.

“Series 2008 Bonds” means collectively the Series 2008 A Bonds and Series 2008 B Bonds.

“Series 2008 A Bonds” means the Water Revenue Bonds, Series 2008 A (West Virginia DWTRF Program), of the Issuer, authorized by this Bond Legislation.

“Series 2008 A Bonds Reserve Account” means the Series 2008 A Bonds Reserve Account established in Section 5.02 hereof.

“Series 2008 A Bonds Reserve Requirement” means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 2008 A Bonds in the then current or any succeeding year.

“Series 2008 A Bonds Sinking Fund” means the Series 2008 A Bonds Sinking Fund established by Section 5.02 hereof.

“Series 2008 Bonds Construction Trust Fund” means the Series 2008 Bonds Construction Trust Fund established by Section 5.01 hereof.

“Series 2008 B Bonds Reserve Account” means the Series 2008 B Bonds Reserve Account established in Section 5.02 hereof.

“Series 2008 B Bonds Reserve Requirement” means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 2008 B Bonds in the then current or any succeeding year.

“Series 2008 B Bonds Sinking Fund” means the Series 2008 B Bonds Sinking Fund established by Section 5.02 hereof.

“Sinking Funds” means, collectively, the respective reserve accounts established for the Prior Bonds and the Series 2008 Bonds.

“State” means the State of West Virginia.

“Supplemental Resolution” means any resolution, ordinance or order of the Issuer supplementing or amending this Ordinance and, when preceded by the article “the,” refers specifically to the supplemental resolution authorizing the sale of the Series 2008 A Bonds; provided, that any matter intended by this Ordinance to be included in the Supplemental Resolution with respect to the Series 2008 A Bonds, and not so included may be included in another Supplemental Resolution.

“Surplus Revenues” means the Net Revenues not required by the Bond Legislation or the Prior Ordinance to be set aside and held for the payment of or security for the Bonds or any

other obligations of the Issuer, including, without limitation, the Renewal and Replacement Fund, the Sinking Funds and the Reserve Accounts.

“System” means the existing waterworks system of the Issuer, as expanded and improved by the Project, and includes the complete waterworks system of the Issuer and all waterworks facilities owned by the Issuer and all facilities and other property of every nature, real or personal, now or hereafter owned, held or used in connection with the waterworks system; and shall also include any and all additions, extensions, improvements, properties or other facilities at any time acquired or constructed for the waterworks system after the completion of the Project.

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

“West Virginia DWTRF Program” means the West Virginia Drinking Water Treatment Revolving Fund Program established by the State, administered by BPH and funded by capitalized grants awarded to the State pursuant to the Federal Safe Drinking Water Act, as amended, for the purpose of establishing and maintaining a permanent perpetual fund for the acquisition, construction and improvement of drinking water projects.

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

## ARTICLE II

### **AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF THE PROJECT AND AUTHORIZATION OF PAYMENT OF PRIOR NOTES**

Section 2.01. Authorization of Acquisition and Construction of the Project.

There is hereby authorized and ordered the acquisition and construction of the Project, at an estimated cost not to exceed \$10,700,000, and ordered in accordance with the plans and specifications which have been prepared by the Consulting Engineers, heretofore filed in the office of the Governing Body. The proceeds of the Series 2008 A Bonds and the Series 2008 B Bonds, hereby authorized, shall be applied as provided in Article VI hereof.

The cost of the Project is estimated not to exceed \$10,700,000 of which not more than \$4,700,000 will be obtained from proceeds of the Series 2008 A Bonds, not more than \$6,000,000 will be obtained from the proceeds of the Series 2008 B Bonds and approximately \$2,931,400 will be obtained from proceeds of a U.S. Environmental Protection Agency grant.

Section 2.02. Authorization of Payment of the Prior Notes.

There is hereby authorized and ordered the payment in full of the entire outstanding principal of and the interest on the Prior Notes on the Closing Date. Upon payment in full of the Prior Notes, any funds pledged in favor of the holders of the Prior Notes imposed by the Prior Notes Ordinance are hereby ordered terminated, discharged and released.

### ARTICLE III

#### **AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND SALE OF BONDS; AUTHORIZATION AND EXECUTION OF LOAN AGREEMENTS**

Section 3.01.        Authorization of Bonds. For the purposes of paying the Prior Notes, paying Costs of the Project not otherwise provided for and paying certain costs of issuance of the Series 2008 Bonds and related costs, or any or all of such purposes, as determined by the Supplemental Resolution, there shall be and hereby are authorized to be issued the negotiable Series 2008 Bonds of the Issuer. The Series 2008 Bonds shall be issued in two series, each as a single bond, designated respectively as “Water Revenue Bonds, Series 2008 A (West Virginia DWTRF Program)”, in the principal amount of not more than \$4,700,000, and “Water Revenue Bonds, Series 2008 B (West Virginia DWTRF Program)”, in the principal amount of not more than \$6,000,000 and shall have such terms as set forth hereinafter and in the Supplemental Resolution. The proceeds of the Series 2008 Bonds remaining after funding of the Reserve Accounts (if funded from Bond proceeds) and capitalization of interest, if any, shall be deposited in or credited to the Series 2008 Bonds Construction Trust Fund established by Section 5.01 hereof.

Section 3.02.        Terms of Bonds. The Series 2008 Bonds shall be issued in such principal amounts; shall bear interest, if any, at such rate or rates, not exceeding the then legal maximum, payable quarterly on such dates; shall mature on such dates and in such amounts; and shall be redeemable, in whole or in part, all as the Issuer shall prescribe in a Supplemental Resolution or as specifically provided in the Loan Agreements. The Series 2008 Bonds shall be payable as to principal at the office of the Paying Agent, in any coin or currency which, on the dates of payment of principal is legal tender for the payment of public or private debts under the laws of the United States of America. Interest on the Series 2008 Bonds, if any, shall be paid by check or draft of the Paying Agent or its agent, mailed to the Registered Owner thereof at the address as it appears on the books of the Bond Registrar, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner thereof.

Unless otherwise provided by the Supplemental Resolution, the Series 2008 Bonds shall be issued in the form of a single bond for each series, fully registered to the Authority, with a record of advances and a debt service schedule attached, representing the aggregate principal amount of the Series 2008 Bonds. The Series 2008 Bonds shall be exchangeable at the option and expense of the Registered Owner for another fully registered Bond or Bonds of the same series in aggregate principal amount equal to the amount of said Bonds then Outstanding and being exchanged, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of said Bonds; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

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

Section 3.03.        Execution of Bonds. The Series 2008 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 the Series 2008 Bonds shall cease to be such officer of the Issuer before the

Series 2008 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 such Bonds may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Bonds shall hold the proper office in the Issuer, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

Section 3.04. Authentication and Registration. No Series 2008 Bonds shall be valid or obligatory for any purpose or entitled to any security or benefit under this Bond Legislation unless and until the Certificate of Authentication and Registration on such Bond, substantially in the form set forth in Section 3.10 hereof shall have been manually executed by the Bond Registrar. Any such executed Certificate of Authentication and Registration upon any such Bond shall be conclusive evidence that such Bond has been authenticated, registered and delivered under this Bond Legislation. The Certificate of Authentication and Registration on any Series 2008 Bond shall be deemed to have been executed by the Bond Registrar if manually signed by an authorized officer of the Bond Registrar, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all of the Bonds issued hereunder.

Section 3.05. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Series 2008 Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Holder, in accepting the Series 2008 Bonds shall be conclusively deemed to have agreed that such Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Holder shall further be conclusively deemed to have agreed that said Bonds shall be incontestable in the hands of a bona fide holder for value.

So long as the Series 2008 Bonds remain outstanding, the Issuer, through the Bond Registrar or its agent, shall keep and maintain books for the registration and transfer of such Bonds.

The registered Series 2008 Bonds shall be transferable only upon the books of the Bond Registrar, by the registered owner thereof in person or by his attorney duly authorized in writing, upon surrender thereto together with a written instrument of transfer satisfactory to the Bond Registrar duly executed by the registered owner or his duly authorized attorney.

In all cases in which the privilege of exchanging Series 2008 Bonds or transferring the registered Bonds are exercised, Bonds shall be delivered in accordance with the provisions of this Bond Legislation. All Bonds surrendered in any such exchanges or transfers shall forthwith be cancelled by the Bond Registrar. For every such exchange or transfer of Bonds, the Bond Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer and the cost of preparing each new Bond upon each exchange or transfer, and any other expenses of the Bond Registrar incurred in connection therewith, which sum or sums shall be paid by the Issuer. The Bond Registrar shall not be obliged to make any such exchange or transfer of Bonds during the period commencing on the 15th day of the month next preceding an interest payment date on the Bonds or, in the case of any proposed redemption of Bonds, next preceding the date of the selection of Bonds to be redeemed, and ending on such interest payment date or redemption date.

Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Series 2008 Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue, and the Bond Registrar shall, if so advised by the Issuer, authenticate and deliver, a new Bond of the same series and of like tenor as the Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Holder's furnishing satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer and the Bond Registrar may incur. All Bonds so surrendered shall be cancelled by the Bond Registrar and held for the account of the Issuer. If any such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the Issuer may pay the same, upon being indemnified as aforesaid, and if such Bond be lost, stolen or destroyed, without surrender thereof.

Section 3.07. Bonds not to be Indebtedness of the Issuer. The Series 2008 Bonds shall not, in any event, be or constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Net Revenues derived from the operation of the System as herein provided. No holder or holders of the Series 2008 Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 2008 Bonds or the interest, if any, thereon.

Section 3.08. Bonds Secured by Pledge of Net Revenues; Lien Position with Respect to Prior Bonds. The payment of the debt service on the Series 2008 Bonds shall be secured by a first lien on the Net Revenues derived from the System, on a parity with the lien on the Net Revenues in favor of the Holders of the Prior Bonds. The Net Revenues in an amount sufficient to pay the principal of and interest, if any, on and other payments for the Series 2008 Bonds and the Prior Bonds and to make all other payments hereinafter set forth, are hereby irrevocably pledged to such payments as they become due.

Section 3.09. Delivery of Bonds. The Issuer shall execute and deliver the Series 2008 Bonds to the Bond Registrar, and the Bond Registrar shall authenticate, register and deliver the Series 2008 A Bonds to the original purchasers upon receipt of the documents set forth below:

- A. If other than the Authority, a list of the names in which the Series 2008 Bonds are to be registered upon original issuance, together with such taxpayer identification and other information as the Bond Registrar may reasonably require;
- B. A request and authorization to the Bond Registrar on behalf of the Issuer, signed by an Authorized Officer, to authenticate and deliver the Series 2008 Bonds to the original purchasers;
- C. An executed and certified copy of the Bond Legislation;
- D. Executed copies of the Loan Agreements; and
- E. The unqualified approving opinion of bond counsel on the Series 2008 Bonds.

Section 3.10.      Form of Bonds. The text of the Series 2008 Bonds shall be in substantially the following form, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted hereby, or by any Supplemental Resolution adopted prior to the issuance thereof:

(FORM OF SERIES 2008 A BOND)

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
TOWN OF PETERSBURG  
WATER REVENUE BONDS, SERIES 2008 A  
(WEST VIRGINIA DWTRF PROGRAM)

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

\$\_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS: That on this the \_\_\_\_ day of \_\_\_\_\_, 2008, the TOWN OF PETERSBURG, a municipal corporation and political subdivision of the State of West Virginia in Grant County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the West Virginia Water Development Authority (the "Authority") or registered assigns the sum of \_\_\_\_\_ DOLLARS (\$\_\_\_\_\_), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, the principal of, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing \_\_\_\_\_ 1, 200\_\_, to and including \_\_\_\_\_ 1, 20\_\_ as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference with interest payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing \_\_\_\_\_ 1, 20\_\_ , to and including \_\_\_\_\_ 1, 20\_\_ , at the rate per annum as set forth on said EXHIBIT B.

The Administrative Fee (as defined in the hereinafter described Bond Legislation) shall also be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing \_\_\_\_\_ 1, 200\_\_, as set forth on EXHIBIT B attached hereto.

Principal and interest 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 The Huntington National Bank, Charleston, West Virginia, as registrar (the "Registrar"), on the 15th day of the month next preceding an interest payment date, or by such other method as shall be mutually agreeable so long as the Authority is the registered owner hereof.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Bureau for Public Health (the "BPH), and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement by and between the Issuer and the Authority, on behalf of the BPH, dated \_\_\_\_\_, 2008.

This Bond is issued (i) to pay the Issuer's Waterworks System Refunding Bond Anticipation Notes, Series 2005 (the "Prior Notes"); (ii) to pay a portion of the costs of acquisition and construction of certain additions, betterments and improvements to the existing public waterworks system of the Issuer (the "Project"); and (iii) to pay certain costs of issuance of the Bonds and related costs. The existing public waterworks system of the Issuer, the Project, and any further additions, betterments or improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 8, Article 19 and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended (collectively, the "Act"), a Bond Ordinance duly enacted by the Issuer on \_\_\_\_\_, 2008, and a Supplemental Resolution duly adopted by the Issuer on \_\_\_\_\_, 2008 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S (1) WATER REVENUE BOND, SERIES 1975 (UNITED STATES DEPARTMENT OF AGRICULTURE), DATED NOVEMBER 10, 1976, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$474,000 (THE "SERIES 1975 BONDS"); (2) THE WATER REVENUE BOND, SERIES 1996 (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY), DATED AUGUST 29, 1996, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$492,590, (THE "SERIES 1996 BONDS") (COLLECTIVELY REFERRED TO AS THE "PRIOR BONDS") AND (3) THE WATER REVENUE BONDS, SERIES 2008 B (WEST VIRGINIA DWTRF PROGRAM) DATED \_\_\_\_\_, 2008 ISSUED IN THE ORIGINAL AGGREGATE AMOUNT OF \$ \_\_\_\_\_ (THE "SERIES 2008 B BONDS") ISSUED SIMULTANEOUSLY HEREWITH.

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on a parity with the pledge of Net Revenue in favor of the Holders of the Prior Bonds and the Series 2008 B Bonds, and from monies in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 2008 A Bonds 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, if any, hereon, except from said special fund provided from the Net Revenues, the monies in the Series 2008 A Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds, and all other obligations secured by a lien on or payable from such revenues on a parity with the Bonds, including the Prior Bonds and the Series 2008 B Bonds; provided however, that so long as there exists in the Series 2008 A Bonds Reserve Account an amount at

least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with the Bonds, including the Prior Bonds and the Series 2008 B 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 (as defined in the Bond Legislation) by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

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

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

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

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

[Remainder of page intentionally blank]

IN WITNESS WHEREOF, the TOWN OF PETERSBURG has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed and attested by its Recorder, and has caused this Bond to be dated as of the day and year first written above.

[SEAL]

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Recorder

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2008 A Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: \_\_\_\_\_, 2008.

THE HUNTINGTON NATIONAL BANK,  
as Registrar

\_\_\_\_\_  
Authorized Officer

(Form of)

EXHIBIT A

RECORD OF ADVANCES

<u>AMOUNT</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>DATE</u>
(1) \$ _____		(21) \$ _____	
(2) \$ _____		(22) \$ _____	
(3) \$ _____		(23) \$ _____	
(4) \$ _____		(24) \$ _____	
(5) \$ _____		(25) \$ _____	
(6) \$ _____		(26) \$ _____	
(7) \$ _____		(27) \$ _____	
(8) \$ _____		(28) \$ _____	
(9) \$ _____		(29) \$ _____	
(10) \$ _____		(30) \$ _____	
(11) \$ _____		(31) \$ _____	
(12) \$ _____		(32) \$ _____	
(13) \$ _____		(33) \$ _____	
(14) \$ _____		(34) \$ _____	
(15) \$ _____		(35) \$ _____	
(16) \$ _____		(36) \$ _____	
(17) \$ _____		(37) \$ _____	
(18) \$ _____		(38) \$ _____	
(19) \$ _____		(39) \$ _____	
(20) \$ _____		(40) \$ _____	
		TOTAL \$ _____	

EXHIBIT B

DEBT SERVICE SCHEDULE

(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: \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_

In the presence of:

\_\_\_\_\_

(FORM OF SERIES 2008 B BOND)

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
TOWN OF PETERSBURG  
WATER REVENUE BONDS, SERIES 2008 B  
(WEST VIRGINIA DWTRF PROGRAM)

No. BR-\_\_\_\_\_

\$\_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS: That on this the \_\_\_\_ day of \_\_\_\_\_, 2008, the TOWN OF PETERSBURG, a municipal corporation and political subdivision of the State of West Virginia in Grant County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the West Virginia Water Development Authority (the "Authority") or registered assigns the sum of \_\_\_\_\_ DOLLARS (\$\_\_\_\_\_), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, the principal of, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing \_\_\_\_\_ 1, 200\_\_, to and including \_\_\_\_\_ 1, 20\_\_ as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference.

The Administrative Fee (as defined in the hereinafter described Bond Legislation) shall also be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing \_\_\_\_\_ 1, 200\_\_, as set forth on EXHIBIT B attached hereto.

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

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Bureau for Public Health (the "BPH), and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement by and between the Issuer and the Authority, on behalf of the BPH, dated \_\_\_\_\_, 2008.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain additions, betterments and improvements to the existing public waterworks system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of the Bonds and related costs. The existing public waterworks system of the Issuer, the Project, and any further additions, betterments or improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 8, Article 19 and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended (collectively, the "Act"), a Bond Ordinance duly enacted by the Issuer on \_\_\_\_\_, 2008, and a Supplemental Resolution duly adopted by the Issuer on \_\_\_\_\_, 2008 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S (1) WATER REVENUE BOND, SERIES 1975 (UNITED STATES DEPARTMENT OF AGRICULTURE), DATED NOVEMBER 10, 1976, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$474,000 (THE "SERIES 1975 BONDS"); (2) WATER REVENUE BOND, SERIES 1996 (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY), DATED AUGUST 29, 1996, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$492,590, (THE "SERIES 1996 BONDS")(COLLECTIVELY REFERRED TO AS THE "PRIOR BONDS") AND (3) THE WATER REVENUE BONDS, SERIES 2008 A (WEST VIRGINIA DWTRF PROGRAM) DATED \_\_\_\_\_, 2008 ISSUED IN THE ORIGINAL AGGREGATE AMOUNT OF \$ \_\_\_\_\_ (THE "SERIES 2008 A BONDS") ISSUED SIMULTANEOUSLY HEREWITH.

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on a parity with the pledge of Net Revenue in favor of the Holders of the Prior Bonds and the Series 2008 A Bonds, and from monies in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 2008 B Bonds 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, if any, hereon, except from said special fund provided from the Net Revenues, the monies in the Series 2008 B Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds, and all other obligations secured by a lien on or payable from such revenues on a parity with the Bonds, including the Prior Bonds and the Series 2008 A Bonds; provided however, that so long as there exists in the Series 2008 B Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the

Bonds in the then current or succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with the Bonds, including the Prior Bonds and the Series 2008 A 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 (as defined in the Bond Legislation) by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

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

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

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

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

[Remainder of page intentionally blank]

IN WITNESS WHEREOF, the TOWN OF PETERSBURG has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed and attested by its Recorder, and has caused this Bond to be dated as of the day and year first written above.

[SEAL]

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Recorder

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2008 B Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: \_\_\_\_\_, 2008.

THE HUNTINGTON NATIONAL BANK,  
as Registrar

\_\_\_\_\_  
Authorized Officer

(Form of)

EXHIBIT A

RECORD OF ADVANCES

<u>AMOUNT</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>DATE</u>
(41) \$ _____		(61) \$ _____	
(42) \$ _____		(62) \$ _____	
(43) \$ _____		(63) \$ _____	
(44) \$ _____		(64) \$ _____	
(45) \$ _____		(65) \$ _____	
(46) \$ _____		(66) \$ _____	
(47) \$ _____		(67) \$ _____	
(48) \$ _____		(68) \$ _____	
(49) \$ _____		(69) \$ _____	
(50) \$ _____		(70) \$ _____	
(51) \$ _____		(71) \$ _____	
(52) \$ _____		(72) \$ _____	
(53) \$ _____		(73) \$ _____	
(54) \$ _____		(74) \$ _____	
(55) \$ _____		(75) \$ _____	
(56) \$ _____		(76) \$ _____	
(57) \$ _____		(77) \$ _____	
(58) \$ _____		(78) \$ _____	
(59) \$ _____		(79) \$ _____	
(60) \$ _____		(80) \$ _____	
		TOTAL \$ _____	

EXHIBIT B

DEBT SERVICE SCHEDULE

(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: \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_

In the presence of:

\_\_\_\_\_

Section 3.11. Sale of Bonds: Approval and Ratification of Execution of Loan Agreements. The Series 2008 Bonds shall be sold to the Authority, pursuant to the terms and conditions of the Loan Agreements. If not so authorized by previous ordinance or resolution, the Mayor is specifically authorized and directed to execute the Loan Agreements 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 Agreements to the Authority, and any such prior execution and delivery is hereby authorized, approved, ratified and confirmed. The Loan Agreements, including all schedules and exhibits attached thereto, is hereby approved and incorporated in this Bond Legislation.

Section 3.12. "Amended Schedule A" Filing. Upon completion of the acquisition and construction of the Project, the Issuer will file with the Authority and the BPH a schedule the form of which will be provided by the BPH, setting forth the actual costs of the Project and sources of funds therefor.

ARTICLE IV

[RESERVED]

## ARTICLE V

### **FUNDS AND ACCOUNTS; SYSTEM REVENUES AND APPLICATION THEREOF**

Section 5.01. Establishment of Funds and Accounts with Depository Bank.

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

- (1) Revenue Fund (established by the Prior Ordinance);
- (2) Reserve Account (established by the Prior Ordinance for Series 1975 Bonds);
- (3) Renewal and Replacement Fund (established by the Prior Ordinance);  
and
- (4) Series 2008 Bonds Construction Trust Fund.

Section 5.02. Establishment of Funds and Accounts with Commission.

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

- (1) Series 1996 Bonds Sinking Fund (established by Prior Ordinance);
- (2) Series 1996 Bonds Reserve Account (established by Prior Ordinance);
- (3) Series 2008 A Bonds Sinking Fund;
- (4) Series 2008 A Bonds Reserve Account;
- (5) Series 2008 B Bonds Reserve Account; and
- (6) Series 2008 B Bonds Sinking Fund.

Section 5.03. System Revenues; Flow of Funds.

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

- (1) The Issuer shall first, each month, transfer from the Revenue Fund an amount sufficient to pay all current Operating Expenses of the System.

(2) The Issuer shall next, each month on or before the due date, transfer from the Revenue Fund and simultaneously remit: (i) to the National Finance Office the amounts required to be paid by the Prior Ordinance for the interest on the Series 1975 Bonds; (ii) to the Commission on the first day of the month the amounts required to be paid by Prior Ordinance for the interest on the Series 1996 Bonds; and (iii) to the Commission on the first day of the month, commencing 3 months prior to the first date of payment of interest of the Series 2008 A Bonds for deposit in the Series 2008 A Bonds Sinking Fund, an amount equal to 1/3rd of the amount of interest which will mature and become due on the Series 2008 A Bonds on the next ensuing quarterly interest payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 2008 A Bonds Sinking Fund and the next quarterly interest payment date is less than 3 months, then such monthly payments shall be increased proportionately to provide, 1 month prior to the next quarterly interest payment date, the required amount of interest coming due on such date.

(3) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit (i) to the National Finance Office the amounts required to be paid by the Prior Ordinance for the principal on the Series 1975 Bonds; (ii) to the Commission the amounts required to be paid by Prior Ordinance for the principal on the Series 1996 Bonds; (iii) to the Commission commencing 3 months prior to the first date of payment of principal of the Series 2008 A Bonds for deposit in the Series 2008 A Bonds Sinking Fund, an amount equal to 1/3rd of the amount of principal which will mature and become due on the Series 2008 A Bonds on the next ensuing quarterly principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 2008 A Bonds Sinking Fund and the next quarterly principal payment date is less than 3 months, then such monthly payments shall be increased proportionately to provide, 1 month prior to the next quarterly principal payment date, the required amount of principal coming due on such date; and (iv) to the Commission commencing 3 months prior to the first date of payment of principal of the Series 2008 B Bonds for deposit in the Series 2008 B Bonds Sinking Fund, an amount equal to 1/3rd of the amount of principal which will mature and become due on the Series 2008 B Bonds on the next ensuing quarterly principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 2008 B Bonds Sinking Fund and the next quarterly principal payment date is less than 3 months, then such monthly payments shall be increased proportionately to provide, 1 month prior to the next quarterly principal payment date, the required amount of principal coming due on such date.

(4) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit (i) to the depository bank for deposit in the Series 1975 Bonds Reserve Account the amounts required by Prior Ordinance; (ii) to the Commission for deposit in the Series 1996 Bonds Reserve Account, the amounts required by the Prior Ordinance to be deposited therein; (iii) to the Commission commencing 3 months prior to the first date of payment of principal of the Series 2008 A Bonds, if not fully funded upon issuance of the Series 2008 A Bonds,

for deposit in the Series 2008 A Bonds Reserve Account, an amount equal to 1/120th of the Series 2008 A Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 2008 A Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 2008 A Bonds Reserve Requirement; and (iv) to the Commission, commencing 3 months prior to the first date of payment of principal of the Series 2008 B Bonds, if not fully funded upon issuance of the Series 2008 B Bonds, for deposit in the Series 2008 B Bonds Reserve Account, an amount equal to 1/120th of the Series 2008 B Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 2008 B Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 2008 B Bonds Reserve Requirement.

(5) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and remit to the Depository Bank for deposit in the Renewal and Replacement Fund, a sum equal to 2 1/2% of the Gross Revenues each month, exclusive of any payments for account of any 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 as provided herein. 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 deficiencies in any 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 hereof) shall be promptly eliminated with monies from the Renewal and Replacement Fund.

Monies in the Series 2008 A Bonds Sinking Fund and the Series 2008 B Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest, if any, on the Series 2008 Bonds as the same shall become due. Monies in the Series 2008 A Bonds Reserve Account and the Series 2008 B Bonds Reserve Account shall be used only for the purposes of paying principal of and interest, if any, on the Series 2008 Bonds as the same shall come due, when other monies in the Series 2008 A Bonds Sinking Fund and the Series 2008 B Bonds Sinking Fund are insufficient therefor, and for no other purpose.

All investment earnings on monies in the Series 2008 A Bonds Sinking Fund, the Series 2008 B Sinking Fund, the Series 2008 A Bonds Reserve Account and the Series 2008 B Bonds Reserve Account shall be returned, not less than once each year, by the Commission to the Issuer, and such amounts shall, during construction of the Project, be deposited in the Series 2008 Bonds Construction Trust Fund, and following completion of construction of the Project, shall be deposited in the Revenue Fund and applied in full, first to the next ensuing interest payment, if any, due on the Series 2008 Bonds and then to the next ensuing principal payment due thereon, all on a pro rata basis.

Any withdrawals from the Series 2008 A Bonds Reserve Account or the Series 2008 B Bonds Reserve Account which result in a reduction in the balance of such accounts to below the respective Reserve Requirements, shall be subsequently restored from the first Net Revenues

available after all required payments have been made in full in the priority as set forth above, all on a prorata basis.

As and when additional Bonds ranking on a parity with the Series 2008 Bonds are issued, provision shall be made for additional payments into the respective sinking fund sufficient to pay the interest on such additional parity Bonds and accomplish retirement thereof at maturity and to accumulate a balance in the respective reserve account in an amount equal to the requirement therefor.

The Issuer shall not be required to make any further payments into the Series 2008 A Bonds Sinking Fund, the Series 2008 B Bonds Sinking Fund, the Series 2008 A Bonds Reserve Account or the Series 2008 B Bonds Reserve Account, when the aggregate amount of funds therein are at least equal to the aggregate principal amount of the Series 2008 Bonds issued pursuant to this Bond Legislation then Outstanding and all interest, if any, to accrue until the maturity thereof.

Principal, interest or reserve payments, whether made for a deficiency or otherwise, shall be made on a parity and pro rata, with respect to the Prior Bonds, the Series 2008 A Bonds and the Series 2008 B Bonds, in accordance with the principal amounts then outstanding.

The Commission is hereby designated as the fiscal agent for the administration of the Series 2008 A Bonds Sinking Fund, the Series 2008 B Bonds Sinking Fund, the Series 2008 A Bonds Reserve Account and the Series 2008 B Bonds Reserve Account, created hereunder, and all amounts required for said accounts shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein. All remittances made by the Issuer to the Commission shall clearly identify the fund or account into which each amount is to be deposited. If required by the Authority at anytime, the Issuer shall make the necessary arrangements whereby required payments into said accounts shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required hereunder.

Monies in the Series 2008 A Bonds Sinking Fund, the Series 2008 B Bonds Sinking Fund, the Series 2008 A Bonds Reserve Account and the Series 2008 B Bonds Reserve Account, shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

The Series 2008 A Bonds Sinking Fund, the Series 2008 A Bonds Reserve Account, the Series 2008 B Bonds Sinking Fund and the Series 2008 B Bonds Reserve Account shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Series 2008 Bonds under the conditions and restrictions set forth herein.

B. The Issuer shall on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the Commission the required principal, interest, if any, and reserve payments with respect to the Series 2008 A Bonds and all such payments shall be remitted to the Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of this Bond Legislation. The Issuer shall also on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the Commission the Administrative Fee as set forth in the Schedule Y attached to the Loan Agreements for the Series 2008 Bonds.

C. Whenever all of the required and provided transfers and payments from the Revenue Fund into the several special funds, as herein above provided, are current and there remains in the Revenue Fund a balance in excess of the estimated amounts required to be so transferred and paid into such funds during the following month or such other period as required by law, such excess shall be considered as surplus revenues (the "Surplus Revenues"). Surplus Revenues may be used for any lawful purpose of the System.

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

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

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

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

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

## ARTICLE VI

### **BOND PROCEEDS; CONSTRUCTION DISBURSEMENTS**

Section 6.01. Application of Bond Proceeds; Pledge of Unexpended Bond Proceeds. From the monies received from the sale of the Series 2008 Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. From the proceeds of the Series 2008 Bonds, there shall be deposited with the Commission in the respective Bonds Reserve Accounts, the amount, if any, set forth in the Supplemental Resolution for funding of the respective Bonds Reserve Account.

B. As the Issuer receives advances of the remaining monies derived from the sale of the Series 2008 A Bonds, such monies shall be deposited with the Depository Bank in the Series 2008 Bonds Construction Trust Fund and applied solely to payment of the costs of the Project in the manner set forth in Section 6.02 hereof and, until so expended, are hereby pledged as additional security for the Series 2008 A Bonds.

C. As the Issuer receives advances of the remaining monies derived from the sale of the Series 2008 B Bonds, such monies shall be deposited with the Depository Bank in the Series 2008 Bonds Construction Trust Fund and applied solely to payment of the costs of the Project in the manner set forth in Section 6.02 hereof and, until so expended, are hereby pledged as additional security for the Series 2008 B Bonds.

D. After completion of construction of the Project, as certified by the Consulting Engineers, and all costs have been paid, any remaining proceeds of the Series 2008 Bonds shall be expended as approved by the BPH.

Section 6.02. Disbursement from the Bond Construction Trust Fund. On or before the Closing Date, the Issuer shall have delivered to the Authority and the BPH a report listing the specific purposes for which the net proceeds of the Series 2008 Bonds will be expended and the disbursement procedures for such proceeds, including an estimated monthly draw schedule. Payments for the costs of the Project shall be made monthly.

Except as provided in Section 6.01 hereof, disbursements from the Series 2008 Bonds Construction Trust Fund shall be made only after submission to the approval from the BPH, of the following:

(1) a completed and signed "Payment Requisition Form," a form of which is attached to the Loan Agreements as Exhibit B, in compliance with the Issuer's construction schedule, and

(2) a certificate, signed by an Authorized Officer stating that:

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

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

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

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

Pending such application, monies in the Series 2008 Bonds Construction Trust Fund shall be invested and reinvested in Qualified Investments at the written direction of the Issuer.

## ARTICLE VII

### ADDITIONAL COVENANTS OF THE ISSUER

Section 7.01. General Covenants of the Issuer. All the covenants, agreements and provisions of this Bond Legislation shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any Holder or Holders of the Series 2008 Bonds. In addition to the other covenants, agreements and provisions of this Bond Legislation, the Issuer hereby covenants and agrees with the Holders of the Series 2008 Bonds as hereinafter provided in this Article VII. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of the Series 2008 Bonds or the interest, if any, thereon is Outstanding and unpaid.

Section 7.02. Bonds not to be Indebtedness of the Issuer. The Series 2008 Bonds shall not be nor constitute a corporate indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Bond Legislation. No Holder or Holders of the Series 2008 Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 2008 Bonds, or the interest, if any, thereon.

Section 7.03. Bonds Secured by Pledge of Net Revenues; Lien Position with Respect to Prior Bonds. The payment of the debt service on the Series 2008 Bonds shall be secured by a first lien on the Net Revenues derived from the System, on a parity with the lien on the Net Revenues in favor of the Holders of the Prior Bonds. The Net Revenues in an amount sufficient to pay the principal of and interest, if any, on the Series 2008 Bonds and to make the payments into all funds and accounts and all other payments provided for in the Bond Legislation are hereby irrevocably pledged, in the manner provided herein, to such payments as they become due, and for the other purposes provided in the Bond Legislation.

Section 7.04. Initial Schedule of Rates and Charges. The Issuer has obtained any and all approvals of rates and charges required by State law and has taken any other action required to establish and impose such rates and charges, with all requisite appeal periods having expired without successful appeal and the Issuer shall provide an opinion of counsel to such effect. Such rates and charges shall be sufficient to comply with the requirements of the Loan Agreements and the Issuer shall provide a certificate of certified public accountant to such effect. The initial schedule of rates and charges for the services of the facilities of the System shall be as set forth in the water rate ordinance of the Issuer enacted August 27, 2007, which rates are incorporated herein by reference as a part hereof.

So long as the Series 2008 Bonds are outstanding, the Issuer covenants and agrees to fix and collect rates, fees and other charges for the use of the System and to take all such actions necessary to provide funds sufficient to produce the required sums set forth in the Bond Legislation and in compliance with the Loan Agreements. In the event the schedule of rates, fees and charges initially established for the System in connection with the Series 2008 Bonds shall prove to be insufficient to produce the required sums set forth in this Bond Legislation and the Loan Agreements, the Issuer 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 and take all such actions necessary to provide funds sufficient to produce the required sums set forth in

this Bond Legislation and the Loan Agreements.

Section 7.05. Sale of the System. So long as the Prior Bonds are outstanding, the Issuer shall not sell, lease, mortgage or in any manner dispose of or encumber the System, or any part thereof, except as provided in the Prior Ordinance and as provided herein and with the written consent of the Authority and the BPH. So long as the Series 2008 Bonds are outstanding and except as otherwise required by law or with the written consent of the Authority and the BPH, the System may not be sold, mortgaged, leased or otherwise disposed of, except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to fully pay all the Bonds Outstanding, in accordance with Article X hereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall, with respect to the Series 2008 Bonds, immediately be remitted to the Commission for deposit in the Series 2008 A Bonds Sinking Fund, and the Series 2008 B Bonds Sinking Fund respectively and pro rata with respect to the principal amount of each of the Bonds then outstanding and, with the written permission of the Authority, or in the event the Authority is no longer a Bondholder, the Issuer shall direct the Commission to apply such proceeds to the payment of principal of and interest, if any, on the Series 2008 A Bonds and the Series 2008 B Bonds in accordance with Article X hereof. Any balance remaining after the payment of the Bonds and interest, if any, 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 is not in excess of \$10,000, the Issuer shall, by resolution duly adopted, 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 shall be in excess of \$10,000 but not in excess of \$50,000, the Issuer shall first, in writing, 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 in accordance with the laws of the State. The proceeds derived from any such sale, lease or other disposition of such property, in excess of \$10,000 and not in excess of \$50,000, shall be deposited in the Renewal and Replacement Fund. The payment of such proceeds into 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 shall be in excess of \$50,000 and insufficient to pay all Bonds then Outstanding without the prior approval and consent in writing of the Holders of the Bonds then Outstanding. The Issuer shall prepare the form of such approval and consent for execution by the then Holders of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 7.06. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. Except as provided for in Section 7.07 hereof, the Issuer shall not issue any other obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Series 2008 Bonds. All obligations issued by the Issuer after the issuance of the Series 2008 Bonds and payable from the revenues of the System, except such additional parity Bonds, shall contain an express statement that such obligations are junior and subordinate, as to lien on and source of and security for payment from such revenues and in all other respects, to the Series 2008 Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into all funds and accounts set forth herein have been made and are current at the time of the issuance of such subordinate obligations.

Except as provided above, the Issuer shall not create, or cause or permit to be created, any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or being on a parity with the lien of the Series 2008 Bonds, and the interest, if any, thereon, upon any of the income and revenues of the System pledged for payment of the Series 2008 Bonds and the interest, if any, thereon in this Bond Legislation, or upon the System or any part thereof.

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

Section 7.07. Parity Bonds. So long as the Prior Bonds are outstanding, the limitations on the issuance of parity obligations set forth in the Prior Ordinance shall be applicable. In addition, no additional Parity Bonds payable out of the revenues of the System, shall be issued after the issuance of the Series 2008 Bonds pursuant to this Ordinance, without the prior written consent of the Authority and the BPH and without complying with the conditions and requirements herein provided (unless less restrictive than the provisions of the Prior Ordinance).

All Parity Bonds issued hereafter shall be on a parity in all respects with the Series 2008 Bonds.

No Parity Bonds shall be issued except for the purposes of financing the costs of design, acquisition and construction of additions, betterments or improvements to the System or refunding the Bonds issued pursuant hereto, or both such purposes.

No such Parity Bonds shall be issued at any time, however, unless and until there has been procured and filed with the Recorder a written statement by Independent Certified Public Accountants, reciting the conclusion that the Net Revenues actually derived, subject to the adjustments hereinafter provided for, from the System during any 12 consecutive months within the 18 months immediately preceding the date of the actual issuance of such additional 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, if any, shall be not 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 Bond Legislation then Outstanding; and

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

The "estimated average increased annual Net Revenues to be received in each of the 3 succeeding years," as that term is used in the computation provided in the above paragraph, shall refer only to the increased Net Revenues estimated to be derived from (a) the improvements to be financed by such Parity Bonds and (b) any increase in rates enacted by the Issuer, the time for appeal of which shall have expired (without successful appeal) prior to the date of issuance of such Parity Bonds and shall not exceed the amount to be stated in a certificate of the Independent Certified Public Accountants, which shall be filed in the office of the Recorder of the Issuer prior to the issuance of such Parity Bonds.

The Net Revenues actually derived from the System during the 12-consecutive-month period herein above referred to may be adjusted by adding to such Net Revenues such additional Net Revenues which would have been received, in the opinion of the Independent Certified Public Accountants, as stated in a certificate filed with the Recorder, on account of increased rates, rentals, fees and charges for the System enacted by the Issuer, the time for appeal of which shall have expired (without successful appeal) prior to issuance of such Parity Bonds.

All the 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 Series 2008 Bonds and the Holders of any Parity Bonds theretofore or subsequently issued from time to time within the limitations of and in compliance with this section. All the Bonds issued on a parity, regardless of the time or times of their issuance, shall rank equally with respect to their lien on the Net Revenues of the System, and their source of and security for payment from said Net Revenues, without preference of any Bond over any other. The Issuer shall comply fully with all the increased payments into the various funds and accounts created in this Bond Legislation required for and on account of such Parity Bonds, in addition to the payments required for Bonds theretofore issued pursuant to this Bond Legislation.

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien on the revenues of the System of which is subject to the prior and superior lien of the Series 2008 Bonds on such revenues. Any such subordinate bonds, notes, certificates or other obligations shall be payable from the Net Revenues remaining after all payments required to be made in accordance with this Bond Legislation have first been paid. The Issuer shall not issue any obligations whatsoever payable from the revenues of the System, or any part thereof, which rank prior to or equally, as to lien and source of and security for payment from such revenues, with the Series 2008 Bonds except in the manner and under the conditions provided in this section.

No Parity Bonds shall be issued at any time, however, unless all of the payments into the respective funds and accounts provided for in this Bond Legislation on account of 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 issuance of the Parity Bonds and the Issuer is then in full compliance with all the covenants, agreements and terms of this Bond Legislation and every

ordinance supplemental thereto, or shall have fully corrected any delinquency or deficiency in such payments.

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

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

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

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

The Issuer shall file with the Authority and the BPH, or any other original purchaser of the Series 2008 Bonds, and shall mail in each year to any Holder or Holders of the Series 2008 Bonds, requesting the same, an annual report containing the following:

- (A) A statement of Gross Revenues, Operating Expenses, Net Revenues and Surplus Revenues derived from and relating to the System.
- (B) A balance sheet statement showing all deposits in all the funds and accounts provided for in this Bond Legislation and the status of all said funds and accounts.
- (C) The amount of any bonds, notes or other obligations 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 to the extent legally required in compliance with the applicable OMB Circular, or any successor thereof, and the Single Audit Act, or any successor thereof), and shall mail upon request, and make available generally, the report of the Independent Certified Public Accountants, or a summary thereof, to any Holder or Holders of the Series 2008 Bonds and shall submit the report to the Authority and the BPH, or any other original purchaser of the Series 2008 Bonds. Such audit report submitted to the Authority and the BPH shall include a statement that the Issuer is in compliance with the terms and provisions of the Act, the Loan Agreements and this Bond Legislation and that the revenues of the System are adequate to meet the Issuer's Operating Expenses and debt service and reserve requirements.

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

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

Section 7.09. Rates. Prior to the issuance of the Series 2008 Bonds, rates or charges for the use of the services and facilities of the System will be fixed and established, all in the manner and form required by law, and a copy of such rates and charges so fixed and established shall at all times be kept on file in the office of the Recorder of the Issuer, which copy will be open to inspection by all interested parties. The schedule or schedules of rates and charges shall at all times be adequate to produce Gross Revenues from the System sufficient to pay Operating Expenses and to make the prescribed payments into the funds and accounts created hereunder. Such schedule or schedules of rates and charges shall be revised from time to time, whenever necessary, so that the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and continuous performance of this covenant with a margin for contingencies and temporary unanticipated reduction in income and revenues, the Issuer hereby covenants and agrees that the schedule or schedules of rates or charges from time to time in effect shall be sufficient, together with other revenues of the System, (i) to provide for all Operating Expenses of the System and (ii) to leave a balance each year equal to at least 115% of the maximum amount required in any year for payment of principal of and interest, if any, on the Series 2008 Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2008 Bonds, including the Prior Bonds; provided that, in the event that amounts equal to or in excess of the reserve requirement are on deposit respectively in the Series 2008 A Bonds Reserve Account and Series 2008 B Bonds Reserve Account and reserve accounts for obligations on a parity with the Series 2008 Bonds, including the Prior Bonds, are funded at least at the requirement therefor, such balance each year need only equal at least 110% of the maximum

amount required in any year for payment of principal of and interest, if any, on the Series 2008 Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2008 Bonds, including the Prior Bonds. In any event, the Issuer shall not reduce the rates or charges for services set forth in the rate ordinance currently in effect.

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

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

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

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

The Issuer shall provide and maintain competent and adequate engineering services satisfactory to the Authority and the BPH 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 engineer shall certify to the Authority, the BPH and the Issuer at the completion of construction that construction of the Project is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies.

The Issuer shall require the Consulting Engineers to submit As-Built Plans, as defined in the DWTRF Regulations, to the Issuer within 60 days of the completion of the Project. The Issuer shall notify the BPH in writing of such receipt.

The Issuer shall require the Consulting Engineers to submit the final Operation and Maintenance Manual, as defined in the DWTRF Regulations, to the Issuer when the Project is 90% completed. The Issuer shall at all times provide operation and maintenance of the System in compliance with all State and Federal standards. The Issuer shall employ qualified operating personnel properly certified by the State before the Project is 50% complete and shall retain such a certified operator to operate the System during the entire term of the Loan Agreements. The Issuer shall notify the BPH in writing of the certified operator employed at the 50% completion stage.

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

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

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

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

Section 7.15. Insurance and Construction Bonds. A. The Issuer hereby covenants and agrees that so long as the Series 2008 Bonds remain Outstanding, the Issuer will, as an Operating Expense, procure, carry and maintain insurance with a reputable insurance carrier or carriers as is customarily covered with respect to works and properties similar to the System. Such insurance shall initially cover the following risks and be in the following amounts:

(1) FIRE, LIGHTNING, VANDALISM, MALICIOUS MISCHIEF AND EXTENDED COVERAGE INSURANCE, on all above-ground insurable portions of the System in an amount equal to the greater of the fair appraised value or the actual cost thereof. In time of war the Issuer will also carry and maintain insurance to the extent available against the risks and hazards of war. In the event of any damage to or destruction of any portion of the System, the proceeds of all such insurance policies shall be placed in the Renewal and Replacement Fund and used only for the repair or reconstruction of such damages or destroyed portion or for the other purposes provided herein for the 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, the Authority, the prime contractor and all subcontractors as their respective interests may appear, in accordance with the Loan Agreements, during construction of the Project on a 100% basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Issuer, the prime contractor and subcontractors, as their interests may appear.

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

(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 not less than 100% of the amount of any construction contract and to be required of each contractor dealing directly with the Issuer and such payment bonds will be filed with the Clerk of the County Commission of the County in which such work is to be performed prior to commencement of construction of any additions, extensions or

improvements for the System in compliance with West Virginia Code, Section 38-2-39.

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

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

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

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

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

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

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

The Issuer will obtain all permits required by state and federal laws for the acquisition and construction of the Project, all orders and approvals from the Public Service Commission of West Virginia and the BPH necessary for the acquisition and construction of the Project and the operation of the System and all approvals for the issuance of the Series 2008 Bonds required by State law, with all appeal periods having expired without successful appeal.

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

Section 7.19.        [RESERVED]

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

Section 7.21.        Contracts; Change Orders; Public Releases. A. The Issuer shall, simultaneously with the delivery of the Series 2008 Bonds or immediately thereafter, enter into written contracts for the immediate acquisition or construction of the Project.

B. The Issuer shall submit all proposed change orders to the BPH for written approval. The Issuer shall obtain the written approval of the BPH before expending any proceeds of the Series 2008 Bonds held in "contingency" as set forth in the schedule attached to the certificate of the Consulting Engineer. The Issuer shall also obtain the written approval of the BPH before expending any proceeds of the Series 2008 Bonds made available due to bid or construction or project underruns.

C. The Issuer shall list the funding as being provided by the BPH and the Authority in any press release, publication, program bulletin, sign or other public communication that references the Project, including but not limited to any program document distributed in conjunction with any ground breaking or dedication of the Project.

Section 7.22.        Statutory Mortgage Lien. For the further protection of the Holders of the Series 2008 Bonds, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding, shall take effect immediately upon delivery of the Series 2008 Bonds and shall be on a parity with the statutory mortgage lien in favor of the Holders of the Prior Bonds.

## ARTICLE VIII

### INVESTMENT OF FUNDS

Section 8.01.      Investments. Any monies held as a part of the funds and accounts created by this Bond Legislation, other than the Revenue Fund, shall be invested and reinvested by the Commission, the Depository Bank, or such other bank or national banking association holding such fund or account, as the case may be, at the written direction of the Issuer in any Qualified Investments to the fullest extent possible under applicable laws, this Bond Legislation, the need for such monies 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 monies were originally held, and the interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. The 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 investment or trust department and shall not be responsible for any losses from such investments, other than for its own negligence or willful misconduct.

The Depository Bank shall keep complete and accurate records of all funds, accounts and investments, and shall distribute to the Issuer, at least once each year, or more often as reasonably requested by the Issuer, a summary of such funds, accounts and investment earnings. The Issuer shall retain all such records and any additional records with respect to such funds, accounts and investment earnings so long as any of the Series 2008 Bonds are Outstanding and as long thereafter as necessary to assure the exclusion of interest, if any, on the Series 2008 Bonds from gross income for federal income tax purposes.

Section 8.02.      Certificate as to Use Proceeds; Covenants as to Use of Proceeds.  
The Issuer shall deliver a certificate as to use of proceeds or other similar certificate to be prepared by nationally recognized bond counsel relating to restrictions on the use of proceeds of the Series 2008 Bonds as a condition to issuance of the Series 2008 Bonds.

In addition, the Issuer covenants (i) to comply with the Code and all Regulations from time to time in effect and applicable to the Series 2008 Bonds as may be necessary in order to maintain the status of the Series 2008 Bonds as governmental bonds; (ii) that it shall not take, or permit or suffer to be taken, any action with respect to the Issuer's use of the proceeds of the Series 2008 Bonds which would cause any bonds, the interest on which is exempt from federal income taxation under Section 103(a) of the Code, issued by the Authority or the BPH, as the case may be, from which the proceeds of the Series 2008 Bonds are derived, to lose their status as tax-exempt bonds; and (iii) to take such action, or refrain from taking such action, as shall be deemed

necessary by the Issuer, or requested by the Authority or the BPH, to ensure compliance with the covenants and agreements set forth in this Section, regardless of whether such actions may be contrary to any of the provisions of this Resolution.

The Issuer shall annually furnish to the Authority, information with respect to the Issuer's use of the proceeds of the Series 2008 Bonds and any additional information requested by the Authority.

## ARTICLE IX

### DEFAULT AND REMEDIES

Section 9.01.      Events of Default. Each of the following events shall constitute an “Event of Default” with respect to the Series 2008 Bonds:

- (1) If default occurs in the due and punctual payment of the principal of or interest, if any, on any Series 2008 Bonds;
- (2) If default occurs in the Issuer’s observance of any of the covenants, agreements or conditions on its part relating to the Series 2008 Bonds set forth in this Bond Legislation, any supplemental resolution or in the Series 2008 Bonds, and such default shall have continued for a period of 30 days after the Issuer shall have been given written notice of such default by the Commission, the Depository Bank, the Registrar, the Paying Agent or any other Paying Agent or a Holder of a Bond;
- (3) If the Issuer files a petition seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America; or
- (4) If default occurs with respect to the Prior Bonds or the Prior Ordinance.

Section 9.02.      Remedies. Upon the happening and continuance of any Event of Default, any Registered Owner of a Bond may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his or her rights and, in particular, (i) bring suit for any unpaid principal or interest then due, (ii) by mandamus or other appropriate proceeding enforce all rights of such Registered Owners including the right to require the Issuer to perform its duties under the Act and the Bond Legislation relating thereto, including but not limited to the making and collection of sufficient rates or charges for services rendered by the System, (iii) bring suit upon the Bonds; (iv) by action at law or bill in equity require the Issuer to account as if it were the trustee of an express trust for the Registered Owners of the Bonds, and (v) by action or bill in equity enjoin any acts in violation of the Bond Legislation with respect to the Bonds, or the rights of such Registered Owners; provided that, all rights and remedies of the Registered Owners of the Series 2008 Bonds shall be on a parity with those of the Registered Owners of the Prior Bonds.

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

such rates, rentals, fees, charges or other revenues in conformity with the provisions of this Bond Legislation and the Act.

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

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

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

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

## ARTICLE X

### **PAYMENT OF BONDS**

Section 10.01. Payment of Bonds. If the Issuer shall pay or there shall otherwise be paid, to the Holders of the Series 2008 Bonds, the principal of and interest, if any, due or to become due thereon, if any, at the times and in the manner stipulated therein and in this Bond Legislation, then the pledge of Net Revenues and other monies and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series 2008 Bonds shall thereupon cease, terminate and become void and be discharged and satisfied, except as may otherwise be necessary to assure the exclusion of interest, if any, on the Series 2008 Bonds from gross income for federal income tax purposes.

## ARTICLE XI

### MISCELLANEOUS

Section 11.01. Amendment or Modification of Bond Legislation. Prior to issuance of the Series 2008 Bonds, this Ordinance may be amended or supplemented in any way by the Supplemental Resolution. Following issuance of the Series 2008 Bonds, no material modification or amendment of this Ordinance, or of any ordinance, resolution or order amendatory or supplemental hereto, that would materially and adversely affect the rights of Registered Owners of the Series 2008 Bonds shall be made without the consent in writing of the Registered Owners of the Series 2008 Bonds so affected and then Outstanding; provided, that no change shall be made in the maturity of the Series 2008 Bonds or the rate of interest thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest out of the funds herein pledged therefor without the consent of the Registered Owner thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of the Series 2008 Bonds required for consent to the above-permitted amendments or modifications. Notwithstanding the foregoing, this Bond Legislation may be amended without the consent of any Bondholder as may be necessary to assure compliance with Section 148(f) of the Code relating to rebate requirements or otherwise as may be necessary to assure the excludability of interest on the Series 2008 Bonds from gross income of the holders thereof.

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

Section 11.03. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Ordinance should be held invalid by any court of competent jurisdiction, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance, the Supplemental Resolution or the Series 2008 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. Notices. All notices to be sent to the Issuer, the Authority or the BPH shall be in writing and shall be deemed to have been given when delivered in person or mailed by first class mail, postage prepaid, addressed as follows:

ISSUER:

Town of Petersburg  
Post Office Box 669  
Petersburg, West Virginia 26847  
Attention: Mayor

AUTHORITY:

Water Development Authority  
180 Association Drive  
Charleston, West Virginia 25311-1571  
Attention: Director

BPH:

West Virginia Bureau for Public Health  
One Davis Square, Suite 200  
Charleston, West Virginia 25301  
Attention: Environmental Engineering

All notices to be sent to the BPH hereunder, shall also be sent to the Authority.

Section 11.06. Conflicting Provisions Repealed. All ordinances, orders or resolutions and or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed; provided that, this Section shall not be applicable to the Prior Ordinance. In the event of any conflict between this Ordinance and the Prior Ordinance, the Prior Ordinance shall control (unless less restrictive) so long as the Prior Bonds are outstanding.

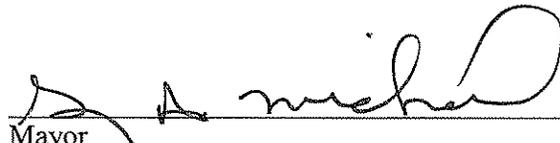
Section 11.07. Covenant of Due Procedure, Etc. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the adoption of this Ordinance do exist, have happened, have been performed and have been taken in regular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

Section 11.08. Statutory Notice and Public Hearing. Upon adoption hereof, an abstract of this Ordinance determined by the Governing Body to contain sufficient information as to give notice of the contents hereof shall be published once a week for 2 successive weeks within a period of fourteen consecutive days, with at least 6 full days intervening between each publication, in the *Grant County Press*, a newspaper of general circulation in the Town of Petersburg, there being no newspaper published therein, together with a notice stating that this Ordinance has been adopted and that the Issuer contemplates the issuance of the Bonds, and that any person interested may appear before the Governing Body upon a date certain, not less than ten days subsequent to the date of the first publication of such abstract of this Ordinance and notice, and present protests, and that a certified copy of this Ordinance is on file with the Governing Body for review by interested persons during office hours of the Governing Body. At such hearing, all objections and suggestions shall be heard and the Governing Body shall take such action as it shall deem proper in the premises.

Section 11.09 Effective Date. This Ordinance shall take effect immediately following the public hearing hereon.

Section 11.09 Effective Date. This Ordinance shall take effect immediately following the public hearing hereon.

Passed on First Reading: August 27, 2008  
Passed on Second Reading: September 8, 2008  
Passed on Final Reading  
Following Public  
Hearing: November 3, 2008

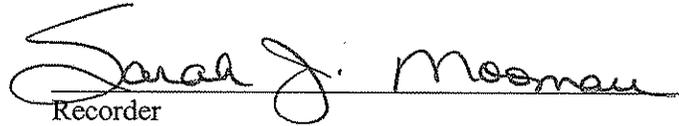
  
\_\_\_\_\_  
Mayor

CERTIFICATION

Certified a true copy of an Ordinance duly enacted by the Council of the TOWN OF PETERSBURG on the 3rd day of November, 2008.

Dated: April 16, 2009.

[SEAL]

  
Recorder

TOWN OF PETERSBURG

Water Revenue Bonds, Series 2009 A; and  
Water Revenue Bonds, Series 2009 B  
(West Virginia DWTRF Program)

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNT, DATE, MATURITY DATE, REDEMPTION PROVISION, INTEREST RATE, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICE AND OTHER TERMS OF THE WATER REVENUE BONDS SERIES 2009 A, (WEST VIRGINIA DWTRF PROGRAM), AND WATER REVENUE BONDS, SERIES 2009 B (WEST VIRGINIA DWTRF PROGRAM) OF THE TOWN OF PETERSBURG; APPROVING AND RATIFYING THE LOAN AGREEMENTS RELATING TO SUCH BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the council (the "Governing Body") of the Town of Petersburg (the "Issuer") has duly and officially adopted and enacted a bond ordinance, effective November 3, 2008 (the "Bond Ordinance"), entitled:

ORDINANCE AUTHORIZING THE PAYMENT OF THE WATERWORKS SYSTEM REFUNDING BOND ANTICIPATION NOTES, SERIES 2005 AND THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC WATERWORKS SYSTEM OF THE TOWN OF PETERSBURG AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE TOWN OF PETERSBURG OF NOT MORE THAN \$4,700,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2008 A (WEST VIRGINIA DWTRF PROGRAM); AND NOT MORE THAN \$6,000,000 IN ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2008 B (WEST

VIRGINIA DWTRF PROGRAM) PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

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

WHEREAS, the Bond Ordinance provides for the issuance of Water Revenue Bonds, Series 2008 A (West Virginia DWTRF Program) in an aggregate principal amount not to exceed \$4,700,000 (the "Series 2008 A Bonds") and Water Revenue Bonds, Series 2008 B (West Virginia DWTRF Program) in an aggregate principal amount not to exceed \$6,000,000 (the "Series 2008 B Bonds" and together with the Series 2008 A Bonds, the "Series 2008 Bonds"), and has authorized the execution and delivery of the loan agreements relating to the Series 2008 A Bonds and Series 2008 B Bonds respectively, including all schedules and exhibits attached thereto, by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Bureau for Public Health for the Series 2008 A Bonds and Series 2008 B Bonds (collectively the "Loan Agreements"), all in accordance with Chapter 8, Article 19 and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended (collectively, the "Act"), and in the Bond Ordinance it is provided that the form of the Loan Agreements and the exact principal amount, date, maturity date, redemption provision, interest rate, interest and principal payment dates, sale price and other terms of the Series 2008 Bonds should be established by a supplemental resolution pertaining to the Series 2008 Bonds; and that other matters relating to the Bonds be herein provided for;

WHEREAS, the Water Revenue Bonds, Series 2008 A and Water Revenue Bonds, Series 2008 B were not issued in 2008, but will be issued in 2009;

WHEREAS, the Governing Body desires to redesignate the Water Revenue Bonds, Series 2008 A as Water Revenue Bonds, Series 2009 A;

WHEREAS, the Governing Body desires to redesignate the Water Revenue Bonds, Series 2008 B as Water Revenue Bonds, Series 2009 B;

WHEREAS, the Loan Agreements have been presented to the Issuer;

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

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

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF TOWN OF PETERSBURG:

Section 1. The Water Revenue Bonds, Series 2008 A are designated as Water Revenue Bonds, Series 2009 A;

Section 2. The Water Revenue Bonds, Series 2008 B are designed as Water Revenue Bonds, Series 2009 B;

Section 3. Section 2.01 of the Ordinance is hereby revised in its entirety Authorization of Acquisition and Construction of the Project. There is hereby authorized and ordered the acquisition and construction of the Project, at an estimated cost of \$10,639,814.98, and ordered in accordance with the plans and specifications which have been prepared by the Consulting Engineers, heretofore filed in the office of the Governing Body. The proceeds of the Series 2009 A Bonds and the Series 2009 B Bonds, hereby authorized, shall be applied as provided in Article VI hereof.

The cost of the Project is estimated not to exceed \$10,639,814.98 of which \$2,700,000 will be obtained from proceeds of the Series 2009 A Bonds, \$5,000,000 will be obtained from the proceeds of the Series 2009 B Bonds, \$2,931,400 will be obtained from proceeds of a U.S. Environmental Protection Agency grant and \$8,414.98 will be contributed by the Issuer.

Section 4. Pursuant to the Bond Ordinance and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program), of the Issuer, originally represented by a single Bond, numbered AR-1, in the principal amount of \$2,700,000. The Series 2009 A Bonds shall be dated the date of delivery thereof, shall finally mature December 1, 2030, and shall bear interest at the rate of 2% per annum, payable quarterly, on March 1, June 1, September 1 and December 1 of each year, commencing March 1, 2011. The principal of the Series 2009 A Bonds shall be payable quarterly, on March 1, June 1, September 1 and December 1 of each year, commencing March 1, 2011 to and including December 1, 2030, and in the amounts as set forth in the "Schedule Y" attached to the Series 2009 A Loan Agreement and incorporated in and made a part of the Series 2009 A Bonds. The Series 2009 A Bonds shall be subject to redemption upon the written consent of the Authority and the BPH, and upon payment of the redemption premium, if any, and otherwise

in compliance with the Series 2009 A Loan Agreement, so long as the Authority shall be the registered owner of the Series 2009 A Bonds. The Issuer does hereby approve and shall pay the Administrative Fee equal to 1% of the principal amount of the Series 2009 A Bonds set forth in the "Schedule Y" attached to the Series 2009 A Loan Agreement.

Section 5. Pursuant to the Bond Ordinance and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program), of the Issuer, originally represented by a single Bond, numbered BR-1, in the principal amount of \$5,000,000. The Series 2009 B Bonds shall be dated the date of delivery thereof, shall finally mature December 1, 2040, and shall bear no interest. The principal of the Series 2009 B Bonds shall be payable quarterly, on March 1, June 1, September 1 and December 1 of each year, commencing March 1, 2011 to and including December 1, 2040, and in the amounts as set forth in the "Schedule Y" attached to the Series 2009 B Loan Agreement and incorporated in and made a part of the Series 2009 B Bonds. The Series 2009 B Bonds shall be subject to redemption upon the written consent of the Authority and the BPH, and upon payment of the redemption premium, if any, and otherwise in compliance with the Series 2009 B Loan Agreement, so long as the Authority shall be the registered owner of the Series 2009 B Bonds. The Issuer does hereby approve and shall pay the Administrative Fee equal to 1% of the principal amount of the Series 2009 B Bonds set forth in the "Schedule Y" attached to the Series 2009 B Loan Agreement.

Section 6. All other provisions relating to the Series 2009 Bonds and the text of each series of the Series 2009 Bonds shall be in substantially the form provided in the Bond Ordinance.

Section 7. The Issuer does hereby authorize, approve, ratify and accept the Loan Agreements, copies of which are incorporated herein by reference, and the execution and delivery of the Loan Agreements by the Mayor, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, directed, ratified and approved. The Issuer hereby affirms all covenants and representations made in the Loan Agreements and in the applications to the Authority and the BPH. The price of the Series 2009 Bonds shall be 100% of par value, there being no interest accrued thereon, provided that the proceeds of the Series 2009 Bonds shall be advanced from time to time as requisitioned by the Issuer.

Section 8. The Issuer does hereby appoint and designate The Huntington National Bank, Charleston, West Virginia, to serve as Registrar (the "Registrar") for the Bonds under the Bond Ordinance and does approve and accept the Registrar's Agreement to be dated the date of delivery of the Bonds, by and between the Issuer and the Registrar, and the execution and delivery of the Registrar's Agreement by the Mayor, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, approved and directed.

Section 9. The Issuer does hereby appoint and designate the West Virginia Municipal Bond Commission, Charleston, West Virginia, to serve as Paying Agent for the Bonds under the Bond Ordinance.

Section 10. The Issuer does hereby appoint and designate Grant County Bank, Petersburg, West Virginia, to serve as Depository Bank under the Bond Ordinance.

Section 11. Series 2009 A Bonds proceeds in the amount of \$-0- shall be deposited in the Series 2009 A Bonds Sinking Fund, as capitalized interest.

Section 12. Series 2009 A Bonds proceeds in the amount of \$-0- shall be deposited in the Series 2009 A Bonds Reserve Account.

Section 13. Series 2009 A Bonds proceeds in the amount of \$409,510 shall be wired to Citizens National Bank to pay a portion of the Waterworks System Bond Anticipation Notes, Series 2005.

Section 14. The balance of the proceeds of the Series 2009 A Bonds shall be deposited in or credited to the Series 2009 Bonds Construction Trust Fund as received from the BPH from time to time for payment of the costs of the Project, including, without limitation, costs of issuance of the Series 2009 A Bonds and related costs.

Section 15. Series 2009 B Bonds proceeds in the amount of \$-0- shall be deposited in the Series 2009 B Bonds Sinking Fund, as capitalized interest.

Section 16. Series 2009 B Bonds proceeds in the amount of \$-0- shall be deposited in the Series 2009 B Bonds Reserve Account.

Section 17. The balance of the proceeds of the Series 2009 B Bonds shall be deposited in or credited to the Series 2009 Bonds Construction Trust Fund as received from the BPH from time to time for payment of the costs of the Project, including, without limitation, costs of issuance of the Series 2009 B Bonds and related costs.

Section 18. The Mayor and the Recorder 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 April 16, 2009, to the Authority pursuant to the Loan Agreements.

Section 19. The payment of the Prior Notes, the acquisition and construction of the Project and the financing thereof in part with proceeds of the Series 2009 Bonds are in the public interest, serve a public purpose of the Issuer and will promote the health, welfare and safety of the residents of the Issuer.

Section 20. The Issuer does hereby approve and authorize all contracts relating to the financing, acquisition and construction of the Project.

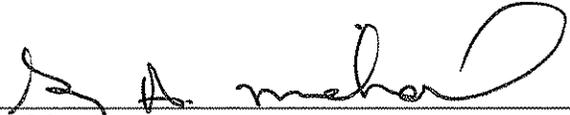
Section 21. The Issuer hereby determines to invest all monies in the funds and accounts established by the Bond Ordinance held by the Depository Bank until expended, in repurchase agreements or time accounts, secured by a pledge of Government Obligations, and therefore, the Issuer hereby directs the Depository Bank to take such actions as may be necessary to cause such monies to be invested in such repurchase agreements or time accounts until further directed in writing by the Issuer. Monies in the Series 2009 A Sinking Fund and the Series 2009 B

Sinking Fund shall be invested by the West Virginia Municipal Bond Commission in the West Virginia Consolidated Fund.

Section 22. This Supplemental Resolution shall be effective immediately following adoption hereof.

[Remainder of Page Intentionally Blank]

Adopted this 15th day of April, 2009.

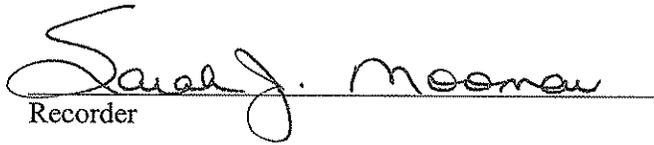
By:   
Its: Mayor

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Council of the Town of Petersburg on the 15th of April, 2009.

Dated: April 16, 2009.

[SEAL]

  
Recorder

04.13.09  
698490.00008

DWTRF  
(12/01/07)

LOAN AGREEMENT

THIS DRINKING WATER TREATMENT REVOLVING FUND LOAN AGREEMENT (the "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"), acting under the direction of the WEST VIRGINIA BUREAU FOR PUBLIC HEALTH, a division of the West Virginia Department of Health and Human Resources (the "BPH"), and the local entity designated below (the "Local Entity").

CITY OF PETERSBURG (2005W – 882)  
(Local Entity)

W I T N E S S E T H:

WHEREAS, the United States Congress under Section 1452 of the Safe Drinking Water Act, as amended (the "Safe Drinking Water Act"), has provided for capitalization grants to be awarded to states for the express purpose of establishing and maintaining drinking water treatment revolving funds for the construction, acquisition and improvement of drinking water systems;

WHEREAS, pursuant to the provisions of Chapter 16, Article 13C of the Code of West Virginia, 1931, as amended (the "Act"), the State of West Virginia (the "State") has established a drinking water treatment revolving fund program (the "Program") to direct the distribution of loans to eligible Local Entities pursuant to the Safe Drinking Water Act;

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

WHEREAS, the Act establishes a permanent perpetual fund known as the “West Virginia Drinking Water Treatment Revolving Fund” (hereinafter the “Fund”), which fund is to be administered and managed by the Authority under the direction of the BPH;

WHEREAS, pursuant to the Act, the Authority and BPH are empowered to make loans from the Fund to Local Entities for the acquisition or construction of drinking water projects by such Local Entities, all subject to such provisions and limitations as are contained in the Safe Drinking Water Act and the Act;

WHEREAS, the Local Entity constitutes a local entity as defined by the Act;

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

WHEREAS, the Local Entity is authorized and empowered by the statutes of the State to acquire, construct, improve, operate and maintain a drinking water project and to finance the cost of acquisition and construction of the same by borrowing money to be evidenced by revenue bonds issued by the Local Entity;

WHEREAS, the Local Entity intends to construct, is constructing or has constructed such a drinking water project at the location and as more particularly described and set forth in the Application, as hereinafter defined (the “Project”);

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

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

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

## ARTICLE I

### Definitions

1.1 Except where the context clearly indicates otherwise, the terms “Authority,” “cost,” “fund,” “local entity,” and “project” have the definitions and meanings ascribed to them in the Act or in the DWTRF Regulations.

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

1.3 “Loan” means the loan to be made by the Authority and BPH to the Local Entity through the purchase of Local Bonds, as hereinafter defined, pursuant to this Loan Agreement.

1.4 “Local Act” means the official action of the Local Entity required by Section 4.1 hereof, authorizing the Local Bonds.

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

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

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

1.8 “Program” means the drinking water facility acquisition, construction and improvement program coordinated through the capitalization grants program established under the Safe Drinking Water Act and administered by BPH.

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

1.10 "DWTRF Regulations" means the regulations set forth in the West Virginia Code of State Regulations.

1.11 "System" means the drinking water system owned by the Local Entity, of which the Project constitutes all or to which the Project constitutes an improvement, and any improvements thereto hereafter constructed or acquired from any sources whatsoever.

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

## ARTICLE II

### The Project and the System

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

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

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

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

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

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

2.7 The Local Entity 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 and shall verify or have verified such bonds prior to commencement of construction.

2.8 The Local Entity shall require that each of its contractors and all subcontractors maintain, during the life of the construction contract, workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Authority and BPH and shall verify or have verified such insurance prior to commencement of construction. Until the Project facilities are completed and accepted by the Local Entity, the Local Entity or (at the option of the Local Entity) the contractor shall maintain builder's risk

insurance (fire and extended coverage) on a one hundred percent (100%) basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Local Entity, the prime contractor and all subcontractors, as their interests may appear. If facilities of the System which are detrimentally affected by flooding are or will be located in designated special flood or mudslide-prone areas and if flood insurance is available at a reasonable cost, a flood insurance policy must be obtained by the Local Entity on or before the Date of Loan Closing, as hereinafter defined, and maintained so long as any of the Local Bonds are outstanding. Prior to commencing operation of the Project, the Local Entity must also obtain, and maintain so long as any of the Local Bonds are outstanding, business interruption insurance if available at a reasonable cost.

2.9 The Local Entity shall provide and maintain competent and adequate engineering services satisfactory to the Authority and BPH 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 engineer shall certify to the Authority, BPH and the Local Entity at the completion of construction that construction is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies. The Local Entity shall require the Consulting Engineers to submit Recipient As-Built Plans, as defined in the DWTRF Regulations, to it within 60 days of the completion of the Project. The Local Entity shall notify BPH in writing of such receipt.

2.10 The Local Entity shall require the Consulting Engineers to submit the final Operation and Maintenance Manual, as defined in the DWTRF Regulations, to BPH when the Project is 90% completed. The Local Entity shall at all times provide operation and maintenance of the System in compliance with any and all State and federal standards. The Local Entity shall employ qualified operating personnel properly certified by the State before the Project is 50% complete and shall retain such a certified operator(s) to operate the System during the entire term of this Loan Agreement. The Local Entity shall notify BPH in writing of the certified operator employed at the 50% completion stage.

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

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

2.13 The Local Entity, during construction of the Project, shall complete Payment Requisition Forms, the form of which is attached hereto as Exhibit B and incorporated herein by reference, and forward such forms to BPH in compliance with the Local Entity's construction schedule.

### ARTICLE III

#### Conditions to Loan; Issuance of Local Bonds

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

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

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

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

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

BPH shall have received a certificate of the Consulting Engineers to such effect, the form of which certificate is attached hereto as Exhibit C;

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

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

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

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

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

(j) The net proceeds of the Local Bonds, together with all moneys on deposit or to be simultaneously deposited (or, with respect to proceeds of grant anticipation notes or other indebtedness for which a binding purchase contract has

been entered, to be deposited on a date certain) and irrevocably pledged thereto and the proceeds of grants irrevocably committed therefor, shall be sufficient to pay the costs of construction and acquisition of the Project as set forth in the Application, and the Authority and BPH shall have received a certificate of the Consulting Engineers, or such other person or firm experienced in the financing of drinking water projects and satisfactory to the Authority and BPH, to such effect, such certificate to be in form and substance satisfactory to the Authority and BPH, and evidence satisfactory to the Authority and BPH of such irrevocably committed grants.

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

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

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

3.5 The Local Entity understands and acknowledges that it is one of several local entities which have applied to the Authority and BPH for loans from the Fund to finance drinking water projects and that the obligation of the Authority to make any such loan is subject to the Local Entity's fulfilling all of the terms and conditions of this Loan Agreement on or prior to the Date of Loan Closing and to the requirements of the Program. The Local Entity specifically recognizes that the Authority will not purchase the Local Bonds unless and until sufficient funds are available in the Fund to purchase all the Local Bonds and that, prior to execution of this Loan Agreement, the

Authority may purchase the bonds of other local entities set out in the State Project Priority List, as defined in the DWTRF Regulations. The Local Entity further specifically recognizes that all loans will be originated in conjunction with the DWTRF Regulations and with the prior approval of BPH or such later date as is agreed to in writing by the BPH.

3.6 The Local Entity shall provide BPH with the appropriate documentation to comply with the special conditions regarding the public release requirements established by federal and State regulations as set forth in Exhibit D attached hereto at such times as are set forth therein.

#### ARTICLE IV

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

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

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

(i) to pay Operating Expenses of the System;

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

funded (whether by Local Bond proceeds, monthly deposits or otherwise), any amount necessary to maintain the Reserve Account at the Reserve Requirement;

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

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

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

(b) Covenants substantially as follows:

(i) That the Local Bonds shall be secured by a pledge of either the gross or net revenues, as applicable, of the System as provided in the Local Act;

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

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

(iv) That, except as otherwise required by State law or the DWTRF Regulations, 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 from such sale, mortgage, lease or other disposition shall be sufficient to fully pay all of the Local Bonds outstanding and further provided that portions of the System when no longer required for the ongoing operation of the System as evidenced by certificates from the Consulting Engineer, may be disposed of with such restrictions as are normally contained in such covenants;

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

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

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

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

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

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

(xi) That the Local Entity shall annually, within six months of the end of the fiscal year, cause the records of the System to be audited by an independent certified public accountant or independent public accountant and shall submit the report of said audit to the Authority and BPH. If the Local Entity receives \$300,000 or more (in federal funds) in a fiscal year, the audit shall be obtained in accordance with the Single Audit Act (as amended from time to time) and the applicable OMB Circular (or any successor thereto). Financial statement audits are required once all funds have been received by the Local Entity. The audit shall include a statement that notes whether the results of tests disclosed instances of noncompliance that are required to be reported under government auditing standards and, if they are, describes the instances of noncompliance and the audited financial statements shall include a statement that notes whether the Local Entity's revenues are adequate to meet its Operating Expenses and debt service and reserve requirements;

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

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

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

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

(xvi) That the West Virginia Municipal Bond Commission (the "Commission") shall serve as paying agent for all Local Bonds;

(xvii) That the Local Entity shall on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the Commission the required interest, principal and reserve account payment. The Local Entity shall complete the Monthly Payment Form, attached hereto as Exhibit E and incorporated herein by reference, and submit a copy of said form along with a copy of the check or electronic transfer to the Authority by the 5th day of such calendar month;

(xviii) That, if required by the Authority and BPH and, unless it qualifies for an exception to the provisions of Section 148 of the Internal Revenue Code of 1986, as amended, which exception shall be set forth in an opinion of bond counsel, the Local Entity will furnish to the Authority, annually, at such time as it is required to perform its rebate calculations under the Internal Revenue Code of 1986, as amended, a certificate with respect to its rebate calculations and, at any time, any additional information requested by the Authority;

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

(xx) That the Local Entity shall, to the full extent permitted by applicable law and the rules and regulations of the PSC, terminate its services to any customer of the System who is delinquent in payment of charges for services provided by the System and will not restore such services until all delinquent charges for the services of the System have been fully paid; and

(xxi) That the Local Entity shall submit all proposed change orders to the BPH for written approval. The Local Entity shall obtain the written approval of the BPH before expending any proceeds of the Local Bonds held in "contingency" as set forth in the final Schedule A attached to the certificate of the Consulting Engineer. The Local Entity shall obtain the written approval of the BPH before expending any proceeds of the Local Bonds available due to bid/construction/project underruns.

The Local Entity hereby represents and warrants that the Local Act has been or shall be duly adopted or 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, validity, sale and delivery of the Local Bonds shall be approved without qualification by nationally recognized bond counsel acceptable to the Authority in substantially the form of legal opinion attached hereto as Exhibit F.

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

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

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

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

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

## ARTICLE V

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

5.1 The Local Entity hereby irrevocably covenants and agrees to comply with all of the terms, conditions and requirements of this Loan Agreement and the Local Act. The Local Entity hereby further irrevocably covenants and agrees that, as one of the conditions of the Authority to make the Loan, it has fixed and collected, or will fix and collect, the rates, fees and other charges for the use of the System and will take all such actions necessary to provide funds sufficient to produce the required sums set forth in the Local Act and in compliance with the provisions of Subsections 4.1(a) and 4.1(b)(ii) hereof.

5.2 In the event, for any reason, the schedule of rates, fees and charges initially established for the System in connection with the Local Bonds shall prove to be insufficient to produce the required sums set forth in the Local Act and this Loan Agreement, the Local Entity 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 (or where applicable, immediately file with the PSC for a rate increase) and take all such actions necessary to provide funds sufficient to produce the required sums set forth in the Local Act and this Loan Agreement.

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

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

## ARTICLE VI

### Other Agreements of the Local Entity

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

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

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

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

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

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

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

## ARTICLE VII

### Miscellaneous

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

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

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

7.4 No waiver by any party of any term or condition of this Loan Agreement shall be deemed or construed as a waiver of any other terms or conditions, nor shall a waiver of any breach be deemed to constitute a waiver of any subsequent breach,

whether of the same or of a different section, subsection, paragraph, clause, phrase or other provision of this Loan Agreement.

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

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

7.7 This Loan Agreement shall terminate upon the earlier of:

(i) written notice of termination to the Local Entity from either the Authority or BPH;

(ii) the end of ninety (90) days after the date of execution hereof by the Authority or such later date as is agreed to in writing by the BPH if the Local Entity has failed to deliver the Local Bonds to the Authority;

(iii) termination by the Authority and BPH pursuant to Section 6.2 hereof; or

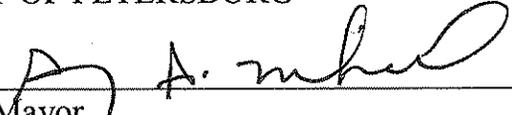
(iv) payment in full of the principal of and interest on the Loan and of any fees and charges owed by the Local Entity to the Authority or BPH.

In the event funds are not available to make all of the Loan, the responsibility of the Authority and BPH to make all the Loan is terminated; provided further that the obligation of the Local Entity to repay the outstanding amount of the Loan made by the Authority and BPH is not terminated due to such non-funding on any balance of the Loan. The BPH agrees to use its best efforts to have the amount contemplated under this Loan Agreement included in its budget. Non-funding of the Loan shall not be considered an event of default under this Loan Agreement.

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

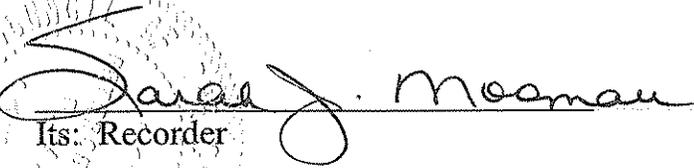
CITY OF PETERSBURG

(SEAL)

By:   
Its: Mayor  
Date: April 16, 2009

Attest:



  
Its: Recorder

WEST VIRGINIA WATER  
DEVELOPMENT AUTHORITY

(SEAL)

By:   
Its: Executive Director  
Date: April 16, 2009

Attest:

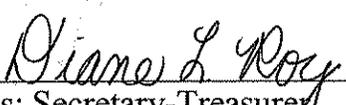
  
Its: Secretary-Treasurer

EXHIBIT A

MONTHLY FINANCIAL REPORT

Name of Local Entity \_\_\_\_\_  
 Name of Bond Issue(s) \_\_\_\_\_  
 Type of Project \_\_\_\_\_ Water \_\_\_\_\_ Wastewater \_\_\_\_\_  
 Fiscal Year \_\_\_\_\_ Report Month \_\_\_\_\_

<u>Item</u>	<u>Current Month</u>	<u>Total Year To Date</u>	<u>Budget Year To Date</u>	<u>Budget Year To Date Minus Total Year To Date</u>
1. Gross Revenues	_____	_____	_____	_____
2. Operating Expenses	_____	_____	_____	_____
3. Bond Payments:				
<u>Type of Issue</u>	_____	_____	_____	_____
Clean Water SRF	_____	_____	_____	_____
Drinking Water TRF	_____	_____	_____	_____
Infrastructure Fund	_____	_____	_____	_____
Water Development Authority	_____	_____	_____	_____
Rural Utilities Service	_____	_____	_____	_____
Economic Development Administration	_____	_____	_____	_____
Other (Identify)	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
4. Renewal and Replacement Fund Deposits	_____	_____	_____	_____

\_\_\_\_\_  
**Name of Person Completing Form**

\_\_\_\_\_  
**Address**

\_\_\_\_\_  
**Telephone**

## INSTRUCTIONS FOR COMPLETING MONTHLY FINANCIAL REPORT

Item 1 You will need a copy of the current fiscal year budget adopted by the Local Entity to complete Items 1 and 2. In Item 1, provide the amount of actual **Gross Revenues** for the current month and the total amount year-to-date in the respective columns. Divide the budgeted annual Gross Revenues by 12. For example, if Gross Revenues of \$1,200 are anticipated to be received for the year, each month the base would be increased by \$100 ( $\$1,200/12$ ). This is the incremental amount for the Budget Year-to-Date column.

Item 2 Provide the amount of actual **Operating Expenses** for the current month and the total amount year-to-date in the respective columns. Any administrative fee should be included in the Operating Expenses. Divide the budgeted annual Operating Expenses by 12. For example, if Operating Expenses of \$900 are anticipated to be incurred for the year, each month the base would be increased by \$75 ( $\$900/12$ ). This is the incremental amount for the Budget Year-to-Date column.

Item 3 Provide the **Bond Payments (principal, interest and reserve account)** for all the outstanding bonds of the Local Entity according to the source of funding. For example, Clean Water State Revolving Fund loan from Department of Environmental Protection, Drinking Water Treatment Revolving Fund loan from Bureau for Public Health, Infrastructure Fund loan from Infrastructure and Jobs Development Council, or a loan from the Water Development Authority, etc.

Item 4 Provide the amount deposited into the **Renewal and Replacement Fund** each month. This amount is equal to 2.5% of Gross Revenues minus the total reserve account payments included in Item 3. If Gross Revenues are \$1,200, then \$30 (2.5% of \$1,200), LESS the amount of all reserve account payments in Item 3 should be deposited into the Renewal and Replacement Fund. The money in the Renewal and Replacement Fund should be kept separate and apart from all other funds of the Local Entity.

**The Local Entity must complete the Monthly Financial Report and forward it to the Water Development Authority by the 10<sup>th</sup> day of each month, commencing on the date contracts are executed for the acquisition or construction of the Project and for two years following the completion of acquisition or construction of the Project.**

EXHIBIT B

PAYMENT REQUISITION FORM

EXHIBIT C

FORM OF CERTIFICATE OF CONSULTING ENGINEER

\_\_\_\_\_  
(Issuer)

(Name of Bonds)

I, \_\_\_\_\_, Registered Professional Engineer, West Virginia License No. \_\_\_\_\_, of \_\_\_\_\_ Consulting Engineers, \_\_\_\_\_, \_\_\_\_\_, hereby certify as follows:

1. My firm is engineer for the acquisition and construction of \_\_\_\_\_ to the \_\_\_\_\_ system (the "Project") of \_\_\_\_\_ (the "Issuer"), to be constructed primarily in \_\_\_\_\_ County, West Virginia, which acquisition and construction are being permanently financed in part by the above-captioned bonds (the "Bonds") of the Issuer. Capitalized words used herein and not defined herein shall have the same meaning set forth in the bond \_\_\_\_\_ adopted or enacted by the Issuer on \_\_\_\_\_, and the Loan Agreement by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Bureau for Public Health (the "BPH"), dated \_\_\_\_\_.

2. The Bonds are being issued for the purposes of (i) \_\_\_\_\_, and (ii) paying certain issuance and other costs in connection therewith.

3. To the best of my knowledge, information and belief, (i) within the limits and in accordance with the applicable and governing contractual requirements relating to the Project, the Project will be constructed in general accordance with the approved plans, specifications and designs prepared by my firm and approved by BPH and any change orders approved by the Issuer, BPH and all necessary governmental bodies; (ii) the Project, as designed, is adequate for its intended purpose and has a useful life of at least \_\_\_\_\_ years, if properly operated and maintained, excepting anticipated replacements due to normal wear and tear; (iii) the Issuer has received bids for the acquisition and construction of the Project which are in an amount and otherwise compatible with the plan of financing set forth in Schedule B attached hereto as Exhibit A, and my firm<sup>1</sup> has ascertained that all successful bidders have made required provisions

<sup>1</sup>If another responsible party, such as the Issuer=s attorney, reviews the insurance and payment bonds, then

for all insurance and payment and performance bonds and that such insurance policies or binders and such bonds have been verified for accuracy; (iv) the successful bidders received any and all addenda to the original bid documents; (v) the bid documents relating to the Project reflect the Project as approved by the BPH and the bid forms provided to the bidders contain all critical operational components of the Project; (vi) the successful bids include prices for every item on such bid forms; (vii) the uniform bid procedures were followed; (viii) the Issuer has obtained all permits required by the laws of the State of West Virginia and the United States necessary for the acquisition and construction of the Project and operation of the System; (ix) as of the effective date thereof<sup>2</sup>, the rates and charges for the System as adopted by the Issuer will be sufficient to comply with the provisions of the Loan Agreement; (x) the net proceeds of the Bonds, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants, if any, irrevocably committed therefor, are sufficient to pay the costs of acquisition and construction of the Project approved by BPH; and (xi) attached hereto as Exhibit A is the final amended "Schedule B - Total Cost of Project; Sources of Funds and Cost of Financing" for the Project.

WITNESS my signature and seal on this \_\_\_\_day of \_\_\_\_\_,  
\_\_\_\_\_.

[SEAL]

By: \_\_\_\_\_  
\_\_\_\_\_

West Virginia License No. \_\_\_\_\_

---

insert the following: [and in reliance upon the opinion of \_\_\_\_\_, Esq.] and delete Amy firm has ascertained that@.

<sup>2</sup>If the Rule 42 Exhibit and/or rate structure was prepared by an accountant, then insert the following: An reliance upon the certificate of \_\_\_\_\_ of even date herewith,@ at the beginning of (ix).

## EXHIBIT D

### SPECIAL CONDITIONS

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

The Contractor shall comply with the Buy American provisions of the American Recovery and Reinvestment Act (ARRA) in accordance with final guidance from the EPA and OMB. Compliance can in no way violate international free trade agreements.



EXHIBIT F

OPINION OF BOND COUNSEL FOR LOCAL ENTITY

[To Be Dated as of Date of Loan Closing]

West Virginia Water Development Authority  
180 Association Drive  
Charleston, WV 25311

West Virginia Bureau for Public Health  
815 Quarrier Street, Suite 418  
Charleston, WV 25301-2616

Ladies and Gentlemen:

We are bond counsel to \_\_\_\_\_(the "Local Entity"), a  
\_\_\_\_\_.

We have examined a certified copy of proceedings and other papers relating to the authorization of a (i) loan agreement dated \_\_\_\_\_, including all schedules and exhibits attached thereto (the "Loan Agreement"), between the Local Entity and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Bureau for Public Health (the "BPH"), and (ii) the issue of a series of revenue bonds of the Local Entity, dated \_\_\_\_\_(the "Local Bonds"), to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Local Bonds are issued in the principal amount of \$\_\_\_\_\_, in the form of one bond, registered as to principal and interest to the Authority, with principal and interest payable quarterly on March 1, June 1, September 1, and December 1 of each year, beginning \_\_\_\_\_1, \_\_\_\_, and ending \_\_\_\_\_1, \_\_\_\_, all as set forth in the "Schedule Y" attached to the Loan Agreement and incorporated in and made a part of the Local Bonds.

The Local Bonds are issued for the purposes of (i) \_\_\_\_\_, and (ii) paying certain issuance and other costs in connection therewith.

We have also examined the applicable provisions of \_\_\_\_\_of the Code of West Virginia, 1931, as amended (the "Local Statute"), and the bond \_\_\_\_\_duly adopted or enacted by the Local Entity on \_\_\_\_\_, as supplemented by the supplemental resolution duly adopted by the Local Entity on \_\_\_\_\_(collectively, the "Local Act"), pursuant to and under which Local Statute and Local Act the Local Bonds are authorized and issued, and the Loan

Agreement has been undertaken. The Local Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Local Act and the Loan Agreement.

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

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

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

3. The Local Entity is a duly organized and validly existing \_\_\_\_\_, with full power and authority to acquire and construct the Project, to operate and maintain the System, to adopt or enact the Local Act and to issue and sell the Local Bonds, all under the Local Statute and other applicable provisions of law.

4. The Local Act and all other necessary orders and resolutions have been legally and effectively adopted or enacted by the Local Entity and constitute valid and binding obligations of the Local Entity, enforceable against the Local Entity in accordance with their terms. The Local Act contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

5. The Local Bonds have been duly authorized, issued, executed and delivered by the Local Entity to the Authority and are valid, legally enforceable and binding special obligations of the Local Entity, payable from the gross or net revenues of the System set forth in the Local Act and secured by a first lien on and pledge of the gross or net revenues of the System, all in accordance with the terms of the Local Bonds and the Local Act.

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

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

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

Very truly yours,

SCHEDULE X

DESCRIPTION OF LOCAL BONDS

Principal Amount of Local Bonds	\$2,700,000
Purchase Price of Local Bonds	\$2,700,000

The Local Bonds shall bear no interest from the date of delivery to and including November 30, 2010. Interest on the Local Bonds begins accruing commencing December 1, 2010, at a rate of 2% per annum. Commencing March 1, 2011, principal of and interest on the Local Bonds is payable quarterly, with an administrative fee of 1%. Quarterly payments will be made on March 1, June 1, September 1 and December 1 of each year as set forth on the Schedule Y attached hereto and incorporated herein by reference.

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

The Local Bonds are fully registered in the name of the Authority as to principal and interest, if any, and the Local Bonds shall grant the Authority a first lien on the gross revenues of the Local Entity's system as provided in the Local Act.

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

As of the date of the Loan Agreement, the Local Bonds are on a parity as to liens, pledge and source of and security for payment with the following obligations of the Local Entity:

1. City of Petersburg Water Revenue Bond, Series 1975 (United States Department of Agriculture), dated November 10, 1976, issued in the original aggregate principal amount of \$474,000;

2. City of Petersburg Water Revenue Bond, Series 1996 (West Virginia Water Development Authority), dated August 29, 1996, issued in the original aggregate principal amount of \$492,590; and

3. City of Petersburg Water Revenue Bond, Series 2009 B (West Virginia DWTRF), issued in the original aggregate principal amount of \$5,000,000 simultaneously on April 16, 2009, with the Local Bonds.

**SCHEDULE Y**  
**DEBT SERVICE SCHEDULE**

	Period Ending	Principal	Coupon	Interest	Debt Service
	3/1/11	27,532.	2.000%	13,500.00	41,032.00
	6/1/11	27,670.	2.000%	13,362.34	41,032.34
	9/1/11	27,808.	2.000%	13,223.99	41,031.99
	12/1/11	27,947.	2.000%	13,084.95	41,031.95
	3/1/12	28,087.	2.000%	12,945.22	41,032.22
	6/1/12	28,227.	2.000%	12,804.78	41,031.78
	9/1/12	28,368.	2.000%	12,663.65	41,031.65
	12/1/12	28,510.	2.000%	12,521.81	41,031.81
	3/1/13	28,653.	2.000%	12,379.26	41,032.26
	6/1/13	28,796.	2.000%	12,235.99	41,031.99
	9/1/13	28,940.	2.000%	12,092.01	41,032.01
	12/1/13	29,085.	2.000%	11,947.31	41,032.31
	3/1/14	29,230.	2.000%	11,801.89	41,031.89
	6/1/14	29,376.	2.000%	11,655.74	41,031.74
	9/1/14	29,523.	2.000%	11,508.86	41,031.86
	12/1/14	29,671.	2.000%	11,361.24	41,032.24
	3/1/15	29,819.	2.000%	11,212.89	41,031.89
	6/1/15	29,968.	2.000%	11,063.79	41,031.79
	9/1/15	30,118.	2.000%	10,913.95	41,031.95
	12/1/15	30,269.	2.000%	10,763.36	41,032.36
	3/1/16	30,420.	2.000%	10,612.02	41,032.02
	6/1/16	30,572.	2.000%	10,459.92	41,031.92
	9/1/16	30,725.	2.000%	10,307.06	41,032.06
	12/1/16	30,879.	2.000%	10,153.43	41,032.43
	3/1/17	31,033.	2.000%	9,999.04	41,032.04
	6/1/17	31,188.	2.000%	9,843.87	41,031.87
	9/1/17	31,344.	2.000%	9,687.93	41,031.93
	12/1/17	31,501.	2.000%	9,531.21	41,032.21
	3/1/18	31,658.	2.000%	9,373.71	41,031.71
	6/1/18	31,817.	2.000%	9,215.42	41,032.42
	9/1/18	31,976.	2.000%	9,056.33	41,032.33
	12/1/18	32,135.	2.000%	8,896.45	41,031.45
	3/1/19	32,296.	2.000%	8,735.78	41,031.78
	6/1/19	32,458.	2.000%	8,574.30	41,032.30
	9/1/19	32,620.	2.000%	8,412.01	41,032.01
	12/1/19	32,783.	2.000%	8,248.91	41,031.91
	3/1/20	32,947.	2.000%	8,084.99	41,031.99
	6/1/20	33,112.	2.000%	7,920.26	41,032.26
	9/1/20	33,277.	2.000%	7,754.70	41,031.70
	12/1/20	33,444.	2.000%	7,588.31	41,032.31
	3/1/21	33,611.	2.000%	7,421.09	41,032.09
	6/1/21	33,779.	2.000%	7,253.04	41,032.04
	9/1/21	33,948.	2.000%	7,084.14	41,032.14
	12/1/21	34,118.	2.000%	6,914.40	41,032.40
	3/1/22	34,288.	2.000%	6,743.81	41,031.81



DWTRF  
(12/01/07)

LOAN AGREEMENT

THIS DRINKING WATER TREATMENT REVOLVING FUND LOAN AGREEMENT (the "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"), acting under the direction of the WEST VIRGINIA BUREAU FOR PUBLIC HEALTH, a division of the West Virginia Department of Health and Human Resources (the "BPH"), and the local entity designated below (the "Local Entity").

CITY OF PETERSBURG (2005W – 882)  
(Local Entity)

WITNESSETH:

WHEREAS, the United States Congress under Section 1452 of the Safe Drinking Water Act, as amended (the "Safe Drinking Water Act"), has provided for capitalization grants to be awarded to states for the express purpose of establishing and maintaining drinking water treatment revolving funds for the construction, acquisition and improvement of drinking water systems;

WHEREAS, pursuant to the provisions of Chapter 16, Article 13C of the Code of West Virginia, 1931, as amended (the "Act"), the State of West Virginia (the "State") has established a drinking water treatment revolving fund program (the "Program") to direct the distribution of loans to eligible Local Entities pursuant to the Safe Drinking Water Act;

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

WHEREAS, the Act establishes a permanent perpetual fund known as the “West Virginia Drinking Water Treatment Revolving Fund” (hereinafter the “Fund”), which fund is to be administered and managed by the Authority under the direction of the BPH;

WHEREAS, pursuant to the Act, the Authority and BPH are empowered to make loans from the Fund to Local Entities for the acquisition or construction of drinking water projects by such Local Entities, all subject to such provisions and limitations as are contained in the Safe Drinking Water Act and the Act;

WHEREAS, the Local Entity constitutes a local entity as defined by the Act;

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

WHEREAS, the Local Entity is authorized and empowered by the statutes of the State to acquire, construct, improve, operate and maintain a drinking water project and to finance the cost of acquisition and construction of the same by borrowing money to be evidenced by revenue bonds issued by the Local Entity;

WHEREAS, the Local Entity intends to construct, is constructing or has constructed such a drinking water project at the location and as more particularly described and set forth in the Application, as hereinafter defined (the “Project”);

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

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

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

## ARTICLE I

### Definitions

1.1 Except where the context clearly indicates otherwise, the terms “Authority,” “cost,” “fund,” “local entity,” and “project” have the definitions and meanings ascribed to them in the Act or in the DWTRF Regulations.

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

1.3 “Loan” means the loan to be made by the Authority and BPH to the Local Entity through the purchase of Local Bonds, as hereinafter defined, pursuant to this Loan Agreement.

1.4 “Local Act” means the official action of the Local Entity required by Section 4.1 hereof, authorizing the Local Bonds.

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

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

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

1.8 “Program” means the drinking water facility acquisition, construction and improvement program coordinated through the capitalization grants program established under the Safe Drinking Water Act and administered by BPH.

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

1.10 “DWTRF Regulations” means the regulations set forth in the West Virginia Code of State Regulations.

1.11 “System” means the drinking water system owned by the Local Entity, of which the Project constitutes all or to which the Project constitutes an improvement, and any improvements thereto hereafter constructed or acquired from any sources whatsoever.

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

## ARTICLE II

### The Project and the System

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

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

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

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

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

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

2.7 The Local Entity 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 and shall verify or have verified such bonds prior to commencement of construction.

2.8 The Local Entity shall require that each of its contractors and all subcontractors maintain, during the life of the construction contract, workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Authority and BPH and shall verify or have verified such insurance prior to commencement of construction. Until the Project facilities are completed and accepted by the Local Entity, the Local Entity or (at the option of the Local Entity) the contractor shall maintain builder's risk

insurance (fire and extended coverage) on a one hundred percent (100%) basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Local Entity, the prime contractor and all subcontractors, as their interests may appear. If facilities of the System which are detrimentally affected by flooding are or will be located in designated special flood or mudslide-prone areas and if flood insurance is available at a reasonable cost, a flood insurance policy must be obtained by the Local Entity on or before the Date of Loan Closing, as hereinafter defined, and maintained so long as any of the Local Bonds are outstanding. Prior to commencing operation of the Project, the Local Entity must also obtain, and maintain so long as any of the Local Bonds are outstanding, business interruption insurance if available at a reasonable cost.

2.9 The Local Entity shall provide and maintain competent and adequate engineering services satisfactory to the Authority and BPH 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 engineer shall certify to the Authority, BPH and the Local Entity at the completion of construction that construction is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies. The Local Entity shall require the Consulting Engineers to submit Recipient As-Built Plans, as defined in the DWTRF Regulations, to it within 60 days of the completion of the Project. The Local Entity shall notify BPH in writing of such receipt.

2.10 The Local Entity shall require the Consulting Engineers to submit the final Operation and Maintenance Manual, as defined in the DWTRF Regulations, to BPH when the Project is 90% completed. The Local Entity shall at all times provide operation and maintenance of the System in compliance with any and all State and federal standards. The Local Entity shall employ qualified operating personnel properly certified by the State before the Project is 50% complete and shall retain such a certified operator(s) to operate the System during the entire term of this Loan Agreement. The Local Entity shall notify BPH in writing of the certified operator employed at the 50% completion stage.

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

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

2.13 The Local Entity, during construction of the Project, shall complete Payment Requisition Forms, the form of which is attached hereto as Exhibit B and incorporated herein by reference, and forward such forms to BPH in compliance with the Local Entity's construction schedule.

### ARTICLE III

#### Conditions to Loan; Issuance of Local Bonds

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

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

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

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

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

BPH shall have received a certificate of the Consulting Engineers to such effect, the form of which certificate is attached hereto as Exhibit C;

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

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

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

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

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

(j) The net proceeds of the Local Bonds, together with all moneys on deposit or to be simultaneously deposited (or, with respect to proceeds of grant anticipation notes or other indebtedness for which a binding purchase contract has

been entered, to be deposited on a date certain) and irrevocably pledged thereto and the proceeds of grants irrevocably committed therefor, shall be sufficient to pay the costs of construction and acquisition of the Project as set forth in the Application, and the Authority and BPH shall have received a certificate of the Consulting Engineers, or such other person or firm experienced in the financing of drinking water projects and satisfactory to the Authority and BPH, to such effect, such certificate to be in form and substance satisfactory to the Authority and BPH, and evidence satisfactory to the Authority and BPH of such irrevocably committed grants.

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

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

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

3.5 The Local Entity understands and acknowledges that it is one of several local entities which have applied to the Authority and BPH for loans from the Fund to finance drinking water projects and that the obligation of the Authority to make any such loan is subject to the Local Entity's fulfilling all of the terms and conditions of this Loan Agreement on or prior to the Date of Loan Closing and to the requirements of the Program. The Local Entity specifically recognizes that the Authority will not purchase the Local Bonds unless and until sufficient funds are available in the Fund to purchase all the Local Bonds and that, prior to execution of this Loan Agreement, the

Authority may purchase the bonds of other local entities set out in the State Project Priority List, as defined in the DWTRF Regulations. The Local Entity further specifically recognizes that all loans will be originated in conjunction with the DWTRF Regulations and with the prior approval of BPH or such later date as is agreed to in writing by the BPH.

3.6 The Local Entity shall provide BPH with the appropriate documentation to comply with the special conditions regarding the public release requirements established by federal and State regulations as set forth in Exhibit D attached hereto at such times as are set forth therein.

#### ARTICLE IV

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

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

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

(i) to pay Operating Expenses of the System;

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

funded (whether by Local Bond proceeds, monthly deposits or otherwise), any amount necessary to maintain the Reserve Account at the Reserve Requirement;

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

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

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

(b) Covenants substantially as follows:

(i) That the Local Bonds shall be secured by a pledge of either the gross or net revenues, as applicable, of the System as provided in the Local Act;

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

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

(iv) That, except as otherwise required by State law or the DWTRF Regulations, 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 from such sale, mortgage, lease or other disposition shall be sufficient to fully pay all of the Local Bonds outstanding and further provided that portions of the System when no longer required for the ongoing operation of the System as evidenced by certificates from the Consulting Engineer, may be disposed of with such restrictions as are normally contained in such covenants;

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

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

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

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

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

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

(xi) That the Local Entity shall annually, within six months of the end of the fiscal year, cause the records of the System to be audited by an independent certified public accountant or independent public accountant and shall submit the report of said audit to the Authority and BPH. If the Local Entity receives \$300,000 or more (in federal funds) in a fiscal year, the audit shall be obtained in accordance with the Single Audit Act (as amended from time to time) and the applicable OMB Circular (or any successor thereto). Financial statement audits are required once all funds have been received by the Local Entity. The audit shall include a statement that notes whether the results of tests disclosed instances of noncompliance that are required to be reported under government auditing standards and, if they are, describes the instances of noncompliance and the audited financial statements shall include a statement that notes whether the Local Entity's revenues are adequate to meet its Operating Expenses and debt service and reserve requirements;

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

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

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

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

(xvi) That the West Virginia Municipal Bond Commission (the "Commission") shall serve as paying agent for all Local Bonds;

(xvii) That the Local Entity shall on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the Commission the required interest, principal and reserve account payment. The Local Entity shall complete the Monthly Payment Form, attached hereto as Exhibit E and incorporated herein by reference, and submit a copy of said form along with a copy of the check or electronic transfer to the Authority by the 5th day of such calendar month;

(xviii) That, if required by the Authority and BPH and, unless it qualifies for an exception to the provisions of Section 148 of the Internal Revenue Code of 1986, as amended, which exception shall be set forth in an opinion of bond counsel, the Local Entity will furnish to the Authority, annually, at such time as it is required to perform its rebate calculations under the Internal Revenue Code of 1986, as amended, a certificate with respect to its rebate calculations and, at any time, any additional information requested by the Authority;

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

(xx) That the Local Entity shall, to the full extent permitted by applicable law and the rules and regulations of the PSC, terminate its services to any customer of the System who is delinquent in payment of charges for services provided by the System and will not restore such services until all delinquent charges for the services of the System have been fully paid; and

(xxi) That the Local Entity shall submit all proposed change orders to the BPH for written approval. The Local Entity shall obtain the written approval of the BPH before expending any proceeds of the Local Bonds held in "contingency" as set forth in the final Schedule A attached to the certificate of the Consulting Engineer. The Local Entity shall obtain the written approval of the BPH before expending any proceeds of the Local Bonds available due to bid/construction/project underruns.

The Local Entity hereby represents and warrants that the Local Act has been or shall be duly adopted or 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, validity, sale and delivery of the Local Bonds shall be approved without qualification by nationally recognized bond counsel acceptable to the Authority in substantially the form of legal opinion attached hereto as Exhibit F.

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

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

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

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

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

## ARTICLE V

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

5.1 The Local Entity hereby irrevocably covenants and agrees to comply with all of the terms, conditions and requirements of this Loan Agreement and the Local Act. The Local Entity hereby further irrevocably covenants and agrees that, as one of the conditions of the Authority to make the Loan, it has fixed and collected, or will fix and collect, the rates, fees and other charges for the use of the System and will take all such actions necessary to provide funds sufficient to produce the required sums set forth in the Local Act and in compliance with the provisions of Subsections 4.1(a) and 4.1(b)(ii) hereof.

5.2 In the event, for any reason, the schedule of rates, fees and charges initially established for the System in connection with the Local Bonds shall prove to be insufficient to produce the required sums set forth in the Local Act and this Loan Agreement, the Local Entity 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 (or where applicable, immediately file with the PSC for a rate increase) and take all such actions necessary to provide funds sufficient to produce the required sums set forth in the Local Act and this Loan Agreement.

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

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

## ARTICLE VI

### Other Agreements of the Local Entity

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

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

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

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

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

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

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

## ARTICLE VII

### Miscellaneous

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

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

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

7.4 No waiver by any party of any term or condition of this Loan Agreement shall be deemed or construed as a waiver of any other terms or conditions, nor shall a waiver of any breach be deemed to constitute a waiver of any subsequent breach,

whether of the same or of a different section, subsection, paragraph, clause, phrase or other provision of this Loan Agreement.

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

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

7.7 This Loan Agreement shall terminate upon the earlier of:

(i) written notice of termination to the Local Entity from either the Authority or BPH;

(ii) the end of ninety (90) days after the date of execution hereof by the Authority or such later date as is agreed to in writing by the BPH if the Local Entity has failed to deliver the Local Bonds to the Authority;

(iii) termination by the Authority and BPH pursuant to Section 6.2 hereof; or

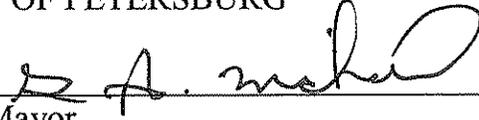
(iv) payment in full of the principal of and interest on the Loan and of any fees and charges owed by the Local Entity to the Authority or BPH.

In the event funds are not available to make all of the Loan, the responsibility of the Authority and BPH to make all the Loan is terminated; provided further that the obligation of the Local Entity to repay the outstanding amount of the Loan made by the Authority and BPH is not terminated due to such non-funding on any balance of the Loan. The BPH agrees to use its best efforts to have the amount contemplated under this Loan Agreement included in its budget. Non-funding of the Loan shall not be considered an event of default under this Loan Agreement.

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

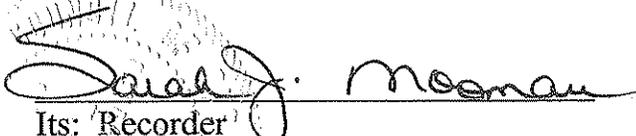
CITY OF PETERSBURG

(SEAL)

By:   
Its: Mayor  
Date: April 16, 2009

Attest:



  
Its: Recorder

WEST VIRGINIA WATER  
DEVELOPMENT AUTHORITY

(SEAL)

By:   
Its: Executive Director  
Date: April 16, 2009

Attest:



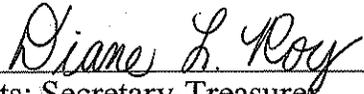
  
Its: Secretary-Treasurer

EXHIBIT A

MONTHLY FINANCIAL REPORT

Name of Local Entity \_\_\_\_\_  
 Name of Bond Issue(s) \_\_\_\_\_  
 Type of Project \_\_\_\_\_ Water \_\_\_\_\_ Wastewater \_\_\_\_\_  
 Fiscal Year \_\_\_\_\_ Report Month \_\_\_\_\_

<u>Item</u>	<u>Current Month</u>	<u>Total Year To Date</u>	<u>Budget Year To Date</u>	<u>Budget Year To Date Minus Total Year To Date</u>
1. Gross Revenues	_____	_____	_____	_____
2. Operating Expenses	_____	_____	_____	_____
3. Bond Payments:				
<u>Type of Issue</u>	_____	_____	_____	_____
Clean Water SRF	_____	_____	_____	_____
Drinking Water TRF	_____	_____	_____	_____
Infrastructure Fund	_____	_____	_____	_____
Water Development Authority	_____	_____	_____	_____
Rural Utilities Service	_____	_____	_____	_____
Economic Development Administration	_____	_____	_____	_____
Other (Identify)	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
4. Renewal and Replacement Fund Deposits	_____	_____	_____	_____

\_\_\_\_\_  
 Name of Person Completing Form

\_\_\_\_\_  
 Address

\_\_\_\_\_  
 Telephone

## INSTRUCTIONS FOR COMPLETING MONTHLY FINANCIAL REPORT

- Item 1 You will need a copy of the current fiscal year budget adopted by the Local Entity to complete Items 1 and 2. In Item 1, provide the amount of actual **Gross Revenues** for the current month and the total amount year-to-date in the respective columns. Divide the budgeted annual Gross Revenues by 12. For example, if Gross Revenues of \$1,200 are anticipated to be received for the year, each month the base would be increased by \$100 ( $\$1,200/12$ ). This is the incremental amount for the Budget Year-to-Date column.
- Item 2 Provide the amount of actual **Operating Expenses** for the current month and the total amount year-to-date in the respective columns. Any administrative fee should be included in the Operating Expenses. Divide the budgeted annual Operating Expenses by 12. For example, if Operating Expenses of \$900 are anticipated to be incurred for the year, each month the base would be increased by \$75 ( $\$900/12$ ). This is the incremental amount for the Budget Year-to-Date column.
- Item 3 Provide the **Bond Payments (principal, interest and reserve account)** for all the outstanding bonds of the Local Entity according to the source of funding. For example, Clean Water State Revolving Fund loan from Department of Environmental Protection, Drinking Water Treatment Revolving Fund loan from Bureau for Public Health, Infrastructure Fund loan from Infrastructure and Jobs Development Council, or a loan from the Water Development Authority, etc.
- Item 4 Provide the amount deposited into the **Renewal and Replacement Fund** each month. This amount is equal to 2.5% of Gross Revenues minus the total reserve account payments included in Item 3. If Gross Revenues are \$1,200, then \$30 (2.5% of \$1,200), LESS the amount of all reserve account payments in Item 3 should be deposited into the Renewal and Replacement Fund. The money in the Renewal and Replacement Fund should be kept separate and apart from all other funds of the Local Entity.

**The Local Entity must complete the Monthly Financial Report and forward it to the Water Development Authority by the 10<sup>th</sup> day of each month, commencing on the date contracts are executed for the acquisition or construction of the Project and for two years following the completion of acquisition or construction of the Project.**

EXHIBIT B

PAYMENT REQUISITION FORM

EXHIBIT C

FORM OF CERTIFICATE OF CONSULTING ENGINEER

\_\_\_\_\_  
(Issuer)

\_\_\_\_\_  
(Name of Bonds)

I, \_\_\_\_\_, Registered Professional Engineer, West Virginia License No. \_\_\_\_\_, of \_\_\_\_\_ Consulting Engineers, \_\_\_\_\_, \_\_\_\_\_, hereby certify as follows:

1. My firm is engineer for the acquisition and construction of \_\_\_\_\_ to the \_\_\_\_\_ system (the "Project") of \_\_\_\_\_ (the "Issuer"), to be constructed primarily in \_\_\_\_\_ County, West Virginia, which acquisition and construction are being permanently financed in part by the above-captioned bonds (the "Bonds") of the Issuer. Capitalized words used herein and not defined herein shall have the same meaning set forth in the bond \_\_\_\_\_ adopted or enacted by the Issuer on \_\_\_\_\_, and the Loan Agreement by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Bureau for Public Health (the "BPH"), dated \_\_\_\_\_.

2. The Bonds are being issued for the purposes of (i) \_\_\_\_\_, and (ii) paying certain issuance and other costs in connection therewith.

3. To the best of my knowledge, information and belief, (i) within the limits and in accordance with the applicable and governing contractual requirements relating to the Project, the Project will be constructed in general accordance with the approved plans, specifications and designs prepared by my firm and approved by BPH and any change orders approved by the Issuer, BPH and all necessary governmental bodies; (ii) the Project, as designed, is adequate for its intended purpose and has a useful life of at least \_\_\_\_\_ years, if properly operated and maintained, excepting anticipated replacements due to normal wear and tear; (iii) the Issuer has received bids for the acquisition and construction of the Project which are in an amount and otherwise compatible with the plan of financing set forth in Schedule B attached hereto as Exhibit A, and my firm<sup>1</sup> has ascertained that all successful bidders have made required provisions

<sup>1</sup>If another responsible party, such as the Issuer=s attorney, reviews the insurance and payment bonds, then

for all insurance and payment and performance bonds and that such insurance policies or binders and such bonds have been verified for accuracy; (iv) the successful bidders received any and all addenda to the original bid documents; (v) the bid documents relating to the Project reflect the Project as approved by the BPH and the bid forms provided to the bidders contain all critical operational components of the Project; (vi) the successful bids include prices for every item on such bid forms; (vii) the uniform bid procedures were followed; (viii) the Issuer has obtained all permits required by the laws of the State of West Virginia and the United States necessary for the acquisition and construction of the Project and operation of the System; (ix) as of the effective date thereof<sup>2</sup>, the rates and charges for the System as adopted by the Issuer will be sufficient to comply with the provisions of the Loan Agreement; (x) the net proceeds of the Bonds, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants, if any, irrevocably committed therefor, are sufficient to pay the costs of acquisition and construction of the Project approved by BPH; and (xi) attached hereto as Exhibit A is the final amended "Schedule B - Total Cost of Project; Sources of Funds and Cost of Financing" for the Project.

WITNESS my signature and seal on this \_\_\_\_ day of \_\_\_\_\_,

\_\_\_\_\_.

[SEAL]

By: \_\_\_\_\_

West Virginia License No. \_\_\_\_\_

insert the following: [and in reliance upon the opinion of \_\_\_\_\_, Esq.] and delete Amy firm has ascertained that@.

<sup>2</sup>If the Rule 42 Exhibit and/or rate structure was prepared by an accountant, then insert the following: AIn reliance upon the certificate of \_\_\_\_\_ of even date herewith,@ at the beginning of (ix).

EXHIBIT D

SPECIAL CONDITIONS

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

The Contractor shall comply with the Buy American provisions of the American Recovery and Reinvestment Act (ARRA) in accordance with final guidance from the EPA and OMB. Compliance can in no way violate international free trade agreements.

EXHIBIT E

MONTHLY PAYMENT FORM

West Virginia Water Development Authority  
180 Association Drive  
Charleston, WV 25311

Re: [Name of bond issue]

Ladies and Gentlemen:

The following deposits were made to the West Virginia Municipal Bond Commission

on behalf of \_\_\_\_\_ on \_\_\_\_\_  
[Local Entity] [Date]

Sinking Fund:

Interest \$ \_\_\_\_\_

Principal \$ \_\_\_\_\_

Total: \$ \_\_\_\_\_

Reserve Account: \$ \_\_\_\_\_

Witness my signature this \_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
[Name of Local Entity]

By: \_\_\_\_\_  
Authorized Officer

Enclosure: wire transfer form

EXHIBIT F

OPINION OF BOND COUNSEL FOR LOCAL ENTITY

[To Be Dated as of Date of Loan Closing]

West Virginia Water Development Authority  
180 Association Drive  
Charleston, WV 25311

West Virginia Bureau for Public Health  
815 Quarrier Street, Suite 418  
Charleston, WV 25301-2616

Ladies and Gentlemen:

We are bond counsel to \_\_\_\_\_ (the "Local Entity"), a  
\_\_\_\_\_.

We have examined a certified copy of proceedings and other papers relating to the authorization of a (i) loan agreement dated \_\_\_\_\_, including all schedules and exhibits attached thereto (the "Loan Agreement"), between the Local Entity and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Bureau for Public Health (the "BPH"), and (ii) the issue of a series of revenue bonds of the Local Entity, dated \_\_\_\_\_ (the "Local Bonds"), to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Local Bonds are issued in the principal amount of \$ \_\_\_\_\_, in the form of one bond, registered as to principal and interest to the Authority, with principal and interest payable quarterly on March 1, June 1, September 1, and December 1 of each year, beginning \_\_\_\_\_ 1, \_\_\_\_\_, and ending \_\_\_\_\_ 1, \_\_\_\_\_, all as set forth in the "Schedule Y" attached to the Loan Agreement and incorporated in and made a part of the Local Bonds.

The Local Bonds are issued for the purposes of (i) \_\_\_\_\_, and (ii) paying certain issuance and other costs in connection therewith.

We have also examined the applicable provisions of \_\_\_\_\_ of the Code of West Virginia, 1931, as amended (the "Local Statute"), and the bond \_\_\_\_\_ duly adopted or enacted by the Local Entity on \_\_\_\_\_, as supplemented by the supplemental resolution duly adopted by the Local Entity on \_\_\_\_\_ (collectively, the "Local Act"), pursuant to and under which Local Statute and Local Act the Local Bonds are authorized and issued, and the Loan

Agreement has been undertaken. The Local Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Local Act and the Loan Agreement.

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

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

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

3. The Local Entity is a duly organized and validly existing \_\_\_\_\_, with full power and authority to acquire and construct the Project, to operate and maintain the System, to adopt or enact the Local Act and to issue and sell the Local Bonds, all under the Local Statute and other applicable provisions of law.

4. The Local Act and all other necessary orders and resolutions have been legally and effectively adopted or enacted by the Local Entity and constitute valid and binding obligations of the Local Entity, enforceable against the Local Entity in accordance with their terms. The Local Act contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

5. The Local Bonds have been duly authorized, issued, executed and delivered by the Local Entity to the Authority and are valid, legally enforceable and binding special obligations of the Local Entity, payable from the gross or net revenues of the System set forth in the Local Act and secured by a first lien on and pledge of the gross or net revenues of the System, all in accordance with the terms of the Local Bonds and the Local Act.

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

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

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

Very truly yours,

SCHEDULE X

DESCRIPTION OF LOCAL BONDS

Principal Amount of Local Bonds	\$5,000,000
Purchase Price of Local Bonds	\$5,000,000

The Local Bonds shall bear no interest. Commencing March 1, 2011, principal of the Local Bonds is payable quarterly, with an administrative fee of 1%. Quarterly payments will be made on March 1, June 1, September 1 and December 1 of each year as set forth on the Schedule Y attached hereto and incorporated herein by reference.

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

The Local Bonds are fully registered in the name of the Authority as to principal and interest, if any, and the Local Bonds shall grant the Authority a first lien on the gross revenues of the Local Entity's system as provided in the Local Act.

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

As of the date of the Loan Agreement, the Local Bonds are on a parity as to liens, pledge and source of and security for payment with the following obligations of the Local Entity:

1. City of Petersburg Water Revenue Bond, Series 1975 (United States Department of Agriculture), dated November 10, 1976, issued in the original aggregate principal amount of \$474,000; and

2. City of Petersburg Water Revenue Bond, Series 1996 (West Virginia Water Development Authority), dated August 29, 1996, issued in the original aggregate principal amount of \$492,590; and

3. City of Petersburg Water Revenue Bond, Series 2009 A (West Virginia DWTRF), issued in the original aggregate principal amount of \$2,700,000 simultaneously on April 16, 2009, with the Local Bonds.

**SCHEDULE Y  
DEBT SERVICE SCHEDULE**

	Period Ending	Principal	Interest	Debt Service
	3/1/11	41,667.		41,667.
	6/1/11	41,667.		41,667.
	9/1/11	41,667.		41,667.
	12/1/11	41,667.		41,667.
	3/1/12	41,667.		41,667.
	6/1/12	41,667.		41,667.
	9/1/12	41,667.		41,667.
	12/1/12	41,667.		41,667.
	3/1/13	41,667.		41,667.
	6/1/13	41,667.		41,667.
	9/1/13	41,667.		41,667.
	12/1/13	41,667.		41,667.
	3/1/14	41,667.		41,667.
	6/1/14	41,667.		41,667.
	9/1/14	41,667.		41,667.
	12/1/14	41,667.		41,667.
	3/1/15	41,667.		41,667.
	6/1/15	41,667.		41,667.
	9/1/15	41,667.		41,667.
	12/1/15	41,667.		41,667.
	3/1/16	41,667.		41,667.
	6/1/16	41,667.		41,667.
	9/1/16	41,667.		41,667.
	12/1/16	41,667.		41,667.
	3/1/17	41,667.		41,667.
	6/1/17	41,667.		41,667.
	9/1/17	41,667.		41,667.
	12/1/17	41,667.		41,667.
	3/1/18	41,667.		41,667.
	6/1/18	41,667.		41,667.
	9/1/18	41,667.		41,667.
	12/1/18	41,667.		41,667.
	3/1/19	41,667.		41,667.
	6/1/19	41,667.		41,667.
	9/1/19	41,667.		41,667.
	12/1/19	41,667.		41,667.
	3/1/20	41,667.		41,667.
	6/1/20	41,667.		41,667.
	9/1/20	41,667.		41,667.
	12/1/20	41,667.		41,667.
	3/1/21	41,667.		41,667.
	6/1/21	41,667.		41,667.
	9/1/21	41,667.		41,667.
	12/1/21	41,667.		41,667.
	3/1/22	41,667.		41,667.

	Period Ending	Principal	Interest	Debt Service
	6/1/22	41,667.		41,667.
	9/1/22	41,667.		41,667.
	12/1/22	41,667.		41,667.
	3/1/23	41,667.		41,667.
	6/1/23	41,667.		41,667.
	9/1/23	41,667.		41,667.
	12/1/23	41,667.		41,667.
	3/1/24	41,667.		41,667.
	6/1/24	41,667.		41,667.
	9/1/24	41,667.		41,667.
	12/1/24	41,667.		41,667.
	3/1/25	41,667.		41,667.
	6/1/25	41,667.		41,667.
	9/1/25	41,667.		41,667.
	12/1/25	41,667.		41,667.
	3/1/26	41,667.		41,667.
	6/1/26	41,667.		41,667.
	9/1/26	41,667.		41,667.
	12/1/26	41,667.		41,667.
	3/1/27	41,667.		41,667.
	6/1/27	41,667.		41,667.
	9/1/27	41,667.		41,667.
	12/1/27	41,667.		41,667.
	3/1/28	41,667.		41,667.
	6/1/28	41,667.		41,667.
	9/1/28	41,667.		41,667.
	12/1/28	41,667.		41,667.
	3/1/29	41,667.		41,667.
	6/1/29	41,667.		41,667.
	9/1/29	41,667.		41,667.
	12/1/29	41,667.		41,667.
	3/1/30	41,667.		41,667.
	6/1/30	41,667.		41,667.
	9/1/30	41,667.		41,667.
	12/1/30	41,666.		41,666.
	3/1/31	41,666.		41,666.
	6/1/31	41,666.		41,666.
	9/1/31	41,666.		41,666.
	12/1/31	41,666.		41,666.
	3/1/32	41,666.		41,666.
	6/1/32	41,666.		41,666.
	9/1/32	41,666.		41,666.
	12/1/32	41,666.		41,666.
	3/1/33	41,666.		41,666.
	6/1/33	41,666.		41,666.
	9/1/33	41,666.		41,666.
	12/1/33	41,666.		41,666.
	3/1/34	41,666.		41,666.
	6/1/34	41,666.		41,666.
	9/1/34	41,666.		41,666.

{C1524276.1}





**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 13th day of March 2009.

CASE NO. 08-1873-W-MA

CITY OF PETERSBURG,  
a municipal utility, Grant County.

Investigation and suspension of increase in water rates and charges as a result of petitions filed in accordance with W.Va. Code §24-2-4b.

and

CASE NO. 07-2209-W-CN (Reopened)

CITY OF PETERSBURG,  
a municipal utility, Grant County.

Application for a Certificate of Convenience and Necessity for the upgrade and expansion of the City's existing water treatment plant, replacement of the Hospital Hill water storage tank, repainting of the Point water storage tank, and for approval of the financing related thereto.

**COMMISSION ORDER**

By this Order, the Commission denies in part and grants in part the pending Exceptions filed by citizen intervenors. This Order grants the petition to reopen of the City of Petersburg ("City") in Case No. 07-2209-W-CN for approval of revised financing and approves different rates in Case No. 08-1873-W-MA from those approved in the January 28, 2009 Recommended Decision.

## Background<sup>1</sup>

On January 28, 2009, the Division of Administrative Law Judges (“ALJ Division”) issued separate Recommended Decisions in Case No. 08-1873-W-MA and Case No. 07-2209-W-CN.

In Case No. 08-1873-W-MA, the ALJ approved Phase 1 water rates effective on March 15, 2009, and Phase 2 project-related water rates to provide revenue sufficient to cover the City’s additional debt service and expenses that will result from the approved project, including the approximate \$3,000,000 increase in the estimated cost of the project resulting in a 90.5 percent increase in revenue above the Phase 1 rate increase, to become effective upon substantial completion of the project.

In Case No. 07-2209-W-CN, the ALJ approved the City’s revised funding for its certificate project.

Citizen Intervenors, Robert McCalley and Phyllis Cole, filed Exceptions to the Recommended Decisions listing numerous objections to the City’s certificated project and noting that the ALJ did not permit them to present evidence or ask questions on the project at the hearing.

By Order issued February 25, 2009, the Commission concluded that the ALJ erred in several respects in managing and deciding these cases and, in view of the March 15, 2009 statutory deadline in Case No. 08-1873-W-MA, scheduled an emergency hearing on March 5, 2009. The purpose of the emergency hearing was to permit Mr. McCalley and Ms. Cole the opportunity to present fully the evidence and arguments that were erroneously excluded at the January 6, 2009 hearing.

The March 5, 2009 hearing took place as scheduled. The City presented various exhibits and the testimony of four witnesses including 1) Bill Deadrick, the City of Petersburg Water Commissioner, 2) Fred Hypes, Project Engineer of Dunn Engineering, 3) Robert DeCrease of the West Virginia Bureau for Public Health, and 4) Michael Griffith, City Accountant. The Intervenors presented various exhibits and the testimonies of Robert McCalley and Phyllis Cole. Commission Staff presented the testimonies of Nathan Nelson, Joseph Marakovits and James Weimer. References to the transcript of the March 5, 2009 hearing will be referred to as “Tr. 3, p. \_\_\_.”

On March 10, 2009, the Intervenors filed a Brief summarizing their positions in this matter and requesting that the Commission revoke the City’s certificate of convenience and necessity.

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<sup>1</sup>This Order does not repeat the case background preceding the Commission’s February 25, 2009 Order. That background is provided in the February 25, 2009 and prior Orders issued in these matters.

## DISCUSSION

Upon review of the evidence presented at hearing, the Commission will approve the revised funding and the currently designed certificate project and revise the City's rate design. The Intervenor appeared *pro se*, and much of the testimony that they presented was to a major degree speculative or conjectural and not within any demonstrated areas of expertise. Although the Intervenor did raise arguments that gave rise to concern as to whether the justification for the project as presented to the West Virginia Infrastructure and Jobs Development Council ("WVIJDC") in the City's applications to the WVIJDC is still representative of growth and development in Grant County, those arguments were outweighed by the City's and Staff's evidence in support of the project's convenience and necessity.

The Intervenor has been monitoring the City's project since at least 2005, began expressing objections when the project bid costs escalated from \$7.6 million to \$10.7 million, and testified that they have been before both the City Council and the ALJ in opposition to the project. See McCalley Testimony, Tr. 3, pp. 231-234; Cole Testimony, *Id.*, pp. 240-242. Notwithstanding their familiarity with the project and the problems they envisioned with the project, they did not bring forth evidence sufficient to challenge the project. Because of their allegations that they were deprived of their right to present evidence before the ALJ, the Commission, as requested by the Intervenor, conducted the March 5, 2009 hearing to allow the Intervenor to present evidence to support their contentions that the project is not convenient and necessary and that the City's rate design is flawed. The hearing provided the Intervenor with that opportunity, but the Intervenor did not present sufficient evidence or witnesses to prove their case as to the project. Much of the evidence presented was in the nature of hearsay and would be accorded little if any evidentiary weight in a court of law. While the Commission is a quasi-judicial body that is permitted to depart from the strict rules of evidence, the Commission cannot in fairness give any significant weight to letters, summaries, and other documents created by persons who did not appear at the hearing and were not subject to cross-examination by all parties, when compared to the evidence offered by the City and Staff.

We conclude, however, that the Intervenor did raise some valid arguments regarding the rate design and this Order corrects certain defects in the City's tariff.

The issues addressed at the hearing center on the need for the project in view of economic recession and lowered water demand; the design of the project; the cost of the project; the City's unaccounted-for water losses; whether it would be prudent for the City to rebid the project in view of decreased commodity prices; and the risk of losing funding in the event of a redesign or rebid of the project.

### *Need for the Project*

The Intervenor's principal argument against the project was that current economic conditions and the decline in water demand in the region do not justify a water plant and water storage upgrade as large in scope as the certificated project. The Intervenor presented the City's several WVJDC applications for project funding that list justification for the project that the Intervenor contend to be misleading and erroneous. Em. Hr. Intervenor Exh. 1(a) - (c). The Intervenor noted that the poultry industry, upon which Grant County is highly dependent, is in financial trouble and shrinking; a major employer, Allegheny Wood Products, has laid-off employees; and a wood processing plant expected to locate in the area has never materialized. Tr. 3, pp. 244-246. The Intervenor also presented evidence that the City's water plant does not actually operate as many hours per day as the City previously represented. *Id.* pp. 204-209; Em. Hr. Intervenor Exh. 2, 3, 4(a)-(f), 5.

The City's witness, George Deadrick, however, testified that the project was designed to address long-term potential growth in the City and the County and projected future capacity demand for the City's and the Grant County Public Service District's water utility service. The project will also address environmental and fire protection concerns facing the City.

Mr. Deadrick stated that the project will address an NPDES permit requirement that the City's sewage treatment plant discontinue the discharge of aluminum. Tr. 3, pp. 23, 24. Mr. Deadrick stated that, although the West Virginia Division of Environmental Protection ("WV DEP") has not issued any compliance citations to the City, a Chesapeake Bay watch group noted that the City was out of compliance with its NPDES permit with respect to aluminum discharge for eighteen to nineteen months. After that notice, the City obtained a permit modification to allow it to continue the aluminum discharges from its sewage treatment process pending completion of the City's water plant upgrade project. *Id.* pp. 33, 34. Mr. Deadrick explained that, although the aluminum enters the South Branch of the Potomac River from the City's sewage treatment plant, the source of the aluminum is the City's water plant because the water plant is currently designed to transport sludge to the City's sewage plant. *Id.* pp. 25-26, 31-33, 35.

Most recently, and in view of the certificate project which will cure the water plant aluminum issue, the WV DEP granted the City extensions to the compliance schedule associated with its NPDES permit, but the extension was contingent on the City awarding the project to contract on or before April 15, 2009. Em. Hr. City Exh. 2; Commission Request Post-hearing Exh. No. 2.

Mr. Deadrick testified that when the plant upgrade project planning began, the City's water plant was required at times to pump up to eighteen hours per day, and that the City is required by Health regulations to begin planning for additional capacity when pumping levels reach fourteen hours per day. Mr. Deadrick stated that in more recent years, the City's plant pumps about twelve to fourteen hours per day. Tr. 3, pp. 64, 65; see also Hypes testimony,

Id. p. 94. The West Virginia Bureau for Public Health requires that new water plants be designed to pump only eight hours per day. Id.

City witness Fred Hypes testified that need for the project was based on a demand study commissioned by the Grant County Commission in the early 1990s. Tr. 3, p. 45. The project was ultimately designed to meet the County's present and future needs. Mr. Hypes admitted that the City has experienced a decline in water demand in the past year or so. Mr. Hypes stated, however, that an industrial park has recently been built on the ridge overlooking Petersburg and that businesses locating in that park will take water utility service from the Grant County Public Service District, a resale customer of the City. Id. pp. 89, 90. Mr. Hypes testified that the water plant and storage project was designed to meet both current demands and future demands. Id. p. 95.

Mr. Hypes testified that the project will improve the City's water supply for fire protection because it will enable more water to flow to fill the City's tanks serving the main part of the City. Tr. 3, p. 98. Mr. Hypes stated that the City's current system might not provide adequate water flow to fight fires in the City, particularly areas near the high school and wastewater treatment plant. Id. pp. 98-99, 126. Mr. Hypes stated that tanks owned by the Grant County Public Service District cannot supply water to the City in the event of fire because they are not configured to "back-feed" into the City's tanks. Id. p. 136-147. Staff's original review of the project noted that the project will provide two days of normal demand plus fire flow. See Final Joint Staff Memorandum dated February 14, 2008 filed in Case No. 07-2209-W-CN. At the hearing, Staff witness Mr. Marakovits reported that a number of the City's hydrants have flows far below the City's average hydrant flow of 1,750 gallons per minute. Tr. 3, pp. 286-290; See also Staff Exh. 1 from the January 6, 2009 hearing.

The Commission concludes that the weight of the evidence presented at hearing supports a finding that the project remains necessary. The Commission's conclusion is consistent with and supported by the fact that the WVJDC and the West Virginia Bureau for Public Health have approved the feasibility of and funding for the project. See WVJDC determination of feasibility dated January 11, 2006, Exhibit to November 13, 2007 City filing in support of Certificate Application; Bureau for Public Health Funding Commitment Letter dated September 3, 2008, Exhibit 3 to City Petition to Reopen of September 12, 2008.

### *Design of the Project*

The Intervenors asserted that the project includes too much storage capacity and that significant cost savings might be realized by downsizing a water tank, and taking the Grant County Public Service District's tanks into consideration when calculating the entire system's storage capacity requirements for fire protection purposes. Tr. 3, pp. 211-214, 219. Mr. Hypes addressed the Intervenors' arguments. As noted earlier, Mr. Hypes testified that the District's tanks cannot provide fire protection inside the City because they are not configured with "back-feed" capability. Tr. 3, pp. 136-147. The project will improve the City's storage capability by replacing a deteriorated water tank with a larger, 1.5 million

gallon tank. Mr. Hypes conceded that the size of the replacement tank was originally specified at 1.1 million gallons and was later increased to 1.5 million gallons. *Id.* p. 97. In support of the decision to purchase the larger tank, Mr. Hypes noted that the land available for the tank is only large enough to accommodate a single tank, and therefore the City does not have the option of adding a second tank at that location if circumstances require additional storage in the future. *Id.* pp. 99, 100. Mr. Deadrick further explained that the incremental cost difference for the larger tank was relatively small and was justified by the City's decision to build for tomorrow instead of for only the needs of today. *Id.* pp. 45, 46. The Commission believes that the larger tank, to be obtained at a significant cost savings, is a prudent expenditure.

Mr. Hypes stated that the project will also improve the City's fire protection by replacing a current undersized feed line that serves the City's "hospital" tank and creates a storage bottleneck limiting the system's ability to provide adequate water to fight fires in much of the City, *Id.* pp. 97, 98.

The Intervenors also complained that the water plant building would include an unnecessary room classified as extra storage or a classroom, and that the City might realize cost savings by eliminating this space. Tr. 3, pp. 219, 230, 236. The Commission believes that planning for administrative uses and storage is prudent when constructing office space, and that the benefits of any cost savings are outweighed by the usefulness of such interior space.

The Intervenors argued that the Commission should require a redesign of the project in view of current economic conditions. The Commission acknowledges that the scope of the City's water plant project is significant and that it is prudent to look for cost savings given the recent economic downturns and decline in water demand in the region. However, the Commission does not believe that the public interest is served if water utility infrastructure is designed to meet only the immediate needs of a city or region without consideration of future long-term needs. In view of the proximity of Corridor H and the presence of the new industrial park, the Commission cannot find the City's decision to plan for future potential growth and demand to have been unreasonable.

#### *Project Cost and Funding; Prudence of Rebidding*

The Intervenors testified that they decided to oppose the certificate project and associated municipal rate ordinance when the cost of the project increased from \$7.6 million to \$10.7 million. Tr. 3, pp. 231, 233, 234; 240, 241. The Commission agrees that this is a significant increase in costs but it is not unusual in the Commission's experience for the estimated cost of a project to be significantly less than the bids received for the project. The Intervenors attempted to show that rebidding the project would result in significant cost savings because of recent decreases in the cost of steel, concrete and fuel. *Id.* pp. 220, 221; Em. Hr. Intervenors Exh. 9. However, the Intervenors did not produce either witnesses or reliable evidence to support their positions. Although the Intervenors did attempt to present

summaries of costs prepared by a third-party, that person was not present at the hearing and could not be cross-examined by the City or Commission Staff. Id. p. 221; Em. Hr. Intervenor Exh. 9.

In response to the Intervenor's position and to support the City's position that the City received competitive bids for its project, City witness Hypes testified that thirty-one contractors attended the City's pre-bid meeting on the project, that five contractors bid on the water plant contract, three contractors bid on the tank replacement, three contractors bid on constructing the new distribution feed line to the City's "hospital" tank, and one contractor bid on repainting a City water tank. Tr. 3, pp. 102-104. In all cases, the City accepted the lowest bid for the various parts of the project. Id. p. 142. Mr. Hypes also stated that a recent project of approximately half the scope of the City's project received bids of approximately half of the amount of the bids on the City's project. Id. p. 106. Furthermore, Mr. Hypes testified that he had been testing the validity and reasonableness of the bids by keeping in contact with contractors who typically bid on utility construction projects and his feeling is that increases and decreases in various commodity prices, combined with increases in prevailing wage rates, would result in a "wash" for the cost of the project, with no savings, and potentially increased bids on this project. Id. p. 110.

City witness Deadrick testified that a redesign of the project or a required rebid of the project would likely result in increased labor costs because of the 3-5 percent increase in wage levels impacting this construction. Tr. 3, pp. 21-23. The City produced a letter from the United States Department of Labor extending the prior prevailing wage levels for this project provided the City enters into contracts by April 22, 2009. Em Hr. City Exh. 1.

The funding for the project is advantageous. The two Drinking Water Treatment Revolving Fund ("DWTRF") loans in the amount of \$2,700,000 (at 2 percent interest and 1 percent administrative fee) and \$5,000,000 (at 0 percent interest and 1 percent administrative fee) are extremely favorable. The project will receive \$2,931,400 in grant funding from the Environmental Protection Agency State Tribal Assistance.

City witness Deadrick stated that in the event of a redesign or rebid, the City's current and future water utility rate levels, which are relatively low, might be taken into consideration by DWTRF or WVJDC officials who could, in reevaluating the project funding, reach a determination that the City's project should not qualify for 0 percent and 1 percent interest rate loans. In that case, the City would be required to borrow money at market rates. Tr. 3, pp. 74-76, 81. City witness Michael Griffith also testified as to this risk in the event of a redesign or rebid of the project. Id. pp. 174-178.

City witness Robert DeCrease is employed by the West Virginia Bureau for Public Health as the manager of Infrastructure and Capacity Health Inspection. Mr. DeCrease testified in support of an email in which he stated the likelihood that the City's water plant project would be eligible for \$2.5 million of federal stimulus funds because of the fact that it has received bids and is "shovel-ready." Em. Hr. Intervenor Cross Exh. 1. Mr. DeCrease

testified that the City project would achieve priority for stimulus funds because it is the only project of which he was aware that has bids in hand and is ready to "shovel dirt." Tr. 3, pp. 152, 153. If stimulus funds were awarded to the City's project, those funds would replace DWTRF loan amounts. *Id.* p. 154.

Mr. DeCrease testified that a required redesign or rebid of the project would result in the City's project having to compete with at least seventy-six other projects that have or will apply for stimulus funding, some of which may become "shovel ready" prior to the City's project. *Id.* p. 155. Mr. DeCrease also testified about the ranking criteria his agency utilizes in determining which projects will be eligible for stimulus funding. *Id.* pp. 156-158. Mr. DeCrease stated that rebidding the project is a "roll of the dice" as to whether either the stimulus funds or the existing DWTRF funding would be available for the project if it is rebid. *Id.* pp. 161, 162.

The Commission concludes that, while neither the City nor the Commission may assume without reservation that the federal stimulus funds of \$2.5 million will be awarded for the City's water plant project, Mr. DeCrease's testimony on this point was persuasive. In addition, the Commission is troubled by the testimony, speculative though it might be, that the City stands a chance of losing the favorable interest rates on the currently committed DWTRF loans. The Commission does not believe that the Intervenors' evidence in opposition to the project costs and arguments to rebid the project are sufficient to justify taking a risk with respect to the committed loans or compromising the project's current "shovel-ready" status in the Bureau of Public Health's stimulus funds ranking process.

#### *Unaccounted-for Water Losses*

The Commission appreciates the Intervenors' position that a major plant upgrade should not precede steps to reduce the City's current levels of unaccounted-for water losses. Although the Commission is always concerned about high levels of unaccounted-for water ("UFW"), the testimony in the hearing from Mr. Hypes and Staff witness Weimer was that a large number of slow meters within the city limits might be artificially inflating the UFW. Tr. 3, pp. 92, 93; 200-202. City witness Dadrick testified that the City is replacing meters that test slow, but that its testing capabilities have been limited by staffing constraints. *Id.* pp. 79, 80. He also stated that these meter replacement will be funded as contingencies within the certificated project. *Id.* pp. 80-83. The Commission expects and urges the City to continue to work toward testing and replacement of slow meters and to investigate other causes for its higher UFW within the city limits.

#### *Rates*

The Intervenors raised a valid point in their Exceptions and hearing testimony that the rates recommended by Staff, and approved by the ALJ, unfairly burden the low consumption customers. Tr. 3, pp. 243, 244. Under the Staff-recommended Phase 1 rates, the customers who are low water users will experience the highest percentage rate increase. *Id.* pp. 243,

244. Staff witness Nelson confirmed that under the stipulated Phase 1 rates, the minimum bill (up to 2,000 gallons per month) water customers would experience a 45.64 percent rate increase, while customers using a more typical 4,500 gallons per month would experience only a 14.97 percent increase. Id. p. 259.

The difficulty with regard to rate design is that the City's present rates have an initial block rate for the first 2,000 gallons of usage per month and then a large block covering the next 98,000 gallons per month. For other than minimum bill residential customers a large portion of residential usage falls in the second rate block. A large portion of the usage of commercial and industrial customers also falls in the second rate block. Any attempt to increase the average bill to residential customers using more than 2,000 gallons would impact commercial and industrial customers even more than residential customers because of the large size of the next block above the 2,000 gallon block.

This might not be a problem if the results of the Class Cost of Service Study had indicated that the percentage increase to all classes of customers should be nearly the same. However, in this case, the Class Cost of Service Study indicates that there should be a significantly larger percentage increase to the residential class than to the commercial or industrial class. Thus, the lack of rate blocks that would be used predominantly for residential bills created a problem for Staff's rate design targets. Staff originally chose to solve this problem by simply placing a very large increase on the first block. This would have had a greater impact on residential customers as compared to commercial or industrial customers; a result consistent with the Class Cost of Service Study. The negative aspect of this solution, however, is that it has an even greater disproportionate impact on the smaller volume customers who would receive an increase of over 45 percent while a residential customer using 4,500 gallons per month would receive only a 15 percent increase. A residential customer using around 7,000 gallons per month would receive an increase of only 5 percent and at 9,000 gallons per month there would be no increase.

The Intervenor made it clear that one of their concerns was with the disproportionate increase to small volume users as recommended by Staff, agreed to by the City and recommended by the ALJ. Tr. 3, pp. 243, 244. During the January 6, 2009 hearing before the ALJ, Staff implied that the disproportionate increase to low-volume users was justified by the Class Cost of Service Study and that any attempt to place a smaller increase on the small volume customers would be an attempt to implement a lifeline rate. Transcript of January 6 hearing, pp. 78, 79, 86, 87. This is not correct. During the hearing before the Commission, Mr. Nelson agreed that Staff's use of the City's current rate blocks made it difficult to design rates that would be consistent with the inter-class results of the Class Cost of Service Study without putting a disproportionate increase on the first rate block. Tr. 3, pp. 260-262; 266, 267. He further testified, however, that there was no intra-residential class component of the study that would support a disproportionate increase to small-volume residential customers. Id. pp. 266, 267.

Notwithstanding the City's current limited rate block structure, the Commission must devise an appropriate solution. The Commission finds that the disproportionate rate increase among customers within the residential class is not reasonable nor justified by any evidence. The City's accountant Mr. Griffith testified that the City would not oppose an amended rate structure provided the City's cash flow was not impaired, fixed costs were fairly allocated, and the overall revenue level was not changed. Tr. 3, pp. 187, 189. Accordingly, the Commission will redesign the Phase 1 rates by changing the blocking. The Commission's new blocking to be used by the City will be:

First	2,000 gallons used per month
Next	3,000 gallons used per month
Next	5,000 gallons used per month
Next	90,000 gallons used per month
Over	100,000 gallons used per month

This blocking allows the Commission to design rates that more heavily impact residential customers within the first two blocks, and somewhat less in the third block. This will result in a more even percentage increase across various usage levels within the residential class. The rates designed by the Commission will produce total revenue that is nearly the same as the class revenue (residential, commercial and industrial) produced by Staff's proposed Phase 1 rates. However, the new structure eliminates the disproportionate increase on low-usage customers that fall only within the first block and results in a smoother spread of the overall increase within the residential class. The Commission-designed Phase 1 rates are attached as Attachment 1, and a table showing the percentage increase of the Phase 1 rates at various usage levels is attached as Attachment 2. The Commission-designed Phase 2 rates are attached as Attachment 3.

The Commission is sympathetic with customer concerns about paying increased water rates during economic recession. We note, however, that even under the Phase 2 rates, the City's water utility rates will fall among the lower 50% of water utility rates statewide.

### *Conclusion*

Upon review of all of the evidence presented at the March 5, 2009 Emergency Hearing and the evidence from the earlier hearing, the Commission finds that the Intervenor have not presented evidence sufficient to require the City to either redesign or rebid the certificated water plant project. Although the Commission is mindful of the current economic recession and is aware that projections for growth and potential location of new industry in the region is altered from the projections when the project was first conceived, those factors are outweighed by the evidence of need for the project presented at the hearing. The City produced uncontested evidence of the WV DEP requirement that the City correct its aluminum discharge NPDES compliance issue, and the project design will accomplish that. Tr. 3, pp. 24-26; 40, 41, 42-44, 52-54. The project will also comply with Bureau for Public Health standards that the City design new capacity with a goal of pumping only eight

hours per day, instead of the City's current pumping record of 12 -14 hours per day. *Id.* pp. 64, 65, 94. The project will also improve the City's water flow for fire protection purposes in the area of the City near the high school and the wastewater treatment plant. Tr. 3, pp. 98-99, 126. Furthermore, as mentioned above, the proximity of the plant to Corridor H and the presence of available industrial and commercial parks, when considered with the Grant County Commission needs analysis performed in the 1990s, all support the Commission's decision not to revoke its prior approval of the project.

Although the current projected cost of the project is significantly higher than the \$7.6 million projected in 2007, the Commission regards the committed funding as extremely favorable, with the prospect of the federal stimulus funds making the financing even more advantageous for the City and the region. The Commission expects the City to make every effort to pass through the benefit of all federal stimulus funding received for the project to its ratepayers and, as the project nears completion, to reexamine its Phase 2 rates to see if those rates can ultimately be lowered by enactment of ordinance based on the more favorable funding. Along with that review, the Commission recommends that the City consider creating a separate rate schedule for commercial and industrial customers to address the wide spread of increases and decreases at higher usage levels where commercial and industrial customers are normally billed.

The Commission has determined that the City's rate block structure should be amended to more evenly distribute the City's revenue requirements within the residential class of customers. The Commission-authorized Phase 1 rates are attached hereto as Attachment 1, and the Phase 2 rates are attached as Attachment 3.

### FINDINGS OF FACT

1. The Commission held an emergency hearing on March 5, 2009 to permit Mr. McCalley and Ms. Cole the opportunity to present fully the evidence and arguments that were erroneously excluded at the January 6, 2009 hearing before the ALJ.

2. The issues addressed at the hearing centered on the need for the project in view of economic recession and lowered water demand; the design of the project; the cost of the project; the City's unaccounted-for water losses; whether it would be prudent for the City to rebid the project in view of decreased commodity prices; and the risk of losing funding in the event of a redesign or rebid of the project.

3. The Intervenors appeared *pro se*, and other than their own oral testimony and several exhibits prepared by Mr. McCalley, most of the testimony that they presented was to a major degree speculative or conjectural and not within any demonstrated areas of expertise possessed by either of them.

4. The Intervenors have monitored the City's project since at least 2005, began expressing objections when the project bid costs escalated from \$7.6 million to \$10.7 million,

and testified that they have been before both the City Council and the ALJ in opposition to the project. See McCalley Testimony, Tr. 3, pp. 231-234; Cole Testimony, Id. pp. 240-242.

5. The Intervenors raised arguments that the justification for the project as presented to the WVIJDC in the City's applications is no longer representative of growth and development in Grant County and is misleading and erroneous. Em. Hr. Intervenors Exh. 1(a) - (c).

6. The Intervenors noted that the poultry industry, upon which Grant County is highly dependent, is in financial trouble and shrinking; a major employer, Allegheny Wood Products, has laid-off employees; and a wood processing plant expected to locate in the area has never materialized. Tr. 3, pp. 244-246.

7. The Intervenors presented evidence that the City's water plant does not actually operate as many hours per day as the City previously represented. Id. pp. 204-209; Em. Hr. Intervenors Exh. 2, 3, 4(a)-(f), 5.

8. The City designed its project to address long-term potential growth in the City and the County and projected future capacity demand for the City's and the Grant County Public Service District's water utility service. Deadrick Testimony, Tr. 3, pp. 23, 24; Hypes Testimony, Tr. 3, p. 95.

9. The City's project will address an NPDES permit requirement that the City's sewage treatment plant discontinue the discharge of aluminum. Deadrick Testimony, Id.

10. The project will improve the City's water flow for fire protection purposes in areas of the City near the high school and the wastewater treatment plant. Tr. 3, pp. 98-99, 126.

11. Although the WV DEP has not issued any compliance citations to the City, a Chesapeake Bay watch group noted that the City was out of compliance with its NPDES permit with respect to aluminum discharge for eighteen to nineteen months. Deadrick Testimony, Tr. 3, pp. 33, 34. After that notice, the City obtained a permit modification to allow it to continue the aluminum discharges from its sewage treatment process pending completion of the City's water plant upgrade project. Id.

12. Although the aluminum is released into the South Branch of the Potomac River from the City's sewage treatment plant, the source of the aluminum is the City's water plant because the water plant is currently designed to transport sludge to the City's sewage plant. Id. pp. 25-26, 31-33, 35.

13. The WV DEP granted the City extensions to the compliance schedule associated with its NPDES permit, and made the extension contingent on the City awarding

the project to contract on or before April 15, 2009. Emergency Hearing City Exh. 2; Commission Request Post-hearing Exhibit No. 2.

14. When the City began planning its plant upgrade project, the City's water plant was required at times to pump up to eighteen hours per day, and the City is required by Health regulations to begin planning for additional capacity when pumping levels reach fourteen hours per day. Tr. 3, pp. 64, 65; see also Hypes testimony, Id. p. 94. In more recent years, the City's plant pumps about twelve to fourteen hours per day. Id. The West Virginia Bureau for Public Health requires that new water plants be designed to pump only eight hours per day. Id.

15. Need for the project was originally based on a demand study commissioned by the Grant County Commission in the early 1990s. Deadrick Testimony, Tr. 3, p. 45.

16. The City experienced a decline in water demand in the past year or so but an industrial park recently built on the ridge overlooking Petersburg will take water utility service from the Grant County Public Service District, a resale customer of the City. Hypes Testimony, Tr. 3, pp. 89, 90.

17. The Intervenors argued that the Commission should require a redesign and rebid of the project in view of current economic conditions.

18. The Intervenors asserted that the project includes too much storage capacity and that significant cost savings might be realized by downsizing a water tank, and taking the Grant County Public Service District's tanks into consideration when calculating the entire system's storage capacity requirements for fire protection purposes. Tr. 3, pp. 211-214, 219.

19. The District's tanks cannot provide fire protection inside the City because they are not configured with "back-feed" capability. Tr. 3, pp. 136-147.

20. The City originally specified that a replacement water tank would be 1.1 million gallons but later increased the size to 1.5 million gallons. Hypes Testimony, Id. p. 97.

21. The City's decision to purchase the larger tank was based on a small incremental cost difference and the City's desire to build for tomorrow instead of for only the needs of today. Deadrick Testimony, Id. pp. 45, 46.

22. The land available for placement of the new water tank is only large enough to accommodate a single tank, and therefore the City does not have the option of adding a second tank at that location if circumstances require additional storage in the future. Hypes Testimony, Id. pp. 99, 100.

23. An undersized feed line currently serves the City's "hospital" tank and creates a storage bottleneck limiting the system's ability to provide adequate water quantity to fight fires in the north side of the City. Hypes Testimony, Tr. 3, pp. 97, 98.

24. The Intervenors complained that the water plant building would include an unnecessary room classified as extra storage or a classroom, and that the City might realize cost savings by eliminating this space. Tr. 3, pp. 219, 230, 236.

25. The Intervenors decided to oppose the certificate project and associated municipal rate ordinance when the cost of the project increased from \$7.6 million to \$10.7 million. Tr. 3, pp. 231, 233, 234; 240, 241.

26. It is not unusual for the estimated cost of a certificated project to be significantly less than the bids received for the project.

27. The Intervenors attempted to show that rebidding the project would result in significant cost savings because of recent decreases in the cost of steel, concrete and fuel. Id. pp. 220, 221; Em. Hr. Intervenors Exh. 9. However, the Intervenors did not produce either witnesses or reliable evidence to support their positions. Although the Intervenors did attempt to present summaries of costs prepared by a third-party, that person was not present at the hearing and could not be cross-examined by the City or Commission Staff. Id. p. 221; Em. Hr. Intervenors Exh. 9.

28. Thirty-one contractors attended the City's pre-bid meeting on the project, five contractors bid on the water plant contract, three contractors bid on the tank replacement, three contractors bid on constructing the new distribution feed line to the City's "hospital" tank, and one contractor bid on repainting a City water tank. Hypes Testimony, Tr. 3, pp. 102-104.

29. The City accepted the lowest bid for the various parts of the project. Id. p. 142.

30. The City is aware of a recent project of approximately half the scope of the City's project that received bids of approximately half of the amount of the bids on the City's project. Hypes Testimony, Id. p. 106.

31. The City has, since receipt of the bids, been testing the validity and reasonableness of the bids by keeping in contact with contractors who typically bid on utility construction projects. Mr. Hypes feels that increases and decreases in various commodity prices, combined with increases in prevailing wage rates, would result in a "wash" for the cost of the project, with no savings, and potentially increased bids on this project. Id. p. 110.

32. The City fears that a redesign of the project or a required rebid of the project would likely result in increased labor costs because of the 3-5 percent increase in wage levels impacting this construction. Tr. 3, pp. 21-23. The City produced a letter from the United

States Department of Labor extending the prior prevailing wage levels for this project, provided the City enters into contracts by April 22, 2009. Em Hr. City Exh. 1.

33. It is possible that in the event of a redesign and rebid, the City's current and future water utility rate levels, which are relatively low, might be taken into consideration by DWTRF or WVIJDC officials who could, in reevaluating the project funding, reach a determination that the City's project should not qualify for 0 percent and 1 percent interest rate loans. In that case, the City would be required to borrow money at market rates. Deadrick Testimony, Tr. 3, pp. 74-76, 81; Griffith Testimony, Id. pp. 174-178.

34. Robert DeCrease, Manager of Infrastructure and Capacity Health Inspection for the West Virginia Bureau for Public Health, stated a likelihood that the City's water plant project would be eligible for \$2.5 million of federal stimulus funds because of the fact that it has received bids and is "shovel-ready." Tr. 3, pp.152, 153; Em. Hr. Intervenor Cross Exh.1. Mr. DeCrease testified that the City project would achieve priority for stimulus funds because it is the only project of which he was aware that has bids in hand and is ready to "shovel dirt." Id. If stimulus funds were awarded to the City's project, those funds would replace DWTRF loan amounts. Id. p. 154.

35. If the project were redesigned and rebid, the City's project would compete with at least seventy-six other projects that have applied or will apply for stimulus funding, some of which may become "shovel ready" prior to the City's project. DeCrease Testimony, Id. p. 155.

36. Mr. DeCrease believes that rebidding the project is a "roll of the dice" as to whether either the stimulus funds or the existing DWTRF funding would be available for the project if it is rebid. Id. pp. 161, 162.

37. The Intervenors' position is that a major plant upgrade should not precede steps to reduce the City's current levels of UFW. McCalley Testimony, Tr. 3, p. 218; Cole Testimony, Id. pp. 242, 243.

38. The City and Staff presented testimony that a large number of slow meters within the city limits might be artificially inflating the UFW. Hypes Testimony, Tr. 3, pp. 92, 93; Weimer Testimony, Id. pp. 200-202.

39. The City is replacing meters that test slow, but its testing capabilities have been limited by staffing constraints. Deadrick Testimony, Id. pp. 79, 80. Meter replacements will be funded as contingencies within the certificated project. Id. pp. 80-83.

40. The revised funding proposed for the project includes the two DWTRF loans in the amount of \$2,700,000 (at 2 percent interest and 1 percent administrative fee) and \$5,000,000 (at 0 percent interest and 1 percent administrative fee). The project will receive \$2,931,400 in grant funding from EPA State Tribal Assistance.

41. Under the Staff-recommended Phase 1 rates, the customers who are low water users will experience the highest percentage rate increase. Tr. 3, pp. 243, 244. Under the stipulated Phase 1 rates, the minimum bill (up to 2,000 gallons per month) water customers would experience a 45.64 percent rate increase, while customers using a more typical 4,500 gallons per month would experience only a 14.97 percent increase. Id. p. 259.

42. The City's present rates have an initial block rate for the first 2,000 gallons of usage per month and then a large block covering the next 98,000 gallons per month. For other than minimum bill residential customers a large portion of residential usage falls in the second rate block. A large portion of the usage of commercial and industrial customers also falls in the second rate block. Any attempt to increase the average bill to residential customers using more than 2,000 gallons would impact commercial and industrial customers even more than residential customers because of the large size of the next block above the 2,000 gallon block.

43. Staff's Class Cost of Service Study indicated that there should be a significantly larger percentage increase to the residential class than to the commercial or industrial class.

44. The Intervenors made it clear that one of their concerns was with the disproportionate increase to small volume users as recommended by Staff, agreed to by the City and recommended by the ALJ. Tr. 3, pp. 243, 244.

45. The City's current rate blocks made it difficult for Staff to design rates that would be consistent with the inter-class results of the Class Cost of Service Study without putting a disproportionate increase on the first rate block. Staff stated that there was no intra-residential class component of the study that would support a disproportionate increase to small volume residential customers. Tr. 3, pp. 260-262, 266, 267.

46. The City would not oppose an amended rate structure provided the City's cash flow was not impaired, fixed costs were fairly allocated, and the overall revenue level was not changed. Tr. 3, pp. 187-189.

### CONCLUSIONS OF LAW

1. The issue of whether the justification for the project as presented to the WVIJDC in the City's applications is still representative of growth and development in Grant County, was far outweighed by the City's and Staff's evidence in support of the project's convenience and necessity.

2. Notwithstanding the Intervenors' familiarity with the project and the problems they envisioned with the project, they did not bring forth evidence sufficient to challenge the project.

3. The Commission provided the Intervenor with the opportunity at hearing to present evidence to support their contentions that the project is not convenient and necessary and that the City's rate design is flawed, but the Intervenor did not present sufficient evidence or witnesses to prove their case as to the project.

4. Much of the evidence presented by the Intervenor was in the nature of hearsay and would be accorded little if any evidentiary weight in a court of law. While the Commission is a quasi-judicial body that is permitted to depart from the strict rules of evidence, the Commission cannot in fairness give evidentiary weight to letters, summaries, and other documents created by persons who did not appear at the hearing and were not subject to cross-examination by all parties.

5. The Intervenor did raise some valid arguments regarding the rate design and the Commission will correct defects in rate design in this Order.

6. The City's decision to purchase a larger replacement water tank than was originally specified, at a significant cost savings, was prudent under the circumstances.

7. It is prudent to plan for administrative uses and storage when constructing office space, and the benefits of any cost savings that might be achieved by eliminating such space are outweighed by the usefulness of the space.

8. The weight of the evidence presented at hearing supports a finding of that the project remains necessary. The Commission's conclusion is consistent with and supported by the fact that the WVJDC and the West Virginia Bureau for Public Health have approved the feasibility of and funding for the project. See WVJDC determination of feasibility dated January 11, 2006, Exhibit to November 13, 2007 City filing in support of Certificate Application; Bureau for Public Health Funding Commitment Letter dated September 3, 2008, Exhibit 3 to City Petition to Reopen of September 12, 2008.

9. Although the scope of the City's water plant project is significant and it is prudent to look for cost savings given the recent economic downturns and decline in water demand in the region, the Commission does not believe that the public interest is served if water utility infrastructure is built to meet only the only the immediate needs of a city or region without consideration of future long-term needs.

10. In view of the proximity of Corridor H and the presence of the new industrial park, the Commission cannot find the City's decision to plan for future potential growth and demand to have been unreasonable.

11. The revised funding for the project is advantageous and the project remains convenient and necessary.

12. While neither the City nor the Commission should assume without reservation that the federal stimulus funds of \$2.5 million will be awarded for the City's water plant project, the Commission found Mr. DeCrease's testimony on this point to be persuasive.

13. The Intervenors' evidence in opposition to the project costs and arguments to rebid the project are not sufficient to justify putting the project at risk with respect to the committed loans or compromising the project's current "shovel-ready" status in the Bureau of Public Health's stimulus funds ranking process.

14. The City should continue to work toward testing and replacement of slow meters and to investigate other causes for its higher UFW within the city limits.

15. The rates recommended by Staff, and approved by the ALJ, unfairly burden the low consumption customers. A disproportionate rate increase among customers within the residential class is not reasonable nor justified by any evidence.

16. It is reasonable and appropriate to redesign the City's Phase 1 and Phase 2 rates by changing the blocking, and design rates that more heavily impact residential customers within the first two blocks, and somewhat less in the third block.

17. It is reasonable to adopt rates that impose a more even percentage increase across various usage levels within the residential class and that produce total revenue that is nearly the same as the class revenue (residential, commercial and industrial) that would have been produced by Staff's proposed Phase 1 rates.

18. The City should make every effort to pass through the benefit of all federal stimulus funding received for the project to its ratepayers and, as the project nears completion, to reexamine its Phase 2 rates to see if those rates can ultimately be lowered by enactment of ordinance based on the more favorable funding. Along with that review, the City should consider creating a separate rate schedule for commercial and industrial customers to address the wide spread of increases and decreases at higher usage levels where commercial and industrial customers are normally billed.

19. The City's revised funding for the project should be approved and the Commission-designed rates should be adopted.

### ORDER

IT IS THEREFORE ORDERED that the City's petition to reopen Case No. 07-2209-W-CN for approval of revised project funding is hereby granted.

IT IS FURTHER ORDERED that the revised project funding, consisting of a \$2,931,400 Environmental Protection Agency State Tribal Assistance grant; a \$2,700,000 Drinking Water Treatment Revolving Fund loan at 2 percent interest plus a 1 percent administrative fee, payable over twenty years; and a \$5,000,000 DWTRF loan at 0 percent interest plus a 1 percent administrative fee, payable over thirty years, is approved.

IT IS FURTHER ORDERED that, if there is any change in the cost of the project, estimated at \$10,700,000, that would affect rates, or in the scope, design or funding of the project, the City of Petersburg file a petition with the Commission for approval of such revisions.

IT IS FURTHER ORDERED that the Phase 1 rates and charges, set forth on Attachment 1, are approved, effective for all service rendered on and after the date of this Order.

IT IS FURTHER ORDERED that the Phase 2 rates and charges, as provided in Attachment 3, are approved, effective upon substantial completion of the project approved in Case No. 07-2209-W-CN.

IT IS FURTHER ORDERED that the City develop a long-range plan for addressing distribution system deficiencies (such as leaky and undersized mains), address the manpower shortage that is preventing proper maintenance of the distribution system, and file a report concerning those recommendations within 180 days of the date of this Order.

IT IS FURTHER ORDERED that the City of Petersburg file with the Commission's Tariff Office an original and six copies of each of its water tariffs implementing the approved rates and charges, as provided in Attachments 1 and 3, no later than thirty days after the dates on which they become effective.

IT IS FURTHER ORDERED that this matter be removed from the Commission's docket of open cases.

IT IS FURTHER ORDERED that the Executive Secretary of the Commission 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.

A True Copy, Testes

*Sandra Squire*  
Sandra Squire  
Executive Secretary

JML/klm  
081873cb.wpd

**CITY OF PETERSBURG**  
**CASE NO. 08- 1873-W-MA**  
**COMMISSION-APPROVED RATES - PHASE 1**

**APPLICABILITY**

Applicable within the entire territory served.

**AVAILABILITY**

Available for general domestic, commercial, industrial and resale service.

**RATES - (Customers with metered water supply)**

First	2,000 gallons used per month	\$3.60 per 1,000 gallons
Next	3,000 gallons used per month	\$2.95 per 1,000 gallons
Next	5,000 gallons used per month	\$2.45 per 1,000 gallons
Next	90,000 gallons used per month	\$1.80 per 1,000 gallons
Over	100,000 gallons used per month	\$1.48 per 1,000 gallons

**MINIMUM CHARGE**

No bill shall be rendered for less than the following amounts, according to the size of the meter installed:

5/8 inch meter	\$7.20
3/4 inch meter	\$10.80
1 inch meter	\$18.00
1 1/4 inch meter	\$26.28
1 1/2 inch meter	\$36.00
2 inch meter	\$57.60
3 inch meter	\$108.00
4 inch meter	\$180.00
6 inch meter	\$360.00
8 inch meter	\$576.00
10 inch meter	\$806.40

**RESALE RATE**

All water for resale will be billed in accordance with the approved rate of \$1.48 per 1,000 gallons

**RETURNED CHECK FOR INSUFFICIENT FUNDS**

A service charge equal to the actual bank fee assessed to the utility or a maximum of \$25.00 will be imposed upon any customer whose check for payment of charges is returned by their bank due to insufficient funds.

DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full when due, ten percent will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

RECONNECTION - \$25.00

To be charged whenever the supply of water is turned off for violations of rules, non-payment of bills, or fraudulent use of water.

ADMINISTRATIVE FEE

In the event the District collects payment in full of a delinquent water bill at the customer's premises in lieu of discontinuing service for nonpayment, an administrative fee of \$25.00 shall also be collected in addition to the delinquent water bill.

TAP FEE

The following charges are to be made whenever the utility installs a new tap to serve an applicant.

A tap fee of \$100.00 will be charged to customers applying for service before the construction is completed adjacent to the customer's premises in connection with a certificate proceeding before the Commission. This pre-construction tap fee will be invalid after the completion of construction adjacent to an applicant's premises that is associated with a certificate proceeding.

A tap fee by meter size will be charged to all customers who apply for service outside a certificate proceeding before the Commission for each new tap to the system:

<u>METER SIZE (INCHES)</u>	<u>FEES</u>
5/8" & 3/4"	\$ 600.00
1"	\$ 800.00
1-1/2"	\$1,250.00
2"	\$1,500.00
4"	\$3,000.00
6"	\$4,450.00
8"	\$6,000.00
10"	\$8,000.00

LEAK ADJUSTMENT

\$0.36 per 1,000 gallons is to be used when the bill reflects unusual consumption which can be attributed to eligible leakage on customer's side of the meter. This rate is to be applied to all consumption above the customer's historical average usage.

SECURITY DEPOSIT

A deposit of \$50.00 or 2/12ths of the average annual usage of the applicant's specific customer class, whichever is greater.

Comparison of Phase 1 Bills at Various Usage Levels			
Monthly Usage	Current Rates Monthly Bill	Commission-Ordered Phase 1 Rates Monthly Bill	Percentage Increase
Gallons	\$	\$	
0	5.85	7.20	23.08%
1,000	5.85	7.20	23.08%
2,000	5.85	7.20	23.08%
3,000	8.22	10.15	23.48%
4,000	10.58	13.10	23.82%
4,500	11.76	14.58	23.94%
5,000	12.94	16.05	24.03%
6,000	15.30	18.50	20.92%
7,000	17.66	20.95	18.63%
8,000	20.02	23.40	16.88%
9,000	22.38	25.85	15.50%
10,000	24.74	28.30	14.39%
12,000	29.46	32.14	9.10%
15,000	36.54	37.90	3.72%
20,000	48.34	47.50	-1.74%
25,000	60.14	57.10	-5.05%
30,000	71.94	66.70	-7.28%
40,000	95.54	85.90	-10.09%
50,000	119.14	105.10	-11.78%
60,000	142.74	124.30	-12.92%
70,000	166.34	143.50	-13.73%
80,000	189.94	162.70	-14.34%
90,000	213.54	181.90	-14.82%
100,000	237.14	201.10	-15.20%
200,000	375.14	354.10	-5.61%
300,000	513.14	507.10	-1.18%
400,000	651.14	660.10	1.38%
500,000	789.14	813.10	3.04%

CITY OF PETERSBURG  
CASE NO. 08- 1873-W-MA  
COMMISSION-APPROVED RATES - PHASE 2

APPLICABILITY

Applicable within the entire territory served.

AVAILABILITY

Available for general domestic, commercial, industrial and resale service.

RATES - (Customers with metered water supply)

First	2,000 gallons used per month	\$6.86 per 1,000 gallons
Next	3,000 gallons used per month	\$5.62 per 1,000 gallons
Next	5,000 gallons used per month	\$4.67 per 1,000 gallons
Next	90,000 gallons used per month	\$3.66 per 1,000 gallons
Over	100,000 gallons used per month	\$2.91 per 1,000 gallons

MINIMUM CHARGE

No bill shall be rendered for less than the following amounts, according to the size of the meter installed:

5/8 inch meter	\$13.72
3/4 inch meter	\$20.60
1 inch meter	\$34.30
1 1/4 inch meter	\$50.10
1 1/2 inch meter	\$68.60
2 inch meter	\$109.75
3 inch meter	\$205.80
4 inch meter	\$343.00
6 inch meter	\$686.00
8 inch meter	\$1,097.60
10 inch meter	\$1,536.65

RESALE RATE

All water for resale will be billed in accordance with the approved rate of \$2.82 per 1,000 gallons

RETURNED CHECK FOR INSUFFICIENT FUNDS

A service charge equal to the actual bank fee assessed to the utility or a maximum of \$25.00 will be imposed upon any customer whose check for payment of charges is returned by their bank due to insufficient funds.

DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full when due, ten percent will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

RECONNECTION - \$25.00

To be charged whenever the supply of water is turned off for violations of rules, non-payment of bills, or fraudulent use of water.

ADMINISTRATIVE FEE

In the event the District collects payment in full of a delinquent water bill at the customer's premises in lieu of discontinuing service for nonpayment, an administrative fee of \$25.00 shall also be collected in addition to the delinquent water bill.

TAP FEE

The following charges are to be made whenever the utility installs a new tap to serve an applicant.

A tap fee of \$100.00 will be charged to customers applying for service before the construction is completed adjacent to the customer's premises in connection with a certificate proceeding before the Commission. This pre-construction tap fee will be invalid after the completion of construction adjacent to an applicant's premises that is associated with a certificate proceeding.

A tap fee by meter size will be charged to all customers who apply for service outside a certificate proceeding before the Commission for each new tap to the system:

<u>METER SIZE (INCHES)</u>	<u>FEES</u>
5/8" & 3/4"	\$ 600.00
1"	\$ 800.00
1-1/2"	\$1,250.00
2"	\$1,500.00
4"	\$3,000.00
6"	\$4,450.00
8"	\$6,000.00
10"	\$8,000.00

LEAK ADJUSTMENT

\$0.38 per 1,000 gallons is to be used when the bill reflects unusual consumption which can be attributed to eligible leakage on customer's side of the meter. This rate is to be applied to all consumption above the customer's historical average usage.

SECURITY DEPOSIT

A deposit of \$50.00 or 2/12ths of the average annual usage of the applicant's specific customer class, whichever is greater.

PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON

Entered: January 28, 2009

EXCEPTIONS  
FILED

CASE NO. 07-2209-W-CN (Reopened)

CITY OF PETERSBURG,  
a municipal utility, Grant County.

Application for a Certificate of Convenience and Necessity for the upgrade and expansion of the City's existing water treatment plant, replacement of the Hospital Hill water storage tank, repainting of the Point water storage tank, and for approval of the financing related thereto.

RECOMMENDED DECISION

By Recommended Decision that became final on April 6, 2008, the Commission granted an application of the City of Petersburg ("City") for a certificate of convenience and necessity to upgrade and expand the City's existing water treatment plant, to replace the Hospital Hill water storage tank, to repaint the Point water storage tank, and for approval of the financing related thereto. The Order noted that the project was estimated to cost \$7,631,400, including a total construction cost of \$6,015,000. The project was to have been funded by a \$2,931,400 Environmental Protection Agency State Tribal Assistance grant; a \$1,700,000 Drinking Water Treatment Revolving Fund ("DWTRF") loan at 2% interest plus a 1% administrative fee, payable over twenty years; and a \$3,000,000 DWTRF loan at 0% interest plus a 1% administrative fee, payable over thirty years.

On September 12, 2008, the City, by counsel Robert R. Rodecker, filed a petition to reopen the case because bid costs exceeded available funding. The filing stated that cost increases were attributable to the increased price of concrete, steel and fuel. Although the original construction cost was \$6,015,000, the minimum bid submitted was \$8,931,126. It was estimated that the increase in cost for the project would be approximately \$3,000,000 and, therefore, the total estimated project cost had been revised to \$10,700,000. The City stated that the increased costs would be funded by increasing the DWTRF loans from \$1,700,000 to \$2,700,000 and from \$3,000,000 to \$5,000,000; the terms remained unchanged. A commitment letter was attached. The City also stated it was in the process of adopting a rate ordinance to increase rates to pay for the additional project financing.

On October 10, 2008, Staff Attorney Cassius H. Toon filed an Initial and Final Joint Staff Memorandum, recommending that the revised funding be approved. Staff noted that the rate ordinance had been passed on October 1, 2008, and that it had been submitted to the Commission for review. Staff recommended that the revised funding package be approved, pending final review of the ordinance.

On October 16, 2008, the City, by counsel, filed the water rate ordinance, which raised the City's water rates by 23.4%. The ordinance stated that its rates would be needed to meet the increased cost of the water system project resulting from the higher bids and would become effective upon completion of the water system improvement project, or upon commencement of payments for debt service associated with the project, whichever occurred first.

On October 30, 2008, a petition signed by 371 people was filed, opposing the rate increase. On the same date, the Commission issued an order stating that it had received a petition "signed by not less than twenty-five percent of the City's water customers" and, therefore, found jurisdiction pursuant to W.Va. Code §24-2-4b; docketed the case as City of Petersburg, Case No. 08-1873-W-MA; suspended the City's proposed rates and charges; and referred the case to the Division of Administrative Law Judges ("ALJ Division") for decision no later than February 13, 2009. Commission Staff was ordered to file its final report no later than December 30, 2008.

On November 10, 2008, the Commission, by Order, consolidated this matter with Case No. 08-1873-W-MA. The Commission therefore referred this matter to the ALJ Division and ordered that the Staff Report and ALJ decision due dates established in Case No. 08-1873-W-MA apply to both cases.

On November 13, 2008, the City filed a motion to dismiss Case No. 08-1873-W-MA, contending that the petition did not contain the 318 valid signatures of customers needed for the Commission to invoke jurisdiction.

On December 16, 2008, the undersigned issued an Interim Recommended Decision in Case No. 08-1873-W-MA, which determined that the petition contained at least 332 valid signatures; the City's motion for dismissal was denied. Also on December 16, 2008, the undersigned issued a Procedural Order in this matter and Case No. 08-1873-W-MA, bifurcating them. It was stated that this matter would be held in abeyance until Case No. 08-1873-W-MA was decided.

On January 28, 2009, the undersigned issued a Recommended Decision in Case No. 08-1873-W-MA, approving water rates and charges that will provide a 5.8% increase in revenue, which are needed for the City's present operations, to become effective on March 15, 2009. Also approved were water rates and charges that will provide a 90.5% increase in revenue above the first rate increase and will provide revenue sufficient to cover the City's additional debt service and expenses that will result from the approved project, including the approximate \$3,000,000 increase in the estimated cost of the project, to become effective upon substantial completion of the project.

## FINDINGS OF FACT

1. By Recommended Decision that became final on April 6, 2008, the Commission granted an application of the City of Petersburg for a certificate of convenience and necessity to upgrade and expand the City's existing water treatment plant, to replace the Hospital Hill water storage tank, to repaint the Point water storage tank, and for approval of the financing related thereto. The Order noted that the project was estimated to cost \$7,631,400. The project was to have been funded by a \$2,931,400 Environmental Protection Agency State Tribal Assistance grant; a \$1,700,000 Drinking Water Treatment Revolving Fund loan at 2% interest plus a 1% administrative fee, payable over twenty years; and a \$3,000,000 DWTRF loan at 0% interest plus a 1% administrative fee, payable over thirty years. (See decision).

2. On September 12, 2008, the City filed a petition to reopen the case because the project bids exceeded available funding. The filing stated that the cost increases are attributable to the increased price of concrete, steel and fuel. Although the original construction cost was \$6,015,000, the minimum bid submitted was \$8,931,126. It was estimated that the increase in cost for the project would be approximately \$3,000,000 and, therefore, the total estimated project cost had been revised to \$10,700,000. The City stated that the increased costs would be funded by increasing the DWTRF loans from \$1,700,000 to \$2,700,000 and from \$3,000,000 to \$5,000,000; the terms remained unchanged. A commitment letter was attached. The City also stated it was in the process of adopting a rate ordinance to increase rates to pay for the additional project financing. (See petition).

3. The Public Service Commission obtained jurisdiction of the City's rate increase ordinance pursuant to W.Va. Code §24-2-4b(c)(1), and docketed the matter as City of Petersburg, Case No. 08-1873-W-MA. (See October 30, 2008, Commission Order in Case No. 08-1873-W-MA).

4. Staff recommended that the revised funding package be approved, pending final review of the ordinance. (See Initial and Final Joint Staff Memorandum filed October 10, 2008).

5. On January 28, 2009, a Recommended Decision was issued in Case No. 08-1873-W-MA, approving water rates and charges that will provide a 5.8% increase in revenue, needed for the City's present operations, to become effective on March 15, 2009. Also approved were water rates and charges that will provide a 90.5% increase in revenue above the first rate increase and will provide revenue sufficient to cover the City's additional debt service and expenses that will result from the approved project, including the approximate \$3,000,000 increase in the estimated cost of the project, upon substantial completion of the project. (See Recommended Decision).

## CONCLUSION OF LAW

It is appropriate to approve the revised funding.

## ORDER

IT IS, THEREFORE, ORDERED that the revised proposed project funding, consisting of a \$2,931,400 Environmental Protection Agency State Tribal Assistance grant; a \$2,700,000 Drinking Water Treatment Revolving Fund loan at 2% interest plus a 1% administrative fee, payable over

twenty years; and a \$5,000,000 DWTRF loan at 0% interest plus a 1% administrative fee, payable over thirty years, is approved.

IT IS FURTHER ORDERED that, if there is any change in the cost of the project, estimated at \$10,700,000, that would affect rates, or in the scope, design or funding of the project, the City of Petersburg file a petition with the Commission for approval of such revisions.

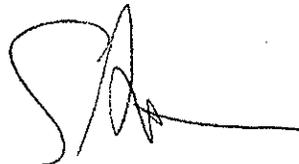
IT IS FURTHER ORDERED that this matter be removed from the Commission's docket of open cases.

IT IS FURTHER ORDERED that the Executive Secretary of the Commission 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 within fifteen (15) days of the date this order is mailed. If exceptions are filed, the parties filing exceptions shall certify to the Executive Secretary that all parties of record have been served said exceptions.

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

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



Sunya Anderson  
Administrative Law Judge

SA:s  
072209ae.wpd

PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON

Issued: December 16, 2008

CASE NO. 07-2209-W-CN (Reopened)

CITY OF PETERSBURG,  
a municipal utility, Grant County.

Application for a Certificate of Convenience and Necessity for the upgrade and expansion of the City's existing water treatment plant, replacement of the Hospital Hill water storage tank, repainting of the Point water storage tank, and for approval of the financing related thereto.

CASE NO. 08-1873-W-MA

CITY OF PETERSBURG,  
a municipal utility, Grant County.

Investigation and suspension of increase in water rates and charges as a result of petitions filed in accordance with W.Va. Code §24-2-4b.

PROCEDURAL ORDER

*CASE NO. 07-2209-W-CN (Reopened)*

By Recommended Decision that became final on April 6, 2008, the Commission granted an application of the City of Petersburg ("City") for a certificate of convenience and necessity to upgrade and expand the City's existing water treatment plant, to replace the Hospital Hill water storage tank, to repaint the Point water storage tank, and for approval of the financing related thereto. The Order noted that the project was estimated to cost \$7,631,400, including a total construction cost of \$6,015,000. The project was to have been funded by a \$2,931,400 Environmental Protection Agency State Tribal Assistance grant; a \$1,700,000 Drinking Water Treatment Revolving Fund ("DWTRF") loan at 2% interest plus a 1% administrative fee, payable over twenty years; and a \$3,000,000 DWTRF loan at 0% interest plus a 1% administrative fee, payable over thirty years.

The Order further stated that the City passed an ordinance in August 2007, raising its water rates by 76%, to become effective upon completion of the project or upon commencement of debt service, whichever first occurs. The rate increase was to provide approximately \$322,753 in additional annual revenues. The Order concluded that the added revenue from the City's rate increase would be adequate to cover the City's costs for the project.

On September 12, 2008, the City, by counsel Robert R. Rodecker, filed a petition to reopen the case because the bid costs exceeded available funding. The filing stated that cost increases are attributable to the increased price of concrete, steel and fuel. Although the original construction cost was \$6,015,000, the minimum bid submitted was \$8,931,126. It was estimated that the increase in cost for the project would be approximately \$3,000,000 and, therefore, the total estimated project cost has been revised from \$7,631,400 to \$10,700,000. The City stated that the increased costs would be funded by increasing the DWTRF loans from \$1,700,000 to \$2,700,000 and from \$3,000,000 to \$5,000,000; the terms remained unchanged. A commitment letter was attached. The City also stated it was in the process of adopting a rate ordinance to increase rates by 23.40% to pay for additional project financing.

On October 10, 2008, Staff Attorney Cassius H. Toon filed an Initial and Final Joint Staff Memorandum, recommending that the revised funding be approved. Staff noted that the rate ordinance had been passed on October 1, 2008, and that it had been submitted to the Commission for review and that the ordinance was acceptable, but the protest period would not expire until October 31, 2008. Staff recommended that the revised funding package be approved, pending final review of the ordinance.

*CASE NO. 08-1873-W-MA*

On October 16, 2008, the City, by counsel, filed the October 1<sup>st</sup> rate increase ordinance, which stated that "by Ordinance adopted August 27, 2007, the City adopted increased water rates to become effective upon completion of a proposed water system improvement project, or upon commencement of payment on debt service associated with the project, whichever first occurred"; that the water system and its funding had been approved by the Commission in Case No. 07-2209-W-CN; that the bids received on the water project are higher than those initially anticipated; that the ordinance rates would be needed to meet the increased cost of the water system project resulting from the higher bids and would become effective upon completion of the water system improvement project, or upon commencement of payments for debt service associated with the project, whichever occurs first.

On October 30, 2008, a petition signed by 371 people was filed, which stated, "We, the undersigned OPPOSE the current rate increase proposal and request a review of the new proposed water project. We understand the need for an upgrade to provide additional water, but request a review of more cost effective methods." The petition form specified "[o]ne signature per household within the City of Petersburg limits." Also filed was a petition signed by three people stating that they lived outside the City limits but received City water services and were alleging discrimination. The cover letter to the petitions was from Phyllis M. Cole.

On October 30, 2008, the Commission issued an order stating that it had received a petition "signed by not less than twenty-five percent of the City's water customers" and, therefore, found

jurisdiction pursuant to W.Va. Code §24-2-4b; docketed the matter as Case No. 08-1873-W-MA; named the City a respondent to the municipal rate proceeding; suspended the City's proposed rates and charges until March 15, 2009, unless otherwise ordered by the Commission; and referred the municipal appeal to the Division of Administrative Law Judges ("ALJ Division") for decision no later than February 13, 2009. Commission Staff was ordered to file its final report no later than December 30, 2008.

*CASE NOS. 07-2209-W-CN AND 08-1873-W-MA*

On November 10, 2008, the Commission, by Order, consolidated the cases, stating, "The two cases are interrelated and the ALJ Division should process both on the same schedule." The Commission therefore referred Case No. 07-2209-W-CN to the ALJ Division and ordered that the Staff Report and ALJ decision due dates established in Case No. 08-1873-W-MA apply to both cases.

On November 10-12, 2008, thirty-one identical letters, save for the signatures and dates, were filed, stating that the signatory had signed the petition because a neighbor had told him or her that signing the petition would prevent the rates from rising, and that, once the signatory had found that not to be true, "I had requested that my name be removed from the petition and now find that it was submitted with my name included."

On November 13, 2008, the City filed a motion to dismiss Case No. 08-1873-W-MA, stating that, in that the City has 1275 water customer accounts, petitions containing valid signatures of at least 318 customers were needed for the Commission to invoke jurisdiction. The City requested an immediate hearing on whether at least 318 valid customer signatures had been filed. The City stated that it had found that a number of the signatures on the petition were by non-customers, and also pointed out that some signatures were illegible. The City further asserted the following: The petitions were inadequate in that the signatures were not dated and did not even clearly state that it was the October 1, 2008 rate ordinance the signatories were opposing. The names of the letter-writers who requested that their names be removed from the petition should have been removed from the petition before it was filed. The allegations of discrimination were insufficient to give rise to jurisdiction pursuant to Code §24-2-4b(c)(2).

On November 20, 2008, Ms. Cole and Robert McCalley filed a response, contending that the name of anyone who had requested removal of his name from the petition before the petition was filed had been crossed through on the petition, but also contending that the signers of the thirty-one letters were not necessary for invocation. They also argued as follows: The protests were clearly against the October 1, 2008 ordinance, since that is the only rate ordinance the City has pending. Since the petition included the telephone numbers of the petitioners, anyone whose signature was not legible could be identified. Even if the petitions from customers outside the City limits are insufficient to invoke jurisdiction pursuant to Code §24-2-4b(c)(2), those petitioners should be counted to invoke jurisdiction pursuant to Code §24-2-4b(c)(1).

On the same date, Ms. Cole and Mr. McCalley filed a motion for intervention, contending that the project, as designed, is not cost effective, including that the size of the proposed plant is no longer warranted.

On November 21, 2008, the undersigned issued a Procedural Order that included the following discussion:

The design of the project was approved in the Recommended Decision that became final in April. Case No. 07-2209-W-CN was reopened solely for approval of the change the financing, and whether the change in the financing should be approved is the only matter requiring consideration. The design of the project will not be further considered, and Ms. Cole's and Mr. McCalley's request for further analysis of the design of the project must be rejected.

Hearing will be scheduled hereby on whether the petition was signed "by not less than twenty-five percent of the customers served by the municipally operated public utility." See Code §24-2-4b(c)(1). The City will have the burden of proving that there were not 318 valid signatures of customers. Subject to argument, any customers from outside the City limits who signed the petition alleging discrimination should be counted under Code §24-2-4b(c)(1). The City's argument that the petition was invalid because it did not refer specifically to the October 1<sup>st</sup> ordinance is rejected for the reason provided by the response filed November 20<sup>th</sup>. No ruling will be made at this time regarding the thirty-one letters; it is assumed further evidence will be presented regarding those letters and their writers.

Although the motion for intervention related to the request to redesign the project, Ms. Cole will be granted intervention status because she has been at the forefront of the petitioning. Mr. McCalley's motion for intervention will be denied because he has not been so involved and because, even if he has a similar interest as Ms. Cole in the hearing issue, it is appropriate to limit intervention to Ms. Cole pursuant to Rule 12.6.d of the Commission's Rules of Practice and Procedure. Of course, Mr. McCalley is welcome to attend the hearing.

Accordingly, the motion for intervention from Phyllis M. Cole was granted and the motion for intervention from Robert Mcalley was denied. Hearing on the jurisdictional issue of Case No. 08-1873-W-MA was scheduled for 9:30 a.m. on December 3, 2008, in Council Chambers, Petersburg City Hall, 21 Mountain View, Petersburg, West Virginia.

Hearing was held as scheduled. Ms. Cole, Mr. Rodecker, and Mr. Toon made their appearances and evidence was taken.

On December 16, 2008, an Interim Recommended Decision was issued, which determined that the petition contained at least 332 valid signatures, and, therefore, that the Commission retains jurisdiction of Case No. 08-1873-W-MA. A public hearing on the merits of the proposed rate increase will be necessary in that matter. While the consolidated cases are interrelated, as the Commission stated, the public hearing will relate only to Case No. 08-1873-W-MA, and keeping the cases consolidated would cause confusion, as the consolidation of the cases caused customers of the City to wrongly believe that signing the petition could force a reexamination of whether the project at issue in Case No. 07-2209-W-CN should be redesigned. Accordingly, the two cases will be bifurcated. Case No. 07-2209-W-CN will be held in abeyance until Case No. 08-1873-W-MA is

decided. After the parties have agreed on a convenient hearing date, a further Procedural Order will be issued in Case No. 08-1873-W-MA setting it for hearing and issuing orders consistent therewith.

ORDER

IT IS, THEREFORE, ORDERED that these consolidated cases are bifurcated.

IT IS FURTHER ORDERED that the Executive Secretary of the Commission serve copies of this order upon the parties of record by United States Certified Mail, return receipt requested, and upon Commission Staff by hand delivery.



Sunya Anderson  
Administrative Law Judge

SA:s  
072209ad.wpd

**PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON**

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 10th day of November 2008.

CASE NO. 07-2209-W-CN (Reopened)

CITY OF PETERSBURG,  
a municipal utility, Grant County.

Application for a Certificate of Convenience and Necessity for the upgrade and expansion of the City's existing water treatment plant, replacement of the Hospital Hill water storage tank, repainting of the Point water storage tank, and for approval of the financing related thereto.

CASE NO. 08-1873-W-MA

CITY OF PETERSBURG,  
a municipal utility, Grant County.

Investigation and suspension of increase in water rates and charges as a result of petitions filed in accordance with W.Va. Code §24-2-4b.

**COMMISSION CONSOLIDATION  
AND REFERRAL ORDER**

This Order consolidates a reopened certificate case and a municipal appeal proceeding and refers the cases to the Division of Administrative Law Judges.

**Background**

*CASE NO. 07-2209-W-CN (Reopened)*

By Recommended Decision final April 6, 2008, the Commission granted an application of the City of Petersburg ("City") for a certificate of convenience and necessity to upgrade and expand the City's existing water treatment plant, to replace the Hospital Hill water storage tank, to repaint the Point water storage tank, and for approval of the financing

related thereto. The Order noted that the project was estimated to cost \$7,631,400, including a total construction cost of \$6,015,000. The project was to have been funded by a \$2,931,400 Environmental Protection Agency State Tribal Assistance grant; a \$1,700,000 Drinking Water Treatment Revolving Fund ("DWTRF") loan at 2% interest plus a 1% administrative fee, payable over twenty years; and a \$3,000,000 DWTRF loan at 0% interest plus a 1% administrative fee, payable over thirty years.

The Order further stated that the City passed an ordinance in August 2007, raising its water rates by 76%, to become effective upon completion of the project or upon commencement of debt service, whichever first occurs. The rate increase was to provide approximately \$322,753 in additional annual revenues. The Order concluded that the added revenue from the City's rate increase would be adequate to cover the City's costs for the project.

#### *Petition to Reopen*

On September 12, 2008, the City filed a petition to reopen the certificate case because bid costs exceeded available funding. The filing stated that cost increases are attributable to the increased price of concrete, steel and fuel. Although the original construction cost was \$6,015,000, the minimum bid submitted was \$8,931,126. The City stated it was in the process of adopting a rate ordinance to increase rates by 23.40% to pay for additional project financing.

#### *CASE NO. 08-1873-W-MA*

On or about October 1, 2008, the City adopted a rate ordinance increasing rates and charges to water customers to become effective on and after November 15, 2008.

On October 30, 2008, the Commission received a petition of protest signed by not less than twenty-five percent of the City's water customers. The petition requested suspension of any water rate increase and Commission review of the ordinance pursuant to Rule 44 of the Commission's Rules for the Construction and Filing of Tariffs, 150 C.S.R. Series 2, under W.Va. Code §24-2-4b.

By Order issued November 3, 2008, the Commission named the City a respondent to the municipal rate proceeding, docketed as Case No. 08-1873-W-MC and, pending investigation, hearing and decision pursuant to the requirements of W.Va. Code §24-2-4b and the Commission's General Order No. 200.3, suspended the City's proposed water rates and charges until 12:01 a.m., March 15, 2009, unless otherwise ordered by the Commission. The Commission referred the municipal appeal to the Division of Administrative Law Judges and established a decision due date of on or before February 13, 2009.

## DISCUSSION

The two cases are interrelated and the ALJ Division should process both on the same schedule. Accordingly, it is appropriate to consolidate the two cases and refer both to the ALJ Division.

## FINDINGS OF FACT

1. The City petitioned to reopen its certificate case, Case No. 07-2209-W-CN, because bids came in over estimates and additional project financing is required. The City informed the Commission that it was in the process of adopting a rate ordinance to pay for the additional financing. See September 12, 2008 Petition to Reopen.

2. The City passed the subject rate ordinance on October 1, 2008, and on October 30, 2008, the Commission received a petition of protest of the ordinance signed by not less than twenty-five percent of the City's water customers. See Case No. 08-1873-W-MA.

3. The Commission referred Case No. 08-1873-W-MA to the ALJ Division on November 3, 2008.

## CONCLUSION OF LAW

Case Nos. 07-2209-W-CN and 08-1873-W-MA are interrelated and should be consolidated.

## ORDER

IT IS THEREFORE ORDERED that Case Nos. 07-2209-W-CN and 08-1873-W-MA are hereby consolidated.

IT IS FURTHER ORDERED that reopened Case No. 07-2209-W-CN is hereby referred to the Division of Administrative Law Judges.

IT IS FURTHER ORDERED that the Commission Staff report due date of on or before December 30, 2008, and the ALJ Decision due date of on or before February 13, 2009, established in the Commission's November 3, 2008 Order issued in Case No. 08-1873-W-MA, shall apply to both cases.

IT IS FURTHER ORDERED that the foregoing decision due date will not be extended, except upon formal application to the Commission by the parties.

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

A True Copy, Testes:

*Sandra Squire*  
Sandra Squire  
Executive Secretary

JML/klm  
072209ca.wpd

PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON

Entered: March 17, 2008

FINAL

4/6/2008

CASE NO. 07-2209-W-CN

CITY OF PETERSBURG

Application for a CON for the upgrade and expansion of the City's existing water treatment plant, replacement of the Hospital Hill water storage tank and repainting of the Point water storage tank, and for approval of the financing related thereto.

RECOMMENDED DECISION

On November 13, 2007, the City of Petersburg ("City"), by counsel Robert R. Rodecker, filed with the Public Service Commission ("Commission"), pursuant to W.Va. Code §24-2-11, an application for a certificate of convenience and necessity to upgrade and expand the City's existing water treatment plant, to replace the Hospital Hill water storage tank, and to repaint the Point water storage tank, and for approval of the financing related thereto. Supporting documentation was filed, including a letter from the West Virginia Infrastructure & Jobs Development Council, stating that the project is technically feasible.

Also on November 13, 2007, the Commission directed the City to publish a Notice of Filing, which provided that, if no protest was filed within thirty days after the date of publication, the Commission might waive formal hearing and grant the application based upon its review of the evidence submitted with the application.

On November 26, 2007, the City, by counsel, filed an affidavit establishing that the Notice of Filing had been published on November 20, 2007, in the Grant County Press.

On November 29, 2007, by Order, the Commission referred this matter to the Division of Administrative Law Judges for decision no later than June 10, 2008, if a timely protest was received, and no later than March 27, 2008, if no such protest was filed.

WV

On December 13, 2007, Staff Attorney Cassius H. Toon filed an Initial Joint Staff Memorandum, with an attached memorandum from James C. Weimer, of the Engineering Division, and Michael Quinlan, of the Water and Wastewater Division, synopsisizing the application.

On December 28, 2007, the undersigned issued a Procedural Order clarifying that the decision due date in this matter was March 27, 2008. Staff was ordered to file its final memorandum no later than February 11, 2008.

On February 14, 2008, Mr. Toon filed the Final Joint Staff Memorandum, with an attached memorandum from Mr. Weimer and Mr. Quinlan, which included the following: Significant growth in the area of the City is expected, particularly in the area of the Grant County Public Service District ("District"), which is a water resale customer of the City and even now buys more water from the City than is consumed by all of the other customers of the City. As part of the project, the City will upgrade the its water treatment plant and increase its capacity from 1,200 gallons per minute ("gpm") to 2,400 gpm; outdated equipment and technology will be replaced. The current storage capacity is barely greater than the daily demand and does not meet turnover requirements of the West Virginia Bureau of Public Health ("WVBuPH"). The City also will demolish the 350,000-gallon Hospital Hill storage tank, which is located on a Civil War battlefield site, and replace it (at a site to the side of and off the battlefield) with a 1,500,000-gallon storage tank. The final part of the project is the repainting of a 350,000-gallon storage tank at the City's Point storage facility, at which two storage tanks are located; the tank to be repainted is the older of the two. On October 2, 2007, the WVBuPH issued Permit No. 17,719, and on October 5, 2007, the West Virginia Department of Environmental Protection issued permit No. WVR103382, authorizing the City to operate under NPDES Permit No. WV01155924, issued on November 5, 2002. The project, estimated to cost \$7,631,400, including a total construction cost of \$6,015,000, will be funded by a \$2,931,400 Environmental Protection Agency State Tribal Assistance grant; a \$1,700,000 Drinking Water Treatment Revolving Fund ("DWTRF") loan at 2% interest plus a 1% administrative fee, payable over twenty years; and a \$3,000,000 DWTRF loan at 0% interest plus a 1% administrative fee, payable over thirty years. The City passed an ordinance in August 2007, raising its water rates by 76%, to become effective upon completion of the project or upon commencement of debt service, whichever first occurs. The rate increase will provide approximately \$322,753 in additional annual revenues, which will be adequate to cover the less than \$300,000 in additional costs due to the project. The total cash flow surplus will be approximately \$45,919 and the debt service coverage will be 131.01%.

Commission Staff recommended that the application be granted and the certificate and its funding be approved and that other orders that are regularly required in certificate cases be issued. Additionally, Staff recommended that the City be required to provide to Staff information regarding certain engineering procedures and plans that Staff believed should be followed.

On March 12, 2008, the City, by counsel, filed a letter concurring with Staff's recommendations. Regarding Staff's final recommendation, the City filed an attachment responding to and

addressing each of the engineering concerns raised by Staff. The City stated that the responses were the result of discussion with Mr. Weimer, in which the City and Mr. Weimer agreed to the procedures provided therein as appropriate to address Mr. Weimer's concerns.

On March 14, 2008, Mr. Toon filed a Further Final Joint Staff Memorandum, with an attached memorandum from Mr. Weimer, stating that he had reviewed the City's responses and confirming that they completely addressed all of his concerns. Staff recommended that this matter be expedited so that bidding could begin.

#### FINDINGS OF FACT

1. On November 13, 2007, the City of Petersburg filed with the Public Service Commission an application for a certificate of convenience and necessity to upgrade and expand the City's existing water treatment plant, to replace the Hospital Hill water storage tank, and to repaint the Point water storage tank, and for approval of the financing related thereto. (See application).
2. The Notice of Filing was published on November 20, 2007, in the Grant County Press, and no protest was filed. (See September 27, 2007, filing; case file generally).
3. The project has been approved by the West Virginia Infrastructure and Jobs Development Council (See application; Final Joint Staff Memorandum filed February 14, 2008).
4. The City's population is growing significantly in the area and outdated equipment and technology need to be replaced. The Hospital Hill 350,000-gallon water storage tank is on a Civil War battleground. The City's present storage capacity is barely greater than the daily demand and does not meet turnover requirements of the West Virginia Bureau of Public Health, and the projected population growth makes the need for more water storage even more critical. The painting of the Point water storage tank is also needed. (See application; Final Joint Staff Memorandum filed February 14, 2008).
5. On October 2, 2007, the West Virginia Bureau of Public Health issued a permit for the project, Permit No. 17,719, and on October 5, 2007, the West Virginia Department of Environmental Protection issued permit No. WVR103382, authorizing the City to operate under NPDES Permit No. WV01155924, issued on November 5, 2002. (See application; Final Joint Staff Memorandum filed February 14, 2008).
6. The project is estimated to cost \$7,631,400, including a total construction cost of \$6,015,000. Staff opined that the costs were reasonable. (See application; Final Joint Staff Memorandum filed February 14, 2008).

7. The project will be funded by a \$2,931,400 Environmental Protection Agency State Tribal Assistance grant; a \$1,700,000 Drinking Water Treatment Revolving Fund ("DWTRF") loan at 2% interest plus a 1% administrative fee, payable over twenty years; and a \$3,000,000 DWTRF loan at 0% interest plus a 1% administrative fee, payable over thirty years. (See application; Final Joint Staff Memorandum filed February 14, 2008).

8. The City passed an ordinance in August 2007, raising its water rates by 76%, to become effective upon completion of the project or upon commencement of debt service, whichever first occurs. The rate increase will provide approximately \$322,753 in additional annual revenues. (See Final Joint Staff Memorandum filed February 14, 2008).

9. The added revenue from the City's rate increase will be adequate to cover the less than \$300,000 in additional costs due to the project. The total cash flow surplus will be approximately \$45,919 and the debt service coverage will be 131.01%. (See Final Joint Staff Memorandum filed February 14, 2008).

10. Commission Staff recommended that the application be granted and the certificate and its funding be approved and that other orders that are regularly required in certificate cases be issued. Additionally, Staff recommended that the City be required to provide to Staff information regarding certain engineering procedures and plans that Staff believed should be followed, and Staff and the City agreed to certain procedures that addressed all of Staff's concerns. (See Final Joint Staff Memorandum filed February 14, 2008; March 12, 2008, filing; Further Final Joint Staff Memorandum filed March 14, 2008).

#### CONCLUSIONS OF LAW

1. It is appropriate to grant the application, pursuant to W.Va. Code §24-2-11, and to approve the project, because the public convenience and necessity require it and no protest to it was filed.

2. It is appropriate to approve the project's financing.

#### ORDER

IT IS, THEREFORE, ORDERED that the application filed on November 13, 2007, by the City of Petersburg for a certificate of convenience and necessity to upgrade and to expand the City's existing water treatment plant, to replace the Hospital Hill water storage tank, and to repaint a Point water storage tank is granted and the project is approved.

IT IS FURTHER ORDERED that the funding for the project, consisting of a \$2,931,400 Environmental Protection Agency State Tribal Assistance grant, a \$1,700,000 Drinking Water Treatment Revolving Fund loan, and a \$3,000,000 Drink Water Treatment Revolving Fund loan, is approved.

IT IS FURTHER ORDERED that, if there is any change in the cost of the project, estimated at \$7,631,400, which affects rates, or in the scope, design or funding of the project, the City of Petersburg file a petition with the Commission for approval of such revisions.

IT IS FURTHER ORDERED that the City of Petersburg comply with all rules and regulations of the Division of Highways regarding the use of rights-of-way.

IT IS FURTHER ORDERED that, if there are any changes in the project costs that do not affect rates, the City of Petersburg file herein an affidavit duly executed by its accountant verifying that the City's rates and charges are not affected.

IT IS FURTHER ORDERED that the City of Petersburg submit a copy of the bids to the Commission, making the bids a part of the Commission's file in this case, as soon as the bids are tabulated.

IT IS FURTHER ORDERED that the City of Petersburg notify the Commission when its engineer has performed the substantial completion inspection.

IT IS FURTHER ORDERED that this matter be removed from the Commission's docket of open cases.

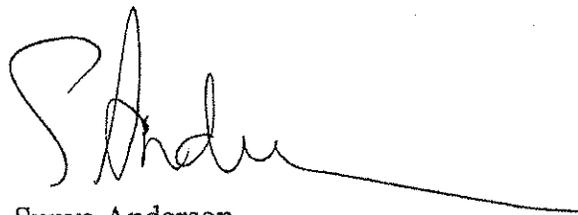
IT IS FURTHER ORDERED that the Executive Secretary of the Commission serve a copy of this order upon the Commission by hand delivery, and upon all parties of record by United States Certified Mail, return receipt requested.

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

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

Any party may request waiver of the right to file exceptions to an Administrative Law Judge's Order by filing an appropriate petition in writing with the Executive Secretary. No such waiver will

be effective until approved by order of the Commission, nor shall any such waiver operate to make any Administrative Law Judge's Order or Decision the order of the Commission sooner than five (5) days after approval of such waiver by the Commission.

A handwritten signature in cursive script, appearing to read "Sunya Anderson", with a long horizontal line extending to the right.

Sunya Anderson  
Administrative Law Judge

SA:s  
072209aa.wpd

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JAMES V. KELSH  
OF COUNSEL  
kelshlaw@yahoo.com

November 26, 2007

AREA CODE 304  
343-1654

FACSIMILE  
343-1657

Ms. Sandra Squire  
Executive Secretary  
Public Service Commission  
201 Brooks Street  
Charleston, West Virginia 25301

RECEIVED  
37 NOV 26 PM 4: 01  
W VA PUBLIC SERVICE  
COMMISSION  
SECRETARY'S OFFICE

RE: CASE NO. 07-2209-W-CN  
CITY OF PETERSBURG

Dear Ms. Squire:

As required by the November 13, 2007 Notice of Filing Order entered in the above-referenced proceeding, enclosed herein please find the original and twelve (12) copies of an Affidavit evidencing publication of the Notice in the *Grant County Press* on November 20, 2007.

With the submission of the enclosed Affidavit, all publication requirements set forth in the Notice have been met.

Should you have any questions regarding this filing, please do not hesitate to contact me.

Sincerely,



Robert R. Rodecker  
WV State Bar No. 3145

enclosures

cc: Cassius H. Toon, Esquire  
William Deadrick, Council Member  
Petersburg\06-07 Water Project\Squire Letter With Affidavit of Pub

# Certificate of Publication

State of West Virginia  
County of Grant, to-wit:

The undersigned hereby certifies  
that the annexed notice was duly  
published in the

## Grant County Press

a weekly newspaper published at  
Petersburg, Grant County, West  
Virginia, for 1 consecutive  
weeks ending on the 20 day of  
November, 2007.

### GRANT COUNTY PRESS

By: William C. French

Editor

Publishing Notice \$ 273.24

Hand Bills \_\_\_\_\_

Miscellaneous \_\_\_\_\_

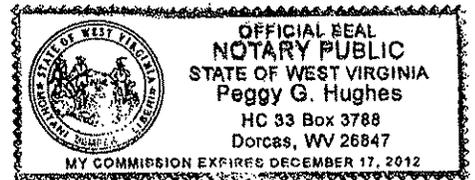
Total \$ 273.24

Sworn before me on this the 21  
day of Nov., 2007

Peggy G. Hughes  
Notary Public

Dec 17, 2012  
My Commission Expires

RECEIVED  
NOV 26 PM 4:01  
WV PUBLIC SERVICE  
COMMISSION  
SECRETARY'S OFFICE



**PUBLIC SERVICE COMMISSION OF WEST VIRGINIA  
CHARLESTON**

Entered by the Public Service Commission of West Virginia, in the City of Charleston on the 13th day of November, 2007.

**CASE NO. 07-2209-W-CN**

**CITY OF PETERSBURG**, a municipal utility,  
Grant County, West Virginia

Application for a certificate of convenience and necessity for the upgrade and expansion of the City's existing water treatment plant, replacement of the Hospital Hill water storage tank and repainting of the Point water storage tank and for approval of financing related thereto.

**NOTICE OF FILING**

WHEREAS, on November 13, 2007, the City of Petersburg, a municipal utility, filed an application, duly verified, for a certificate for the upgrade and expansion of its existing water treatment plant to increase its capacity from the current 1,200 gallons per minute (gpm) to 2,400 gpm, replacement of the existing 350,000 gallon Hospital Hill water storage tank with a 1.5 million gallon storage tank, and the repainting of the Point water storage tank in Petersburg, Grant County. The upgrade portion of the project will correct current deficiencies in the treatment plant's disinfection system and provide increased capacity of the plant to allow production demands to be met with 8 hours or less of operations per day. The Hospital Hill tank replacement will result in an increase in the City's storage capacity from 30 to 62 hours and will permit the northern distribution system of its resale customer, Grant County Public Service District, to be supplied water without requiring the City's treatment plant to be constantly in production. The City's application further seeks the Commission's approval of the financing of the project. The application is on file with and available for public inspection at the Public Service Commission, 201 Brooks Street, in Charleston, West Virginia.

WHEREAS, the City estimates that the total construction costs for the proposed project is \$7,631,400, and is to be funded through a Drinking Water Treatment Revolving Fund (DWTRF) loan in the amount of \$1,700,000 for a period of 20 years at 2% interest plus 1% administrative fee; a DWTRF loan in the amount of \$3,000,000 for a period of 30 years at 0% interest plus 1% administrative fee; and an Environmental Protection Agency State Tribal Assistance Grant (STAG) in the amount of \$2,931,400.

WHEREAS, the following water rates and charges, as set forth in an Ordinance adopted by City Council on August 27, 2007, will become effective upon completion of this proposed upgrade project or upon commencement of debt service, which first occurs:

**APPLICABILITY**

Applicable in the entire territory served.

**AVAILABILITY OF SERVICE**

Available for residential, commercial, governmental, industrial and resale service.

**RATES (Non-resale customers with metered water supply)**

First 2,000	gallons used per month	\$ 5.15 per 1,000 gallons
Next 98,000	gallons used per month	\$ 4.15 per 1,000 gallons
All over	100,000 gallons used per month	\$ 2.40 per 1,000 gallons

**MINIMUM CHARGE (Customers with metered water supply)**  
No minimum bill will be rendered for less than \$10.30 per month (Equivalent to 2,000 gallons of water usage)

		Equivalent Gallons
5/8	Inch meter	2,000
3/4	Inch meter	3,241
1	Inch meter	5,723
1-1/4	Inch meter	8,578
1-1/2	Inch meter	11,928
2	Inch meter	19,373
3	Inch meter	36,747
4	Inch meter	61,586
6	Inch meter	140,833
8	Inch meter	269,583

**FLAT RATE CHARGE (Customers with non-metered water supply)** \$20.88 per month (Equivalent to 4,500 gallons of water usage)

**DELAYED PAYMENT PENALTY**

The above schedule is net. On all accounts not paid in full when due, ten percent will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

**WATER TAP FEES**

The following tap fees shall apply for all new services and changes in size of existing meters (when requested by the customer):

METER SIZE (INCHES)	FEES
5/8"	\$ 600.00
3/4"	\$ 600.00
1"	\$ 600.00
1-1/2"	\$1,250.00
2"	\$1,500.00
4"	\$3,000.00
6"	\$4,450.00

A tap fee of \$100.00 will be charged to all customers applying for service before construction is completed adjacent to the customer's premises in connection with a certificate proceeding before the Commission. This preconstruction tap fee will be invalid after completion of construction adjacent to an applicant's premises that is associated with a certificate proceeding.

The tap fees in the above schedule will be charged to all customers who apply for service outside a certificate proceeding before the Commission for each new tap to the system.

**WATER DISCONNECT-RECONNECT-ADMINISTRATIVE FEES - \$20.00**

Whenever water service has been disconnected for any reason, a disconnection fee of \$20.00 shall be charged; or in the event the delinquent water bill is collected in the field, an administrative fee of \$20.00 shall be charged. Whenever water service which has been previously disconnected for any reason is reconnected, a reconnection charge of \$20.00 shall be charged.

**RETURNED CHECK CHARGE**

A service charge of \$25.00 will be imposed upon any customer whose check for payment of charges is returned for any reason.

**LEAK ADJUSTMENT**

\$2.40 per 1,000 gallons is to be used when a bill reflects unusual consumption which can be attributed to eligible leakage on the customer's side of the meter. This rate shall be applied to all such consumption above the customer's historical average usage.

**RESALE RATE**

\$2.40 per 1,000 gallons per month

**SECURITY DEPOSIT**

All new customers shall be required to pay a security deposit in compliance with applicable West Virginia law. The deposit shall be no less than 2/42 of the estimated annual charge for water served.

**CUSTOMER'S LEGAL RESPONSIBILITY**

All customers shall be legally responsible for all costs in connecting to City water meter, and for all future maintenance and upkeep of their water line. If customer moves to new location within City's service area, any previous deposit or money owed will be transferred to customer's new location.

The City of Petersburg has one resale customer, Grant County Public Service District. Pursuant to §24-2-11, West Virginia Code, IT IS ORDERED that the City of Petersburg give notice of the filing of said application, by publishing a copy of this order once in a newspaper duly qualified by the Secretary of State, published and of general circulation in Grant County, making due return to this Commission of proper certification of publication immediately after publication. Anyone desiring to protest or intervene should file a written protest or notice of intervention within 30 days following the date of this publication unless otherwise modified by Commission order. Failure to timely protest or intervene can affect your right to protest aspects of this certificate case, including any associated rate increases, or to participate in future proceedings. All protests or requests to intervene should briefly state the reason for the protest or intervention. Requests to intervene must comply with the Commission's rules on intervention set forth in the Commission's Rules of Practice and Procedure. All protests and interventions should be addressed to Sandra Squire, Executive Secretary, P. O. Box 812, Charleston, West Virginia 25323.

IT IS FURTHER ORDERED that if no protests are received within said thirty (30) day period, the Commission may waive formal hearing and grant the application based on the evidence submitted with said application and its review thereof.

**FOR THE COMMISSION**  
Sandra Squire  
Executive Secretary

**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 13th day of March 2009.

CASE NO. 08-1873-W-MA

CITY OF PETERSBURG,  
a municipal utility, Grant County.

Investigation and suspension of increase in water rates and charges as a result of petitions filed in accordance with W.Va. Code §24-2-4b.

and

CASE NO. 07-2209-W-CN (Reopened)

CITY OF PETERSBURG,  
a municipal utility, Grant County.

Application for a Certificate of Convenience and Necessity for the upgrade and expansion of the City's existing water treatment plant, replacement of the Hospital Hill water storage tank, repainting of the Point water storage tank, and for approval of the financing related thereto.

**COMMISSION ORDER**

By this Order, the Commission denies in part and grants in part the pending Exceptions filed by citizen intervenors. This Order grants the petition to reopen of the City of Petersburg ("City") in Case No. 07-2209-W-CN for approval of revised financing and approves different rates in Case No. 08-1873-W-MA from those approved in the January 28, 2009 Recommended Decision.

## Background<sup>1</sup>

On January 28, 2009, the Division of Administrative Law Judges (“ALJ Division”) issued separate Recommended Decisions in Case No. 08-1873-W-MA and Case No. 07-2209-W-CN.

In Case No. 08-1873-W-MA, the ALJ approved Phase 1 water rates effective on March 15, 2009, and Phase 2 project-related water rates to provide revenue sufficient to cover the City’s additional debt service and expenses that will result from the approved project, including the approximate \$3,000,000 increase in the estimated cost of the project resulting in a 90.5 percent increase in revenue above the Phase 1 rate increase, to become effective upon substantial completion of the project.

In Case No. 07-2209-W-CN, the ALJ approved the City’s revised funding for its certificate project.

Citizen Intervenors, Robert McCalley and Phyllis Cole, filed Exceptions to the Recommended Decisions listing numerous objections to the City’s certificated project and noting that the ALJ did not permit them to present evidence or ask questions on the project at the hearing.

By Order issued February 25, 2009, the Commission concluded that the ALJ erred in several respects in managing and deciding these cases and, in view of the March 15, 2009 statutory deadline in Case No. 08-1873-W-MA, scheduled an emergency hearing on March 5, 2009. The purpose of the emergency hearing was to permit Mr. McCalley and Ms. Cole the opportunity to present fully the evidence and arguments that were erroneously excluded at the January 6, 2009 hearing.

The March 5, 2009 hearing took place as scheduled. The City presented various exhibits and the testimony of four witnesses including 1) Bill Deadrick, the City of Petersburg Water Commissioner, 2) Fred Hypes, Project Engineer of Dunn Engineering, 3) Robert DeCrease of the West Virginia Bureau for Public Health, and 4) Michael Griffith, City Accountant. The Intervenors presented various exhibits and the testimonies of Robert McCalley and Phyllis Cole. Commission Staff presented the testimonies of Nathan Nelson, Joseph Marakovits and James Weimer. References to the transcript of the March 5, 2009 hearing will be referred to as “Tr. 3, p. \_\_\_.”

On March 10, 2009, the Intervenors filed a Brief summarizing their positions in this matter and requesting that the Commission revoke the City’s certificate of convenience and necessity.

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<sup>1</sup>This Order does not repeat the case background preceding the Commission’s February 25, 2009 Order. That background is provided in the February 25, 2009 and prior Orders issued in these matters.

## DISCUSSION

Upon review of the evidence presented at hearing, the Commission will approve the revised funding and the currently designed certificate project and revise the City's rate design. The Intervenor appeared *pro se*, and much of the testimony that they presented was to a major degree speculative or conjectural and not within any demonstrated areas of expertise. Although the Intervenor did raise arguments that gave rise to concern as to whether the justification for the project as presented to the West Virginia Infrastructure and Jobs Development Council ("WVIJDC") in the City's applications to the WVIJDC is still representative of growth and development in Grant County, those arguments were outweighed by the City's and Staff's evidence in support of the project's convenience and necessity.

The Intervenor has been monitoring the City's project since at least 2005, began expressing objections when the project bid costs escalated from \$7.6 million to \$10.7 million, and testified that they have been before both the City Council and the ALJ in opposition to the project. See McCalley Testimony, Tr. 3, pp. 231-234; Cole Testimony, *Id.* pp. 240-242. Notwithstanding their familiarity with the project and the problems they envisioned with the project, they did not bring forth evidence sufficient to challenge the project. Because of their allegations that they were deprived of their right to present evidence before the ALJ, the Commission, as requested by the Intervenor, conducted the March 5, 2009 hearing to allow the Intervenor to present evidence to support their contentions that the project is not convenient and necessary and that the City's rate design is flawed. The hearing provided the Intervenor with that opportunity, but the Intervenor did not present sufficient evidence or witnesses to prove their case as to the project. Much of the evidence presented was in the nature of hearsay and would be accorded little if any evidentiary weight in a court of law. While the Commission is a quasi-judicial body that is permitted to depart from the strict rules of evidence, the Commission cannot in fairness give any significant weight to letters, summaries, and other documents created by persons who did not appear at the hearing and were not subject to cross-examination by all parties, when compared to the evidence offered by the City and Staff.

We conclude, however, that the Intervenor did raise some valid arguments regarding the rate design and this Order corrects certain defects in the City's tariff.

The issues addressed at the hearing center on the need for the project in view of economic recession and lowered water demand; the design of the project; the cost of the project; the City's unaccounted-for water losses; whether it would be prudent for the City to rebid the project in view of decreased commodity prices; and the risk of losing funding in the event of a redesign or rebid of the project.

### *Need for the Project*

The Intervenor's principal argument against the project was that current economic conditions and the decline in water demand in the region do not justify a water plant and water storage upgrade as large in scope as the certificated project. The Intervenor presented the City's several WVIJDC applications for project funding that list justification for the project that the Intervenor contend to be misleading and erroneous. Em. Hr. Intervenor Exh. 1(a) - (c). The Intervenor noted that the poultry industry, upon which Grant County is highly dependent, is in financial trouble and shrinking; a major employer, Allegheny Wood Products, has laid-off employees; and a wood processing plant expected to locate in the area has never materialized. Tr. 3, pp. 244-246. The Intervenor also presented evidence that the City's water plant does not actually operate as many hours per day as the City previously represented. *Id.* pp. 204-209; Em. Hr. Intervenor Exh. 2, 3, 4(a)-(f), 5.

The City's witness, George Deadrick, however, testified that the project was designed to address long-term potential growth in the City and the County and projected future capacity demand for the City's and the Grant County Public Service District's water utility service. The project will also address environmental and fire protection concerns facing the City.

Mr. Deadrick stated that the project will address an NPDES permit requirement that the City's sewage treatment plant discontinue the discharge of aluminum. Tr. 3, pp. 23, 24. Mr. Deadrick stated that, although the West Virginia Division of Environmental Protection ("WV DEP") has not issued any compliance citations to the City, a Chesapeake Bay watch group noted that the City was out of compliance with its NPDES permit with respect to aluminum discharge for eighteen to nineteen months. After that notice, the City obtained a permit modification to allow it to continue the aluminum discharges from its sewage treatment process pending completion of the City's water plant upgrade project. *Id.* pp. 33, 34. Mr. Deadrick explained that, although the aluminum enters the South Branch of the Potomac River from the City's sewage treatment plant, the source of the aluminum is the City's water plant because the water plant is currently designed to transport sludge to the City's sewage plant. *Id.* pp. 25-26, 31-33, 35.

Most recently, and in view of the certificate project which will cure the water plant aluminum issue, the WV DEP granted the City extensions to the compliance schedule associated with its NPDES permit, but the extension was contingent on the City awarding the project to contract on or before April 15, 2009. Em. Hr. City Exh. 2; Commission Request Post-hearing Exh. No. 2.

Mr. Deadrick testified that when the plant upgrade project planning began, the City's water plant was required at times to pump up to eighteen hours per day, and that the City is required by Health regulations to begin planning for additional capacity when pumping levels reach fourteen hours per day. Mr. Deadrick stated that in more recent years, the City's plant pumps about twelve to fourteen hours per day. Tr. 3, pp. 64, 65; see also Hypes testimony,

Id. p. 94. The West Virginia Bureau for Public Health requires that new water plants be designed to pump only eight hours per day. Id.

City witness Fred Hypes testified that need for the project was based on a demand study commissioned by the Grant County Commission in the early 1990s. Tr. 3, p. 45. The project was ultimately designed to meet the County's present and future needs. Mr. Hypes admitted that the City has experienced a decline in water demand in the past year or so. Mr. Hypes stated, however, that an industrial park has recently been built on the ridge overlooking Petersburg and that businesses locating in that park will take water utility service from the Grant County Public Service District, a resale customer of the City. Id. pp. 89, 90. Mr. Hypes testified that the water plant and storage project was designed to meet both current demands and future demands. Id. p. 95.

Mr. Hypes testified that the project will improve the City's water supply for fire protection because it will enable more water to flow to fill the City's tanks serving the main part of the City. Tr. 3, p. 98. Mr. Hypes stated that the City's current system might not provide adequate water flow to fight fires in the City, particularly areas near the high school and wastewater treatment plant. Id. pp. 98-99, 126. Mr. Hypes stated that tanks owned by the Grant County Public Service District cannot supply water to the City in the event of fire because they are not configured to "back-feed" into the City's tanks. Id. p. 136-147. Staff's original review of the project noted that the project will provide two days of normal demand plus fire flow. See Final Joint Staff Memorandum dated February 14, 2008 filed in Case No. 07-2209-W-CN. At the hearing, Staff witness Mr. Marakovits reported that a number of the City's hydrants have flows far below the City's average hydrant flow of 1,750 gallons per minute. Tr. 3, pp. 286-290; See also Staff Exh. 1 from the January 6, 2009 hearing.

The Commission concludes that the weight of the evidence presented at hearing supports a finding that the project remains necessary. The Commission's conclusion is consistent with and supported by the fact that the WVIJDC and the West Virginia Bureau for Public Health have approved the feasibility of and funding for the project. See WVIJDC determination of feasibility dated January 11, 2006, Exhibit to November 13, 2007 City filing in support of Certificate Application; Bureau for Public Health Funding Commitment Letter dated September 3, 2008, Exhibit 3 to City Petition to Reopen of September 12, 2008.

### *Design of the Project*

The Intervenor's asserted that the project includes too much storage capacity and that significant cost savings might be realized by downsizing a water tank, and taking the Grant County Public Service District's tanks into consideration when calculating the entire system's storage capacity requirements for fire protection purposes. Tr. 3, pp. 211-214, 219. Mr. Hypes addressed the Intervenor's arguments. As noted earlier, Mr. Hypes testified that the District's tanks cannot provide fire protection inside the City because they are not configured with "back-feed" capability. Tr. 3, pp. 136-147. The project will improve the City's storage capability by replacing a deteriorated water tank with a larger, 1.5 million

gallon tank. Mr. Hypes conceded that the size of the replacement tank was originally specified at 1.1 million gallons and was later increased to 1.5 million gallons. *Id.* p. 97. In support of the decision to purchase the larger tank, Mr. Hypes noted that the land available for the tank is only large enough to accommodate a single tank, and therefore the City does not have the option of adding a second tank at that location if circumstances require additional storage in the future. *Id.* pp. 99, 100. Mr. Deadrick further explained that the incremental cost difference for the larger tank was relatively small and was justified by the City's decision to build for tomorrow instead of for only the needs of today. *Id.* pp. 45, 46. The Commission believes that the larger tank, to be obtained at a significant cost savings, is a prudent expenditure.

Mr. Hypes stated that the project will also improve the City's fire protection by replacing a current undersized feed line that serves the City's "hospital" tank and creates a storage bottleneck limiting the system's ability to provide adequate water to fight fires in much of the City, *Id.* pp. 97, 98.

The Intervenors also complained that the water plant building would include an unnecessary room classified as extra storage or a classroom, and that the City might realize cost savings by eliminating this space. Tr. 3, pp. 219, 230, 236. The Commission believes that planning for administrative uses and storage is prudent when constructing office space, and that the benefits of any cost savings are outweighed by the usefulness of such interior space.

The Intervenors argued that the Commission should require a redesign of the project in view of current economic conditions. The Commission acknowledges that the scope of the City's water plant project is significant and that it is prudent to look for cost savings given the recent economic downturns and decline in water demand in the region. However, the Commission does not believe that the public interest is served if water utility infrastructure is designed to meet only the immediate needs of a city or region without consideration of future long-term needs. In view of the proximity of Corridor H and the presence of the new industrial park, the Commission cannot find the City's decision to plan for future potential growth and demand to have been unreasonable.

#### *Project Cost and Funding; Prudence of Rebidding*

The Intervenors testified that they decided to oppose the certificate project and associated municipal rate ordinance when the cost of the project increased from \$7.6 million to \$10.7 million. Tr. 3, pp. 231, 233, 234; 240, 241. The Commission agrees that this is a significant increase in costs but it is not unusual in the Commission's experience for the estimated cost of a project to be significantly less than the bids received for the project. The Intervenors attempted to show that rebidding the project would result in significant cost savings because of recent decreases in the cost of steel, concrete and fuel. *Id.* pp. 220, 221; Em. Hr. Intervenors Exh. 9. However, the Intervenors did not produce either witnesses or reliable evidence to support their positions. Although the Intervenors did attempt to present

summaries of costs prepared by a third-party, that person was not present at the hearing and could not be cross-examined by the City or Commission Staff. Id. p. 221; Em. Hr. Intervenor Exh. 9.

In response to the Intervenor's position and to support the City's position that the City received competitive bids for its project, City witness Hypes testified that thirty-one contractors attended the City's pre-bid meeting on the project, that five contractors bid on the water plant contract, three contractors bid on the tank replacement, three contractors bid on constructing the new distribution feed line to the City's "hospital" tank, and one contractor bid on repainting a City water tank. Tr. 3, pp. 102-104. In all cases, the City accepted the lowest bid for the various parts of the project. Id. p. 142. Mr. Hypes also stated that a recent project of approximately half the scope of the City's project received bids of approximately half of the amount of the bids on the City's project. Id. p. 106. Furthermore, Mr. Hypes testified that he had been testing the validity and reasonableness of the bids by keeping in contact with contractors who typically bid on utility construction projects and his feeling is that increases and decreases in various commodity prices, combined with increases in prevailing wage rates, would result in a "wash" for the cost of the project, with no savings, and potentially increased bids on this project. Id. p. 110.

City witness Deadrick testified that a redesign of the project or a required rebid of the project would likely result in increased labor costs because of the 3-5 percent increase in wage levels impacting this construction. Tr. 3, pp. 21-23. The City produced a letter from the United States Department of Labor extending the prior prevailing wage levels for this project provided the City enters into contracts by April 22, 2009. Em Hr. City Exh. 1.

The funding for the project is advantageous. The two Drinking Water Treatment Revolving Fund ("DWTRF") loans in the amount of \$2,700,000 (at 2 percent interest and 1 percent administrative fee) and \$5,000,000 (at 0 percent interest and 1 percent administrative fee) are extremely favorable. The project will receive \$2,931,400 in grant funding from the Environmental Protection Agency State Tribal Assistance.

City witness Deadrick stated that in the event of a redesign or rebid, the City's current and future water utility rate levels, which are relatively low, might be taken into consideration by DWTRF or WVIJDC officials who could, in reevaluating the project funding, reach a determination that the City's project should not qualify for 0 percent and 1 percent interest rate loans. In that case, the City would be required to borrow money at market rates. Tr. 3, pp. 74-76, 81. City witness Michael Griffith also testified as to this risk in the event of a redesign or rebid of the project. Id. pp. 174-178.

City witness Robert DeCrease is employed by the West Virginia Bureau for Public Health as the manager of Infrastructure and Capacity Health Inspection. Mr. DeCrease testified in support of an email in which he stated the likelihood that the City's water plant project would be eligible for \$2.5 million of federal stimulus funds because of the fact that it has received bids and is "shovel-ready." Em. Hr. Intervenor Cross Exh. 1. Mr. DeCrease

testified that the City project would achieve priority for stimulus funds because it is the only project of which he was aware that has bids in hand and is ready to “shovel dirt.” Tr. 3, pp. 152, 153. If stimulus funds were awarded to the City’s project, those funds would replace DWTRF loan amounts. *Id.* p. 154.

Mr. DeCrease testified that a required redesign or rebid of the project would result in the City’s project having to compete with at least seventy-six other projects that have or will apply for stimulus funding, some of which may become “shovel ready” prior to the City’s project. *Id.* p. 155. Mr. DeCrease also testified about the ranking criteria his agency utilizes in determining which projects will be eligible for stimulus funding. *Id.* pp. 156-158. Mr. DeCrease stated that rebidding the project is a “roll of the dice” as to whether either the stimulus funds or the existing DWTRF funding would be available for the project if it is rebid. *Id.* pp. 161, 162.

The Commission concludes that, while neither the City nor the Commission may assume without reservation that the federal stimulus funds of \$2.5 million will be awarded for the City’s water plant project, Mr. DeCrease’s testimony on this point was persuasive. In addition, the Commission is troubled by the testimony, speculative though it might be, that the City stands a chance of losing the favorable interest rates on the currently committed DWTRF loans. The Commission does not believe that the Intervenor’s evidence in opposition to the project costs and arguments to rebid the project are sufficient to justify taking a risk with respect to the committed loans or compromising the project’s current “shovel-ready” status in the Bureau of Public Health’s stimulus funds ranking process.

#### *Unaccounted-for Water Losses*

The Commission appreciates the Intervenor’s position that a major plant upgrade should not precede steps to reduce the City’s current levels of unaccounted-for water losses. Although the Commission is always concerned about high levels of unaccounted-for water (“UFW”), the testimony in the hearing from Mr. Hypes and Staff witness Weimer was that a large number of slow meters within the city limits might be artificially inflating the UFW. Tr. 3, pp. 92, 93; 200-202. City witness Deadrick testified that the City is replacing meters that test slow, but that its testing capabilities have been limited by staffing constraints. *Id.* pp. 79, 80. He also stated that these meter replacement will be funded as contingencies within the certificated project. *Id.* pp. 80-83. The Commission expects and urges the City to continue to work toward testing and replacement of slow meters and to investigate other causes for its higher UFW within the city limits.

#### *Rates*

The Intervenor’s raised a valid point in their Exceptions and hearing testimony that the rates recommended by Staff, and approved by the ALJ, unfairly burden the low consumption customers. Tr. 3, pp. 243, 244. Under the Staff-recommended Phase 1 rates, the customers who are low water users will experience the highest percentage rate increase. *Id.* pp. 243,

244. Staff witness Nelson confirmed that under the stipulated Phase 1 rates, the minimum bill (up to 2,000 gallons per month) water customers would experience a 45.64 percent rate increase, while customers using a more typical 4,500 gallons per month would experience only a 14.97 percent increase. Id. p. 259.

The difficulty with regard to rate design is that the City's present rates have an initial block rate for the first 2,000 gallons of usage per month and then a large block covering the next 98,000 gallons per month. For other than minimum bill residential customers a large portion of residential usage falls in the second rate block. A large portion of the usage of commercial and industrial customers also falls in the second rate block. Any attempt to increase the average bill to residential customers using more than 2,000 gallons would impact commercial and industrial customers even more than residential customers because of the large size of the next block above the 2,000 gallon block.

This might not be a problem if the results of the Class Cost of Service Study had indicated that the percentage increase to all classes of customers should be nearly the same. However, in this case, the Class Cost of Service Study indicates that there should be a significantly larger percentage increase to the residential class than to the commercial or industrial class. Thus, the lack of rate blocks that would be used predominantly for residential bills created a problem for Staff's rate design targets. Staff originally chose to solve this problem by simply placing a very large increase on the first block. This would have had a greater impact on residential customers as compared to commercial or industrial customers; a result consistent with the Class Cost of Service Study. The negative aspect of this solution, however, is that it has an even greater disproportionate impact on the smaller volume customers who would receive an increase of over 45 percent while a residential customer using 4,500 gallons per month would receive only a 15 percent increase. A residential customer using around 7,000 gallons per month would receive an increase of only 5 percent and at 9,000 gallons per month there would be no increase.

The Intervenors made it clear that one of their concerns was with the disproportionate increase to small volume users as recommended by Staff, agreed to by the City and recommended by the ALJ. Tr. 3, pp. 243, 244. During the January 6, 2009 hearing before the ALJ, Staff implied that the disproportionate increase to low-volume users was justified by the Class Cost of Service Study and that any attempt to place a smaller increase on the small volume customers would be an attempt to implement a lifeline rate. Transcript of January 6 hearing, pp. 78, 79, 86, 87. This is not correct. During the hearing before the Commission, Mr. Nelson agreed that Staff's use of the City's current rate blocks made it difficult to design rates that would be consistent with the inter-class results of the Class Cost of Service Study without putting a disproportionate increase on the first rate block. Tr. 3, pp. 260-262; 266, 267. He further testified, however, that there was no intra-residential class component of the study that would support a disproportionate increase to small-volume residential customers. Id. pp. 266, 267.

Notwithstanding the City's current limited rate block structure, the Commission must devise an appropriate solution. The Commission finds that the disproportionate rate increase among customers within the residential class is not reasonable nor justified by any evidence. The City's accountant Mr. Griffith testified that the City would not oppose an amended rate structure provided the City's cash flow was not impaired, fixed costs were fairly allocated, and the overall revenue level was not changed. Tr. 3, pp. 187, 189. Accordingly, the Commission will redesign the Phase 1 rates by changing the blocking. The Commission's new blocking to be used by the City will be:

First	2,000 gallons used per month
Next	3,000 gallons used per month
Next	5,000 gallons used per month
Next	90,000 gallons used per month
Over	100,000 gallons used per month

This blocking allows the Commission to design rates that more heavily impact residential customers within the first two blocks, and somewhat less in the third block. This will result in a more even percentage increase across various usage levels within the residential class. The rates designed by the Commission will produce total revenue that is nearly the same as the class revenue (residential, commercial and industrial) produced by Staff's proposed Phase 1 rates. However, the new structure eliminates the disproportionate increase on low-usage customers that fall only within the first block and results in a smoother spread of the overall increase within the residential class. The Commission-designed Phase 1 rates are attached as Attachment 1, and a table showing the percentage increase of the Phase 1 rates at various usage levels is attached as Attachment 2. The Commission-designed Phase 2 rates are attached as Attachment 3.

The Commission is sympathetic with customer concerns about paying increased water rates during economic recession. We note, however, that even under the Phase 2 rates, the City's water utility rates will fall among the lower 50% of water utility rates statewide.

### *Conclusion*

Upon review of all of the evidence presented at the March 5, 2009 Emergency Hearing and the evidence from the earlier hearing, the Commission finds that the Intervenor have not presented evidence sufficient to require the City to either redesign or rebid the certificated water plant project. Although the Commission is mindful of the current economic recession and is aware that projections for growth and potential location of new industry in the region is altered from the projections when the project was first conceived, those factors are outweighed by the evidence of need for the project presented at the hearing. The City produced uncontested evidence of the WV DEP requirement that the City correct its aluminum discharge NPDES compliance issue, and the project design will accomplish that. Tr. 3, pp. 24-26; 40, 41, 42-44, 52-54. The project will also comply with Bureau for Public Health standards that the City design new capacity with a goal of pumping only eight

hours per day, instead of the City's current pumping record of 12 -14 hours per day. *Id.* pp. 64, 65, 94. The project will also improve the City's water flow for fire protection purposes in the area of the City near the high school and the wastewater treatment plant. Tr. 3, pp. 98-99, 126. Furthermore, as mentioned above, the proximity of the plant to Corridor H and the presence of available industrial and commercial parks, when considered with the Grant County Commission needs analysis performed in the 1990s, all support the Commission's decision not to revoke its prior approval of the project.

Although the current projected cost of the project is significantly higher than the \$7.6 million projected in 2007, the Commission regards the committed funding as extremely favorable, with the prospect of the federal stimulus funds making the financing even more advantageous for the City and the region. The Commission expects the City to make every effort to pass through the benefit of all federal stimulus funding received for the project to its ratepayers and, as the project nears completion, to reexamine its Phase 2 rates to see if those rates can ultimately be lowered by enactment of ordinance based on the more favorable funding. Along with that review, the Commission recommends that the City consider creating a separate rate schedule for commercial and industrial customers to address the wide spread of increases and decreases at higher usage levels where commercial and industrial customers are normally billed.

The Commission has determined that the City's rate block structure should be amended to more evenly distribute the City's revenue requirements within the residential class of customers. The Commission-authorized Phase 1 rates are attached hereto as Attachment 1, and the Phase 2 rates are attached as Attachment 3.

### **FINDINGS OF FACT**

1. The Commission held an emergency hearing on March 5, 2009 to permit Mr. McCalley and Ms. Cole the opportunity to present fully the evidence and arguments that were erroneously excluded at the January 6, 2009 hearing before the ALJ.
2. The issues addressed at the hearing centered on the need for the project in view of economic recession and lowered water demand; the design of the project; the cost of the project; the City's unaccounted-for water losses; whether it would be prudent for the City to rebid the project in view of decreased commodity prices; and the risk of losing funding in the event of a redesign or rebid of the project.
3. The Intervenors appeared *pro se*, and other than their own oral testimony and several exhibits prepared by Mr. McCalley, most of the testimony that they presented was to a major degree speculative or conjectural and not within any demonstrated areas of expertise possessed by either of them.
4. The Intervenors have monitored the City's project since at least 2005, began expressing objections when the project bid costs escalated from \$7.6 million to \$10.7 million,

and testified that they have been before both the City Council and the ALJ in opposition to the project. See McCalley Testimony, Tr. 3, pp. 231-234; Cole Testimony, Id. pp. 240-242.

5. The Intervenors raised arguments that the justification for the project as presented to the WVIJDC in the City's applications is no longer representative of growth and development in Grant County and is misleading and erroneous. Em. Hr. Intervenors Exh. 1(a) - (c).

6. The Intervenors noted that the poultry industry, upon which Grant County is highly dependent, is in financial trouble and shrinking; a major employer, Allegheny Wood Products, has laid-off employees; and a wood processing plant expected to locate in the area has never materialized. Tr. 3, pp. 244-246.

7. The Intervenors presented evidence that the City's water plant does not actually operate as many hours per day as the City previously represented. Id. pp. 204-209; Em. Hr. Intervenors Exh. 2, 3, 4(a)-(f), 5.

8. The City designed its project to address long-term potential growth in the City and the County and projected future capacity demand for the City's and the Grant County Public Service District's water utility service. Deadrick Testimony, Tr. 3, pp. 23, 24; Hypes Testimony, Tr. 3, p. 95.

9. The City's project will address an NPDES permit requirement that the City's sewage treatment plant discontinue the discharge of aluminum. Deadrick Testimony, Id.

10. The project will improve the City's water flow for fire protection purposes in areas of the City near the high school and the wastewater treatment plant. Tr. 3, pp. 98-99, 126.

11. Although the WV DEP has not issued any compliance citations to the City, a Chesapeake Bay watch group noted that the City was out of compliance with its NPDES permit with respect to aluminum discharge for eighteen to nineteen months. Deadrick Testimony, Tr. 3, pp. 33, 34. After that notice, the City obtained a permit modification to allow it to continue the aluminum discharges from its sewage treatment process pending completion of the City's water plant upgrade project. Id.

12. Although the aluminum is released into the South Branch of the Potomac River from the City's sewage treatment plant, the source of the aluminum is the City's water plant because the water plant is currently designed to transport sludge to the City's sewage plant. Id. pp. 25-26, 31-33, 35.

13. The WV DEP granted the City extensions to the compliance schedule associated with its NPDES permit, and made the extension contingent on the City awarding

the project to contract on or before April 15, 2009. Emergency Hearing City Exh. 2; Commission Request Post-hearing Exhibit No. 2.

14. When the City began planning its plant upgrade project, the City's water plant was required at times to pump up to eighteen hours per day, and the City is required by Health regulations to begin planning for additional capacity when pumping levels reach fourteen hours per day. Tr. 3, pp. 64, 65; see also Hypes testimony, Id. p. 94. In more recent years, the City's plant pumps about twelve to fourteen hours per day. Id. The West Virginia Bureau for Public Health requires that new water plants be designed to pump only eight hours per day. Id.

15. Need for the project was originally based on a demand study commissioned by the Grant County Commission in the early 1990s. Deadrick Testimony, Tr. 3, p. 45.

16. The City experienced a decline in water demand in the past year or so but an industrial park recently built on the ridge overlooking Petersburg will take water utility service from the Grant County Public Service District, a resale customer of the City. Hypes Testimony, Tr. 3, pp. 89, 90.

17. The Intervenor argued that the Commission should require a redesign and rebid of the project in view of current economic conditions.

18. The Intervenor asserted that the project includes too much storage capacity and that significant cost savings might be realized by downsizing a water tank, and taking the Grant County Public Service District's tanks into consideration when calculating the entire system's storage capacity requirements for fire protection purposes. Tr. 3, pp. 211-214, 219.

19. The District's tanks cannot provide fire protection inside the City because they are not configured with "back-feed" capability. Tr. 3, pp. 136-147.

20. The City originally specified that a replacement water tank would be 1.1 million gallons but later increased the size to 1.5 million gallons. Hypes Testimony, Id. p. 97.

21. The City's decision to purchase the larger tank was based on a small incremental cost difference and the City's desire to build for tomorrow instead of for only the needs of today. Deadrick Testimony, Id. pp. 45, 46.

22. The land available for placement of the new water tank is only large enough to accommodate a single tank, and therefore the City does not have the option of adding a second tank at that location if circumstances require additional storage in the future. Hypes Testimony, Id. pp. 99, 100.

23. An undersized feed line currently serves the City's "hospital" tank and creates a storage bottleneck limiting the system's ability to provide adequate water quantity to fight fires in the north side of the City. Hypes Testimony, Tr. 3, pp. 97, 98.

24. The Intervenors complained that the water plant building would include an unnecessary room classified as extra storage or a classroom, and that the City might realize cost savings by eliminating this space. Tr. 3, pp. 219, 230, 236.

25. The Intervenors decided to oppose the certificate project and associated municipal rate ordinance when the cost of the project increased from \$7.6 million to \$10.7 million. Tr. 3, pp. 231, 233, 234; 240, 241.

26. It is not unusual for the estimated cost of a certificated project to be significantly less than the bids received for the project.

27. The Intervenors attempted to show that rebidding the project would result in significant cost savings because of recent decreases in the cost of steel, concrete and fuel. Id. pp. 220, 221; Em. Hr. Intervenors Exh. 9. However, the Intervenors did not produce either witnesses or reliable evidence to support their positions. Although the Intervenors did attempt to present summaries of costs prepared by a third-party, that person was not present at the hearing and could not be cross-examined by the City or Commission Staff. Id. p. 221; Em. Hr. Intervenors Exh. 9.

28. Thirty-one contractors attended the City's pre-bid meeting on the project, five contractors bid on the water plant contract, three contractors bid on the tank replacement, three contractors bid on constructing the new distribution feed line to the City's "hospital" tank, and one contractor bid on repainting a City water tank. Hypes Testimony, Tr. 3, pp. 102-104.

29. The City accepted the lowest bid for the various parts of the project. Id. p. 142.

30. The City is aware of a recent project of approximately half the scope of the City's project that received bids of approximately half of the amount of the bids on the City's project. Hypes Testimony, Id. p. 106.

31. The City has, since receipt of the bids, been testing the validity and reasonableness of the bids by keeping in contact with contractors who typically bid on utility construction projects. Mr. Hypes feels that increases and decreases in various commodity prices, combined with increases in prevailing wage rates, would result in a "wash" for the cost of the project, with no savings, and potentially increased bids on this project. Id. p. 110.

32. The City fears that a redesign of the project or a required rebid of the project would likely result in increased labor costs because of the 3-5 percent increase in wage levels impacting this construction. Tr. 3, pp. 21-23. The City produced a letter from the United

States Department of Labor extending the prior prevailing wage levels for this project, provided the City enters into contracts by April 22, 2009. Em Hr. City Exh. 1.

33. It is possible that in the event of a redesign and rebid, the City's current and future water utility rate levels, which are relatively low, might be taken into consideration by DWTRF or WVIJDC officials who could, in reevaluating the project funding, reach a determination that the City's project should not qualify for 0 percent and 1 percent interest rate loans. In that case, the City would be required to borrow money at market rates. Deadrick Testimony, Tr. 3, pp. 74-76, 81; Griffith Testimony, Id. pp. 174-178.

34. Robert DeCrease, Manager of Infrastructure and Capacity Health Inspection for the West Virginia Bureau for Public Health, stated a likelihood that the City's water plant project would be eligible for \$2.5 million of federal stimulus funds because of the fact that it has received bids and is "shovel-ready." Tr. 3, pp.152, 153; Em. Hr. Intervenor Cross Exh.1. Mr. DeCrease testified that the City project would achieve priority for stimulus funds because it is the only project of which he was aware that has bids in hand and is ready to "shovel dirt." Id. If stimulus funds were awarded to the City's project, those funds would replace DWTRF loan amounts. Id. p. 154.

35. If the project were redesigned and rebid, the City's project would compete with at least seventy-six other projects that have applied or will apply for stimulus funding, some of which may become "shovel ready" prior to the City's project. DeCrease Testimony, Id. p. 155.

36. Mr. DeCrease believes that rebidding the project is a "roll of the dice" as to whether either the stimulus funds or the existing DWTRF funding would be available for the project if it is rebid. Id. pp. 161, 162.

37. The Intervenors' position is that a major plant upgrade should not precede steps to reduce the City's current levels of UFW. McCalley Testimony, Tr. 3, p. 218; Cole Testimony, Id. pp. 242, 243.

38. The City and Staff presented testimony that a large number of slow meters within the city limits might be artificially inflating the UFW. Hypes Testimony, Tr. 3, pp. 92, 93; Weimer Testimony, Id. pp. 200-202.

39. The City is replacing meters that test slow, but its testing capabilities have been limited by staffing constraints. Deadrick Testimony, Id. pp. 79, 80. Meter replacements will be funded as contingencies within the certificated project. Id. pp. 80-83.

40. The revised funding proposed for the project includes the two DWTRF loans in the amount of \$2,700,000 (at 2 percent interest and 1 percent administrative fee) and \$5,000,000 (at 0 percent interest and 1 percent administrative fee). The project will receive \$2,931,400 in grant funding from EPA State Tribal Assistance.

41. Under the Staff-recommended Phase 1 rates, the customers who are low water users will experience the highest percentage rate increase. Tr. 3, pp. 243, 244. Under the stipulated Phase 1 rates, the minimum bill (up to 2,000 gallons per month) water customers would experience a 45.64 percent rate increase, while customers using a more typical 4,500 gallons per month would experience only a 14.97 percent increase. *Id.* p. 259.

42. The City's present rates have an initial block rate for the first 2,000 gallons of usage per month and then a large block covering the next 98,000 gallons per month. For other than minimum bill residential customers a large portion of residential usage falls in the second rate block. A large portion of the usage of commercial and industrial customers also falls in the second rate block. Any attempt to increase the average bill to residential customers using more than 2,000 gallons would impact commercial and industrial customers even more than residential customers because of the large size of the next block above the 2,000 gallon block.

43. Staff's Class Cost of Service Study indicated that there should be a significantly larger percentage increase to the residential class than to the commercial or industrial class.

44. The Intervenors made it clear that one of their concerns was with the disproportionate increase to small volume users as recommended by Staff, agreed to by the City and recommended by the ALJ. Tr. 3, pp. 243, 244.

45. The City's current rate blocks made it difficult for Staff to design rates that would be consistent with the inter-class results of the Class Cost of Service Study without putting a disproportionate increase on the first rate block. Staff stated that there was no intra-residential class component of the study that would support a disproportionate increase to small volume residential customers. Tr. 3, pp. 260-262, 266, 267.

46. The City would not oppose an amended rate structure provided the City's cash flow was not impaired, fixed costs were fairly allocated, and the overall revenue level was not changed. Tr. 3, pp. 187-189.

### CONCLUSIONS OF LAW

1. The issue of whether the justification for the project as presented to the WVIJDC in the City's applications is still representative of growth and development in Grant County, was far outweighed by the City's and Staff's evidence in support of the project's convenience and necessity.

2. Notwithstanding the Intervenors' familiarity with the project and the problems they envisioned with the project, they did not bring forth evidence sufficient to challenge the project.

3. The Commission provided the Intervenors with the opportunity at hearing to present evidence to support their contentions that the project is not convenient and necessary and that the City's rate design is flawed, but the Intervenors did not present sufficient evidence or witnesses to prove their case as to the project.

4. Much of the evidence presented by the Intervenors was in the nature of hearsay and would be accorded little if any evidentiary weight in a court of law. While the Commission is a quasi-judicial body that is permitted to depart from the strict rules of evidence, the Commission cannot in fairness give evidentiary weight to letters, summaries, and other documents created by persons who did not appear at the hearing and were not subject to cross-examination by all parties.

5. The Intervenors did raise some valid arguments regarding the rate design and the Commission will correct defects in rate design in this Order.

6. The City's decision to purchase a larger replacement water tank than was originally specified, at a significant cost savings, was prudent under the circumstances.

7. It is prudent to plan for administrative uses and storage when constructing office space, and the benefits of any cost savings that might be achieved by eliminating such space are outweighed by the usefulness of the space.

8. The weight of the evidence presented at hearing supports a finding of that the project remains necessary. The Commission's conclusion is consistent with and supported by the fact that the WVIJDC and the West Virginia Bureau for Public Health have approved the feasibility of and funding for the project. See WVIJDC determination of feasibility dated January 11, 2006, Exhibit to November 13, 2007 City filing in support of Certificate Application; Bureau for Public Health Funding Commitment Letter dated September 3, 2008, Exhibit 3 to City Petition to Reopen of September 12, 2008.

9. Although the scope of the City's water plant project is significant and it is prudent to look for cost savings given the recent economic downturns and decline in water demand in the region, the Commission does not believe that the public interest is served if water utility infrastructure is built to meet only the only the immediate needs of a city or region without consideration of future long-term needs.

10. In view of the proximity of Corridor H and the presence of the new industrial park, the Commission cannot find the City's decision to plan for future potential growth and demand to have been unreasonable.

11. The revised funding for the project is advantageous and the project remains convenient and necessary.

12. While neither the City nor the Commission should assume without reservation that the federal stimulus funds of \$2.5 million will be awarded for the City's water plant project, the Commission found Mr. DeCrease's testimony on this point to be persuasive.

13. The Intervenors' evidence in opposition to the project costs and arguments to rebid the project are not sufficient to justify putting the project at risk with respect to the committed loans or compromising the project's current "shovel-ready" status in the Bureau of Public Health's stimulus funds ranking process.

14. The City should continue to work toward testing and replacement of slow meters and to investigate other causes for its higher UFW within the city limits.

15. The rates recommended by Staff, and approved by the ALJ, unfairly burden the low consumption customers. A disproportionate rate increase among customers within the residential class is not reasonable nor justified by any evidence.

16. It is reasonable and appropriate to redesign the City's Phase 1 and Phase 2 rates by changing the blocking, and design rates that more heavily impact residential customers within the first two blocks, and somewhat less in the third block.

17. It is reasonable to adopt rates that impose a more even percentage increase across various usage levels within the residential class and that produce total revenue that is nearly the same as the class revenue (residential, commercial and industrial) that would have been produced by Staff's proposed Phase 1 rates.

18. The City should make every effort to pass through the benefit of all federal stimulus funding received for the project to its ratepayers and, as the project nears completion, to reexamine its Phase 2 rates to see if those rates can ultimately be lowered by enactment of ordinance based on the more favorable funding. Along with that review, the City should consider creating a separate rate schedule for commercial and industrial customers to address the wide spread of increases and decreases at higher usage levels where commercial and industrial customers are normally billed.

19. The City's revised funding for the project should be approved and the Commission-designed rates should be adopted.

### ORDER

IT IS THEREFORE ORDERED that the City's petition to reopen Case No. 07-2209-W-CN for approval of revised project funding is hereby granted.

IT IS FURTHER ORDERED that the revised project funding, consisting of a \$2,931,400 Environmental Protection Agency State Tribal Assistance grant; a \$2,700,000 Drinking Water Treatment Revolving Fund loan at 2 percent interest plus a 1 percent administrative fee, payable over twenty years; and a \$5,000,000 DWTRF loan at 0 percent interest plus a 1 percent administrative fee, payable over thirty years, is approved.

IT IS FURTHER ORDERED that, if there is any change in the cost of the project, estimated at \$10,700,000, that would affect rates, or in the scope, design or funding of the project, the City of Petersburg file a petition with the Commission for approval of such revisions.

IT IS FURTHER ORDERED that the Phase 1 rates and charges, set forth on Attachment 1, are approved, effective for all service rendered on and after the date of this Order.

IT IS FURTHER ORDERED that the Phase 2 rates and charges, as provided in Attachment 3, are approved, effective upon substantial completion of the project approved in Case No. 07-2209-W-CN.

IT IS FURTHER ORDERED that the City develop a long-range plan for addressing distribution system deficiencies (such as leaky and undersized mains), address the manpower shortage that is preventing proper maintenance of the distribution system, and file a report concerning those recommendations within 180 days of the date of this Order.

IT IS FURTHER ORDERED that the City of Petersburg file with the Commission's Tariff Office an original and six copies of each of its water tariffs implementing the approved rates and charges, as provided in Attachments 1 and 3, no later than thirty days after the dates on which they become effective.

IT IS FURTHER ORDERED that this matter be removed from the Commission's docket of open cases.

IT IS FURTHER ORDERED that the Executive Secretary of the Commission 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.**

A True Copy, Testes:

  
Sandra Squire  
Executive Secretary

JML/klm  
081873cb.wpd

**CITY OF PETERSBURG  
CASE NO. 08- 1873-W-MA  
COMMISSION-APPROVED RATES - PHASE 1**

**APPLICABILITY**

Applicable within the entire territory served.

**AVAILABILITY**

Available for general domestic, commercial, industrial and resale service.

**RATES - (Customers with metered water supply)**

First	2,000 gallons used per month	\$3.60 per 1,000 gallons
Next	3,000 gallons used per month	\$2.95 per 1,000 gallons
Next	5,000 gallons used per month	\$2.45 per 1,000 gallons
Next	90,000 gallons used per month	\$1.80 per 1,000 gallons
Over	100,000 gallons used per month	\$1.48 per 1,000 gallons

**MINIMUM CHARGE**

No bill shall be rendered for less than the following amounts, according to the size of the meter installed:

5/8 inch meter	\$7.20
3/4 inch meter	\$10.80
1 inch meter	\$18.00
1 1/4 inch meter	\$26.28
1 1/2 inch meter	\$36.00
2 inch meter	\$57.60
3 inch meter	\$108.00
4 inch meter	\$180.00
6 inch meter	\$360.00
8 inch meter	\$576.00
10 inch meter	\$806.40

**RESALE RATE**

All water for resale will be billed in accordance with the approved rate of \$1.48 per 1,000 gallons

**RETURNED CHECK FOR INSUFFICIENT FUNDS**

A service charge equal to the actual bank fee assessed to the utility or a maximum of \$25.00 will be imposed upon any customer whose check for payment of charges is returned by their bank due to insufficient funds.

DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full when due, ten percent will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

RECONNECTION - \$25.00

To be charged whenever the supply of water is turned off for violations of rules, non-payment of bills, or fraudulent use of water.

ADMINISTRATIVE FEE

In the event the District collects payment in full of a delinquent water bill at the customer's premises in lieu of discontinuing service for nonpayment, an administrative fee of \$25.00 shall also be collected in addition to the delinquent water bill.

TAP FEE

The following charges are to be made whenever the utility installs a new tap to serve an applicant.

A tap fee of \$100.00 will be charged to customers applying for service before the construction is completed adjacent to the customer's premises in connection with a certificate proceeding before the Commission. This pre-construction tap fee will be invalid after the completion of construction adjacent to an applicant's premises that is associated with a certificate proceeding.

A tap fee by meter size will be charged to all customers who apply for service outside a certificate proceeding before the Commission for each new tap to the system:

<u>METER SIZE (INCHES)</u>	<u>FEES</u>
5/8" & 3/4"	\$ 600.00
1"	\$ 800.00
1-1/2"	\$1,250.00
2"	\$1,500.00
4"	\$3,000.00
6"	\$4,450.00
8"	\$6,000.00
10"	\$8,000.00

LEAK ADJUSTMENT

\$0.36 per 1,000 gallons is to be used when the bill reflects unusual consumption which can be attributed to eligible leakage on customer's side of the meter. This rate is to be applied to all consumption above the customer's historical average usage.

SECURITY DEPOSIT

A deposit of \$50.00 or 2/12ths of the average annual usage of the applicant's specific customer class, whichever is greater.

Comparison of Phase 1 Bills at Various Usage Levels			
Monthly Usage	Current Rates Monthly Bill	Commission-Ordered Phase 1 Rates Monthly Bill	Percentage Increase
Gallons	\$	\$	
0	5.85	7.20	23.08%
1,000	5.85	7.20	23.08%
2,000	5.85	7.20	23.08%
3,000	8.22	10.15	23.48%
4,000	10.58	13.10	23.82%
4,500	11.76	14.58	23.94%
5,000	12.94	16.05	24.03%
6,000	15.30	18.50	20.92%
7,000	17.66	20.95	18.63%
8,000	20.02	23.40	16.88%
9,000	22.38	25.85	15.50%
10,000	24.74	28.30	14.39%
12,000	29.46	32.14	9.10%
15,000	36.54	37.90	3.72%
20,000	48.34	47.50	-1.74%
25,000	60.14	57.10	-5.05%
30,000	71.94	66.70	-7.28%
40,000	95.54	85.90	-10.09%
50,000	119.14	105.10	-11.78%
60,000	142.74	124.30	-12.92%
70,000	166.34	143.50	-13.73%
80,000	189.94	162.70	-14.34%
90,000	213.54	181.90	-14.82%
100,000	237.14	201.10	-15.20%
200,000	375.14	354.10	-5.61%
300,000	513.14	507.10	-1.18%
400,000	651.14	660.10	1.38%
500,000	789.14	813.10	3.04%

CITY OF PETERSBURG  
CASE NO. 08- 1873-W-MA  
COMMISSION-APPROVED RATES - PHASE 2

APPLICABILITY

Applicable within the entire territory served.

AVAILABILITY

Available for general domestic, commercial, industrial and resale service.

RATES - (Customers with metered water supply)

First	2,000 gallons used per month	\$6.86 per 1,000 gallons
Next	3,000 gallons used per month	\$5.62 per 1,000 gallons
Next	5,000 gallons used per month	\$4.67 per 1,000 gallons
Next	90,000 gallons used per month	\$3.66 per 1,000 gallons
Over	100,000 gallons used per month	\$2.91 per 1,000 gallons

MINIMUM CHARGE

No bill shall be rendered for less than the following amounts, according to the size of the meter installed:

5/8 inch meter	\$13.72
3/4 inch meter	\$20.60
1 inch meter	\$34.30
1 1/4 inch meter	\$50.10
1 1/2 inch meter	\$68.60
2 inch meter	\$109.75
3 inch meter	\$205.80
4 inch meter	\$343.00
6 inch meter	\$686.00
8 inch meter	\$1,097.60
10 inch meter	\$1,536.65

RESALE RATE

All water for resale will be billed in accordance with the approved rate of \$2.82 per 1,000 gallons

RETURNED CHECK FOR INSUFFICIENT FUNDS

A service charge equal to the actual bank fee assessed to the utility or a maximum of \$25.00 will be imposed upon any customer whose check for payment of charges is returned by their bank due to insufficient funds.

DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full when due, ten percent will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

RECONNECTION - \$25.00

To be charged whenever the supply of water is turned off for violations of rules, non-payment of bills, or fraudulent use of water.

ADMINISTRATIVE FEE

In the event the District collects payment in full of a delinquent water bill at the customer's premises in lieu of discontinuing service for nonpayment, an administrative fee of \$25.00 shall also be collected in addition to the delinquent water bill.

TAP FEE

The following charges are to be made whenever the utility installs a new tap to serve an applicant.

A tap fee of \$100.00 will be charged to customers applying for service before the construction is completed adjacent to the customer's premises in connection with a certificate proceeding before the Commission. This pre-construction tap fee will be invalid after the completion of construction adjacent to an applicant's premises that is associated with a certificate proceeding.

A tap fee by meter size will be charged to all customers who apply for service outside a certificate proceeding before the Commission for each new tap to the system:

<u>METER SIZE (INCHES)</u>	<u>FEES</u>
5/8" & 3/4"	\$ 600.00
1"	\$ 800.00
1-1/2"	\$1,250.00
2"	\$1,500.00
4"	\$3,000.00
6"	\$4,450.00
8"	\$6,000.00
10"	\$8,000.00

LEAK ADJUSTMENT

\$0.38 per 1,000 gallons is to be used when the bill reflects unusual consumption which can be attributed to eligible leakage on customer's side of the meter. This rate is to be applied to all consumption above the customer's historical average usage.

SECURITY DEPOSIT

A deposit of \$50.00 or 2/12ths of the average annual usage of the applicant's specific customer class, whichever is greater.

PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON

Entered: January 28, 2009

EXCEPTIONS  
FILED

CASE NO. 08-1873-W-MA

CITY OF PETERSBURG,  
a municipal utility, Grant County.

Investigation and suspension of increase in water rates and charges as a result of petitions filed in accordance with W.Va. Code §24-2-4b.

RECOMMENDED DECISION

On September 12, 2008, the City of Petersburg ("City"), by counsel Robert R. Rodecker, filed a petition to reopen City of Petersburg, Case No. 07-2209-W-CN (2008), because the bids on the water project approved in that case were higher than had been anticipated.

On October 16, 2008, the City, by counsel, filed a water rate ordinance enacted on October 1, 2008, raising the City's water rates by 23.4%. The ordinance states that its rates will be needed to meet the increased cost of the water system project resulting from the higher bids and will become effective upon completion of the water system improvement project, or upon commencement of payments for debt service associated with the project, whichever occurs first.

On October 30, 2008, a petition signed by 371 people was filed, opposing the rate increase. On the same date, the Commission issued an order stating that it had received a petition "signed by not less than twenty-five percent of the City's water customers" and, therefore, found jurisdiction pursuant to W.Va. Code §24-2-4b(c)(1); docketed this matter; named the City a respondent; suspended the City's proposed rates and charges until March 15, 2009, unless otherwise ordered by the Commission; and referred this matter to the Division of Administrative Law Judges ("ALJ Division") for decision no later than February 13, 2009. Commission Staff was ordered to file its final report no later than December 30, 2008.

On November 10, 2008, the Commission, by Order, consolidated this matter with Case No. 07-0029-W-CN.

MSM

On November 13, 2008, the City filed a motion to dismiss this matter, stating that the City has 1275 water customer accounts and contending that the petition did not contain the 318 valid signatures of customers needed for the Commission to invoke jurisdiction. The City requested an immediate hearing on the issue.

Also on November 13, 2008, Phyllis M. Cole requested intervention, which was granted by a Procedural Order issued November 21, 2008.

On December 3, 2008, hearing was held on whether the petition contained 318 valid signatures and, on December 16, 2008, the undersigned issued an Interim Recommended Decision, which determined that the petition contained at least 332 valid signatures. The City's motion for dismissal of this matter was denied. Also on December 16, 2008, the undersigned issued a Procedural Order bifurcating this matter from Case No. 07-2209-W-CN.

On December 19, 2008, the undersigned issued a Procedural Order requiring the City to file any response to Staff's final recommendations no later than January 2, 2009, so that it would be clear prior to hearing what were the disputes between the City and Staff, if any, and scheduling this matter for hearing at 9:30 a.m. on January 6, 2009, in the Petersburg City Hall, Petersburg, West Virginia. Also ordered were that the City publish an attached Notice of Hearing in Grant County, that an expedited transcript be prepared and filed no later than January 9, 2009, that initial briefs be filed no later than January 16, 2009, and that any reply briefs be filed no later than January 20, 2009.

On December 22, 2008, Deputy Chief Administrative ALJ Ronnie Z. McCann issued a Procedural Order assigning this matter to the undersigned, nunc pro tunc.

On December 30, 2008, the City filed an affidavit establishing that the Notice of Hearing had been published on December 23, 2008, in the Grant County Press.

On December 31, 2008, Staff Attorney Cassius H. Toon filed a Final Joint Staff Memorandum, with a Staff Report prepared by Nathan Nelson, of the Water and Wastewater Division, and Joe Marakovits, of the Engineering Division, which included the following: The City owns and operates a water treatment and distribution system serving approximately 1,275 customers, including one resale customer, Grant County Public Service District ("District"). The unaccounted-for water rate of the system is 15%, but, when the flows for the District are excluded, the rate is 34%, indicating a leakage problem in the City's distribution system that needs to be addressed. The engineering recommendations were that the City develop a long-range plan for addressing distribution system deficiencies (such as leaky and undersized mains), address the manpower shortage that is preventing proper maintenance of the distribution system, and file a report concerning those recommendations within 180 days of the final order date of this matter. The City spent \$24,595 per year on plant additions on average over the past five years and is operating at an annual deficit of \$13,093. Staff recommended rate increases in two phases. Phase 1 would increase revenue by 5.8% and would become effective as soon as possible; it is needed to support the present operations of the City. It would provide a capital addition surplus of \$25,075 (\$12,249 renewal and replacement reserve + \$12,826 surplus) and debt service coverage of 140%. Phase 2 would increase the City's revenue by 90.5% above that provided by the first rate increase and would become effective upon substantial completion of the project approved in Case No. 07-2209-W-CN. It would provide a capital addition

surplus of \$29,456 (\$23,338 renewal and replacement reserve + \$6,118 surplus) and debt service coverage of 115.93%. The class cost of service study conducted by Staff revealed that the resale customer is subsidizing the residential class and, to a lesser extent, the commercial and industrial classes. After the first rates become effective (leaving unchanged the resale rate of \$1.48 per thousand gallons used), the resale customer will still be paying slightly more than its share, but with implementation of the Phase 2 rates (raising the resale rate to \$2.82 per thousand gallons), the resale customer's subsidization of the other customers would end. The Phase 2 increase is across-the-board. Finally, Staff also recommended reducing the City's leak adjustment rate to \$0.36 per thousand gallons, effective with the first increase, and then increasing it to \$0.38 per thousand gallons, effective with the second increase. Staff also stated that the City should continue to deposit funds from its renewal and replacement reserve into a separate account.

Hearing was held as scheduled. Mr. Rodecker appeared on behalf of the City and Staff Attorney C. Terry Owen appeared on behalf of Staff. Ms. Cole appeared and Bob McCalley was also granted intervenor status. (Tr. 8). Mr. Rodecker clarified that the City accepted all of Staff's recommendations. (Tr. 8). Testimony was taken, including that of Mr. Marakovits and Mr. Nelson, and the Final Joint Staff Memorandum and Staff Report was entered into evidence as Staff Ex. 1. The Intervenors did not formally oppose the first Staff-recommended rates, although they questioned that residential customers should bear a greater burden than they do presently; the Intervenors opposed the second Staff-recommended rates. (Tr. 9-10). No protestants other than the Intervenors appeared. (Tr. 107).

On January 9, 2009, the transcript was filed.

On January 15 and 16, 2009, the Intervenors and Staff, by Mr. Owen, filed initial briefs, respectively. On January 20, 2009, the City, by counsel, filed a reply brief.

### EVIDENCE and DISCUSSION

Staff's brief accurately synthesizes the testimony of Mr. Marakovits and Mr. Nelson, as follows:

Mr. Marakovits reviewed the annual capital construction requirements of the City and provided allocation factors for a water customer class cost of service study (CCOSS). Tr., p. 14. He coordinated with Nathan Nelson, the Staff's financial witness, in determining the amount of annual surplus needed to meet the capital improvement requirements of the City. Tr., pp. 16-17. The Staff's analysis of Petersburg's existing rate structure indicated that the purchase for resale class was subsidizing the residential, commercial and industrial classes. Tr., p. 15. The Staff followed Public Service Commission rules, regulations and policies in preparing the CCOSS and in designing the rates recommended by the Staff. Tr., p. 15.

Mr. Marakovits testified that Petersburg has a significant unaccounted for water problem - approximately 34% of the treated water is lost in distribution. Tr., p. 16. Mr. Marakovits' recommendation for the City's annual capital improvements does not

provide sufficient funding to eliminate the unaccounted for water problem. Tr., pp. 16-17, 21. He felt that the City should develop a long term plan for eliminating the excessive unaccounted for water before funding in the form of an annual capital surplus should be provided. Tr., pp. 17-18. The large unaccounted for water problem could be caused by leaky distribution lines, meter problems, tank overflows, water theft, unmetered fire department use, and improper accounting. Tr., pp. 22-23. The Staff's recommended rates and charges provide approximately \$25,000 annually for all capital improvements which could be used to eliminate unaccounted for water. Tr., pp. 38-39.

An aggressive program to eliminate unaccounted for water should include the hiring of additional manpower, installation of valves, and the installation of metering at creek crossings. Tr., pp. 23-24. The City's acceptance of the Staff's recommendation included a recognition of the unaccounted for water problem. Tr., pp. 27-28. The Commission's Staff and the West Virginia Rural Water Association both make themselves available to municipal utilities to assist in the development of programs to eliminate excessive unaccounted for water problems. Tr., pp. 31-32.

Nathan Nelson testified in behalf of the Staff's analysis of the financial condition of the water utility of the City of Petersburg and the Staff recommended rates and charges. Tr., p. 59. At going-level, the water utility of the City of Petersburg has an annual deficit of \$13,093.00. Tr., p. 60. The Staff recommended a two-tiered rate increase. The first tier would go into effect immediately to permit the City to recover its going level expenses. The second tier would go into effect upon substantial completion of the project approved by the Commission in Case No. 07-2209-W-CN. Tr., pp. 60-61. During Tier 1, the Staff recommended rates and charges would generate approximately \$25,000.00 annually for capital improvements. When the Tier 2 rates are put into effect, approximately \$30,000.00 will be generated annually for capital improvements. Tr., p. 61. Debt coverage will be 140% during Tier 1 and 115% during Tier 2. Tr., p. 62.

During the preparation of the Staff's CCOSS, the Staff determined that the purchase for resale customer class was substantially subsidizing the residential customer class. Tr., pp. 62-63. The increased rates proposed by Petersburg in its municipal rate ordinance would have increased the average residential monthly bill<sup>1</sup> by 117.01% from \$11.76 to \$25.52.<sup>2</sup> In the Staff designed rates, the purchase for resale class rates were left unchanged in Tier 1, but increased 90.50% in Tier 2. The average monthly residential rates would increase by 14.97%, or from \$11.76 to \$13.52. In Tier 2, average monthly residential rates would increase from \$13.52 to \$25.76, a 90.50%

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<sup>1</sup>Assuming that average residential consumption is 4,500 gallons per month.

<sup>2</sup>The proposed municipal rate would not have been effective until the project was substantially completed. The Staff's Tier 1 rates would be effective immediately. Stated another way, without the protest led by Ms. Cole, Petersburg's customers would not have paid any increased rates until the project was substantially completed. However, the rates would not have been cost-based.

increase. Generally speaking, commercial and industrial rates would decrease in Tier 1, but increase by 90.50% in Tier 2. Tr., pp. 64, 67; Staff Ex. No. 1, Attachment to Cover Letter.

(Staff's brief at 4-6, including footnotes). Under cross-examination by the Intervenor, Mr. Marakovits and Mr. Nelson elaborated on their direct testimony and what was stated in Staff Ex. 1. Mr. Marakovits indicated agreement with Mr. McCalley that the amount of water used by the City's customers is dropping. (Tr. 49).

Much of the evidence presented by the Intervenor was irrelevant to this matter. June Kile testified that increased rates would create a hardship for her and others. (Tr. 90-92; 94-95). Ms. Cole testified that industry is suffering in the area, in particular Pilgrim's Pride, a poultry-processing company, which is in bankruptcy. (Tr. 99-101).

The Intervenor's brief makes the following assertions: (1) The rates should be adjusted so that a lower rate is established for the residential customers who use less than 2000 gallons per month. The Intervenor argues that, since Staff tolerated a small subsidization of residential customers by the resale customer, subsidization of the residential customers who use little water by residential customers who use more also should be tolerated. (2) The Phase 2 rates put an undue burden on the District. (3) The Phase 2 rates should be put on hold until the economic crisis is over and until it is clear whether Pilgrim's Pride will come out of bankruptcy. (4) The Phase 2 rates should be put on hold until it is determined how much it will cost to lower the unaccounted-for-water rate. (5) Decreasing water usage "adds additional uncertainty in the water rates."

None of these arguments has any merit. (1) As Staff argues in its brief, undue discrimination in rate design is prohibited by statute. See W.Va. Code §§24-1-1(a)(4), 24-2-3, 24-2-4b(c)(2), 24-2-7(a). The temporary slight subsidization by the District does not justify discriminating against the higher-usage residential customers in favor of the low-usage residential customers. It also might be noted that, while the Intervenor apparently assume that low-usage customers have low incomes, that is not necessarily the case. (2) As the Intervenor were cautioned at hearing, they have no standing to represent the District. (Tr. 41). Moreover, if the District paid less for water, the shortage would have to be made up by the City's other customers, including the residential customers such as the Intervenor. (3) The Phase 2 rate increases are needed to provide revenue to pay for the costs arising out of the project, particularly debt service; that the area has economic problems does not change that. The following passages from Staff's brief and from the City's reply brief provide clear reasoning on why the first three contentions must be soundly rejected.

The Staff was guided by statutory law when it conducted a customer class cost of service study. The purpose of these studies is to assure that each class of customers pays the actual cost of the provision of utility service to that class. In this particular instance, the residential class was being subsidized substantially by the rates paid by Grant County Public Service District. The Staff's recommended rates and charges removed that subsidy. The concern expressed by the Intervenor for low income residential customers, Grant County Public Service District and the wood and poultry industries did not fall on deaf ears. The Staff has no vested interest in the outcome of this proceeding. It simply determined how much each class of customers should be

paying and designed rates that would generate sufficient income to recover those costs. If the rates charged to low income residential customers, Grant County Public Service District, and members of the poultry and wood industry aren't raised, who is to pay the shortfall that the protection of these customer classes creates? Should the entire rate increase be foisted upon those residential customers who do not qualify for low income assistance? **It just simply isn't enough for the Intervenor to identify a problem without proposing any legally permissible solution.**

[emphasis added] Staff's brief at 13-14.

The Intervenor's only option to the Staff recommended rates is to delay the imposition of the phase II rates. The Intervenor has taken a simplistic approach to a very difficult situation. Unfortunately, the City does not have the luxury of sitting on the sidelines yelling at the batter that is at bat. The City is the entity that is faced with making difficult decisions which are intended to meet the public needs. In this case, the phase II rates are based upon the need for a project that was certificated by the Commission almost a year ago. In fact, the City has been dealing with the planning and design of that project for many years. That project was deemed to be necessitated in large part by the parties that the Intervenor now argue should not be burdened with the cost of the project. It is possible, as the Intervenor seem to expect, that the poultry and wood products industries may not be able to survive the current economic crisis. However, the City cannot run the risk of waiting to find out whether they die out, and whether the projections of need that dictated the construction of the project whose bids drove the rate increase will not be met. The City has acted in the long term best interests of the City and the County. The Intervenor would have the City ignore the long term best interests of the City and County on the basis of a current economic condition which many believe will be of a short term duration. It is always easier to do nothing. The question is whether doing nothing now will lead to greater costs later. The phase II rates are based upon the best efforts of the City to meet those long term needs and, based upon the best information the City has available, delay will only lead to higher costs in the future.

City's reply brief at 3-4. (4) The need to lower the unaccounted-for water rate does not justify delaying the Phase 2 rate increases. Clearly the revenue from the increases will be needed after the project is complete. Improving the unaccounted-for water rate will, in all likelihood, require a further rate increase. (5) No sense can be made out of the final contention. Decreasing water usage might necessitate another rate increase; it would not justify rejecting or delaying the Phase 2 rate increase, which, as stated, is necessary to provide revenue to pay for the costs arising out of the project.

#### FINDINGS OF FACT

1. On September 12, 2008, the City of Petersburg filed a petition to reopen City of Petersburg, Case No. 07-2209-W-CN (2008), because the bids on the water project approved in that case were higher than had been anticipated. The estimated cost of the project is approximately \$3,000,000 higher than estimated at the time of approval. (See petition in that matter).

2. On October 1, 2008, the City adopted an ordinance raising its water rates by 23.4%, which the ordinance states will be needed to meet the increased cost of the water system project resulting from the higher bids. (See filing of October 16, 2008).

3. A petition opposing the rate increase was filed with the Commission; the Commission found jurisdiction pursuant to W.Va. Code §24-2-4b(c)(1); hearing was held on the jurisdictional issue; and, on December 16, 2008, an Interim Recommended Decision was issued, finding that the petition contained at least 332 valid signatures, more than the 318 valid signatures needed for the Commission to retain jurisdiction. A motion by the City to dismiss this matter was denied. (See petition filed October 30, 2008; Commission Order of October 30, 2008; Interim Recommended Decision).

4. A Notice of Hearing for the hearing scheduled for January 6, 2009, was published on December 23, 2008, in the Grant County Press. (See filing of December 30, 2008).

5. Phyllis M. Cole and Bob McCalley were intervenors in this matter, and appeared at the hearing. No protestant other than the intervenors appeared. (See November 21, 2008 Procedural Order; Tr. 8. 107).

6. The City owns and operates a water treatment and distribution system serving approximately 1,275 customers, including one resale customer, Grant County Public Service District. (See Staff Exhibit 1).

7. The unaccounted-for water rate of the system is 15%, but, when the flows for the District are excluded, the rate is 34%, indicating a leakage problem in the City's distribution system that needs to be addressed. (See Staff Exhibit 1; Tr. 16).

8. Staff recommended that the City develop a long-range plan for addressing distribution system deficiencies (such as leaky and undersized mains), address the manpower shortage that is preventing proper maintenance of the distribution system, and file a report concerning those recommendations within 180 days of the final order date of this matter. (See Staff Exhibit 1; Tr. 22-24, 31-32).

9. The City spent \$24,595 per year on plant additions on average over the past five years and is operating at an annual deficit of \$13,093. (See Staff Exhibit 1; Tr. 38-39, 60).

10. Staff recommended rate increases in two phases. Phase 1 would increase revenue by 5.8% and would become effective as soon as possible; it is needed to support the present operations of the City. It would provide a capital addition surplus of \$25,075 (\$12,249 renewal and replacement reserve + \$12,826 surplus) and debt service coverage of 140%. (See Staff Exhibit 1; Tr. 38-39, 60-62).

11. The Phase 2 rate increase, an across-the-board increase, would increase the City's revenue by 90.5% above that provided by the first rate increase and would become effective upon substantial completion of the project approved in Case No. 07-2209-W-CN. It would provide a

capital addition surplus of \$29,456 (\$23,338 renewal and replacement reserve + \$6,118 surplus) and debt service coverage of 115.93%. (See Staff Exhibit 1; Tr. 60-62).

12. The class cost of service study conducted by Staff revealed that the resale customer is subsidizing the residential class and, to a lesser extent, the commercial and industrial classes. After the first rates become effective (leaving unchanged the present resale rate of \$1.48 per thousand gallons used), the resale customer will still be paying slightly more than its share, but, with implementation of the Phase 2 rates (raising the resale rate to \$2.82 per thousand gallons), the resale customer's subsidization of the other customers would end with implementation of those Phase 2 rates. (See Staff Exhibit 1; Tr. 15, 64-67).

13. Staff also recommended reducing the City's leak adjustment rate to \$0.36 per thousand gallons, effective with the first increase, and then increasing it to \$0.38 per thousand gallons, effective with the second increase. (See Staff Exhibit 1).

14. The City accepted all of Staff's recommendations. (See Tr. 8).

#### CONCLUSIONS OF LAW

1. The Intervenors' arguments have no merit.

2. It is appropriate to approve the Staff-recommended Phase 1 rates and charges, as provided in Appendix A hereto, because the City accepts them and they are reasonable and the rate increases provide revenue sufficient, but not more than sufficient, to cover the City's expenses, including maintenance of its system, and its debt service. The rates and charges will become effective on March 15, 2009.

3. It is appropriate to approve the Staff-recommended Phase 2 rates and charges, as provided in Appendix B hereto, because the City accepts them and they are reasonable and the rate increases provide revenue sufficient, but not more than sufficient, to cover the City's additional debt service and expenses, due to the project approved in City of Petersburg, Case No. 07-2209-W-CN (2008), including the debt service on the additional \$3,000,000 in funding needed to cover the cost of the project, at issue in the reopened Case No. 07-2209-W-CN. The rates will become effective upon substantial completion of that project.

4. It is appropriate to order the City take all action stated in Finding of Fact 8.

#### ORDER

IT IS, THEREFORE, ORDERED that the Phase 1 rates and charges, as provided in Appendix A, be approved, to become effective for all service rendered on and after March 15, 2009.

IT IS FURTHER ORDERED that the Phase 2 rates and charges, as provided in Appendix B, be approved, to become effective upon substantial completion of the project approved in City of Petersburg, Case No. 07-2209-W-CN (2008).

IT IS FURTHER ORDERED that the City of Petersburg file with the Commission's Tariff Office an original and five (5) copies of each of its water tariffs implementing the approved rates and charges, as provided in Appendix A and B, no later than thirty (30) days after the dates on which they become effective.

IT IS FURTHER ORDERED that the City of Petersburg take all action stated above in Finding of Fact 8.

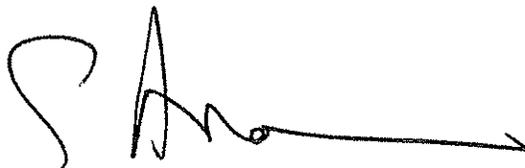
IT IS FURTHER ORDERED that this matter be removed from the Commission's docket of open cases.

IT IS FURTHER ORDERED that the Executive Secretary of the Commission 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 within fifteen (15) days of the date this order is mailed. If exceptions are filed, the parties filing exceptions shall certify to the Executive Secretary that all parties of record have been served said exceptions.

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

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



Sunya Anderson  
Administrative Law Judge

SA:s  
081873ab.wpd

CITY OF PETERSBURG  
CASE NO. 08-1873-W-MA  
APPROVED TARIFF- PHASE 1

APPLICABILITY

Applicable within the entire territory served

AVAILABILITY

Available for general domestic, commercial, industrial and resale service.

RATES - (Customers with metered water supply)

First	2,000 gallons used per month	\$4.26 per 1,000 gallons
Next	98,000 gallons used per month	\$2.00 per 1,000 gallons
All over	100,000 gallons used per month	\$1.48 per 1,000 gallons

MINIMUM CHARGE

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

5/8 inch meter	\$ 8.52 per month
3/4 inch meter	\$ 12.78 per month
1 inch meter	\$ 21.30 per month
1 1/4 inch meter	\$ 31.10 per month
1 1/2 inch meter	\$ 42.60 per month
2 inch meter	\$ 68.16 per month
3 inch meter	\$ 127.80 per month
4 inch meter	\$ 213.00 per month
6 inch meter	\$ 426.00 per month
8 inch meter	\$ 681.60 per month
10 inch meter	\$ 954.24 per month

RESALE RATE

All water for resale will be billed in accordance with the approved rate of \$1.48 per 1,000 gallons used per month.

RETURNED CHECK FOR INSUFFICIENT FUNDS

A service charge equal to the actual bank fee assessed to the utility or a maximum of \$25.00 will be imposed upon any customer whose check for payment of charges is returned by their bank due to insufficient funds.

DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full when due, ten percent will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

RECONNECTION - \$25.00

To be charged whenever the supply of water is turned off for violations of rules, non-payment of bills, or fraudulent use of water.

ADMINISTRATIVE FEE

In the event the District collects payment in full of a delinquent water bill at the customer's premises in lieu of discontinuing service for nonpayment, an administrative fee of \$25.00 shall also be collected in addition to the delinquent water bill.

TAP FEE

The following charges are to be made whenever the utility installs a new tap to serve an applicant.

A tap fee of \$100.00 will be charged to customers applying for service before the construction is completed adjacent to the customer's premises in connection with a certificate proceeding before the Commission. This pre-construction tap fee will be invalid after the completion of construction adjacent to an applicant's premises that is associated with a certificate proceeding.

A tap fee by meter size will be charged to all customers who apply for service outside a certificate proceeding before the Commission for each new tap to the system:

<u>METER SIZE (INCHES)</u>	<u>FEES</u>
5/8" & 3/4"	\$ 600.00
1"	\$ 800.00
1-1/2"	\$1,250.00
2"	\$1,500.00
4"	\$3,000.00
6"	\$4,450.00
8"	\$6,000.00
10"	\$8,000.00

LEAK ADJUSTMENT

\$0.36 per 1,000 gallons is to be used when the bill reflects unusual consumption which can be attributed to eligible leakage on customer's side of the meter. This rate is to be applied to all consumption above the customer's historical average usage.

SECURITY DEPOSIT

A deposit of \$50.00 or 2/12ths of the average annual usage of the applicant's specific customer class, whichever is greater.

CITY OF PETERSBURG  
CASE NO. 08-1873-W-MA  
APPROVED TARIFF - PHASE 2

APPLICABILITY

Applicable within the entire territory served

AVAILABILITY

Available for general domestic, commercial, industrial and resale service.

RATES - (Customers with metered water supply)

First	2,000 gallons used per month	\$8.12 per 1,000 gallons
Next	98,000 gallons used per month	\$3.81 per 1,000 gallons
All over	100,000 gallons used per month	\$2.82 per 1,000 gallons

MINIMUM CHARGE

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

5/8 inch meter	\$ 16.23 per month
3/4 inch meter	\$ 24.35 per month
1 inch meter	\$ 40.58 per month
1 1/4 inch meter	\$ 59.24 per month
1 1/2 inch meter	\$ 81.15 per month
2 inch meter	\$ 129.84 per month
3 inch meter	\$ 243.46 per month
4 inch meter	\$ 405.77 per month
6 inch meter	\$ 811.53 per month
8 inch meter	\$ 1,298.45 per month
10 inch meter	\$ 1,817.83 per month

RESALE RATE

All water for resale will be billed in accordance with the approved rate of \$2.82 per 1,000 gallons used per month.

RETURNED CHECK FOR INSUFFICIENT FUNDS

A service charge equal to the actual bank fee assessed to the utility or a maximum of \$25.00 will be imposed upon any customer whose check for payment of charges is returned by their bank due to insufficient funds.

DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full when due, ten percent will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

RECONNECTION - \$25.00

To be charged whenever the supply of water is turned off for violations of rules, non-payment of bills, or fraudulent use of water.

ADMINISTRATIVE FEE

In the event the District collects payment in full of a delinquent water bill at the customer's premises in lieu of discontinuing service for nonpayment, an administrative fee of \$25.00 shall also be collected in addition to the delinquent water bill.

TAP FEE

The following charges are to be made whenever the utility installs a new tap to serve an applicant.

A tap fee of \$100.00 will be charged to customers applying for service before the construction is completed adjacent to the customer's premises in connection with a certificate proceeding before the Commission. This pre-construction tap fee will be invalid after the completion of construction adjacent to an applicant's premises that is associated with a certificate proceeding.

A tap fee by meter size will be charged to all customers who apply for service outside a certificate proceeding before the Commission for each new tap to the system:

<u>METER SIZE (INCHES)</u>	<u>FEES</u>
5/8" & 3/4"	\$ 600.00
1"	\$ 800.00
1-1/2"	\$1,250.00
2"	\$1,500.00
4"	\$3,000.00
6"	\$4,450.00
8"	\$6,000.00
10"	\$8,000.00

LEAK ADJUSTMENT

\$0.38 per 1,000 gallons is to be used when the bill reflects unusual consumption which can be attributed to eligible leakage on customer's side of the meter. This rate is to be applied to all consumption above the customer's historical average usage.

SECURITY DEPOSIT

A deposit of \$50.00 or 2/12ths of the average annual usage of the applicant's specific customer class, whichever is greater.

PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON

Issued: December 16, 2008

CASE NO. 07-2209-W-CN (Reopened)

CITY OF PETERSBURG,  
a municipal utility, Grant County.

Application for a Certificate of Convenience and Necessity for the upgrade and expansion of the City's existing water treatment plant, replacement of the Hospital Hill water storage tank, repainting of the Point water storage tank, and for approval of the financing related thereto.

CASE NO. 08-1873-W-MA

CITY OF PETERSBURG,  
a municipal utility, Grant County.

Investigation and suspension of increase in water rates and charges as a result of petitions filed in accordance with W.Va. Code §24-2-4b.

PROCEDURAL ORDER

CASE NO. 07-2209-W-CN (Reopened)

By Recommended Decision that became final on April 6, 2008, the Commission granted an application of the City of Petersburg ("City") for a certificate of convenience and necessity to upgrade and expand the City's existing water treatment plant, to replace the Hospital Hill water storage tank, to repaint the Point water storage tank, and for approval of the financing related thereto. The Order noted that the project was estimated to cost \$7,631,400, including a total construction cost of \$6,015,000. The project was to have been funded by a \$2,931,400 Environmental Protection Agency State Tribal Assistance grant; a \$1,700,000 Drinking Water Treatment Revolving Fund ("DWTRF") loan at 2% interest plus a 1% administrative fee, payable over twenty years; and a \$3,000,000 DWTRF loan at 0% interest plus a 1% administrative fee, payable over thirty years.

The Order further stated that the City passed an ordinance in August 2007, raising its water rates by 76%, to become effective upon completion of the project or upon commencement of debt service, whichever first occurs. The rate increase was to provide approximately \$322,753 in additional annual revenues. The Order concluded that the added revenue from the City's rate increase would be adequate to cover the City's costs for the project.

On September 12, 2008, the City, by counsel Robert R. Rodecker, filed a petition to reopen the case because the bid costs exceeded available funding. The filing stated that cost increases are attributable to the increased price of concrete, steel and fuel. Although the original construction cost was \$6,015,000, the minimum bid submitted was \$8,931,126. It was estimated that the increase in cost for the project would be approximately \$3,000,000 and, therefore, the total estimated project cost has been revised from \$7,631,400 to \$10,700,000. The City stated that the increased costs would be funded by increasing the DWTRF loans from \$1,700,000 to \$2,700,000 and from \$3,000,000 to \$5,000,000; the terms remained unchanged. A commitment letter was attached. The City also stated it was in the process of adopting a rate ordinance to increase rates by 23.40% to pay for additional project financing.

On October 10, 2008, Staff Attorney Cassius H. Toon filed an Initial and Final Joint Staff Memorandum, recommending that the revised funding be approved. Staff noted that the rate ordinance had been passed on October 1, 2008, and that it had been submitted to the Commission for review and that the ordinance was acceptable, but the protest period would not expire until October 31, 2008. Staff recommended that the revised funding package be approved, pending final review of the ordinance.

*CASE NO. 08-1873-W-MA*

On October 16, 2008, the City, by counsel, filed the October 1<sup>st</sup> rate increase ordinance, which stated that "by Ordinance adopted August 27, 2007, the City adopted increased water rates to become effective upon completion of a proposed water system improvement project, or upon commencement of payment on debt service associated with the project, whichever first occurred"; that the water system and its funding had been approved by the Commission in Case No. 07-2209-W-CN; that the bids received on the water project are higher than those initially anticipated; that the ordinance rates would be needed to meet the increased cost of the water system project resulting from the higher bids and would become effective upon completion of the water system improvement project, or upon commencement of payments for debt service associated with the project, whichever occurs first.

On October 30, 2008, a petition signed by 371 people was filed, which stated, "We, the undersigned OPPOSE the current rate increase proposal and request a review of the new proposed water project. We understand the need for an upgrade to provide additional water, but request a review of more cost effective methods." The petition form specified "[o]ne signature per household within the City of Petersburg limits." Also filed was a petition signed by three people stating that they lived outside the City limits but received City water services and were alleging discrimination. The cover letter to the petitions was from Phyllis M. Cole.

On October 30, 2008, the Commission issued an order stating that it had received a petition "signed by not less than twenty-five percent of the City's water customers" and, therefore, found

jurisdiction pursuant to W.Va. Code §24-2-4b; docketed the matter as Case No. 08-1873-W-MA; named the City a respondent to the municipal rate proceeding; suspended the City's proposed rates and charges until March 15, 2009, unless otherwise ordered by the Commission; and referred the municipal appeal to the Division of Administrative Law Judges ("ALJ Division") for decision no later than February 13, 2009. Commission Staff was ordered to file its final report no later than December 30, 2008.

*CASE NOS. 07-2209-W-CN AND 08-1873-W-MA*

On November 10, 2008, the Commission, by Order, consolidated the cases, stating, "The two cases are interrelated and the ALJ Division should process both on the same schedule." The Commission therefore referred Case No. 07-2209-W-CN to the ALJ Division and ordered that the Staff Report and ALJ decision due dates established in Case No. 08-1873-W-MA apply to both cases.

On November 10-12, 2008, thirty-one identical letters, save for the signatures and dates, were filed, stating that the signatory had signed the petition because a neighbor had told him or her that signing the petition would prevent the rates from rising, and that, once the signatory had found that not to be true, "I had requested that my name be removed from the petition and now find that it was submitted with my name included."

On November 13, 2008, the City filed a motion to dismiss Case No. 08-1873-W-MA, stating that, in that the City has 1275 water customer accounts, petitions containing valid signatures of at least 318 customers were needed for the Commission to invoke jurisdiction. The City requested an immediate hearing on whether at least 318 valid customer signatures had been filed. The City stated that it had found that a number of the signatures on the petition were by non-customers, and also pointed out that some signatures were illegible. The City further asserted the following: The petitions were inadequate in that the signatures were not dated and did not even clearly state that it was the October 1, 2008 rate ordinance the signatories were opposing. The names of the letter-writers who requested that their names be removed from the petition should have been removed from the petition before it was filed. The allegations of discrimination were insufficient to give rise to jurisdiction pursuant to Code §24-2-4b(c)(2).

On November 20, 2008, Ms. Cole and Robert McCalley filed a response, contending that the name of anyone who had requested removal of his name from the petition before the petition was filed had been crossed through on the petition, but also contending that the signers of the thirty-one letters were not necessary for invocation. They also argued as follows: The protests were clearly against the October 1, 2008 ordinance, since that is the only rate ordinance the City has pending. Since the petition included the telephone numbers of the petitioners, anyone whose signature was not legible could be identified. Even if the petitions from customers outside the City limits are insufficient to invoke jurisdiction pursuant to Code §24-2-4b(c)(2), those petitioners should be counted to invoke jurisdiction pursuant to Code §24-2-4b(c)(1).

On the same date, Ms. Cole and Mr. McCalley filed a motion for intervention, contending that the project, as designed, is not cost effective, including that the size of the proposed plant is no longer warranted.

On November 21, 2008, the undersigned issued a Procedural Order that included the following discussion:

The design of the project was approved in the Recommended Decision that became final in April. Case No. 07-2209-W-CN was reopened solely for approval of the change the financing, and whether the change in the financing should be approved is the only matter requiring consideration. The design of the project will not be further considered, and Ms. Cole's and Mr. McCalley's request for further analysis of the design of the project must be rejected.

Hearing will be scheduled hereby on whether the petition was signed "by not less than twenty-five percent of the customers served by the municipally operated public utility." See Code §24-2-4b(c)(1). The City will have the burden of proving that there were not 318 valid signatures of customers. Subject to argument, any customers from outside the City limits who signed the petition alleging discrimination should be counted under Code §24-2-4b(c)(1). The City's argument that the petition was invalid because it did not refer specifically to the October 1<sup>st</sup> ordinance is rejected for the reason provided by the response filed November 20<sup>th</sup>. No ruling will be made at this time regarding the thirty-one letters; it is assumed further evidence will be presented regarding those letters and their writers.

Although the motion for intervention related to the request to redesign the project, Ms. Cole will be granted intervention status because she has been at the forefront of the petitioning. Mr. McCalley's motion for intervention will be denied because he has not been so involved and because, even if he has a similar interest as Ms. Cole in the hearing issue, it is appropriate to limit intervention to Ms. Cole pursuant to Rule 12.6.d of the Commission's Rules of Practice and Procedure. Of course, Mr. McCalley is welcome to attend the hearing.

Accordingly, the motion for intervention from Phyllis M. Cole was granted and the motion for intervention from Robert Mcalley was denied. Hearing on the jurisdictional issue of Case No. 08-1873-W-MA was scheduled for 9:30 a.m. on December 3, 2008, in Council Chambers, Petersburg City Hall, 21 Mountain View, Petersburg, West Virginia.

Hearing was held as scheduled. Ms. Cole, Mr. Rodecker, and Mr. Toon made their appearances and evidence was taken.

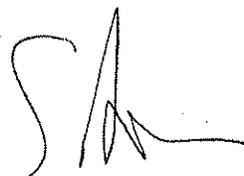
On December 16, 2008, an Interim Recommended Decision was issued, which determined that the petition contained at least 332 valid signatures, and, therefore, that the Commission retains jurisdiction of Case No. 08-1873-W-MA. A public hearing on the merits of the proposed rate increase will be necessary in that matter. While the consolidated cases are interrelated, as the Commission stated, the public hearing will relate only to Case No. 08-1873-W-MA, and keeping the cases consolidated would cause confusion, as the consolidation of the cases caused customers of the City to wrongly believe that signing the petition could force a reexamination of whether the project at issue in Case No. 07-2209-W-CN should be redesigned. Accordingly, the two cases will be bifurcated. Case No. 07-2209-W-CN will be held in abeyance until Case No. 08-1873-W-MA is

decided. After the parties have agreed on a convenient hearing date, a further Procedural Order will be issued in Case No. 08-1873-W-MA setting it for hearing and issuing orders consistent therewith.

ORDER

IT IS, THEREFORE, ORDERED that these consolidated cases are bifurcated.

IT IS FURTHER ORDERED that the Executive Secretary of the Commission serve copies of this order upon the parties of record by United States Certified Mail, return receipt requested, and upon Commission Staff by hand delivery.



Sunya Anderson  
Administrative Law Judge

SA:s  
072209ad.wpd

**PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON**

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 10th day of November 2008.

CASE NO. 07-2209-W-CN (Reopened)

CITY OF PETERSBURG,  
a municipal utility, Grant County.

Application for a Certificate of Convenience and Necessity for the upgrade and expansion of the City's existing water treatment plant, replacement of the Hospital Hill water storage tank, repainting of the Point water storage tank, and for approval of the financing related thereto.

CASE NO. 08-1873-W-MA

CITY OF PETERSBURG,  
a municipal utility, Grant County.

Investigation and suspension of increase in water rates and charges as a result of petitions filed in accordance with W.Va. Code §24-2-4b.

**COMMISSION CONSOLIDATION  
AND REFERRAL ORDER**

This Order consolidates a reopened certificate case and a municipal appeal proceeding and refers the cases to the Division of Administrative Law Judges.

**Background**

*CASE NO. 07-2209-W-CN (Reopened)*

By Recommended Decision final April 6, 2008, the Commission granted an application of the City of Petersburg ("City") for a certificate of convenience and necessity to upgrade and expand the City's existing water treatment plant, to replace the Hospital Hill water storage tank, to repaint the Point water storage tank, and for approval of the financing

related thereto. The Order noted that the project was estimated to cost \$7,631,400, including a total construction cost of \$6,015,000. The project was to have been funded by a \$2,931,400 Environmental Protection Agency State Tribal Assistance grant; a \$1,700,000 Drinking Water Treatment Revolving Fund ("DWTRF") loan at 2% interest plus a 1% administrative fee, payable over twenty years; and a \$3,000,000 DWTRF loan at 0% interest plus a 1% administrative fee, payable over thirty years.

The Order further stated that the City passed an ordinance in August 2007, raising its water rates by 76%, to become effective upon completion of the project or upon commencement of debt service, whichever first occurs. The rate increase was to provide approximately \$322,753 in additional annual revenues. The Order concluded that the added revenue from the City's rate increase would be adequate to cover the City's costs for the project.

#### *Petition to Reopen*

On September 12, 2008, the City filed a petition to reopen the certificate case because bid costs exceeded available funding. The filing stated that cost increases are attributable to the increased price of concrete, steel and fuel. Although the original construction cost was \$6,015,000, the minimum bid submitted was \$8,931,126. The City stated it was in the process of adopting a rate ordinance to increase rates by 23.40% to pay for additional project financing.

#### *CASE NO. 08-1873-W-MA*

On or about October 1, 2008, the City adopted a rate ordinance increasing rates and charges to water customers to become effective on and after November 15, 2008.

On October 30, 2008, the Commission received a petition of protest signed by not less than twenty-five percent of the City's water customers. The petition requested suspension of any water rate increase and Commission review of the ordinance pursuant to Rule 44 of the Commission's Rules for the Construction and Filing of Tariffs, 150 C.S.R. Series 2, under W.Va. Code §24-2-4b.

By Order issued November 3, 2008, the Commission named the City a respondent to the municipal rate proceeding, docketed as Case No. 08-1873-W-MC and, pending investigation, hearing and decision pursuant to the requirements of W.Va. Code §24-2-4b and the Commission's General Order No. 200.3, suspended the City's proposed water rates and charges until 12:01 a.m., March 15, 2009, unless otherwise ordered by the Commission. The Commission referred the municipal appeal to the Division of Administrative Law Judges and established a decision due date of on or before February 13, 2009.

## DISCUSSION

The two cases are interrelated and the ALJ Division should process both on the same schedule. Accordingly, it is appropriate to consolidate the two cases and refer both to the ALJ Division.

## FINDINGS OF FACT

1. The City petitioned to reopen its certificate case, Case No. 07-2209-W-CN, because bids came in over estimates and additional project financing is required. The City informed the Commission that it was in the process of adopting a rate ordinance to pay for the additional financing. See September 12, 2008 Petition to Reopen.

2. The City passed the subject rate ordinance on October 1, 2008, and on October 30, 2008, the Commission received a petition of protest of the ordinance signed by not less than twenty-five percent of the City's water customers. See Case No. 08-1873-W-MA.

3. The Commission referred Case No. 08-1873-W-MA to the ALJ Division on November 3, 2008.

## CONCLUSION OF LAW

Case Nos. 07-2209-W-CN and 08-1873-W-MA are interrelated and should be consolidated.

## ORDER

IT IS THEREFORE ORDERED that Case Nos. 07-2209-W-CN and 08-1873-W-MA are hereby consolidated.

IT IS FURTHER ORDERED that reopened Case No. 07-2209-W-CN is hereby referred to the Division of Administrative Law Judges.

IT IS FURTHER ORDERED that the Commission Staff report due date of on or before December 30, 2008, and the ALJ Decision due date of on or before February 13, 2009, established in the Commission's November 3, 2008 Order issued in Case No. 08-1873-W-MA, shall apply to both cases.

IT IS FURTHER ORDERED that the foregoing decision due date will not be extended, except upon formal application to the Commission by the parties.

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

A True Copy. Testet

*Sandra Squire*  
Sandra Squire  
Executive Secretary

JML/klm  
072209ca.wpd

PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON

**FINAL**  
4/6/2008

Entered: March 17, 2008

CASE NO. 07-2209-W-CN

CITY OF PETERSBURG

Application for a CON for the upgrade and expansion of the City's existing water treatment plant, replacement of the Hospital Hill water storage tank and repainting of the Point water storage tank, and for approval of the financing related thereto.

RECOMMENDED DECISION

On November 13, 2007, the City of Petersburg ("City"), by counsel Robert R. Rodecker, filed with the Public Service Commission ("Commission"), pursuant to W.Va. Code §24-2-11, an application for a certificate of convenience and necessity to upgrade and expand the City's existing water treatment plant, to replace the Hospital Hill water storage tank, and to repaint the Point water storage tank, and for approval of the financing related thereto. Supporting documentation was filed, including a letter from the West Virginia Infrastructure & Jobs Development Council, stating that the project is technically feasible.

Also on November 13, 2007, the Commission directed the City to publish a Notice of Filing, which provided that, if no protest was filed within thirty days after the date of publication, the Commission might waive formal hearing and grant the application based upon its review of the evidence submitted with the application.

On November 26, 2007, the City, by counsel, filed an affidavit establishing that the Notice of Filing had been published on November 20, 2007, in the Grant County Press.

On November 29, 2007, by Order, the Commission referred this matter to the Division of Administrative Law Judges for decision no later than June 10, 2008, if a timely protest was received, and no later than March 27, 2008, if no such protest was filed.

*MKM*

On December 13, 2007, Staff Attorney Cassius H. Toon filed an Initial Joint Staff Memorandum, with an attached memorandum from James C. Weimer, of the Engineering Division, and Michael Quinlan, of the Water and Wastewater Division, synopsising the application.

On December 28, 2007, the undersigned issued a Procedural Order clarifying that the decision due date in this matter was March 27, 2008. Staff was ordered to file its final memorandum no later than February 11, 2008.

On February 14, 2008, Mr. Toon filed the Final Joint Staff Memorandum, with an attached memorandum from Mr. Weimer and Mr. Quinlan, which included the following: Significant growth in the area of the City is expected, particularly in the area of the Grant County Public Service District ("District"), which is a water resale customer of the City and even now buys more water from the City than is consumed by all of the other customers of the City. As part of the project, the City will upgrade the its water treatment plant and increase its capacity from 1,200 gallons per minute ("gpm") to 2,400 gpm; outdated equipment and technology will be replaced. The current storage capacity is barely greater than the daily demand and does not meet turnover requirements of the West Virginia Bureau of Public Health ("WVBuPH"). The City also will demolish the 350,000-gallon Hospital Hill storage tank, which is located on a Civil War battlefield site, and replace it (at a site to the side of and off the battlefield) with a 1,500,000-gallon storage tank. The final part of the project is the repainting of a 350,000-gallon storage tank at the City's Point storage facility, at which two storage tanks are located; the tank to be repainted is the older of the two. On October 2, 2007, the WVBuPH issued Permit No. 17,719, and on October 5, 2007, the West Virginia Department of Environmental Protection issued permit No. WVR103382, authorizing the City to operate under NPDES Permit No. WV01155924, issued on November 5, 2002. The project, estimated to cost \$7,631,400, including a total construction cost of \$6,015,000, will be funded by a \$2,931,400 Environmental Protection Agency State Tribal Assistance grant; a \$1,700,000 Drinking Water Treatment Revolving Fund ("DWTRF") loan at 2% interest plus a 1% administrative fee, payable over twenty years; and a \$3,000,000 DWTRF loan at 0% interest plus a 1% administrative fee, payable over thirty years. The City passed an ordinance in August 2007, raising its water rates by 76%, to become effective upon completion of the project or upon commencement of debt service, whichever first occurs. The rate increase will provide approximately \$322,753 in additional annual revenues, which will be adequate to cover the less than \$300,000 in additional costs due to the project. The total cash flow surplus will be approximately \$45,919 and the debt service coverage will be 131.01%.

Commission Staff recommended that the application be granted and the certificate and its funding be approved and that other orders that are regularly required in certificate cases be issued. Additionally, Staff recommended that the City be required to provide to Staff information regarding certain engineering procedures and plans that Staff believed should be followed.

On March 12, 2008, the City, by counsel, filed a letter concurring with Staff's recommendations. Regarding Staff's final recommendation, the City filed an attachment responding to and

addressing each of the engineering concerns raised by Staff. The City stated that the responses were the result of discussion with Mr. Weimer, in which the City and Mr. Weimer agreed to the procedures provided therein as appropriate to address Mr. Weimer's concerns.

On March 14, 2008, Mr. Toon filed a Further Final Joint Staff Memorandum, with an attached memorandum from Mr. Weimer, stating that he had reviewed the City's responses and confirming that they completely addressed all of his concerns. Staff recommended that this matter be expedited so that bidding could begin.

### FINDINGS OF FACT

1. On November 13, 2007, the City of Petersburg filed with the Public Service Commission an application for a certificate of convenience and necessity to upgrade and expand the City's existing water treatment plant, to replace the Hospital Hill water storage tank, and to repaint the Point water storage tank, and for approval of the financing related thereto. (See application).
2. The Notice of Filing was published on November 20, 2007, in the Grant County Press, and no protest was filed. (See September 27, 2007, filing; case file generally).
3. The project has been approved by the West Virginia Infrastructure and Jobs Development Council (See application; Final Joint Staff Memorandum filed February 14, 2008).
4. The City's population is growing significantly in the area and outdated equipment and technology need to be replaced. The Hospital Hill 350,000-gallon water storage tank is on a Civil War battleground. The City's present storage capacity is barely greater than the daily demand and does not meet turnover requirements of the West Virginia Bureau of Public Health, and the projected population growth makes the need for more water storage even more critical. The painting of the Point water storage tank is also needed. (See application; Final Joint Staff Memorandum filed February 14, 2008).
5. On October 2, 2007, the West Virginia Bureau of Public Health issued a permit for the project, Permit No. 17,719, and on October 5, 2007, the West Virginia Department of Environmental Protection issued permit No. WVR103382, authorizing the City to operate under NPDES Permit No. WV01155924, issued on November 5, 2002. (See application; Final Joint Staff Memorandum filed February 14, 2008).
6. The project is estimated to cost \$7,631,400, including a total construction cost of \$6,015,000. Staff opined that the costs were reasonable. (See application; Final Joint Staff Memorandum filed February 14, 2008).

7. The project will be funded by a \$2,931,400 Environmental Protection Agency State Tribal Assistance grant; a \$1,700,000 Drinking Water Treatment Revolving Fund ("DWTRF") loan at 2% interest plus a 1% administrative fee, payable over twenty years; and a \$3,000,000 DWTRF loan at 0% interest plus a 1% administrative fee, payable over thirty years. (See application; Final Joint Staff Memorandum filed February 14, 2008).

8. The City passed an ordinance in August 2007, raising its water rates by 76%, to become effective upon completion of the project or upon commencement of debt service, whichever first occurs. The rate increase will provide approximately \$322,753 in additional annual revenues. (See Final Joint Staff Memorandum filed February 14, 2008).

9. The added revenue from the City's rate increase will be adequate to cover the less than \$300,000 in additional costs due to the project. The total cash flow surplus will be approximately \$45,919 and the debt service coverage will be 131.01%. (See Final Joint Staff Memorandum filed February 14, 2008).

10. Commission Staff recommended that the application be granted and the certificate and its funding be approved and that other orders that are regularly required in certificate cases be issued. Additionally, Staff recommended that the City be required to provide to Staff information regarding certain engineering procedures and plans that Staff believed should be followed, and Staff and the City agreed to certain procedures that addressed all of Staff's concerns. (See Final Joint Staff Memorandum filed February 14, 2008; March 12, 2008, filing; Further Final Joint Staff Memorandum filed March 14, 2008).

#### CONCLUSIONS OF LAW

1. It is appropriate to grant the application, pursuant to W.Va. Code §24-2-11, and to approve the project, because the public convenience and necessity require it and no protest to it was filed.

2. It is appropriate to approve the project's financing.

#### ORDER

IT IS, THEREFORE, ORDERED that the application filed on November 13, 2007, by the City of Petersburg for a certificate of convenience and necessity to upgrade and to expand the City's existing water treatment plant, to replace the Hospital Hill water storage tank, and to repaint a Point water storage tank is granted and the project is approved.

IT IS FURTHER ORDERED that the funding for the project, consisting of a \$2,931,400 Environmental Protection Agency State Tribal Assistance grant, a \$1,700,000 Drinking Water Treatment Revolving Fund loan, and a \$3,000,000 Drink Water Treatment Revolving Fund loan, is approved.

IT IS FURTHER ORDERED that, if there is any change in the cost of the project, estimated at \$7,631,400, which affects rates, or in the scope, design or funding of the project, the City of Petersburg file a petition with the Commission for approval of such revisions.

IT IS FURTHER ORDERED that the City of Petersburg comply with all rules and regulations of the Division of Highways regarding the use of rights-of-way.

IT IS FURTHER ORDERED that, if there are any changes in the project costs that do not affect rates, the City of Petersburg file herein an affidavit duly executed by its accountant verifying that the City's rates and charges are not affected.

IT IS FURTHER ORDERED that the City of Petersburg submit a copy of the bids to the Commission, making the bids a part of the Commission's file in this case, as soon as the bids are tabulated.

IT IS FURTHER ORDERED that the City of Petersburg notify the Commission when its engineer has performed the substantial completion inspection.

IT IS FURTHER ORDERED that this matter be removed from the Commission's docket of open cases.

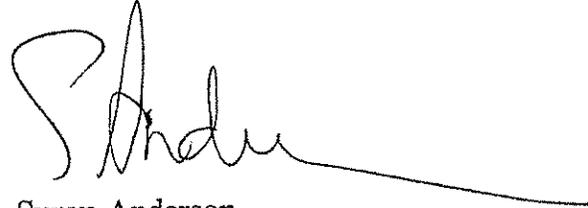
IT IS FURTHER ORDERED that the Executive Secretary of the Commission serve a copy of this order upon the Commission by hand delivery, and upon all parties of record by United States Certified Mail, return receipt requested.

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

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

Any party may request waiver of the right to file exceptions to an Administrative Law Judge's Order by filing an appropriate petition in writing with the Executive Secretary. No such waiver will

be effective until approved by order of the Commission, nor shall any such waiver operate to make any Administrative Law Judge's Order or Decision the order of the Commission sooner than five (5) days after approval of such waiver by the Commission.

A handwritten signature in black ink, appearing to read 'S. Anderson', with a long horizontal line extending to the right.

Sunya Anderson  
Administrative Law Judge

SA:s  
072209aa.wpd

LAW OFFICES  
ROBERT R. RODECKER  
BB&T SQUARE  
300 SUMMERS STREET, SUITE 1230  
POST OFFICE BOX 3713  
CHARLESTON, WEST VIRGINIA 25337

ROBERT R. RODECKER  
rodecker@wvdsi.net

JAMES V. KELSH  
OF COUNSEL  
ketshlaw@yahoo.com

November 26, 2007

AREA CODE 304  
343-1654

FACSIMILE  
343-1657

Ms. Sandra Squire  
Executive Secretary  
Public Service Commission  
201 Brooks Street  
Charleston, West Virginia 25301

RECEIVED  
37 NOV 26 PM 4: 01  
W VA PUBLIC SERVICE  
COMMISSION  
SECRETARY'S OFFICE

RE: CASE NO. 07-2209-W-CN  
CITY OF PETERSBURG

Dear Ms. Squire:

As required by the November 13, 2007 Notice of Filing Order entered in the above-referenced proceeding, enclosed herein please find the original and twelve (12) copies of an Affidavit evidencing publication of the Notice in the *Grant County Press* on November 20, 2007.

With the submission of the enclosed Affidavit, all publication requirements set forth in the Notice have been met.

Should you have any questions regarding this filing, please do not hesitate to contact me.

Sincerely,



Robert R. Rodecker  
WV State Bar No. 3145

enclosures

cc: Cassius H. Toon, Esquire  
William Deadrick, Council Member  
Petersburg\06-07 Water Project\Squire Letter With Affidavit of Pub

# Certificate of Publication

State of West Virginia  
County of Grant, to-wit:

The undersigned hereby certifies  
that the annexed notice was duly  
published in the

## Grant County Press

a weekly newspaper published at  
Petersburg, Grant County, West  
Virginia, for 1 consecutive  
weeks ending on the 20 day of  
November, 2007

GRANT COUNTY PRESS

By: William E. Touch

Editor

Publishing Notice \$ 273.24

Hand Bills \_\_\_\_\_

Miscellaneous \_\_\_\_\_

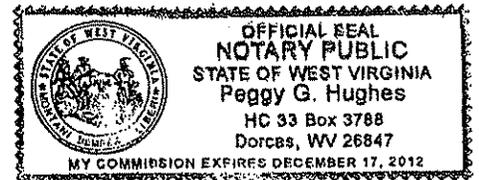
Total \$ 273.24

Sworn before me on this the 21  
day of Nov., 2007

Peggy G. Hughes  
Notary Public

Dec 17, 2012  
My Commission Expires

RECEIVED  
NOV 26 PM 4:01  
WVA PUBLIC SERVICE  
COMMISSION  
SECRETARY'S OFFICE



**PUBLIC SERVICE COMMISSION OF WEST VIRGINIA  
CHARLESTON**

Entered by the Public Service Commission of West Virginia, in the City of Charleston on the 13th day of November, 2007.

CASE NO. 07-2209-W-CN

**CITY OF PETERSBURG**, a municipal utility,  
Grant County, West Virginia

Application for a certificate of convenience and necessity for the upgrade and expansion of the City's existing water treatment plant, replacement of the Hospital Hill water storage tank and repainting of the Point water storage tank and for approval of financing related thereto.

**NOTICE OF FILING**

WHEREAS, on November 13, 2007, the City of Petersburg, a municipal utility, filed an application, duly verified, for a certificate for the upgrade and expansion of its existing water treatment plant to increase its capacity from the current 1,200 gallons per minute (gpm) to 2,400 gpm, replacement of the existing 350,000 gallon Hospital Hill water storage tank with a 1.5 million gallon storage tank, and the repainting of the Point water storage tank in Petersburg, Grant County. The upgrade portion of the project will correct current deficiencies in the treatment plant's disinfection system and provide increased capacity of the plant to allow production demands to be met with 8 hours or less of operations per day. The Hospital Hill tank replacement will result in an increase in the City's storage capacity from 90 to 82 hours and will permit the northern distribution system of its resale customer, Grant County Public Service District, to be supplied water without requiring the City's treatment plant to be constantly in production. The City's application further seeks the Commission's approval of the financing of the project. The application is on file with and available for public inspection at the Public Service Commission, 201 Brooks Street, in Charleston, West Virginia.

WHEREAS, the City estimates that the total construction costs for the proposed project is \$7,831,400; and is to be funded through a Drinking Water Treatment Revolving Fund (DWTRF) loan in the amount of \$1,700,000 for a period of 20 years at 2% interest plus 1% administrative fee; a DWTRF loan in the amount of \$3,000,000 for a period of 30 years at 0% interest plus 1% administrative fee; and an Environmental Protection Agency State Tribal Assistance Grant (STAG) in the amount of \$2,931,400.

WHEREAS, the following water rates and charges, as set forth in an Ordinance adopted by City Council on August 27, 2007, will become effective upon completion of this proposed upgrade project or upon commencement of debt service, whichever first occurs:

**APPLICABILITY**

Applicable in the entire territory served

**AVAILABILITY OF SERVICE**

Available for residential, commercial, governmental, industrial and resale service

**RATES (Non-resale customers with metered water supply)**

First 2,000 gallons used per month	\$ 5.15	per 1,000 gallons
Next 88,000 gallons used per month	\$ 4.15	per 1,000 gallons
All over 100,000 gallons used per month	\$ 2.40	per 1,000 gallons

**MINIMUM CHARGE (Customers with metered water supply)**

No minimum bill will be rendered for less than \$10.30 per month (Equivalent to 2,000 gallons of water usage)

		Equivalent Gallons
5/8	Inch meter	2,000
3/4	Inch meter	3,241
1	Inch meter	5,723
1-1/4	Inch meter	8,678
1-1/2	Inch meter	11,828
2	Inch meter	19,373
3	Inch meter	36,747
4	Inch meter	61,586
6	Inch meter	140,833
8	Inch meter	269,583

**FLAT RATE CHARGE (Customers with non-metered water supply)** \$20.00 per month (Equivalent to 4,500 gallons of water usage)

**DELAYED PAYMENT PENALTY**

The above schedule is flat. On all accounts not paid in full when due, ten percent will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

**WATER TAP FEES**

The following tap fees shall apply for all new services and changes in size of existing meters (when requested by the customer):

METER SIZE (INCHES)	FEES
5/8"	\$ 600.00
3/4"	\$ 600.00
1"	\$ 800.00
1-1/2"	\$1,250.00
2"	\$1,500.00
4"	\$3,000.00
6"	\$4,450.00

A tap fee of \$100.00 will be charged to all customers applying for service before construction is completed adjacent to the customer's premises in connection with a certificate proceeding before the Commission. This preconstruction tap fee will be waived after completion of construction adjacent to an applicant's premises that is associated with a certificate proceeding.

The tap fees in the above schedule will be charged to all customers who apply for service outside a certificate proceeding before the Commission for each new tap to the system.

**WATER DISCONNECT-RECONNECT-ADMINISTRATIVE FEES - \$20.00**

Whenever water service has been disconnected for any reason, a disconnection fee of \$20.00 shall be charged; or in the event the delinquent water bill is collected in the field, an administrative fee of \$20.00 shall be charged. Whenever water service which has been previously disconnected for any reason is reconnected, a reconnection charge of \$20.00 shall be charged.

**RETURNED CHECK CHARGE**

A service charge of \$25.00 will be imposed upon any customer whose check for payment of charges is returned for any reason.

**LEAK ADJUSTMENT**

\$2.40 per 1,000 gallons is to be used when a bill reflects unusual consumption which can be attributed to eligible leakage on the customer's side of the meter. This rate shall be applied to all such consumption above the customer's historical average usage.

**RESALE RATE**

\$2.40 per 1,000 gallons per month

**SECURITY DEPOSIT**

All new customers shall be required to pay a security deposit in compliance with applicable West Virginia law. The deposit shall be no less than 2/12 of the estimated annual charge for water service.

**CUSTOMER'S LEGAL RESPONSIBILITY**

All customers shall be legally responsible for all costs in connecting to City water meter, and for all future maintenance and upkeep of their water line. If customer moves to new location within City's service area, any previous deposit or money owed will be transferred to customer's new location.

The City of Petersburg has one resale customer, Grant County Public Service District. Pursuant to §24-2-11, West Virginia Code, IT IS ORDERED that the City of Petersburg give notice of the filing of said application, by publishing a copy of this order once in a newspaper duly qualified by the Secretary of State, published and of general circulation in Grant County, making due return to this Commission of proper certification of publication immediately after publication. Anyone desiring to protest or intervene should file a written protest or notice of intervention within 30 days following the date of this publication unless otherwise modified by Commission order. Failure to timely protest or intervene can affect your right to protest aspects of this certificate case, including any associated rate increases, or to participate in future proceedings. All protests or requests to intervene should briefly state the reason for the protest or intervention. Requests to intervene must comply with the Commission's rules on intervention set forth in the Commission's Rules of Practice and Procedure. All protests and interventions should be addressed to Sandra Squire, Executive Secretary, P. O. Box 812, Charleston, West Virginia 25323.

IT IS FURTHER ORDERED that if no protests are received within said thirty (30) day period, the Commission may waive formal hearing and grant the application based on the evidence submitted with said application and its review thereof.

**FOR THE COMMISSION**  
Sandra Squire  
Executive Secretary

# West Virginia Infrastructure & Jobs Development Council

Public Members:  
Kenneth Lowe, Jr.  
Shepherdstown  
Dwight Calhoun  
Petersburg  
Dave McComas  
Prichard  
Ron Justice  
Morgantown

300 Summers Street, Suite 980  
Charleston, West Virginia 25301  
Telephone: (304) 558-4607  
Facsimile: (304) 558-4609

Jefferson E. Brady, PE  
Executive Director

Jefferson.Brady@verizon.net

September 4, 2008

William Deadrick, Water Commissioner  
City of Petersburg  
P.O. Box 669  
Petersburg, West Virginia 26847

Re: City of Petersburg  
Water Project 2005W-882

Dear Mr. Deadrick:

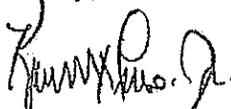
The West Virginia Infrastructure and Jobs Development Council (the "Council") has reviewed the City of Petersburg's (the "City") revised preliminary application to upgrade the existing water treatment plant, replace the existing storage tank and install a new tank feed line (the "Project").

Based on the findings of the Water Technical Review Committee, the Council has determined that the Project is technically feasible within the guidelines of the Infrastructure and Jobs Development Act. The City should carefully review the enclosed comments of the Water Technical Review Committee as the City may need to address certain issues raised in said comments as it proceeds with the Project.

Upon consideration of the revised preliminary application, the Council determined that the City should utilize a \$1,700,000 Drinking Water Treatment Revolving Fund loan (3%, 20 years), a \$3,068,600 Drinking Water Treatment Revolving Fund loan (1%, 30 years), a \$2,931,400 State Tribal Assistance Grant, pursue an additional \$2,000,000 Drinking Water Treatment Revolving Fund loan (1%, 30 years) and an additional \$1,000,000 Drinking Water Treatment Revolving Fund loan (3%, 20 years) to fund this \$10,700,000 project. Please contact the West Virginia Bureau for Public Health office at (304) 558-6749 for specific information on the steps the City needs to follow to apply for these funds. **Please note that this letter does not constitute funding approval from this agency.**

If you have any questions regarding this matter, please contact Jeff Brady at (304) 558-4607.

Sincerely,



Kenneth Lowe, Jr.

Enclosure

cc: **Bob DeCrease, P.E., BPH (w/o enclosure) (via e-mail)**  
Debbie Legg (w/o enclosure) (via e-mail)  
Region VIII Planning & Development Council  
Fred Hypes, Dunn Engineers, Inc.



received

SEP 05 2008

WV Infrastructure &  
Jobs Development Council

STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
BUREAU FOR PUBLIC HEALTH  
OFFICE OF ENVIRONMENTAL HEALTH SERVICES

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

September 3, 2008

The Honorable Gary Michael  
Mayor, City of Petersburg  
P.O. Box 669  
Petersburg, WV 26847

RE: Revised Binding Commitment Letter  
City of Petersburg  
IJDC Project No.: 2005W-882  
SRF Project No.: 05DWTRFA009  
Grant County

Dear Mayor Michael:

The Bureau for Public Health (Bureau) provides this binding offer of a loan for approximately \$ 7,700,000 for the City of Petersburg's proposed project that will upgrade the water treatment plant from 1200 GPM to 2400 GPM using a pair of mixed media filters, new flocculating clarifiers, new solids handling facilities, new raw and service pumps, and a new electrical system. The existing 350,000 gallon Hospital storage tank will also be replaced with a new 1.5 million gallon tank.

The source of funds for the loan will be from the Drinking Water Treatment Revolving Fund. The loan will be subject to the terms set forth on "Schedule A" attached hereto and incorporated herein by reference. The final loan amount will be established after the City of Petersburg has received bids for the project. The loan agreement will be between the City of Petersburg and West Virginia Water Development Authority (Authority), who is the administrator of the DWTRF, acting on behalf of the Bureau for Public Health. A Capacity Development Assessment was performed by the Bureau staff and a DWTRF loan was recommended.

---

Capitol and Washington Streets  
1 Davis Square, Suite 200  
Charleston, West Virginia 25301-1798  
Telephone: 304-558-2981

The Honorable Gary Michael  
September 3, 2008  
Page 2

If you have any questions regarding this loan commitment, please contact me at (304) 558-6749 or e-mail [robertdecrease@wvdhhr.org](mailto:robertdecrease@wvdhhr.org).

Very truly yours,



Robert W. DeCrease, P.E., Manager  
Infrastructure & Capacity Development  
Environmental Engineering Division

RWD:bms

Enclosures

pc: Fred Hypes, P.E., Dunn Engineers, Inc.  
Chris Jarrett, WDA  
Samme L. Gee, Esquire, Jackson & Kelly  
~~Jefferson Brady, P.E., JDC~~  
OEHS Kearneysville District Office

**NOTE:** This letter is sent in triplicate. Please acknowledge receipt on two copies and immediately return to the Bureau for Public Health, Capitol and Washington Streets, 1 Davis Square, Suite 200, Charleston, WV 25301-1798.

City of Petersburg

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

6

**WEST VIRGINIA BUREAU FOR PUBLIC HEALTH**  
**Drinking Water Treatment Revolving Fund**  
**Binding Commitment (Revised)**  
**SCHEDULE A (Revised)**

**September 3, 2008**

**A. Project:**

City of Petersburg  
Water Treatment Plant Upgrade/Tank Replacement Project  
Grant County  
IIDC No.: 2005W-882  
DWTRF No.: 05DWTRFA009

**B. Drinking Water Treatment Revolving Fund:**

Loan A (Approximate Amount):	\$2,700,000
Terms:	2% + 1% administrative fee
Maturity Date:	20 years
Special Conditions (if any):	None
Loan B (Approximate Amount):	\$5,000,000
Terms:	0% + 1% administrative fee
Maturity Date:	30 years
Special Conditions (if any):	\$2,398,418 of DWTRF will be match to STAG grant through repayments

**C. Other Funding Sources:**

STAG	-	\$2,931,400
------	---	-------------

<b>D. Total Project Cost:</b>	-	\$10,700,000
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**E. Proposed User Rates:**

Petersburg Average:	\$ 22.40 per 4,000 gallons
Grant County PSD Resale Rate:	\$ 2.40 per 1,000 gallons

# West Virginia Infrastructure & Jobs Development Council

## Public Members:

Mark Prince  
Hurricane  
Dwight Calhoun  
Petersburg  
Tim Stranko  
Morgantown  
Dave McComas  
Prichard

300 Summers Street, Suite 980  
Charleston, West Virginia 25301  
Telephone: (304) 558-4607  
Facsimile: (304) 558-4609

Jeff Brady, PE  
Executive Director

Jefferson.Brady@verizon.net

January 11, 2006

William Deadrick, Water Commissioner  
City of Petersburg  
P.O. Box 669  
Petersburg, West Virginia 26847

Re: City of Petersburg  
Water Project 2005W-882

Dear Mr. Deadrick:

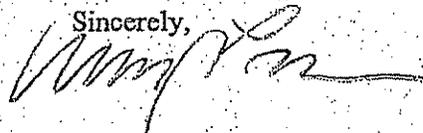
The West Virginia Infrastructure and Jobs Development Council (the "Infrastructure Council") has reviewed the City of Petersburg's (the "City") revised preliminary application regarding its proposed project to upgrade the existing water treatment plant and replace the existing hospital storage tank (the "Project").

Based on the findings of the Water Technical Review Committee, the Infrastructure Council has determined that the Project is technically feasible within the guidelines of the Infrastructure and Jobs Development Act. The City should carefully review the enclosed comments from the Water Technical Review Committee as the City may need to address certain issues raised in said comments as it proceeds with the Project.

Upon consideration of revised preliminary application, the Infrastructure Council recommends that the City utilize a \$2,931,400 Environmental Protection Agency State Tribal Assistance Grant and pursue a \$3,877,500 Drinking Water Treatment Revolving Fund / Water Development Authority and/or a Private Issue loan to fund this \$6,808,900 project. Please contact the Bureau for Public Health office at 558-6715 and the Water Development Authority office at 558-3612 for specific information on the steps the City needs to follow to apply for these funds. **Please note that this letter does not constitute funding approval from these agencies.**

If you have any questions regarding this matter, please contact Jeff Brady at 558-4607.

Sincerely,



Mark Prince

## Enclosure

cc: Pat Taylor, BPH (w/o enclosure)  
Bernie Yonkosky, WDA (w/o enclosure)  
Region VIII Planning & Development Council  
Dunn Engineers, Inc.



WV  
DWTRF

STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
BUREAU FOR PUBLIC HEALTH  
OFFICE OF ENVIRONMENTAL HEALTH SERVICES

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

July 30, 2007

RECEIVED

AUG 06 2007

DUNN ENGINEERS, INC.

The Honorable Gary Michael  
Mayor, City of Petersburg  
P.O. Box 669  
Petersburg, WV 26847

RE: Revised Binding Commitment Letter  
City of Petersburg  
Project No. 2005W-882  
05DWTRFA009  
Grant County

Dear Mayor Michael:

The Bureau for Public Health (Bureau) provides this binding offer of a loan of approximately \$4,700,000 for the City of Petersburg's proposed project that will upgrade the water treatment plant from 1200 GPM to 2400 GPM using a pair of mixed media filters, new flocculating clarifiers, new solids handling facilities, new raw and service pumps, and a new electrical system. The existing 350,000 gallon Hospital storage tank will be also replaced with a new 1.5 million gallon tank.

The source of funds for the loan will be from the Drinking Water Treatment Revolving Fund. The loan will be subject to the terms set forth on Schedule "A" attached hereto and incorporated herein by reference. The final loan amount will be established after the City of Petersburg has received bids for the project. The loan agreement will be between the City of Petersburg and West Virginia Water Development Authority (Authority), who is the administrator of the DWTRF, acting on behalf of the Bureau for Public Health. A Capacity Development Assessment was performed by the Bureau staff and a DWTRF loan was recommended.

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Capitol and Washington Streets  
1 Davis Square, Suite 200  
Charleston, West Virginia 25301-1798  
Telephone: 304-558-2981

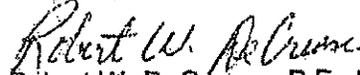
Mayor Michael  
July 30, 2007  
Page 2

This loan commitment is also contingent upon the City of Petersburg meeting the following:

- a. Submit plans and specifications for the project to the Bureau by October 1, 2007.
- b. Submit all documentation necessary for a formal Certificate of Convenience and Necessity to the Public Service Commission by November 1, 2007.

If the City of Petersburg becomes aware that it will not comply, they should immediately notify the Bureau of this fact and the circumstances which have caused this non-compliance. If you have any questions regarding this loan commitment, please contact me at 304-558-6749.

Very truly yours,



Robert W. DeCrease, P.E., Manager  
Infrastructure & Capacity Development  
Environmental Engineering Division

RWD:emt

Enclosures

pc: Fred Hypes, P.E., Dunn Engineers, Inc.  
Daniel "Bernie" Yonkosky, WDA  
Samme L. Gee, Esquire, Jackson & Kelly  
Jefferson Brady, P.E., IJDC  
Walter M. Ivey, P.E.  
OEHS Kearneysville District Office

**NOTE: This letter is sent in triplicate. Please acknowledge receipt on two copies and immediately return to the Bureau for Public Health, Capitol and Washington Streets, 1 Davis Square, Suite 200, Charleston, WV 25301-1798.**

City of Petersburg

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**WEST VIRGINIA BUREAU FOR PUBLIC HEALTH**  
**Drinking Water Treatment Revolving Fund**  
**Binding Commitment (Revised)**  
**SCHEDULE A**

**July 30, 2007**

**A. Project**

City of Petersburg  
Water Treatment Plant Upgrade/Tank Replacement Project  
Grant County  
IJDC No.: 2005W-882  
DWTRF No.: 05DWTRFA009

**B. Drinking Water Treatment Revolving Fund:**

Loan A (Approximate Amount):	\$1,700,000
Terms:	2% + 1% administrative fee
Maturity Date:	20 years
Special Conditions (if any):	None
Loan B (Approximate Amount):	\$3,000,000
Terms:	0% + 1% administrative fee
Maturity Date:	30 years
Special Conditions (if any):	\$2,398,418 of DWTRF will be match to STAG grant through repayments

**C. Other Funding Sources:**

STAG	-	\$2,931,400
------	---	-------------

**D. Total Project Cost:** - \$7,700,000

**E. Proposed User Rates:** Petersburg Average: \$18.60 per 4,000 gallons  
Grant County PSD Resale Rate: \$2.40 per 1,000 gallons

TOWN OF PETERSBURG

Water Revenue Bonds, Series 2009 A; and  
Water Revenue Bonds, Series 2009 B  
(West Virginia DWTRF Program)

CROSS-RECEIPT FOR BONDS AND BOND PROCEEDS

On the 16th day of April, 2009, the undersigned authorized representative of the West Virginia Water Development Authority (the "Authority"), for and on behalf of the Authority, and the undersigned Mayor of the Town of Petersburg (the "Issuer"), for and on behalf of the Issuer, hereby certify as follows:

1. On the date hereof, the Authority received the Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program), of the Issuer, in the principal amount of \$2,700,000, numbered AR-1 (the "Series 2009 A Bonds") and the Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program), in the principal amount of \$5,000,000, numbered BR-1 (the "Series 2009 B Bonds"), each issued as a single, fully registered Bond, and dated April 16, 2009.

2. At the time of such receipt, all the Series 2009 A Bonds and Series 2009 B Bonds had been executed by the Mayor and the Recorder of the Issuer by their respective manual signatures, and the official seal of the Issuer had been affixed upon the Series 2009 Bonds.

3. The Issuer has received and hereby acknowledges receipt from the Authority, as the original purchaser of the Series 2009 A Bonds, of the sum of \$633,017, being a portion of the principal amount of the Series 2009 A Bonds. The balance of the principal amount of the Series 2009 A Bonds will be advanced by the Authority and the West Virginia Bureau for Public Health to the Issuer as acquisition and construction of the Project progresses.

4. The principal amount of the Series 2009 B Bonds will be advanced by the Authority and the West Virginia Bureau for Public Health to the Issuer as acquisition and construction of the Project progresses.

[Remainder of Page Intentionally Blank]

Dated as of the day and year first written above.

WEST VIRGINIA WATER DEVELOPMENT  
AUTHORITY

By: *Diane L. Roy*  
Its: Authorized Representative

TOWN OF PETERSBURG

By: *R. A. Mehar*  
Its: Mayor

04.09.09  
698490.00008

TOWN OF PETERSBURG

Water Revenue Bonds, Series 2009 A; and  
Water Revenue Bonds, Series 2009 B  
(West Virginia DWTRF Program)

DIRECTION TO AUTHENTICATE AND DELIVER BONDS

The Huntington National Bank,  
as Bond Registrar  
Charleston, West Virginia

Ladies and Gentlemen:

There are delivered to you herewith on this 16th day of April, 2009:

(1) Bond No. AR-1, constituting the entire original issue of the Town of Petersburg Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program), in the principal amount of \$2,700,000 (the Series 2009 A Bonds) and Bond No. BR-1 constituting the entire Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program) in the principal amount of \$5,000,000 (the "Series 2009 B Bonds"), both dated April 15, 2009 (collectively the "Series 2009 Bonds"), executed by the Mayor and Recorder of the Town of Petersburg (the "Issuer") and bearing the official seal of the Issuer, authorized to be issued under and pursuant to a Bond Ordinance duly enacted by the Issuer on November 3, 2008, and a Supplemental Resolution duly adopted by the Issuer on April 15, 2009 (collectively, the "Bond Legislation");

(2) A copy of the Bond Legislation authorizing the above-captioned Bonds, duly certified by the Recorder of the Issuer;

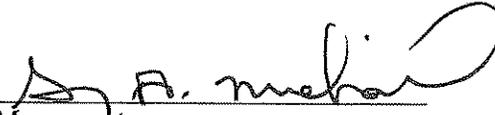
(3) Executed counterparts of a loan agreement for the Series 2009 A Bonds, dated April 16, 2009 and a loan agreement for the Series 2009 B Bonds, dated April 16, 2009 both by and between the Issuer and the West Virginia Water Development Authority, on behalf of the West Virginia Bureau for Public Health (the "Loan Agreement"); and

(4) Executed opinion of nationally recognized bond counsel regarding the validity of the Loan Agreements and the Series 2009 Bonds.

You are hereby requested and authorized to deliver the Series 2009 Bonds to the Authority upon payment to the Issuer of the sum of \$633,017, representing a portion of the principal amount of the Series 2009 A Bonds. You are further hereby requested and authorized to deliver the Series 2009 B Bonds to the Authority. Prior to such delivery of the Series 2009 Bonds, you will please cause the Series 2009 Bonds to be authenticated and registered by an authorized officer, as Bond Registrar, in accordance with the form of Certificate of Authentication and Registration thereon.

Dated as of the day and year first written above.

TOWN OF PETERSBURG

By:   
Its: Mayor

04.09.09  
698490.00008

SPECIMEN

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
TOWN OF PETERSBURG  
WATER REVENUE BONDS, SERIES 2009 A  
(WEST VIRGINIA DWTRF PROGRAM)

No. AR-1 .

\$2,700,000

KNOW ALL MEN BY THESE PRESENTS: That on this the 16 day of April, 2009, the TOWN OF PETERSBURG, a municipal corporation and political subdivision of the State of West Virginia in Grant County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the West Virginia Water Development Authority (the "Authority") or registered assigns the sum of TWO MILLION SEVEN HUNDRED THOUSAND DOLLARS (\$2,700,000), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, the principal of, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing March 1, 2011, to and including December 1, 2030 as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference with interest payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing March 1, 2011, to and including December 1, 2030, at the rate per annum as set forth on said EXHIBIT B.

The Administrative Fee (as defined in the hereinafter described Bond Legislation) shall also be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing March 1, 2011, as set forth on EXHIBIT B attached hereto.

Principal and interest 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 The Huntington National Bank, Charleston, West Virginia, as registrar (the "Registrar"), on the 15th day of the month next preceding an interest payment date, or by such other method as shall be mutually agreeable so long as the Authority is the registered owner hereof.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Bureau for Public Health (the "BPH), and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement by and between the Issuer and the Authority, on behalf of the BPH, dated April 16, 2009.

This Bond is issued (i) to pay a portion of the Issuer's Waterworks System Refunding Bond Anticipation Notes, Series 2005 (the "Prior Notes"); (ii) to pay a portion of the costs of acquisition and construction of certain additions, betterments and improvements to the existing public waterworks system of the Issuer (the "Project"); and (iii) to pay certain costs of issuance of the Bonds and related costs. The existing public waterworks system of the Issuer, the Project, and any further additions, betterments or improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 8, Article 19 and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended (collectively, the "Act"), a Bond Ordinance duly enacted by the Issuer on November 3, 2008, and a Supplemental Resolution duly adopted by the Issuer on April 15, 2009 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S (1) WATER REVENUE BOND, SERIES 1975 (UNITED STATES DEPARTMENT OF AGRICULTURE), DATED NOVEMBER 10, 1976, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$474,000 (THE "SERIES 1975 BONDS"); (2) THE WATER REVENUE BOND, SERIES 1996 (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY), DATED AUGUST 29, 1996, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$492,590, (THE "SERIES 1996 BONDS") (COLLECTIVELY REFERRED TO AS THE "PRIOR BONDS") AND (3) THE WATER REVENUE BONDS, SERIES 2009 B (WEST VIRGINIA DWTRF PROGRAM) DATED APRIL 16, 2009 ISSUED IN THE ORIGINAL AGGREGATE AMOUNT OF \$5,000,000 (THE "SERIES 2009 B BONDS") ISSUED SIMULTANEOUSLY HEREWITH.

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on a parity with the pledge of Net Revenue in favor of the Holders of the Prior Bonds and the Series 2009 B Bonds, and from monies in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 2009 A Bonds 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, if any, hereon, except from said special fund provided from the Net Revenues, the monies in the Series 2009 A Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds, and all other obligations secured by a lien on or payable from such revenues on a parity with the Bonds, including the Prior Bonds and the Series 2009 B Bonds; provided however, that so long as there exists in the Series 2009 A Bonds Reserve Account an amount at least equal to the

maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with the Bonds, including the Prior Bonds and the Series 2009 B 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 (as defined in the Bond Legislation) by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

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

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

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

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

[Remainder of page intentionally blank]

IN WITNESS WHEREOF, the TOWN OF PETERSBURG has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed and attested by its Recorder, and has caused this Bond to be dated as of the day and year first written above.

[SEAL]

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

**SPECIMEN**

ATTEST:

*[Handwritten Signature]*  
\_\_\_\_\_  
Recorder

**SPECIMEN**

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2009 A Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: April 16, 2009.

THE HUNTINGTON NATIONAL BANK,  
as Registrar

  
Authorized Office

EXHIBIT A

RECORD OF ADVANCES

<u>AMOUNT</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>DATE</u>
(1) \$ 633,017	April 16, 2009	(19)	
(2)		(20)	
(3)		(21)	
(4)		(22)	
(5)		(23)	
(6)		(24)	
(7)		(25)	
(8)		(26)	
(9)		(27)	
(10)		(28)	
(11)		(29)	
(12)		(30)	
(13)		(31)	
(14)		(32)	
(15)		(33)	
(16)		(34)	
(17)		(35)	
(18)		(36)	

TOTAL \$ \_\_\_\_\_

EXHIBIT B

DEBT SERVICE SCHEDULE

**BOND DEBT SERVICE**  
 City of Petersburg  
 20 Years; 2.0% Interest Rate; 1.0% Admin Fee

Dated Date 4/16/2009  
 Delivery  
 Date 4/16/2009

Period Ending	Principal	Coupon	Interest	Debt Service
3/1/2011	27,532.	2.000%	13,500.00	41,032.00
6/1/2011	27,670.	2.000%	13,362.34	41,032.34
9/1/2011	27,808.	2.000%	13,223.99	41,031.99
12/1/2011	27,947.	2.000%	13,084.95	41,031.95
3/1/2012	28,087.	2.000%	12,945.22	41,032.22
6/1/2012	28,227.	2.000%	12,804.78	41,031.78
9/1/2012	28,368.	2.000%	12,663.65	41,031.65
12/1/2012	28,510.	2.000%	12,521.81	41,031.81
3/1/2013	28,653.	2.000%	12,379.26	41,032.26
6/1/2013	28,796.	2.000%	12,235.99	41,031.99
9/1/2013	28,940.	2.000%	12,092.01	41,032.01
12/1/2013	29,085.	2.000%	11,947.31	41,032.31
3/1/2014	29,230.	2.000%	11,801.89	41,031.89
6/1/2014	29,376.	2.000%	11,655.74	41,031.74
9/1/2014	29,523.	2.000%	11,508.86	41,031.86
12/1/2014	29,671.	2.000%	11,361.24	41,032.24
3/1/2015	29,819.	2.000%	11,212.89	41,031.89
6/1/2015	29,968.	2.000%	11,063.79	41,031.79
9/1/2015	30,118.	2.000%	10,913.95	41,031.95
12/1/2015	30,269.	2.000%	10,763.36	41,032.36
3/1/2016	30,420.	2.000%	10,612.02	41,032.02
6/1/2016	30,572.	2.000%	10,459.92	41,031.92
9/1/2016	30,725.	2.000%	10,307.06	41,032.06
12/1/2016	30,879.	2.000%	10,153.43	41,032.43
3/1/2017	31,033.	2.000%	9,999.04	41,032.04
6/1/2017	31,188.	2.000%	9,843.87	41,031.87
9/1/2017	31,344.	2.000%	9,687.93	41,031.93
12/1/2017	31,501.	2.000%	9,531.21	41,032.21
3/1/2018	31,658.	2.000%	9,373.71	41,031.71
6/1/2018	31,817.	2.000%	9,215.42	41,032.42
9/1/2018	31,976.	2.000%	9,056.33	41,032.33
12/1/2018	32,135.	2.000%	8,896.45	41,031.45
3/1/2019	32,296.	2.000%	8,735.78	41,031.78
6/1/2019	32,458.	2.000%	8,574.30	41,032.30
9/1/2019	32,620.	2.000%	8,412.01	41,032.01
12/1/2019	32,783.	2.000%	8,248.91	41,031.91
3/1/2020	32,947.	2.000%	8,084.99	41,031.99
6/1/2020	33,112.	2.000%	7,920.26	41,032.26
9/1/2020	33,277.	2.000%	7,754.70	41,031.70
12/1/2020	33,444.	2.000%	7,588.31	41,032.31
3/1/2021	33,611.	2.000%	7,421.09	41,032.09
6/1/2021	33,779.	2.000%	7,253.04	41,032.04
9/1/2021	33,948.	2.000%	7,084.14	41,032.14
12/1/2021	34,118.	2.000%	6,914.40	41,032.40
3/1/2022	34,288.	2.000%	6,743.81	41,031.81

**BOND DEBT SERVICE**  
 City of Petersburg  
 20 Years; 2.0% Interest Rate; 1.0% Admin Fee

Period Ending	Principal	Coupon	Interest	Debt Service
6/1/2022	34,460.	2.000%	6,572.37	41,032.37
9/1/2022	34,632.	2.000%	6,400.07	41,032.07
12/1/2022	34,805.	2.000%	6,226.91	41,031.91
3/1/2023	34,979.	2.000%	6,052.89	41,031.89
6/1/2023	35,154.	2.000%	5,877.99	41,031.99
9/1/2023	35,330.	2.000%	5,702.22	41,032.22
12/1/2023	35,506.	2.000%	5,525.57	41,031.57
3/1/2024	35,684.	2.000%	5,348.04	41,032.04
6/1/2024	35,862.	2.000%	5,169.62	41,031.62
9/1/2024	36,042.	2.000%	4,990.31	41,032.31
12/1/2024	36,222.	2.000%	4,810.10	41,032.10
3/1/2025	36,403.	2.000%	4,628.99	41,031.99
6/1/2025	36,585.	2.000%	4,446.98	41,031.98
9/1/2025	36,768.	2.000%	4,264.05	41,032.05
12/1/2025	36,952.	2.000%	4,080.21	41,032.21
3/1/2026	37,136.	2.000%	3,895.45	41,031.45
6/1/2026	37,322.	2.000%	3,709.77	41,031.77
9/1/2026	37,509.	2.000%	3,523.16	41,032.16
12/1/2026	37,696.	2.000%	3,335.62	41,031.62
3/1/2027	37,885.	2.000%	3,147.14	41,032.14
6/1/2027	38,074.	2.000%	2,957.71	41,031.71
9/1/2027	38,265.	2.000%	2,767.34	41,032.34
12/1/2027	38,456.	2.000%	2,576.02	41,032.02
3/1/2028	38,648.	2.000%	2,383.74	41,031.74
6/1/2028	38,841.	2.000%	2,190.50	41,031.50
9/1/2028	39,036.	2.000%	1,996.29	41,032.29
12/1/2028	39,231.	2.000%	1,801.11	41,032.11
3/1/2029	39,427.	2.000%	1,604.96	41,031.96
6/1/2029	39,624.	2.000%	1,407.82	41,031.82
9/1/2029	39,822.	2.000%	1,209.70	41,031.70
12/1/2029	40,021.	2.000%	1,010.59	41,031.59
3/1/2030	40,221.	2.000%	810.49	41,031.49
6/1/2030	40,423.	2.000%	609.38	41,032.38
9/1/2030	40,625.	2.000%	407.27	41,032.27
12/1/2030	40,828.	2.000%	204.14	41,032.14
	<b>2,700,000.</b>		<b>582,559.68</b>	<b>3,282,559.68 *</b>

\*Plus \$3,640.99 one-percent Administrative Fee paid quarterly. Total fee over life of loan is \$291,279.20

(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: \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_

In the presence of:

\_\_\_\_\_

**THIS BOND WAS CANCELED AND REPLACED**

**SEE TABS 41 – 60 OF TRANSCRIPT**



*Exchanged for new  
Series 2009 B &  
Series 2009 C  
CAC*

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
TOWN OF PETERSBURG  
WATER REVENUE BONDS, SERIES 2009 B  
(WEST VIRGINIA DWTRF PROGRAM)

No. BR-1

\$5,000,000

KNOW ALL MEN BY THESE PRESENTS: That on this the 16th day of April, 2009, the TOWN OF PETERSBURG, a municipal corporation and political subdivision of the State of West Virginia in Grant County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the West Virginia Water Development Authority (the "Authority") or registered assigns the sum of FIVE MILLION DOLLARS (\$5,000,000), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, the principal of, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing March 1, 2011, to and including December 1, 2040 as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference.

The Administrative Fee (as defined in the hereinafter described Bond Legislation) shall also be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing March 1, 2011, as set forth on EXHIBIT B attached hereto.

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

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Bureau for Public Health (the "BPH), and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement by and between the Issuer and the Authority, on behalf of the BPH, dated April 16, 2009.

This Bond is issued (i) to pay a portion of the Issuer's Waterworks System Refunding Bond Anticipation Notes, Series 2005 (the "Prior Notes"); (ii) to pay a portion of the costs of acquisition and construction of certain additions, betterments and improvements to the existing public waterworks system of the Issuer (the "Project"); and (iii) to pay certain costs of issuance of the Bonds and related costs. The existing public waterworks system of the Issuer, the Project, and any further additions, betterments or improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly

Chapter 8, Article 19 and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended (collectively, the "Act"), a Bond Ordinance duly enacted by the Issuer on November 3, 2008, and a Supplemental Resolution duly adopted by the Issuer on April 15, 2009 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S (1) WATER REVENUE BOND, SERIES 1975 (UNITED STATES DEPARTMENT OF AGRICULTURE), DATED NOVEMBER 10, 1976, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$474,000 (THE "SERIES 1975 BONDS"); (2) WATER REVENUE BOND, SERIES 1996 (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY), DATED AUGUST 29, 1996, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$492,590, (THE "SERIES 1996 BONDS")(COLLECTIVELY REFERRED TO AS THE "PRIOR BONDS") AND (3) THE WATER REVENUE BONDS, SERIES 2009 A (WEST VIRGINIA DWTRF PROGRAM) DATED APRIL 16, 2009 ISSUED IN THE ORIGINAL AGGREGATE AMOUNT OF \$2,700,000 (THE "SERIES 2009 A BONDS") ISSUED SIMULTANEOUSLY HEREWITH.

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on a parity with the pledge of Net Revenue in favor of the Holders of the Prior Bonds and the Series 2009 A Bonds, and from monies in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 2009 B Bonds 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, if any, hereon, except from said special fund provided from the Net Revenues, the monies in the Series 2009 B Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds, and all other obligations secured by a lien on or payable from such revenues on a parity with the Bonds, including the Prior Bonds and the Series 2009 A Bonds; provided however, that so long as there exists in the Series 2009 B Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with the Bonds, including the Prior Bonds and the Series 2009 A 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 (as defined in the Bond Legislation) by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

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

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

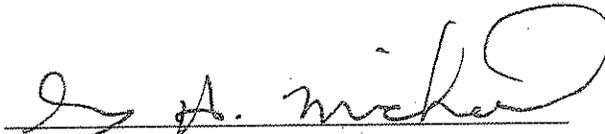
IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond do exist, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond,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

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

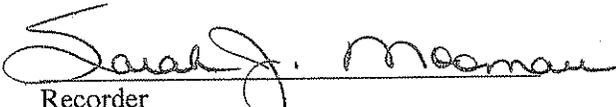
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IN WITNESS WHEREOF, the TOWN OF PETERSBURG has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed and attested by its Recorder, and has caused this Bond to be dated as of the day and year first written above.

[SEAL]

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
Recorder

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2009 B Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: April 16, 2009.

THE HUNTINGTON NATIONAL BANK,  
as Registrar

  
Authorized Officer

EXHIBIT A

RECORD OF ADVANCES

<u>AMOUNT</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>DATE</u>
(1) \$ 0	April 16, 2009	(19)	
(2)		(20)	
(3)		(21)	
(4)		(22)	
(5)		(23)	
(6)		(24)	
(7)		(25)	
(8)		(26)	
(9)		(27)	
(10)		(28)	
(11)		(29)	
(12)		(30)	
(13)		(31)	
(14)		(32)	
(15)		(33)	
(16)		(34)	
(17)		(35)	
(18)		(36)	

TOTAL \$ \_\_\_\_\_

EXHIBIT B

DEBT SERVICE SCHEDULE

---

**BOND DEBT SERVICE**  
City of Petersburg  
30 Years; 0% Interest Rate; 1.0% Admin Fee

Dated Date 4/16/2009

Delivery Date 4/16/2009

<u>Period</u> <u>Ending</u>	<u>Principal</u>	<u>Interest</u>	<u>Debt Service</u>
3/1/2011	41,667.		41,667.
6/1/2011	41,667.		41,667.
9/1/2011	41,667.		41,667.
12/1/2011	41,667.		41,667.
3/1/2012	41,667.		41,667.
6/1/2012	41,667.		41,667.
9/1/2012	41,667.		41,667.
12/1/2012	41,667.		41,667.
3/1/2013	41,667.		41,667.
6/1/2013	41,667.		41,667.
9/1/2013	41,667.		41,667.
12/1/2013	41,667.		41,667.
3/1/2014	41,667.		41,667.
6/1/2014	41,667.		41,667.
9/1/2014	41,667.		41,667.
12/1/2014	41,667.		41,667.
3/1/2015	41,667.		41,667.
6/1/2015	41,667.		41,667.
9/1/2015	41,667.		41,667.
12/1/2015	41,667.		41,667.
3/1/2016	41,667.		41,667.
6/1/2016	41,667.		41,667.
9/1/2016	41,667.		41,667.
12/1/2016	41,667.		41,667.
3/1/2017	41,667.		41,667.
6/1/2017	41,667.		41,667.
9/1/2017	41,667.		41,667.
12/1/2017	41,667.		41,667.
3/1/2018	41,667.		41,667.
6/1/2018	41,667.		41,667.
9/1/2018	41,667.		41,667.
12/1/2018	41,667.		41,667.
3/1/2019	41,667.		41,667.
6/1/2019	41,667.		41,667.
9/1/2019	41,667.		41,667.
12/1/2019	41,667.		41,667.
3/1/2020	41,667.		41,667.
6/1/2020	41,667.		41,667.
9/1/2020	41,667.		41,667.
12/1/2020	41,667.		41,667.
3/1/2021	41,667.		41,667.
6/1/2021	41,667.		41,667.
9/1/2021	41,667.		41,667.
12/1/2021	41,667.		41,667.
3/1/2022	41,667.		41,667.

**BOND DEBT SERVICE**  
City of Petersburg  
30 Years; 0% Interest Rate; 1.0% Admin Fee

Period Ending	Principal	Interest Debt Service
6/1/2022	41,667.	41,667.
9/1/2022	41,667.	41,667.
12/1/2022	41,667.	41,667.
3/1/2023	41,667.	41,667.
6/1/2023	41,667.	41,667.
9/1/2023	41,667.	41,667.
12/1/2023	41,667.	41,667.
3/1/2024	41,667.	41,667.
6/1/2024	41,667.	41,667.
9/1/2024	41,667.	41,667.
12/1/2024	41,667.	41,667.
3/1/2025	41,667.	41,667.
6/1/2025	41,667.	41,667.
9/1/2025	41,667.	41,667.
12/1/2025	41,667.	41,667.
3/1/2026	41,667.	41,667.
6/1/2026	41,667.	41,667.
9/1/2026	41,667.	41,667.
12/1/2026	41,667.	41,667.
3/1/2027	41,667.	41,667.
6/1/2027	41,667.	41,667.
9/1/2027	41,667.	41,667.
12/1/2027	41,667.	41,667.
3/1/2028	41,667.	41,667.
6/1/2028	41,667.	41,667.
9/1/2028	41,667.	41,667.
12/1/2028	41,667.	41,667.
3/1/2029	41,667.	41,667.
6/1/2029	41,667.	41,667.
9/1/2029	41,667.	41,667.
12/1/2029	41,667.	41,667.
3/1/2030	41,667.	41,667.
6/1/2030	41,667.	41,667.
9/1/2030	41,667.	41,667.
12/1/2030	41,666.	41,666.
3/1/2031	41,666.	41,666.
6/1/2031	41,666.	41,666.
9/1/2031	41,666.	41,666.
12/1/2031	41,666.	41,666.
3/1/2032	41,666.	41,666.
6/1/2032	41,666.	41,666.
9/1/2032	41,666.	41,666.
12/1/2032	41,666.	41,666.
3/1/2033	41,666.	41,666.
6/1/2033	41,666.	41,666.
9/1/2033	41,666.	41,666.
12/1/2033	41,666.	41,666.
3/1/2034	41,666.	41,666.
6/1/2034	41,666.	41,666.
9/1/2034	41,666.	41,666.

**BOND DEBT SERVICE**  
City of Petersburg  
30 Years; 0% Interest Rate; 1.0% Admin Fee

Period Ending	Principal	Interest Debt Service
12/1/2034	41,666.	41,666.
3/1/2035	41,666.	41,666.
6/1/2035	41,666.	41,666.
9/1/2035	41,666.	41,666.
12/1/2035	41,666.	41,666.
3/1/2036	41,666.	41,666.
6/1/2036	41,666.	41,666.
9/1/2036	41,666.	41,666.
12/1/2036	41,666.	41,666.
3/1/2037	41,666.	41,666.
6/1/2037	41,666.	41,666.
9/1/2037	41,666.	41,666.
12/1/2037	41,666.	41,666.
3/1/2038	41,666.	41,666.
6/1/2038	41,666.	41,666.
9/1/2038	41,666.	41,666.
12/1/2038	41,666.	41,666.
3/1/2039	41,666.	41,666.
6/1/2039	41,666.	41,666.
9/1/2039	41,666.	41,666.
12/1/2039	41,666.	41,666.
3/1/2040	41,666.	41,666.
6/1/2040	41,666.	41,666.
9/1/2040	41,666.	41,666.
12/1/2040	41,667.	41,667.
	<b>5,000,000.</b>	<b>5,000,000.*</b>

\*Plus \$6,302.05 one-percent Administrative Fee paid quarterly. Total fee over life of loan is \$756,246.00

(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: \_\_\_\_\_, 20\_\_.

\_\_\_\_\_

In the presence of:

\_\_\_\_\_



Chase Tower, Eighth Floor  
P.O. Box 1588  
Charleston, WV 25326-1588  
(304) 353-8000 (304) 353-8180 Fax  
www.steptoee-johnson.com

Writer's Contact Information

April 16, 2009

Town of Petersburg  
Water Revenue Bonds, Series 2009 B  
(West Virginia DWTRF Program)

Town of Petersburg  
Petersburg, West Virginia

West Virginia Water Development Authority  
Charleston, West Virginia

West Virginia Bureau for Public Health  
Charleston, West Virginia

Ladies and Gentlemen:

We have served as bond counsel in connection with the issuance by the Town of Petersburg (the "Issuer"), a municipal corporation and political subdivision created and existing under the laws of the State of West Virginia, of its \$5,000,000 Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program), dated the date hereof (the "Bonds").

We have examined the law and certified copies of proceedings and other papers relating to the authorization of a loan agreement dated April 16, 2009, including all schedules and exhibits attached thereto (the "Loan Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Bureau for Public Health (the "BPH"), and the Bonds, which are to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Bonds are originally issued in the form of one Bond, registered as to principal only to the Authority, bearing no interest and an Administrative Fee of 1% with principal installments payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing March 1, 2011, to and including December 1, 2040, all as set forth in the "Schedule Y" attached to the Loan Agreement and incorporated in and made a part of the Bonds.

The Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly, Chapter 8, Article 19 and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended (collectively, the "Act"), for the purposes of (i) paying the Issuer's Waterworks System Refunding Bond Anticipation Notes, Series 2005 (the "Prior Notes"); (ii) paying the costs of acquisition and construction of certain additions, betterments and improvements to the existing public waterworks system of the Issuer; and (iii) paying certain costs of issuance and related costs.

We have also examined the applicable provisions of the Act and the Bond Ordinance duly enacted by the Issuer on November 3, 2008, as supplemented by a Supplemental Resolution duly adopted by the Issuer on April 15, 2009 (collectively, the "Bond Legislation"), pursuant to and under which Act and Bond Legislation the Bonds are authorized and issued, and the Loan Agreement has been entered into. The Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Bond Legislation and the Loan Agreement. All capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Bond Legislation and the Loan Agreement when used herein.

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

1. The Issuer is a duly created and validly existing municipal corporation and political subdivision of the State of West Virginia, with full power and authority to acquire and construct the Project, to operate and maintain the System, to adopt the Bond Legislation and to issue and sell the Bonds, all under the Act and other applicable provisions of law.
2. The Loan Agreement has been duly authorized by and executed on behalf of the Issuer, is a valid and binding special obligation of the Issuer enforceable in accordance with the terms thereof, and inures to the benefit of the Authority and the BPH and cannot be amended by the Issuer so as to affect adversely the rights of the Authority or the BPH or diminish the obligations of the Issuer without the written consent of the Authority and the BPH.
3. The Bond Legislation and all other necessary ordinances, orders and resolutions have been duly and effectively enacted and adopted by the Issuer in connection with the issuance and sale of the Bonds and constitute valid and binding obligations of the Issuer enforceable against the Issuer in accordance with their terms. The Bond Legislation contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.
4. The Bonds have been duly authorized, issued, executed and delivered by the Issuer to the Authority and are valid, legally enforceable and binding special obligations of the Issuer, payable from the Net Revenues of the System and secured by a first lien on and pledge of the Net Revenues of the System, on a parity with respect to liens, pledge and source of and security for payment with the Issuer's (i) Water Revenue Bonds, Series 1975 (United States Department of Agriculture), dated November 10, 1976, issued in the original aggregate principal amount of \$474,000 (the "Series 1975 Bonds"); (ii) Water Revenue Bonds, Series 1996 (West Virginia Water Development Authority), dated August 29, 1996, issued in the original aggregate principal amount of \$492,590 (the "Series 1996 Bonds"); and (iii) Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program) dated April 16, 2009 with the original aggregate principal amount of \$2,700,000 issued concurrently herewith.
5. The Bonds are, under the Act, exempt from all taxation by the State of West Virginia, or any county, municipality or county commission, political subdivision or agency thereof, and the interest, if any, on the Bonds is exempt from personal and corporate net income taxes imposed directly thereon by the State of West Virginia.

6. The Bonds have not been issued on the basis that the interest thereon, if any, is or will be excluded from the gross income of the owners thereof for federal income tax purposes. We express no opinion regarding the excludability of such interest from the gross income of the owners thereof for federal income tax purposes or other federal tax consequences arising with respect to the Bonds.

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

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

Very truly yours,

  
STEPTOE & JOHNSON PLLC

April 16, 2009

Town of Petersburg  
Water Revenue Bonds, Series 2009 A  
(West Virginia DWTRF Program)

Town of Petersburg  
Petersburg, West Virginia

West Virginia Water Development Authority  
Charleston, West Virginia

West Virginia Bureau for Public Health  
Charleston, West Virginia

Ladies and Gentlemen:

We have served as bond counsel in connection with the issuance by the Town of Petersburg (the "Issuer"), a municipal corporation and political subdivision created and existing under the laws of the State of West Virginia, of its \$2,700,000 Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program), dated the date hereof (the "Bonds").

We have examined the law and certified copies of proceedings and other papers relating to the authorization of a loan agreement dated April 16, 2009, including all schedules and exhibits attached thereto (the "Loan Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Bureau for Public Health (the "BPH"), and the Bonds, which are to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Bonds are originally issued in the form of one Bond, registered as to principal and interest to the Authority, bearing interest at the rate of 2% per annum and an Administrative Fee of 1%, payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing March 1, 2011, and with principal installments payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing March 1, 2011, to and including December 1, 2030, all as set forth in the "Schedule Y" attached to the Loan Agreement and incorporated in and made a part of the Bonds.

The Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly, Chapter 8, Article 19 and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended (collectively, the "Act"), for the purposes of (i) paying the costs of acquisition and construction of certain additions, betterments and improvements to the existing public waterworks system of the Issuer; and (ii) paying certain costs of issuance and related costs.

We have also examined the applicable provisions of the Act and the Bond Ordinance duly enacted by the Issuer on November 3, 2008, as supplemented by a Supplemental Resolution duly adopted by the Issuer on April 15, 2009 (collectively, the "Bond Legislation"), pursuant to and under which Act and Bond Legislation the Bonds are authorized and issued, and the Loan Agreement has been entered into. The Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Bond Legislation and the Loan Agreement. All capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Bond Legislation and the Loan Agreement when used herein.

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

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

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

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

4. The Bonds have been duly authorized, issued, executed and delivered by the Issuer to the Authority and are valid, legally enforceable and binding special obligations of the Issuer, payable from the Net Revenues of the System and secured by a first lien on and pledge of the Net Revenues of the System, on a parity with respect to liens, pledge and source of and security for payment with the Issuer's (i) Water Revenue Bonds, Series 1975 (United States Department of Agriculture), dated November 10, 1976, issued in the original aggregate principal amount of \$474,000 (the "Series 1975 Bonds"); (ii) Water Revenue Bonds, Series 1996 (West Virginia Water Development Authority), dated August 29, 1996, issued in the original aggregate principal amount of \$492,590 (the "Series 1996 Bonds"); and (iii) Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program) dated April 16, 2009 in the original aggregate principal amount of \$5,000,000 issued concurrently herewith.

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

6. The Bonds have not been issued on the basis that the interest thereon, if any, is or will be excluded from the gross income of the owners thereof for federal income tax purposes. We express no opinion regarding the excludability of such interest from the gross income of the owners thereof for federal income tax purposes or other federal tax consequences arising with respect to the Bonds.

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

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

Very truly yours,

  
STEPTOE & JOHNSON PLLC

April 16, 2009

Town of Petersburg  
Water Revenue Bonds, Series 2009 B  
(West Virginia DWTRF Program)

Town of Petersburg  
Petersburg, West Virginia

West Virginia Water Development Authority  
Charleston, West Virginia

West Virginia Bureau for Public Health  
Charleston, West Virginia

Ladies and Gentlemen:

We have served as bond counsel in connection with the issuance by the Town of Petersburg (the "Issuer"), a municipal corporation and political subdivision created and existing under the laws of the State of West Virginia, of its \$5,000,000 Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program), dated the date hereof (the "Bonds").

We have examined the law and certified copies of proceedings and other papers relating to the authorization of a loan agreement dated April 16, 2009, including all schedules and exhibits attached thereto (the "Loan Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Bureau for Public Health (the "BPH"), and the Bonds, which are to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Bonds are originally issued in the form of one Bond, registered as to principal only to the Authority, bearing no interest and an Administrative Fee of 1% with principal installments payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing March 1, 2011, to and including December 1, 2040, all as set forth in the "Schedule Y" attached to the Loan Agreement and incorporated in and made a part of the Bonds.

The Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly, Chapter 8, Article 19 and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended (collectively, the "Act"), for the purposes of (i) paying the Issuer's Waterworks System Refunding Bond Anticipation Notes, Series 2005 (the "Prior Notes"); (ii) paying the costs of acquisition and construction of certain additions, betterments and improvements to the existing public waterworks system of the Issuer; and (iii) paying certain costs of issuance and related costs.

We have also examined the applicable provisions of the Act and the Bond Ordinance duly enacted by the Issuer on November 3, 2008, as supplemented by a Supplemental Resolution duly adopted by the Issuer on April 15, 2009 (collectively, the "Bond Legislation"), pursuant to and under which Act and Bond Legislation the Bonds are authorized and issued, and the Loan Agreement has been entered into. The Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Bond Legislation and the Loan Agreement. All capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Bond Legislation and the Loan Agreement when used herein.

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

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

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

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

4. The Bonds have been duly authorized, issued, executed and delivered by the Issuer to the Authority and are valid, legally enforceable and binding special obligations of the Issuer, payable from the Net Revenues of the System and secured by a first lien on and pledge of the Net Revenues of the System, on a parity with respect to liens, pledge and source of and security for payment with the Issuer's (i) Water Revenue Bonds, Series 1975 (United States Department of Agriculture), dated November 10, 1976, issued in the original aggregate principal amount of \$474,000 (the "Series 1975 Bonds"); (ii) Water Revenue Bonds, Series 1996 (West Virginia Water Development Authority), dated August 29, 1996, issued in the original aggregate principal amount of \$492,590 (the "Series 1996 Bonds"); and (iii) Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program) dated April 16, 2009 with the original aggregate principal amount of \$2,700,000 issued concurrently herewith.

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

6. The Bonds have not been issued on the basis that the interest thereon, if any, is or will be excluded from the gross income of the owners thereof for federal income tax purposes. We express no opinion regarding the excludability of such interest from the gross income of the owners thereof for federal income tax purposes or other federal tax consequences arising with respect to the Bonds.

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

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

Very truly yours,



STEPTOE & JOHNSON PLLC

GEARY AND GEARY, L.C.

ATTORNEYS AT LAW

104 N. MAIN STREET

P. O. BOX 218

PETERSBURG, WEST VIRGINIA 26847-0218

(304) 257-4155

FAX (304) 257-1728

E-MAIL: [gearyl原因@frontier.net](mailto:gearyl原因@frontier.net)

April 16, 2009

JAMES PAUL GEARY  
JAMES PAUL GEARY, II  
PATRICIA L. KOTCHEK

MARY IANE GEARY (1982)

Town of Petersburg  
Water Revenue Bonds, Series 2009 A; and  
Water Revenue Bonds, Series 2009 B  
(West Virginia DWTRF Program)

Town of Petersburg  
Petersburg, West Virginia

West Virginia Water Development Authority  
Charleston, West Virginia

West Virginia Bureau for Public Health  
Charleston, West Virginia

Steptoe & Johnson PLLC  
Charleston, West Virginia

Ladies and Gentlemen:

I am counsel to the Town of Petersburg, in Grant County, West Virginia (the "Issuer"). As such counsel, I have examined copies of the approving opinions of Steptoe & Johnson PLLC, as bond counsel, loan agreements dated April 16, 2009, including all schedules and exhibits attached thereto (the "Loan Agreements"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Bureau for Public Health (the "BPH"), the Bond Ordinance duly enacted by the Issuer on November 3, 2008, as supplemented by the Supplemental Resolution duly adopted by the Issuer on April 15, 2009 (collectively, the "Bond Legislation"), and other documents relating to the above-captioned Bonds of the Issuer (the "Bonds"). Capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Bond Legislation and the Loan Agreement when used herein.

I am of the opinion that:

1. The Issuer has been duly created and is validly existing as a municipal corporation and political subdivision of the State of West Virginia, with full power and authority to acquire and construct the Project, to operate and maintain the System and to enact the Bond Legislation, all under the Act and other applicable provisions of law, and the Mayor, Recorder and members of the council of the Issuer have been duly and properly elected or appointed, as applicable, have taken the requisite oaths, and are authorized to act on behalf of the Issuer in their respective capacities.

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

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

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

5. To the best of my knowledge, there is no litigation, 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 Bonds, the Loan Agreements, the Bond Legislation, the acquisition and construction of the Project, the operation of the System, the validity of the Bonds or the collection or pledge of the Net Revenues therefor.

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

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

Very truly yours,

GEARY AND GEARY, L.L.C.

James Paul Geary II

LAW OFFICES  
**ROBERT R. RODECKER**  
BB&T SQUARE  
300 SUMMERS STREET, SUITE 1230  
POST OFFICE BOX 3713  
CHARLESTON, WEST VIRGINIA 25337

ROBERT R. RODECKER  
rodecker@wvdsi.net

JAMES V. KELSH  
OF COUNSEL  
kelshlaw@yahoo.com

AREA CODE 304  
343-1654

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343-1657

April 16, 2009

Town of Petersburg  
Water Revenue Bonds, Series 2009 A; and  
Water Revenue Bonds, Series 2009 B  
(West Virginia DWTRF Program)

Town of Petersburg  
Petersburg, West Virginia

West Virginia Water Development Authority  
Charleston, West Virginia

West Virginia Bureau for Public Health  
Charleston, West Virginia

Steptoe & Johnson PLLC  
Charleston, West Virginia

Ladies and Gentlemen:

I am special PSC counsel to the Town of Petersburg, in Grant County, West Virginia (the "Issuer"). As such counsel, I am of the opinion that:

The Issuer has received all permits, licenses, approvals, consents, exemptions, orders, certificates and authorizations necessary for the issuance of the Bonds, the acquisition and construction of the Project, the operation of the System and the imposition of rates and charges for use of the System, including, without limitation, the receipt of all requisite orders and approvals from the West Virginia Infrastructure and Jobs Development Council and the Public Service Commission of West Virginia (the "PSC") and has taken any other action required for the imposition of such rates and charges, including, without limitation, the enactment of an ordinance prescribing such rates and charges dated October 16,

2008 as amended by Recommended Decision entered January 28, 2009 and Commission Order dated March 13, 2009 in Case No. 08-1873-W-MA of the PSC. The time for appeal of the Order has expired prior to the date hereof without any appeal and remains in full force and effect. The Issuer has received the Recommended Decision of the PSC entered March 17, 2008 which became final order on April 6, 2008 , in Case No. 07-2209-W-CN, and Recommended Decision entered January 28, 2009 and Commission Order dated March 13, 2009 in Case No. 07-2209-W-CN (Reopened) granting to the Issuer a certificate of public convenience and necessity for the Project and approving the financing for the Project. The time for appeal of the Order has expired prior to the date hereof without any appeal and remains in full force and effect.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Robert R. Rodecker". The signature is fluid and cursive, written in a professional style.

Robert R. Rodecker  
WV State Bar No. 3145

RRR/bg

**GEARY AND GEARY, L.C.**

ATTORNEYS AT LAW

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JAMES PAUL GEARY  
JAMES PAUL GEARY, II  
PATRICIA L. KOTCHEK

MARY JANE GEARY (1982)

April 16, 2009

Mr. Robert W. DeCrease, P.E., Assistant Manager  
West Virginia Department of Health & Human Resources  
Bureau for Public Health  
1 Davis Square, Suite 200  
Capitol and Washington Streets  
Charleston, WV 25301

**RE: City of Petersburg  
Water System Improvement Project  
DWTRF No. XP-97350501**

Dear Mr. DeCrease:

This firm represents the City of Petersburg with regard to a proposed project to construct an upgrade to the water treatment plant, replace the hospital storage tank, construct a new tank fill line and repaint the point storage tank (the "Project"), and provides this Final Title Opinion on behalf of the City of Petersburg to satisfy the requirements of the West Virginia Bureau for Public Health with regard to the Drinking Water Treatment Revolving Fund financing proposed for the Project. Please be advised of the following:

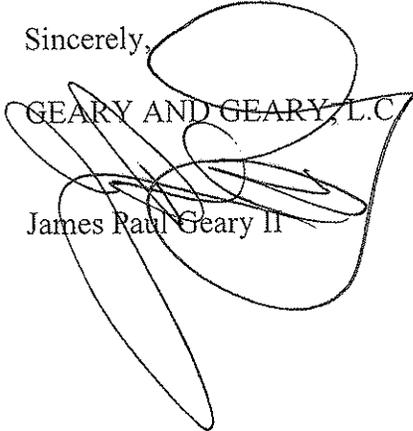
1. That I am of the opinion that the City of Petersburg, a duly created and existing municipal corporation possessed with all the powers and authority granted to municipal corporations under the laws of the State of West Virginia and it has the full power and authority to construct, operate and maintain the Project as approved by the Bureau for Public Health.
2. That the City of Petersburg has obtained approval for all necessary permits and approvals for the construction of the Project, permit applications for which have been submitted to the appropriate agencies.
3. That I have investigated and ascertained the location of and am familiar with the legal description of the necessary sites, including easements and/or rights of way, required for the Project as set forth in the plans for the Project prepared by Dunn Engineers, Inc., the consulting engineers for the Project.
4. That I have examined the records on file in the Office of the Clerk of the County

Commission of Grant County, West Virginia, the county in which the Project is to be located, and, in my opinion, the City of Petersburg has acquired legal title or such other estate or interest in the necessary site components for the Project, sufficient to assure undisturbed use and possession for the purpose of construction, operation and maintenance for the estimate life of the facilities to be constructed.

5. That any deeds or other documents which have been acquired to date by the City of Petersburg have been duly recorded in the aforesaid Clerk's Office in order to protect the legal title to and interest of the City of Petersburg.

If you have any questions regarding any of the information contained in this preliminary title opinion, please contact this office.

Sincerely,

  
GEARY AND GEARY, L.C.  
James Paul Geary II

JPGII/smd

cc: Samme L. Gee, Esquire

TOWN OF PETERSBURG

Water Revenue Bonds, Series 2009 A; and  
Water Revenue Bonds, Series 2009 B  
(West Virginia DWTRF Program)

GENERAL CERTIFICATE OF ISSUER AND ATTORNEY ON:

1. TERMS
2. NO LITIGATION
3. GOVERNMENTAL APPROVALS AND BIDDING
4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS
5. CERTIFICATION OF COPIES OF DOCUMENTS
6. INCUMBENCY AND OFFICIAL NAME
7. LAND AND RIGHTS-OF-WAY
8. MEETINGS, ETC.
9. CONTRACTORS' INSURANCE, ETC.
10. LOAN AGREEMENTS
11. RATES
12. SIGNATURES AND DELIVERY
13. BOND PROCEEDS
14. PUBLICATION AND PUBLIC HEARING ON BOND ORDINANCE
15. PUBLIC SERVICE COMMISSION ORDERS
16. SPECIMEN BOND
17. CONFLICT OF INTEREST
18. PROCUREMENT OF ENGINEERING SERVICES
19. SAFE DRINKING WATER ACT
20. GRANTS
21. EXECUTION OF COUNTERPARTS

We, the undersigned MAYOR and RECORDER of the Town of Petersburg in Grant County, West Virginia (the "Issuer"), and the undersigned COUNSEL to the Issuer, hereby certify, on this the 16th day of April, 2009, in connection with the Issuer's Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program) (the "Series 2009 A Bonds"), and Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program) (the "Series 2009 B Bonds") dated the date hereof (collectively the "Bonds" or the "Series 2009 A Bonds"), as follows:

1. TERMS: All capitalized words and terms used in this General Certificate and not otherwise defined herein shall have the same meaning as set forth in the Bond Ordinance of the Issuer duly enacted November 3, 2008, and the Supplemental Resolution duly adopted April 15, 2009 (collectively, the "Bond Legislation").

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

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

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

There are outstanding obligations of the Issuer which will rank on a parity with the Series 2009 Bonds as to liens, pledge, source of and security for payment, being the Issuer's (i) Water Revenue Bonds, Series 1975 (United States Department of Agriculture), dated November 10, 1976, issued in the original aggregate principal amount of \$474,000 (the "Series 1975 Bonds"); and (ii) Water Revenue Bonds, Series 1996 (West Virginia Water Development Authority), dated August 29, 1996, issued in the original aggregate principal amount of \$492,590 (the "Series 1996 Bonds"), collectively referred to as the "Prior Bonds".

The Series 2009 Bonds shall be issued on a parity with the Prior Bonds with respect to liens, pledge and source of and security for payment and in all other respects. Prior to the issuance of the Series 2009 Bonds, the Issuer will obtain (i) a certificate of an Independent Certified Public Accountant stating that the coverage and parity tests of the Prior Bonds are met; and (ii) the written consent of the registered owners of the Prior Bonds to the issuance of the Series 2009 Bonds on a parity with the Prior Bonds. Other than the Prior Bonds, there are no other outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System.

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

Bond Ordinance

Supplemental Resolution

Loan Agreement for Series 2009 A Bonds

Loan Agreement for Series 2009 B Bonds

Public Service Commission Order

Infrastructure and Jobs Development Council Approval

Charter and Rules of Procedure

Oaths of Office of Officers and Council Members

Water Rate Ordinance

Minutes on Adoption and Enactment of Rate Ordinance

Affidavit of Publication of Rate Ordinance and Notice of Public Hearing

Minutes on Adoption and Enactment of Bond Ordinance, Adoption of Supplemental Resolution, Rules of Procedure, First Draw Resolution and Sweep Resolution

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

Prior Bond Ordinances

USDA Consent to Issuance of Parity Bonds

Receipt and Release of Citizens National Bank

WDA Consent to Issuance of Parity Bonds

Office of Environmental Health Services Permit

Evidence of Insurance

6. INCUMBENCY AND OFFICIAL NAME: The proper corporate title of the Issuer is "Town of Petersburg." The Issuer is a municipal corporation in Grant County and is presently existing under the laws of, and a political subdivision of, the State of West Virginia. The governing body

of the Issuer is its council, consisting of a Mayor and five (5) council members, all duly elected or appointed, as applicable, qualified and acting, and whose names and dates of commencement and termination of current terms of office are as follows:

Name	Date of Commencement of Office	Date of Termination of Office
Gary Michael, Mayor	July, 2005	June 30, 2009
Sarah Moomau, Recorder	July, 2007	June 30, 2011
John Vanmeter	July, 2005	June 30, 2009
Alvin Rumer	July, 2007	June 30, 2011
Bruce Hyre, Jr.	July, 2005	June 30, 2009
George Deadrick	July, 2005	June 30, 2009
Paige Alexander	July, 2007	June 30, 2011

The duly appointed and acting Counsel to the Issuer is James Geary, Esquire, Petersburg, West Virginia and the duly appointed Special PSC Counsel is Robert Rodecker, Esquire, Charleston, West Virginia.

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

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

9. CONTRACTORS' INSURANCE, ETC.: All contractors have been required to maintain Worker's Compensation, public liability and property damage insurance, and builder's risk

insurance where applicable, in accordance with the Bond Legislation. All insurance for the System required by the Bond Legislation and Loan Agreements is in full force and effect.

10. LOAN AGREEMENTS: As of the date hereof, (i) the representations of the Issuer contained in the Loan Agreements are true and correct in all material respects as if made on the date hereof; (ii) the Loan Agreements do not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; (iii) to the best knowledge of the undersigned, no event affecting the Issuer has occurred since the date of the Loan Agreements 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 Agreements not misleading; and (iv) the Issuer is in compliance with the Loan Agreements.

11. RATES: The Issuer has duly enacted a water rate ordinance setting rates and charges for the services of the System on October 16, 2008 which was amended by Recommended Decision entered January 28, 2009 and Commission Order dated March 13, 2009 in Case No. 08-1873-W-MA of the Public Service Commission of West Virginia. The time for appeal of such order has expired prior to the date hereof without appeal and such Order remains in full force and effect.

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

13. BOND PROCEEDS: On the date hereof, the Issuer received \$633,017 from the Authority and the BPH, being a portion of the principal amount of the Series 2009 A Bonds. The balance of the principal amount of the Series 2009 A Bonds and Series 2009 B Bonds will be advanced to the Issuer as acquisition and construction of the Project progresses.

14. PUBLICATION AND PUBLIC HEARING ON BOND ORDINANCE: Upon adoption of the Bond Ordinance, an abstract thereof, determined by the Governing Body to contain sufficient information as to give notice of the contents thereof, was published once each week for 2 successive weeks, with not less than 6 full days between each publication, the first such publication occurring not less than 10 days before the date stated below for the public hearing, in the *Grant County Press*, a qualified newspaper published and of general circulation in the Town of Petersburg, together with a notice to all persons concerned, stating that the Bond Ordinance had been adopted and that the Issuer contemplated the issuance of the Bonds described in such Bond Ordinance, stating that any person interested may appear before the Governing Body at the public hearing held at a public meeting of Governing Body on the 3rd day of November, 2008, at 7:00 p.m., at the Town Hall in Petersburg, West Virginia, and present protests, and stating that a certified copy of the Bond Ordinance was on file at the office of the Recorder of the Issuer for review by interested parties during the office hours of the Issuer. At such hearing all objections and suggestions were heard by the Governing Body and the Bond

Ordinance became finally adopted, enacted and effective as of the date of such public hearing, and remains in full force and effect.

15. PUBLIC SERVICE COMMISSION ORDER: The Issuer has received the Recommended Decision of the Public Service Commission of West Virginia entered March 17, 2008, which became Final Order on April 6, 2008 in Case No. 07-2209-W-CN, and Recommended Decision entered January 28, 2009 and Commission Order dated March 13, 2009 in Case No. 07-2209-W-CN (Reopened) (collectively, the "Order") among other things, granting to the Issuer a certificate of convenience and necessity for the Project and approving the financing for the Project. The time for appeal of the Order has expired. Such Order is in full force and effect.

16. SPECIMEN BONDS: Delivered concurrently herewith are true and accurate specimens of the Series 2009 Bonds.

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

18. PROCUREMENT OF ENGINEERING SERVICES: The Issuer has complied in all respects with the requirements of Chapter 5G, Article 1 of the West Virginia Code of 1931, as amended, in the procurement of engineering services to be paid from proceeds of the Bonds.

19. SAFE DRINKING WATER ACT: The Project as described in the Bond Legislation complies with the Safe Drinking Water Act.

20. GRANTS: The Issuer has a Grant Commitment from the U.S. Environmental Protection Agency in the amount of \$2,931,400.

21. EXECUTION OF COUNTERPARTS: This document may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same document.

[Remainder of Page Intentionally Left Blank]

WITNESS our signatures and the official seal of the TOWN OF PETERSBURG on the day and year first written above.

[CORPORATE SEAL]

SIGNATURE

OFFICIAL TITLE

*[Handwritten Signature]*  
*[Handwritten Signature]*

Mayor

Recorder

Counsel to the Issuer

*[Handwritten Signature]*

Special PSC Counsel  
(Paragraphs 11 & 15)

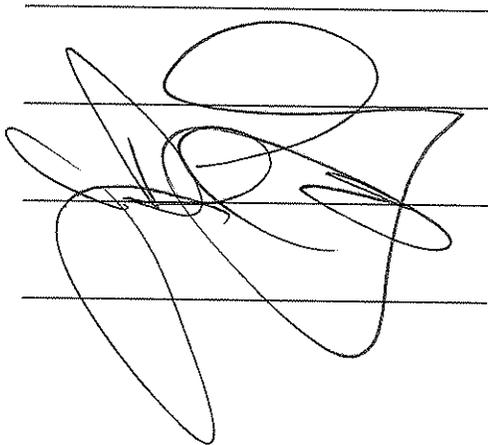
04.09.09  
698490.00008

CH4918238.1

WITNESS our signatures and the official seal of the TOWN OF PETERSBURG on the day and year first written above.

[CORPORATE SEAL]

SIGNATURE

A large, complex, and illegible handwritten signature scribble that spans across four horizontal lines.

OFFICIAL TITLE

Mayor

Recorder

Counsel to the Issuer

Special PSC Counsel  
(Paragraphs 11 & 15)

04.09.09  
698490.00008

CH4918238.1

TOWN OF PETERSBURG

Water Revenue Bonds, Series 2009 A; and  
Water Revenue Bonds, Series 2009 B  
(West Virginia DWTRF Program)

CERTIFICATE OF ENGINEER

I, Frederick Hypes, Registered Professional Engineer, West Virginia License No.9327, of Dunn Engineers, Inc., Charleston, West Virginia, hereby certify this 16th day of April, 2009 as follows:

1. My firm is engineer for the acquisition and construction of certain additions, betterments and improvements (the "Project") to the existing public waterworks facilities (the "System") of the Town of Petersburg (the "Issuer"), to be constructed in Grant County, West Virginia, which acquisition and construction are being financed in part by the proceeds of the above-captioned bonds (collectively, the "Bonds") of the Issuer. Capitalized terms used herein and not defined herein shall have the same meaning set forth in the Bond Ordinance enacted by the Issuer on November 3, 2008, as supplemented by the Supplemental Resolution adopted by the Issuer on April 15, 2009, and the loan agreements by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Bureau for Public Health (the "BPH"), dated April 16, 2009 (collectively, the "Loan Agreements").

2. The Bonds are being issued (i) to pay the Issuer's Waterworks System Refunding Bond Anticipation Notes, Series 2005 (the "Prior Notes"); (ii) to pay the costs of acquisition and construction of the Project; and (iii) to pay certain costs of issuance and related costs.

3. To the best of my knowledge, information and belief, (i) within the limits and in accordance with the applicable and governing contractual requirements relating to the Project, the Project will be constructed in general accordance with the approved plans, specifications and designs prepared by my firm and approved by the BPH and any change orders approved by the Issuer, the BPH and all necessary governmental bodies; (ii) the Project, as designed, is adequate for its intended purpose and has a useful life of at least 32 years, if properly constructed, operated and maintained, excepting anticipated replacements due to normal wear and tear; (iii) the Issuer has received bids for the acquisition and construction of the Project which are in an amount and otherwise compatible with the plan of financing set forth in Schedule B attached hereto as Exhibit A and the Issuer's counsel, Robert Rodecker, Esquire, has ascertained that all successful bidders 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 for accuracy; (iv) the successful bidders received any and all addenda to the original bid documents; (v) the bid documents relating to the Project reflect the Project as approved by the BPH and the bid forms provided to the bidders contain the critical operational components of the Project; (vi) the successful bids include prices for every item on such bid forms; (vii) the uniform bid procedures were followed; (viii) the Issuer has obtained all permits required by the laws of the State of West

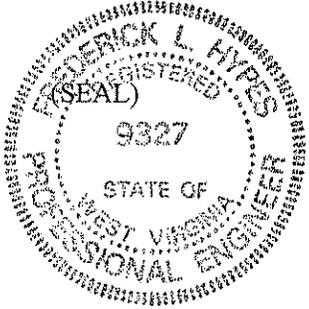
Virginia and the United States necessary for the acquisition and construction of the Project and the operation of the System; (ix) in reliance upon the certificate of Griffith & Associates, the Issuer's certified public accountant, of even date herewith, as of the effective date thereof, the rates and charges for the System will be sufficient to comply with the provisions of the Loan Agreement; (x) the net proceeds of the Bonds, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants, if any, irrevocably committed therefor, are sufficient to pay the costs of acquisition and construction of the Project approved by the BPH; and (xi) attached hereto as Exhibit A is the final amended "Schedule B - Final Total Cost of Project, Sources of Funds and Cost of Financing" for the Project.

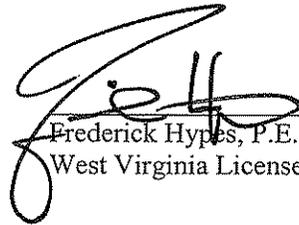
4. I have received the Buy American Certification from each contractor.

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WITNESS my signature and seal on the day and year first written above.

DUNN ENGINEERS, INC.

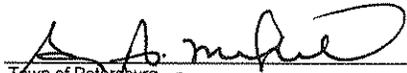
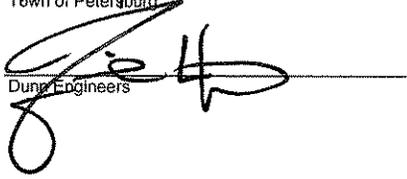


  
Frederick Hypes, P.E.  
West Virginia License No. 9327

04.08.09  
698490.00008

SCHEDULE B  
TOWN OF PETERSBURG  
WATER PROJECT

A. COST OF PROJECT	TOTAL	Design Loan	Final Total	City	SAP	DWTRF (A) (2nd round)	DWTRF (B)
1 Construction							
a WTP (Breckenridge)	6,797,000.00		6,797,000.00		2,741,400	2244966	1810634
b Lines to Tank (Mid-Atlantic)	1,458,620.00		1,458,620.00				1458620
c Tank Replacement( DL Morgan)	507,506.01		507,506.01				507506
d High Point Tank Paint (Welding)	168,000.00		168,000.00				168000
2 Technical Services (Dunn)							
a Study & report	25,000.00	25,000.00	0.00				0
b Preliminary Design	30,000.00	30,000.00	0.00				0
c Final design	317,900.00	302,005.00	15,895.00			15895	0
d Bidding	10,000.00		10,000.00			10000	0
e Construction Phase	117,000.00		117,000.00				117000
f Inspection	225,000.00		225,000.00				225000
g Post Construction Phase	35,000.00		35,000.00				35000
h Additional Engineering							
A. Archeological	5,121.92	5,121.92	0.00				0
B. Stag Grant	25,000.00		25,000.00			25000	0
C. Aluminum	4,192.50	4,192.50	0.00				0
D. PSC	1,950.00		1,950.00			1950	0
E. Chlorine	25,723.64		25,723.64			25724	0
3 Legal & Fiscal							
a. Project Attorney (Geary)	10,000.00		10,000.00			5000	5000
b. ROW (Geary)	5,000.00	175.00	4,825.00				4825
c PSC (Rodecker)	20,000.00		20,000.00			6047	13953
d. Closing Design Loan	7,192.67	7,192.67	0.00				0
4 Administrative							
a Region 8	90,000.00	0.00	90,000.00			54589	35411
b Other Admin costs (ads)	5,000.00	826.75	4,173.25			626	3547
5 Accounting (Griffith)	40,000.00	28,295.73	11,704.27				11704
6 Permits	1,000.00	300.00	700.00				700
7 Lands & ROWs	80,000.00		80,000.00			26000	54000
8 Contingency 6.15%	549,099.57		549,099.57				549100
9 Repay Design Loan		403,109.57					
a Interest due	18,414.98		18,414.98			18415	0
b Interest paid (thru 10/15/08)	30,093.69		30,093.69			30094	0
c Principal			403,109.57	8,414.98	190,000	204695	0
10 TOTAL of Lines 1 through 9	10,608,814.98		10,608,814.98	8,414.98	2,931,400	2669000	5000000
<b>B. COST OF FINANCING</b>							
11 Funded Reserve	0.00		0.00		0	0	0
12 Capitalized Interest	0.00		0.00		0	0	0
13 Registrar	1,000.00		1,000.00		0	1000	0
14 Bond Counsel	30,000.00		30,000.00		0	30000	0
15 Cost of Issuance (lines 11 through 14)	31,000.00		31,000.00	0.00	0	31000	0
16 TOTAL PROJECT COST line 10 plus line 15	10,639,814.98		10,639,814.98	8,414.98	2,931,400	2700000	5000000
<b>C. SOURCES OF OTHER FUNDS</b>							
17 Federal Grants SAP	2,931,400.00		2,931,400.00		2,931,400	0	0
18 State Grants	0.00		0.00		0	0	0
19 Other Grants City	8,414.98		8,414.98	8,414.98	0	0	0
20 TOTAL GRANTS Lines 17 through 19	2,939,814.98		2,939,814.98	8,414.98	2,931,400	0	0
21 Size of Bond Issue	7,700,000.00		7,700,000.00	0.00	0	2700000	5000000

  
 Town of Petersburg  
  
 Dunn Engineers

4/15/09  
 Date  
 15 APRIL 2009  
 Date



April 16, 2009

Town of Petersburg

Water Revenue Bonds, Series 2009 A; and  
Water Revenue Bonds, Series 2009 B  
(West Virginia DWTRF Program)

Town of Petersburg  
Petersburg, West Virginia

West Virginia Water Development Authority  
Charleston, West Virginia

West Virginia Bureau for Public Health  
Charleston, West Virginia

Ladies and Gentlemen:

Based upon the water rates and charges as set forth in the Water Rate Ordinance enacted by the Town of Petersburg (the "Issuer") on October 16, 2008 which was amended by Recommended Decision entered January 28, 2009 and Commission Order dated March 13, 2009 in Case No. 08-1873-W-MA and the projected operating expenses and the anticipated customer usage as furnished to us by Dunn Engineers, Inc., the Consulting Engineer to the Town of Petersburg (the "Issuer"), it is our opinion that such rates and charges will be sufficient to provide revenues which, together with other revenues of the waterworks system (the "System") of the Issuer, will pay all operating expenses of the System and leave a balance each year equal to at least 115% of the maximum amount required in any year for debt service on the Issuer's Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program) (the "Series 2009 A Bonds") and Water Revenue Bonds, Series 2009 B, (West Virginia DWTRF Program) (the "Series 2009 B Bonds" and with the Series 2009 A Bonds collectively known as the "Series 2009 Bonds") and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2009 Bonds, including the Prior Bonds, as defined in the Bond Ordinance authorizing the Bonds.

It is further our opinion that (i) the Net Revenues for the Fiscal Year following the year in which the Bonds are issued will be at least 120% of the average annual debt service requirements on the Series 2009 Bonds and the Prior Bonds and that (ii) the Net Revenues actually derived from the System during any 12 consecutive months, within the 18 months immediately preceding the date of the actual issuance of the 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 the Series 2009 Bonds, are not less than 115% of the largest aggregate amount that will mature and become due in any succeeding fiscal year for the principal of and interest on the Series 2009 Bonds and the Prior Bonds.

Very truly yours,

Michael D. Griffith, CPA, AFI  
Griffith & Associates, PLLC

MDG/dk

Michael D. Griffith, CPA, AFI  
michaelgriffithcpa@verizon.net

950 Little Coal River Road Alum Creek, WV 25003  
Phone: (304) 756.3600 Facsimile: (304) 756.2911

TOWN OF PETERSBURG

Water Revenue Bonds, Series 2009 A; and  
Water Revenue Bonds, Series 2009 B  
(West Virginia DWTRF Program)

CERTIFICATE AS TO USE OF PROCEEDS

The undersigned Mayor and Recorder of the Town of Petersburg in Grant County, West Virginia (the "Issuer"), being the official of the Issuer duly charged with the responsibility for the issuance of \$2,700,000 Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program) and \$5,000,000 Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program), of the Issuer, both dated April 16, 2009 (collectively the "Bonds" or the "Series 2009 Bonds") on the 16th day of April, 2009, hereby certifies as follows:

1. I am the officer of the Issuer duly charged with the responsibility of issuing the Bonds. I am familiar with the facts, circumstances and estimates herein certified and duly authorized to execute and deliver this certificate on behalf of the Issuer. Capitalized terms used herein and not otherwise defined herein shall have the meanings set forth in the Bond Ordinance duly enacted by the Issuer on November 3, 2008, as supplemented (the "Bond Ordinance"), authorizing the Bonds.

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

3. This certificate is based upon facts, circumstances, estimates and expectations of the Issuer in existence on April 16, 2009, the date on which the Bonds are being physically delivered in exchange for an initial advance of the principal amount of the Series 2009 Bonds, and to the best of my knowledge and belief, the expectations of the Issuer set forth herein are reasonable.

4. In the Bond Ordinance pursuant to which the Bonds are issued, the Issuer has covenanted that it shall not take, or permit or suffer to be taken, any action with respect to Issuer's use of the proceeds of the Bonds which would cause any bonds, the interest, if any, on which is exempt from federal income taxation under Section 103(a) of the Internal Revenue Code of 1986, as amended, and the temporary and permanent regulations promulgated thereunder or under any predecessor thereto (collectively, the "Code"), issued by the West Virginia Water Development Authority (the "Authority") or the West Virginia Bureau for Public Health (the "BPH"), as the case may be, from which the proceeds of the Bonds are derived, to lose their status as tax-exempt bonds. The Issuer hereby covenants to take all actions necessary to comply with such covenant.

5. The Series 2009 A Bonds were sold on April 16, 2009, to the Authority, pursuant to a loan agreement dated April 16, 2009, by and between the Issuer and the Authority, on behalf of the BPH, for an aggregate purchase price of \$2,700,000 (100% of par), at which time, the Issuer received \$633,017 from the Authority and the BPH, being the first advance of the principal amount of the Series 2009 A Bonds. No accrued interest has been or will be paid on the Series 2009 A Bonds. The balance of the principal amount of the Series 2009 A Bonds will be advanced to the Issuer as acquisition and construction of the Project progresses.

6. The Series 2009 B Bonds were sold on April 16, 2009, to the Authority, pursuant to a loan agreement dated April 16, 2009, by and between the Issuer and the Authority, on behalf of the BPH, for an aggregate purchase price of \$5,000,000 (100% of par). No accrued interest has been or will be paid on the Series 2009 B Bonds. The balance of the principal amount of the Series 2009 B Bonds will be advanced to the Issuer as acquisition and construction of the Project progresses.

7. The Series 2009 A Bonds and Series 2009 B Bonds are being delivered simultaneously with the delivery of this certificate and are issued for the purposes of (i) paying the Issuer's Waterworks System Refunding Bond Anticipation Notes, Series 2005 (the "Prior Notes"); (ii) paying the costs of acquisition and construction of certain additions, betterments and improvements to the existing public waterworks facilities of the Issuer (the "Project"); and (iii) paying certain costs of issuance of the Bonds and related costs.

8. Within 30 days after the delivery of the Series 2009 Bonds, the Issuer shall enter into agreements which require the Issuer to expend at least 5% of the net sale proceeds of the Bonds on the Project, constituting a substantial binding commitment. The acquisition and construction of the Project shall commence immediately and shall proceed with due diligence to completion, and with the exception of proceeds deposited in the Series 2009 Bonds respective Reserve Account, if any, all of the proceeds from the sale of the Series 2009 Bonds, together with any investment earnings thereon, will be expended for payment of costs of the Project on or before November 1, 2010. The acquisition and construction of the Project is expected to be completed by May 1, 2010.

9. The total cost of the Project, a portion of which is financed from the proceeds of the Series 2009 Bonds (including all costs of issuance of the Series 2009 Bonds), is estimated at \$10,639,814.98. Sources and uses of funds for the Project are as follows:

#### SOURCES

Proceeds of the Series 2009 A Bonds	\$ 2,700,000.00
Proceeds of the Series 2009 B Bonds	\$ 5,000,000.00
U.S. EPA Grant	\$ 2,931,400.00
Issuer contribution	<u>\$ 8,414.98</u>
Total Sources	<u>\$ 10,639,814.98</u>

USES

Costs of Acquisition and Construction of the Project	\$ 10,199,304.98
Payment of Prior Notes	\$ 409,510.00
Costs of Issuance	<u>\$ 31,000.00</u>
Total Uses	<u>\$ 10,639,814.98</u>

10. Pursuant to Article V of the Bond Ordinance, the following special funds or accounts have been created or continued relative to the Series 2009 Bonds:

- (1) Revenue Fund (established by Prior Ordinance);
- (2) Renewal and Replacement Fund (established by Prior Ordinance);
- (3) Series 2009 Bonds Construction Trust Fund;
- (4) Series 2009 A Bonds Sinking Fund;
- (5) Series 2009 A Bonds Reserve Account;
- (6) Series 2009 B Bonds Sinking Fund; and
- (7) Series 2009 B Bonds Reserve Account.

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

(1) Series 2009 A Bonds proceeds in the amount of \$-0- will be deposited in the Series 2009 A Bonds Reserve Account.

(2) The balance of the proceeds of the Series 2009 A Bonds will be deposited in the Series 2009 Bonds Construction Trust Fund as received from time to time and applied solely to payment of costs of the Project, including costs of issuance of the Series 2009 A Bonds and related costs.

(3) Series 2009 B Bonds proceeds in the amount of \$-0- will be deposited in the Series 2009 B Bonds Reserve Account.

(4) The balance of the proceeds of the Series 2009 B Bonds will be deposited in the Series 2009 Bonds Construction Trust Fund as received from time to time and applied solely to payment of costs of the

Project, including costs of issuance of the Series 2009 B Bonds and related costs.

12. Pursuant to the Supplemental Resolution, \$409,510 will be wired to Citizens National Bank to pay the Waterworks System Bond Anticipation Notes, Series 2005.

13. Monies held in the Series 2009 A Bonds Sinking Fund will be used solely to pay principal of and interest on the Series 2009 A Bonds and will not be available to meet costs of acquisition and construction of the Project. All investment earnings on monies in the Series 2009 A Bonds Sinking Fund and Series 2009 A Bonds Reserve Account will be withdrawn therefrom and deposited into the Series 2009 A Bonds Construction Trust Funds during construction of the Project, and following completion of the Project, will be deposited, not less than once each year, in the Revenue Fund, and such amounts will be applied as set forth in the Bond Ordinance.

14. Monies held in the Series 2009 B Bonds Sinking Fund will be used solely to pay principal of and interest on the Series 2009 B Bonds and will not be available to meet costs of acquisition and construction of the Project. All investment earnings on monies in the Series 2009 B Bonds Sinking Fund and Series 2009 B Bonds Reserve Account will be withdrawn therefrom and deposited into the Series 2009 B Bonds Construction Trust Funds during construction of the Project, and following completion of the Project, will be deposited, not less than once each year, in the Revenue Fund, and such amounts will be applied as set forth in the Bond Ordinance.

15. Work with respect to the acquisition and construction of the Project will proceed with due diligence to completion. The acquisition and construction of the Project is expected to be completed within twelve (12) months of the date hereof.

16. The Issuer will take such steps as requested by the Authority to ensure that the Authority's bonds meet the requirements of the Code.

17. With the exception of the amount deposited in the Series 2009 A Bonds Reserve Account and Series 2009 B Bonds Reserve Account, if any, all of the proceeds of the Bonds will be expended on the Project within eighteen (18) months from the date of issuance thereof.

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

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

20. All property financed with the proceeds of the Bonds will be owned and held by (or on behalf of) a qualified governmental unit.

21. No proceeds of the Bonds will be used, directly or indirectly, in any trade or business carried on by any person who is not a governmental unit.

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

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

24. The Bonds are not federally guaranteed.

25. The Issuer has retained the right to amend the Bond Ordinance authorizing the issuance of the Bonds if such amendment is necessary to assure that the Bonds remain governmental bonds.

26. The Issuer has either (a) funded the Series 2009 A Bonds Reserve Account at the maximum amount of principal and interest which will mature and become due on the Bonds in the then current or any succeeding year with the proceeds of the Bonds, or (b) created the Series 2009 A Bonds Reserve Account which will be funded with equal payments made on a monthly basis over a 10-year period until such Series 2009 A Bonds Reserve Account holds an amount equal to the maximum amount of principal and interest which will mature and become due on the Bonds in the then current or any succeeding year. Monies in the Series 2009 A Bonds Reserve Account and the Series 2009 A Bonds Sinking Fund will be used solely to pay principal of and interest on the Bonds and will not be available to pay costs of the Project.

27. The Issuer has either (a) funded the Series 2009 B Bonds Reserve Account at the maximum amount of principal and interest which will mature and become due on the Bonds in the then current or any succeeding year with the proceeds of the Bonds, or (b) created the Series 2009 B Bonds Reserve Account which will be funded with equal payments made on a monthly basis over a 10-year period until such Series 2009 B Bonds Reserve Account holds an amount equal to the maximum amount of principal and interest which will mature and become due on the Bonds in the then current or any succeeding year. Monies in the Series 2009 B Bonds Reserve Account and the Series 2009 B Bonds Sinking Fund will be used solely to pay principal of and interest on the Bonds and will not be available to pay costs of the Project.

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

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

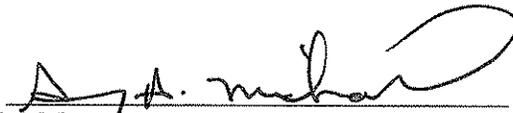
30. The Issuer will comply with instructions as may be provided by the Authority, at any time, regarding use and investment of proceeds of the Bonds, rebates and rebate calculations.

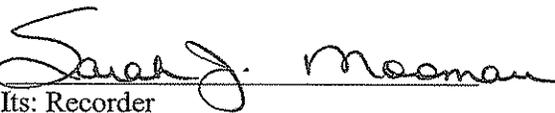
31. To the best of my knowledge, information and belief, the foregoing expectations are reasonable.

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WITNESS our signatures on day and year first written above.

TOWN OF PETERSBURG

By:   
Its: Mayor

By:   
Its: Recorder

04.10.09  
698490.00008

CH4909687.1

Certificate of Incorporation

At a regular term of Circuit Court held for the County of Grant, at the Court House thereof, in Petersburg, on the 14th day of July, 1910, on the common law side of said Court.

"A certificate under oath of B. S. Baker, George H. Judy and Jacob P. Shobe was this day filed showing that a majority of all the qualified voters residing in the following boundaries to-wit:

Beginning at a stake on the east side of the road leading to Moorefield, thence N.  $10\frac{1}{2}$  W. 89 poles to a stake, thence N. 31 W.  $40\frac{1}{10}$  poles to a large elm on a line of Tom Melton, thence with a line of Melton S. 84 W. 74 poles to a stake, thence with another line of Melton N. 82 W.  $90\frac{1}{2}$  poles to a gate post on the west side of a road leading to Tom Melton's, thence down said road following the west bank N. 1 W. 37 poles to the edge of a high bank, thence with said bank N. 67 W. 26 poles, thence N. 72 W. 20 poles to a high stone point north of a gully leading to the creek, thence S.  $70\frac{1}{2}$  W. 32 poles to a fence post on the south side of the Petersburg and Hager turnpike, thence with a line of Hundrickson and Grov S. 56 poles to where Hundrickson's cross fence comes to said line, thence leaving said line, thence S.  $12\frac{1}{2}$  W. 128 poles to a stone pile at the north end of the head gate to the mill race, thence same course our poles further to a large willow, thence S.  $46\frac{1}{2}$  E. 115 poles to a fence post on the east side of the pile at a fence in the road west of the river bridge, thence S.  $83\frac{1}{2}$  W.

to a walnut about two rods east of  
the mill race, thence N 87 E. 123 poles  
to the beginning, containing 373 acres and  
73 square rods. All of said territory  
lying in said county of Grant and  
district of Melroy, have been given in  
due form of law in favor of the  
incorporation of the "Town of Petersburg",  
in the county of Grant, bounded as  
herein set forth.

And it appearing to the satisfaction  
of the court that all of the provisions  
of Chapter 47, of the Code of West Virginia  
have been complied with by the applicants  
for said incorporation, and said town of  
Petersburg, by the name of the town of  
Petersburg, is duly authorized within the  
corporate limits aforesaid to exercise  
all the corporate powers conferred by  
the said chapter from and after the  
date of this certificate.

In witness whereof I hereunto subscribe  
my name and affix the seal of the  
Solemn Court of Grant County, West Virginia,  
this 14th day of July A.D. 1910.

D. P. Henderson  
Solemn Court Grant County  
W. Va

L.S.  
We the commissioners of election  
held for the election of officers for  
the Town of Petersburg, do hereby certify  
that

R. W. Baker, received 78 votes for  
mayor and is declared elected.

W. E. Stier, received 55 votes for  
warden and is declared elected.

W. A. Erwin, received 50 votes for  
Councillor and is declared elected.

Frank Brethel, received 47 votes for

Councilman and is declared elected.  
 C. W. Shobe received 40 votes for  
 Councilman and is declared elected.  
 Cal Ours, received 45 votes for  
 Councilman and is declared elected.  
 Jno. B. Grov, received 40 votes for  
 Councilman and is declared elected.  
 Given under our hands this 20  
 day of August, 1910.

Commissioners of  
 election { B. S. Baker  
 W. B. Hill  
 Geo. A. Judy.

August 22, 1910.

The following officers elect of the  
 Town of Petersburg met and qualified  
 as follows.

We and each of us do solemnly  
 swear that we will support the  
 constitution of the State of West  
 Virginia and that we will faith-  
 fully discharge the duties of our  
 respective offices to the best of our  
 skill and judgment so help us  
 God.

Subscribed and  
 sworn to before me this  
 22d day of August 1910.  
 E. M. Johnson  
 Notary Public.

Rob Baker Mayor  
 W. B. Hill Recorder  
 W. B. Hill  
 Frank B. Breathead  
 Chas W. Shobe  
 Cal Ours  
 John B. Grov } Council

There being no further business  
 the Council adjourned to meet  
 August 23, 1910, at 2 o'clock P.M.

Rob Baker Mayor  
 W. B. Hill Recorder

CITY OF PETERSBURG

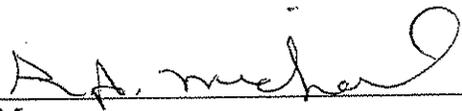
RESOLUTION ON OPEN GOVERNMENTAL PROCEEDINGS RULES

Pursuant to Chapter 6, Article 9A, Section 3 of the West Virginia Code, the Council of the City of Petersburg does hereby adopt the following rules to make available, in advance, the date, time, place and agenda of all regularly scheduled meetings of the Council, and the date, time, place and purpose of all special meetings of the Council to the public and news media (except in the case of an emergency requiring immediate action) as follows:

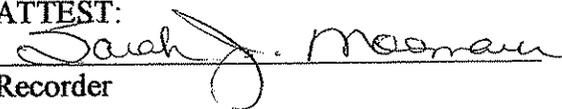
1. Regular Meetings: A notice shall be posted and maintained by the City Clerk at the front door or bulletin board of the Petersburg City Hall of the date, time and place fixed and entered of record by Council for the holding of regularly scheduled meetings. In addition, a copy of the agenda for each regularly scheduled meeting shall be posted at the same location by the City Clerk, not less than 72 hours before such regular meeting is to be held. If a particular regularly scheduled meeting is canceled or postponed, a notice of such cancellation or postponement shall be posted at the same location as soon as feasible after such cancellation or postponement has been determined.
2. Special Meetings: A notice shall be posted by the City Clerk at the front door or bulletin board of the Petersburg City Hall not less than 72 hours before a special meeting is to be held, stating the date, time, place and purpose for which such special meeting shall be held. If the special meeting is canceled, a notice of such cancellation shall be posted at the same location as soon as feasible after such cancellation has been determined.

These rules regarding notice of meetings shall replace any and all previous rules heretofore adopted by Council.

Adopted this 5<sup>th</sup> day of May, 2003

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
Recorder

# CITY OF PETERSBURG

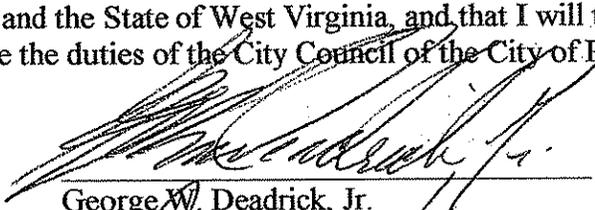
P.O. BOX 669  
PETERSBURG, W. VA.  
26847

(304) 257-4944

Incorporated 1910

## OATH OF OFFICE CITY COUNCIL

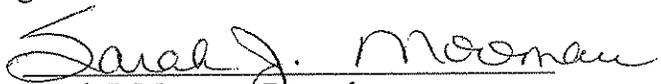
I, George W. Deadrick, Jr., do solemnly swear that I will uphold and defend the constitution of the United States and the State of West Virginia, and that I will to the best of my ability, faithfully discharge the duties of the City Council of the City of Petersburg.

  
George W. Deadrick, Jr.

June 29, 2005  
Date

State of West Virginia  
County of Grant, to wit:

I, the undersigned, Sarah J. Moomau, Recorder of the City of Petersburg, West Virginia do certify that I have this date administered the foregoing oath to the duly elected City Councilman for the City of Petersburg.

  
Sarah J. Moomau, Recorder

June 29, 2005  
Date

# CITY OF PETERSBURG

P.O. BOX 669  
PETERSBURG, W. VA.  
26847

(304) 257-4944

Incorporated 1910

## OATH OF OFFICE CITY COUNCIL

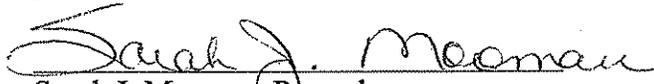
I, John G. VanMeter, do solemnly swear that I will uphold and defend the constitution of the United States and the State of West Virginia, and that I will to the best of my ability, faithfully discharge the duties of the City Council of the City of Petersburg.

  
\_\_\_\_\_  
John G. VanMeter

6/21/05  
\_\_\_\_\_  
Date

State of West Virginia  
County of Grant, to wit:

I, the undersigned, Sarah J. Moomau, Recorder of the City of Petersburg, West Virginia do certify that I have this date administered the foregoing oath to the duly elected City Councilman for the City of Petersburg.

  
\_\_\_\_\_  
Sarah J. Moomau, Recorder

6/21/05  
\_\_\_\_\_  
Date

# CITY OF PETERSBURG

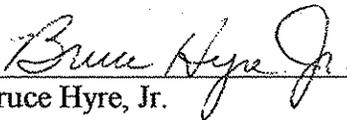
P.O. BOX 669  
PETERSBURG, W. VA.  
26847

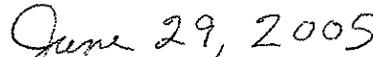
(304) 257-4944

Incorporated 1910

## OATH OF OFFICE CITY COUNCIL

I, Bruce Hyre, Jr., do solemnly swear that I will uphold and defend the constitution of the United States and the State of West Virginia, and that I will to the best of my ability, faithfully discharge the duties of the City Council of the City of Petersburg.

  
\_\_\_\_\_  
Bruce Hyre, Jr.

  
\_\_\_\_\_  
Date

State of West Virginia  
County of Grant, to wit:

I, the undersigned, Sarah J. Moomau, Recorder of the City of Petersburg, West Virginia do certify that I have this date administered the foregoing oath to the duly elected City Councilman for the City of Petersburg.

  
\_\_\_\_\_  
Sarah J. Moomau, Recorder

  
\_\_\_\_\_  
Date

# CITY OF PETERSBURG

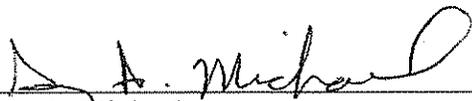
P.O. BOX 669  
PETERSBURG, W. VA.  
26847

(304) 257-4944

Incorporated 1910

## OATH OF OFFICE CITY MAYOR

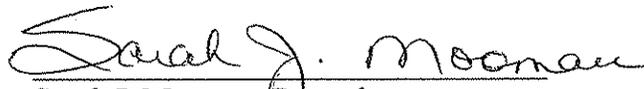
I, Gary A. Michael, do solemnly swear that I will uphold and defend the constitution of the United States and the State of West Virginia, and that I will to the best of my ability, faithfully discharge the duties of the Mayor of the City of Petersburg.

  
\_\_\_\_\_  
Gary A. Michael

6/29/05  
Date

State of West Virginia  
County of Grant, to wit;

I, the undersigned, Sarah J. Moomau, Recorder of the City of Petersburg, West Virginia do certify that I have this date administered the foregoing oath to the duly elected Mayor for the City of Petersburg.

  
\_\_\_\_\_  
Sarah J. Moomau, Recorder

June 29, 2005  
Date

# CITY OF PETERSBURG

P.O. BOX 669  
PETERSBURG, W. VA.  
26847

(304) 257-4944

Incorporated 1910

## OATH OF OFFICE CITY COUNCIL

I, Paige S Alexander, do solemnly swear that I will uphold and defend the constitution of the United States and the State of West Virginia, and that I will to the best of my ability, faithfully discharge the duties of the City Council of the City of Petersburg.

  
Paige S. Alexander

June 24, 2007  
Date

State of West Virginia  
County of Grant, to wit:

I, the undersigned, Sarah J. Moomau, Recorder of the City of Petersburg, West Virginia do certify that I have this date administered the foregoing oath to the duly elected City Councilman for the City of Petersburg.

  
Sarah J. Moomau, Recorder

June 24, 2007  
Date

# CITY OF PETERSBURG

P.O. BOX 669  
PETERSBURG, W. VA.  
26847

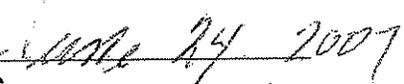
(304) 257-4944

Incorporated 1910

## OATH OF OFFICE CITY COUNCIL

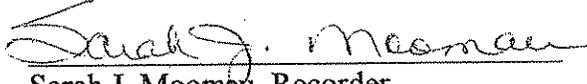
I, Alvin E. Rumer, do solemnly swear that I will uphold and defend the constitution of the United States and the State of West Virginia, and that I will to the best of my ability, faithfully discharge the duties of the City Council of the City of Petersburg.

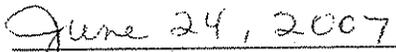
  
Alvin E. Rumer

  
Date

State of West Virginia  
County of Grant, to wit:

I, the undersigned, Sarah J. Moomau, Recorder of the City of Petersburg, West Virginia do certify that I have this date administered the foregoing oath to the duly elected City Councilman for the City of Petersburg.

  
Sarah J. Moomau, Recorder

  
Date

# CITY OF PETERSBURG

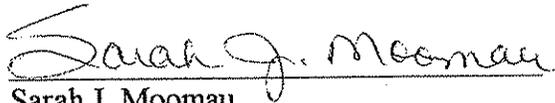
P.O. BOX 669  
PETERSBURG, W. VA.  
26847

(304) 257-4944

Incorporated 1910

## OATH OF OFFICE CITY RECORDER

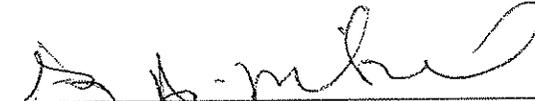
I, Sarah Jane Moomau , do solemnly swear that I will uphold and defend the constitution of the United States and the State of West Virginia, and that I will to the best of my ability, faithfully discharge the duties of the Recorder of the City of Petersburg.

  
\_\_\_\_\_  
Sarah J. Moomau

June 24, 2007  
Date

State of West Virginia  
County of Grant, to wit:

I, the undersigned, Gary A. Michael, Mayor of the City of Petersburg, West Virginia do certify that I have this date administered the foregoing oath to the duly elected Recorder for the City of Petersburg.

  
\_\_\_\_\_  
Gary A. Michael, Mayor

6 / 24 / 07  
Date

**AN ORDINANCE ESTABLISHING AND FIXING RATES,  
FEES AND CHARGES OF THE MUNICIPAL WATER SYSTEM  
OF THE CITY OF PETERSBURG, WEST VIRGINIA**

WHEREAS, by Ordinance adopted August 27, 2007, the City adopted increased water rates to become effective upon completion of a proposed water system improvement project, or upon commencement of payment on debt service associated with the project, whichever first occurred; and,

WHEREAS, said water system improvement project, and approval of the \$7,631,400 funding associated therewith, was approved by a Public Service Commission of West Virginia ("PSC") Recommended Decision entered in Case No. 07-2209-W-CN on March 17, 2008, which became the Final Order of the PSC on April 6, 2008; and

WHEREAS, bids received on the City's water system improvement project are higher than those initially anticipated, resulting in an increase in the project cost; and

WHEREAS, in order to meet the increased cost of the water system improvement project resulting from the higher bids, the City Council of the City of Petersburg deems it necessary to increase those water rates and charges previously established by the August 27, 2007 Ordinance, said rates to become effective upon completion of the water system improvement project, or upon commencement of payments for debt service associated with the project, whichever first occurs; and,

THEREFORE, THE CITY COUNCIL OF THE CITY OF PETERSBURG HEREBY ORDAINS:

The following increase in rates, fees and charges for water service provided by the City to its customers throughout the territory served, are hereby fixed and determined as rates, fees and charges to be charged upon completion of the water system improvement project approved by the Public Service Commission in Case No. 07-2209-W-CN, or upon commencement of debt service associated with said project, whichever first occurs, in lieu of those rates, fees and charges contained in the City's water tariff, P.S.C. W.Va. No. 9, currently on file with the Public Service Commission of West Virginia:

APPLICABILITY

Applicable in the entire territory served

AVAILABILITY OF SERVICE

Available for residential, commercial, governmental, industrial and resale service

RATES (Non-resale customers with metered water supply)

First	2,000 gallons used per month	\$6.36 per 1,000 gallons
Next	98,000 gallons used per month	\$5.12 per 1,000 gallons
All over	100,000 gallons used per month	\$2.96 per 1,000 gallons

MINIMUM CHARGE (Customers with metered water supply)

No minimum bill will be rendered for less than \$12.72 per month  
(Equivalent to 2,000 gallons of water usage)

			<u>Equivalent Gallons</u>
5/8	inch meter	\$ 12.72 per month	2,000
3/4	inch meter	19.10 per month	3,246
1	inch meter	31.80 per month	5,727
1-1/4	inch meter	46.45 per month	8,588
1-1/2	inch meter	63.60 per month	11,938
2	inch meter	101.80 per month	19,398
3	inch meter	190.80 per month	36,781
4	inch meter	318.00 per month	61,625
6	inch meter	636.00 per month	141,054
8	inch meter	1,017.60 per month	269,973
10	inch meter	1,424.65 per month	407,490

FLAT RATE CHARGE (Customers with non-metered water supply) \$25.52 per month  
(Equivalent to 4,500 gallons of water usage)

DELAYED PAYMENT PENALTY:

The above schedule is net. On all accounts not paid in full when due, ten percent will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

WATER TAP FEES:

The following tap fees shall apply for all new services and changes in size of existing meters (when requested by the customer):

<u>METER SIZE (INCHES)</u>	<u>FEES</u>
5/8"	\$ 600.00
3/4"	\$ 600.00
1"	\$ 800.00
1- 1/2"	\$1,250.00
2@	\$1,500.00
4"	\$3,000.00
6"	\$4,450.00
8"	\$6,000.00
10"	\$8,000.00

A tap fee of \$100.00 will be charged to all customers applying for service before construction is completed adjacent to the customer's premises in connection with a certificate proceeding before the Commission. This preconstruction tap fee will be invalid after completion of construction adjacent to an applicant's premises that is associated with a certificate proceeding.

The tap fees in the above schedule will be charged to all customers who apply for service outside a certificate proceeding before the Commission for each new tap to the system.

#### WATER DISCONNECT-RECONNECT-ADMINISTRATIVE FEES

Water service will not be restored until all past due water bills have been paid in full and all accrued penalties plus a disconnection charge of \$25.00 have been paid. There shall be a \$25.00 reconnection charge paid prior to restoration of water service which has been previously disconnected for any reason.

In the event the City staff or agents collect money at the customer's residence in order to stop disconnection, an administrative fee of \$25.00 shall be paid in addition to other charges to prevent disconnection.

#### RETURNED CHECK CHARGE

A service charge of \$25.00 will be imposed upon any customer whose check for payment of charges is returned for any reason.

#### LEAK ADJUSTMENT

\$2.96 per 1,000 gallons is to be used when a bill reflects unusual consumption which can be attributed to eligible leakage on the customer's side of the meter. This rate shall be applied to all such consumption above the customer's historical average usage.

#### SALE FOR RESALE

All water for resale to the Grant County Public Service District will be billed in accordance to the approved rate of \$2.96 per 1,000 gallons used per month.

#### SECURITY DEPOSIT

A security deposit of \$50.00 or 2/12<sup>th</sup> of the average annual usage of the applicant's specific customer class, whichever is greater.

#### EFT, CREDIT CARD AND DROP BOX PAYMENTS

A service charge will be imposed on EFT, Credit Card or Drop Box payments. The amount shall be equal to the actual charges to the utility from the financial institution for processing payment.

#### CUSTOMER'S LEGAL RESPONSIBILITY

All customers shall be legally responsible for all costs in connecting to City water meter, and for all future maintenance and upkeep of their water line. If customer moves

to new location within City's service area, any previous deposit or money owed will be transferred to customer's new location.

### SECTION 2. EFFECTIVE DATE

The Rates and Charges provided herein shall become effective upon completion of the water system improvement project approved by the Public Service Commission in Case No. 07-2209-W-CN, or upon commencement of debt service associated with said project, whichever first occurs.

### 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. Upon the effective date of the fees, rates and charges as herein set forth, all ordinance, resolutions, orders or part thereof in conflict with the provisions of this Ordinance are, to the extent that the provisions of this Ordinance do not touch upon the provisions of prior ordinances, resolutions, order 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, pursuant to the provisions of West Virginia Code §8-11-4, publish Notice of this Ordinance in *The Grant County Press*, being a newspaper published and of general circulation in Grant County, West Virginia. Said Notice shall be published as a Class I publication occurring at least five (5) days prior to the date set before the meeting of the City Council at which a public hearing, a final reading and a vote on the ordinance will be held. Said notice shall state that this Ordinance has been introduced, and that any person interested may appear on the **1<sup>st</sup> day of October, 2008, at 1:00 p.m.**, at the Petersburg City Council Chambers, 21 Mount View Street, Petersburg, and present protests, if any. At such hearing all objections and suggestions shall be heard and the Council shall take such action as it shall deem proper on the premises.

Further, said Notice shall advise the public that a copy of this ordinance is available for public inspection.

Passed on First Reading: September 8, 2008

Passed on Second Reading  
Following Public Hearing: October 1, 2008

*Sarah J. Moorman*  
Recorder - City of Petersburg

# Certificate of Publication

State of West Virginia  
County of Grant, to-wit:

The undersigned hereby certifies  
that the annexed notice was duly  
published in the

## Grant County Press

a weekly newspaper published at  
Petersburg, Grant County, West  
Virginia, for 2 consecutive  
weeks ending on the 30 day of  
September, 2008.

### GRANT COUNTY PRESS

By William E. French

Editor

Publishing Notice \$ 84.53

Hand Bills \_\_\_\_\_

Miscellaneous \_\_\_\_\_

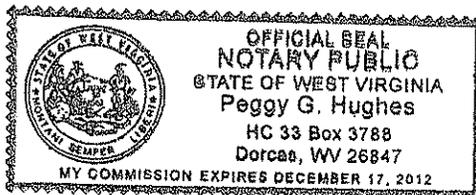
Total \$ 84.53

Sworn before me on this the 30

day of Sept, 2008.

Peggy G. Hughes  
Notary Public

Dec 17, 2012  
My Commission Expires



### CORRECTED PUBLIC NOTICE OF PROPOSED ORDINANCE RELATING TO WATER RATES, FEES AND CHARGES

Notice is hereby given,  
that, on the 8th day of Sep-  
tember, 2008, the CITY OF  
PETERSBURG caused to be  
read before the City Council,  
an Ordinance proposing in-  
creased fees, rates and  
charges to be charged to its  
water customers in Grant  
County, West Virginia, upon  
completion of a water system  
improvement project ap-  
proved by the Public Service  
Commission of West Virginia,  
or upon commencement of  
payments for debt service as-  
sociated with said improve-  
ment project, in lieu of those  
rates, fees and charges pre-  
viously adopted by City  
Council on August 27, 2007.  
Said increase in rates over  
those adopted August 27,  
2007, is necessitated by the  
receipt of higher than anti-  
cipated bids for the water sys-  
tem improvement project.  
The proposed ordinance is ti-  
tled:

AN ORDINANCE ES-  
TABLISHING AND FIXING  
RATES, FEES AND  
CHARGES OF THE MUNICI-  
PAL WATER SYSTEM OF  
THE CITY OF PETERS-  
BURG, WEST VIRGINIA

The City Council of Pe-  
tersburg will have its final  
reading and vote on the Ordi-  
nance on Wednesday, Octo-  
ber 1, 2008, at 1:00 p.m., in  
the Petersburg City Council  
Chambers, 21 Mount View  
Street, Petersburg. Said  
meeting for the final reading  
and vote on the Ordinance is  
open to the public and all in-  
terested parties may appear  
at the meeting and present  
protests, if any, with respect  
to the proposed Ordinance.

A copy of the proposed  
Ordinance is available for  
public inspection at the of-  
fices of the City Clerk of the  
City of Petersburg, 21 Mount  
View Street, Petersburg,  
West Virginia.

City of Petersburg  
9/23-9/30

LAW OFFICES  
ROBERT R. RODECKER  
BB&T SQUARE  
300 SUMMERS STREET, SUITE 1230  
POST OFFICE BOX 3713  
CHARLESTON, WEST VIRGINIA 25337

ROBERT R. RODECKER  
rodecker@wvdstl.net

JAMES V. KELSH  
OF COUNSEL  
kelshlaw@yahoo.com

October 16, 2008

AREA CODE 304  
343-1654  
FACSIMILE  
343-1657

Ms. Sandra Squire  
Executive Secretary  
Public Service Commission  
201 Brooks Street  
Charleston, West Virginia 25301

RE: ORDW PETERSBURG 08A  
CITY OF PETERSBURG

RECEIVED  
2008 OCT 16 P 3:55  
WVA PUBLIC SERVICE  
COMMISSION  
SECRETARY'S OFFICE

Dear Ms. Squire:

Enclosed herein for filing in the above-referenced matter please find the original and twelve (12) copies of an Affidavit evidencing publication of Tariff Form No. 12 in the *Grant County Press* newspaper on October 7 and 14, 2008. As stated in my October 6, 2008 correspondence transmitting the Ordinance documents to the Commission, the *Grant County Press* is published weekly on Tuesday. Therefore, the first publication could not occur within a five (5) day period following adoption of the Ordinance, but did occur on the first possible publication date as permitted by the Commission's *Tariff Rule 22.1.c.3.A*.

With the submission of the enclosed Affidavit, the only remaining documentation to be filed with the Commission is an Affidavit relating to posting of Tariff Form No. 12 for the required 30-day period. That Affidavit will be filed shortly upon completion of posting on November 1, 2008.

Sincerely,



Robert R. Rodecker  
WV Star Bar No. 3145

/bg  
enclosure  
cc: Cassius H. Toon, Esquire  
William Deadrick, Council Member  
petersburg...2008 Ordinance..post...\  
Squire Letter 2 Affidavit...

# Certificate of Publication

State of West Virginia  
County of Grant, to-wit:

The undersigned hereby certifies that the annexed notice was duly published in the

## Grant County Press

a weekly newspaper published at Petersburg, Grant County, West Virginia, for 2 consecutive weeks ending on the 14 day of October 2008.

GRANT COUNTY PRESS

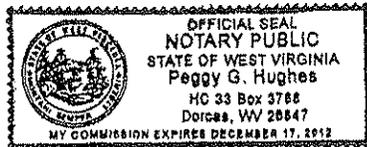
By William E. Forest  
Editor

Publishing Notice \$ 309.12  
Hand Bills \_\_\_\_\_  
Miscellaneous \_\_\_\_\_  
Total \$ 309.12

Sworn before me on this the 15 day of Oct 2008

Peggy G. Hughes  
Notary Public

Dec 17 2012  
My Commission Expires



### TARIFF FORM NO. 12 PUBLIC NOTICE OF CHANGE IN RATES BY MUNICIPALITIES

NOTICE is hereby given that the City of Petersburg has adopted by ordinance, on October 1, 2008, a tariff containing an increase in rates, tolls and charges for furnishing water service to its 1,276 customers at Petersburg and vicinity, in Grant County, West Virginia.

The proposed increased water rates and charges are in lieu of those pending increased rates adopted by Ordinance on August 27, 2007, which were to become effective upon completion of the City's ongoing water system improvement project, or upon commencement of payment on debt service associated with the project, whichever first occurred.

As a result of the receipt of bids that were higher than had been projected, it was necessary to adopt higher rates in order to construct the project.

The October 1, 2008, adopted rates, unless otherwise ordered by the Public Service Commission, will become effective upon completion of the ongoing water system improvement project, or upon commencement of debt service associated with the project.

The annual increase in revenue over the City's water rates currently in effect is approximately \$503,998.00, an increase of 107.8%. The average monthly bill for the various classes of customers will be changed as follows:

BASED ON	(\$ INCREASE	INCREASE (%)
Residential (4,500 gal/mo.)	\$13.76	117.0%
Commercial (4,500 gal/mo.)	\$13.76	117.0%
Industrial (4,500 gal/mo.)	\$13.76	117.0%
Governmental (4,500 gal/mo.)	\$13.76	117.0%
Resale (14,186,500 gal/mo.)	\$20,996.02	100.0%

The annual increase in revenue over those increased water rates and charges adopted August 27, 2007, is approximately \$187,000.00, an increase of 23.4%. The average monthly bill for the various classes of customers will be changed as follows:

BASED ON	(\$ INCREASE	INCREASE (%)
Residential (4,500 gal/mo.)	\$4.84	23.40%
Commercial (4,500 gal/mo.)	\$4.84	23.40%
Industrial (4,500 gal/mo.)	\$4.84	23.40%
Governmental (4,500 gal/mo.)	\$4.84	23.35%
Resale (14,186,500 gal/mo.)	\$7,944.44	23.33%

Resale customers of the City include Grant County Public Service District.

The increases shown are based on averages of all customers in the indicated class. Individual customers may receive increases that are greater or less than average. Furthermore, the requested rates and charges are only a proposal and are subject to change (increases or decreases) by the Public Service Commission in its review of this filing. The Commission shall review and approve or modify the increased rates only upon the filing of a petition within thirty (30) days of the adoption of the ordinance changing said rates or charges, by:

- (1) Any customer aggrieved by the changed rates or charges who presents to the Commission a petition signed by not less than twenty-five percent of the customers served by such municipally operated public utility; or
- (2) Any customer who is served by a municipally operated public utility and who resides outside the corporate limits and who is affected by the change in said rates or charges and who presents to the Commission a petition alleging discrimination between customers within and without the municipal boundaries. Said petition shall be accompanied by evidence of discrimination; or
- (3) Any customer or group of customers who are affected by said change in rates who reside within the municipal boundaries and who present a petition to the Commission alleging discrimination between said customer or group of customers and other customers of the municipal utility. Said petition shall be accompanied by evidence of discrimination.

All petitions should be addressed to:

Executive Secretary  
Public Service Commission of West Virginia  
201 Brooks Street  
Post Office Box 812  
Charleston, West Virginia 25323

Petersburg City Hall  
27 Mt. View Street  
Petersburg, West Virginia 26847

A copy of the proposed rates is available for public inspection at the office of the:  
Executive Secretary  
Public Service Commission  
201 Brooks Street  
Post Office Box 812  
Charleston, West Virginia 25323

**CERTIFICATE OF SERVICE**

I, Robert R. Rodecker, counsel for City of Petersburg, do hereby certify that copies of the foregoing filing have been served upon the following parties of record on this 16<sup>th</sup> day of October, 2008, in the manner so indicated:

**VIA HAND DELIVERY:**

Cassius H. Toon, Esquire  
Legal Division  
Public Service Commission  
201 Brooks Street  
Charleston, West Virginia 25301

  
ROBERT R. RODECKER

**CITY OF PETERSBURG**  
**PUBLIC HEARING**  
**October 1, 2008**

On behalf of Mayor Michael, Recorder Sarah Moomau called the Public Hearing for the City of Petersburg on the Water Rate Ordinance to order at 1:10. This meeting was held at the conference room at the Moomau Library to accommodate the number of persons attending the Public Hearing. Those in attendance were Addie Ours, George Ours, Buggy Rodgers, Keith Martin, Kirk Wilson, Donnalie Hope, Shirley Ebarb, Ruth Rodgers, Theresa Saunders, Robert Spanswick, Rafe Snell, Phyllis Cole, Robert McCalley, Mary Lou McCalley, Denver Riggleman, Mark Geary, Cindy Whetsell, Jim Cole. The meeting was turned over to Councilman Deadrick, the Water Commissioner. Councilman Deadrick introduced Terry Lively of the Region 8 Development Authority, Michael Griffith of Griffith and Associates; CPA to the City of Petersburg and Fred Hypes of Dunn Engineering; the Engineers of the project.

Terry Lively explained the project and the financing packages that have been attained for the city's project. He explained the city does not qualify for any state grant money because of the considered low water rates the city customers currently have. He further detailed the favorable loans the city attained for the project because of the inclusion of the Grant County Public Service District. He pointed out that the City of Petersburg's current rates are within the lowest 25% in the state and even with the increase will remain in the lower 25%. The state currently has 479 water systems and with the increase the City of Petersburg will be 170 from the bottom of the scale in water rates. He further stated that with the completion of this project the city should have the water production and storage it needs for a long time. He also stated that Petersburg will not be eligible for any more low interest money of this nature.

Michael Griffith, the city's CPA, repeated the information regarding the loan rates. The rates were negotiated based in part of the GCPSD water purchases, because they are such a significant customer. The project needs \$3,000,000 more than originally thought. He felt the city received by far the best loan package available; 2,000,000 at 1% for 30 years and 1,000,000 at 3% for 20 years. He said there was a statewide push to have Petersburg given 6% interest rates because of the current water rates. He said the state average is currently \$44.00 for 4,500 and about to increase to \$48.00 per 4,500. Upon completion of this project, the City of Petersburg's rates will increase to approximately \$20.40 per 3,500 gallons, this is one of the cheapest rates, and the rate will increase to \$25.52 per 4,500 gallons. The rates will go into effect upon substantial completion of the project or upon debt service being required by the city.

Fred Hypes of Dunn Engineering, the project engineers, reviewed the project, once again, stating the upgraded water plant will increase production from 1,200 gallons a minute to 2,400 gallons a minute, the storage capacity of the "hospital tank" will be increased from a day's storage to two and a half days storage, with a new storage tank that will be removed from Fort Mulligan and placed on property adjacent to the fort, the "Point" tank will be totally refurbished, water transportation lines will be upgraded to handle the increase in pressure from production to storage, the plant upgrade will include but is not limited to changes in regulation and clarification, redundant filters, pumping facilities, treatment of Cryptosporidium, Geradia, and Trihalomethanes. He reviewed the current specifications for water plants and stated that the new plant will exceed those specifics. He also stated the project will include new telemetry for both storage tanks and water meters upgraded from manual to radio reads. The city had 26 bidders at the Pre-Bid Conference and 13 actually tendered bids on the project, 5 for the water plant, 4 on the lines, 3 on the tanks and 1 for the tank painting. The lowest bid for the plant was Breckinridge Corporation. The bid overruns were associated with the increased cost of most materials, particularly concrete and steel. The water plant currently runs up to 20

hours a day to meet water required, the new plant will have the capability of meeting those needs in eight hours. Mr. Hypes reviewed the specifics of the construction of the new water storage tank near Grant Memorial Hospital and the upgrading of the "Point" water storage tank.

Comments were made by Robert McCalley, Phyllis Cole, Shirley Ebarb, Donnalie Hope, George Ours and Buggy Rodgers. Discussion ensued regarding, chemicals addressed in codes and requirements, other grant money available, possible modifications of the Water Plant Upgrade and Storage facility plans and the city being subject to fines if not in compliance. Questions were answered and city resident Mark Geary pointed out that residents of nearby Keyser, WV are paying fines of \$700,000. Terry Lively stated that because the city rates are low the City of Petersburg does not qualify for any state grant money. Mr. Hypes stated that the project should take approximately eighteen months from start till completion. Councilman Deadrick answered the question regarding the inability to place the new water storage tank on the existing cement pad versus moving it to another sight. He explained the existing pad cannot support the new tank. Mr. Hypes addressed the question regarding the solid wastes particularly aluminum disposal from the water plant.

Councilwoman Alexander answered a question directed to her, she said she supported the project and we have the ability to do it now and should do it so we have a reliable plant. She emphasized the infrastructure of a city is important and it's important to do it right so you don't have to redo it five years down the road.

City resident George Ours read and submitted the following prepared statement for the record:

*"I appreciate the opportunity to appear before you and speak concerning the proposed new water plant and its astronomical cost that is going to be detrimental to the people.*

*Everyone present is knowledgeable of the horrible position of our economy. People are fearful of losing their homes, their jobs, and wondering how they are going to get through it. The government says this is the worst financial crisis that the country has faced. This is not time to build an unnecessary water plant that will at this point cost 10 million seven hundred thousand dollars.*

*One of the councilmen stated in the paper that it would raise your taxes. This is true, but it is going to more than double your water bill. This type of deception is the same as what was used in changing this meeting time from 7:00 pm when working people would have been able to come.*

*I believe this current proposal has grown from the original desire to move the water tank out of the Fort Mulligan grounds. I believe that having the water tank where it now sits does not impact the view of the Fort anymore than Grant Memorial Hospital does.*

*In May 2002, Dunn Engineers Inc. estimated that it would cost 1.2 million dollars to move and replace the tank. I wonder what it would cost now to move it. Is it worth it????*

*Since this project began we have lost Advantage Foods, and now due to the incompetence of the City Council, Adell Polymers has ceased buying water from the Town at a cost of \$48,000 per year. All this is a huge loss to the community, but on the positive side it certainly increases the amount of water we have available. Again I ask, why do we need to double our capacity???? Councilmember Deadrick has said we are pumping 22 hours a day, the Mayor says we are only pumping 12 hours a day.*

*According to WV Department of Health the Petersburg Water Plant is not out of compliance and has no violations, yet Councilman Deadrick says we do not meet the proposed Clean Water Standards. Well, we do meet the current clean water standards, And we can not meet proposed standards until they are passed by Congress, and know exactly what they require.*

*When will the City Fathers come together for the betterment of the citizens of the City and County instead of pushing for their own selfish interest?*

*I am going on record today opposing this rate increase and I can guarantee you I intend to do everything in my power to stop the new water plant. As we speak, petitions are being circulated for people to sign their name opposing this proposition. These petitions are being prepared for presentation to the WV Public Service Commission."*

Councilman Hyre responded to Mr. Ours comments.

City resident Robert McCalley read and submitted the following prepared statement for the record:

*"I am against the proposed Ordinance relating to water rates, fees and charges and the \$10,700,000 new water plant which is related to this Ordinance. I hope the City Council will change their vote to NO for the following five reasons:*

- 1. There is no need for this new water plant based on the current volume of water used by the customers, which has remained flat and actually trended down some within the City.*
- 2. Cities and Counties generally have Comprehensive Plans which guide decision making for large capital projects, such as, this water plant replacement. Grant County and the City of Petersburg have no such plans and therefore have no basis for projecting future needs.*
- 3. With all our cost of living increases including: food, heating, gasoline, medical, insurance, electricity, maintenance and taxes; we should not be doubling water rates. We need to be lowering our costs.*
- 4. Construction costs for a project like this new water plant are at an all time high. Even if we needed a water plant, now is not the time to purchase the required materials.*
- 5. Currently, the nation is facing a very uncertain future because of the ongoing housing, credit and banking problems. Government budgets will get tighter at all levels resulting in budget cuts. Both public and private projects across the nation, such as this new water plant, are being stopped or delayed. We should do the same*

*In summary, maybe any one of these five points can be debated, but when they are looked at together there is only one overwhelming conclusion. The proposed Water Ordinance should be voted NO and the new water plant project should be terminated. After serious independent consideration, I hope the City Council will come to the same conclusion."*

Councilman Deadrick answered a question by city resident Theresa Saunders regarding the cost comparison between moving the location of the existing Fort Mulligan water storage tank and rebuilding where it is currently located. He stated that the current cement pad was not to standard to support the new structure and WV Culture and History is requiring a bore to get the water line from the old tank to the new tank and will not allow excavating.

Kirk Wilson spoke to the cost of providing water upon the failure of the current system which is a single point failure system. He stated that based on the 800,000 gallons of water they produce now, if that fails, the necessary one-third amount that would be needed for sanitary use. Mr. Wilson continued explaining that each household using approximately 10 gallons a day will cost \$25.00 per day per house. He said that nobody with good judgment would stick with a system with one failure point that turns your entire system off. Mr. Wilson emphasized that we need the improved infrastructure to provide for future growth, Petersburg cannot survive as retirement community. Councilman VanMeter commented that in 1985 we suffered catastrophic failure at the water plant caused by flooding and that we are planning to build the water plant in the same location. Mr. Wilson answered a question asked by Mr. Ours regarding the repair of the current water plant, he told those present that parts in the current plant would have to be manufactured, they are not readily available for replacement, causing lengthy "down" times. Discussion ensued. Fred Hypes stated that the current plant floor is

higher than before the 1985 flood and sits at the 100 year flood level, with the dike now completed it sits at the 500 year flood event. Councilman Deadrick corrected the statement saying with the dike it sits at the 125 year flood level, since the traveling wall has been incapacitated.

Discussion ensued with questions and comments on financing by Donnalie Hope and Michael Griffith. Phyllis Cole commented that the project is too big for the community, she requested from Mr. Hypes documentation from WV Culture and History stating that the city cannot dig at Fort Mulligan. Councilman Hyre responded that \$3,000,000 will be lost if we don't act now, the city's water plant has to be upgraded sooner or later. He reminded citizens that the past county developer, Elwood Williams approached the city council begging to get the sewer plant upgrade completed so the county would be in a position to entertain interested parties to re-locate business in the City of Petersburg and Grant County, the same is needed to be able to provide water. Councilman Hyre reminded everyone that the city's utilities are regulated by the PSC. He stated the council has put an incredible amount of time into studying this project, looking at every aspect of the project, he recognized that the cost of materials has soared but reminded everyone we stand to lose \$3,000,000 of grant money if we postpone this project. He further stated that the amount of money already invested in this project with preliminary work is far too much to risk losing. Councilman Deadrick stated a clarification to ensure that residents understand that the GCPSD is paying their fair share of the project and the city is paying their actual share, the city is not subsidizing the county's water supply.

Fred Hypes discussed points of the design to address the comments that the plant is being over designed. He stated the current facility operates from eleven up to twenty, the Health Department, with upgrades looks at having this facility complete its daily production in eight hours or less, in order to do that the tank capacity has to be increased, if the plant is pieced out the cost savings will not go down proportionately. He reviewed specific components and the cost of replacing them. Councilman VanMeter stated in the beginning the council approached this project because of the overtime expenses at the water plant and the fact the county did not have as much water as they needed at certain times. He stated that Mr. Hypes discussed with city the cost of a new water storage tank, then the project grew from there, he gave the specifics of the project growth and that he is against this project and thinks it is more than the city needs.

City resident, Buggy Rodgers asked Councilman Rumer his opinion of the project. Councilman Rumer answered that he supports the project. He commented the former County Developer Elwood Williams had a chance to bring two chicken plants into Petersburg, both companies talked to him and he discussed with the City Council the water and sewer needs they would have, at that time we had no way of meeting their needs. He further stated the city has to have the infrastructure needed to accommodate possible growth in our area, water is a big problem.

Councilman Deadrick reviewed the approach that was entertained in the past of combining the City Water Plant and the GCPSD, then every time an extension was done outside of town the city residents would be paying for those line extensions. He explained that by keeping each entity separate, the city residents are paying for the city's expenses only and the county residents are responsible for those extensions and expenses initiated by the county's growth. He quoted from the County Commission a study that was done in 1996, the county paid Dunn Engineering \$35,000 to complete indicated there were two primary needs that needed to be addressed in order for everything to go forward; one was the tank at the hospital needed to be replaced with one of a capacity of 1,100,000 gallons, the second item was the plant needed to be upgraded. He agreed the project has snowballed in that the water storage at the Point has sprung a leak and needs to be repaired and the transmission lines from the water plant to the hospital tank will need to be upgraded to accommodate the increased pressure from the new plant. Councilman Deadrick continued and defended the comment regarding the meeting time, he stated this Public Hearing was always scheduled for 1:00 pm, in trying to maintain the necessary schedule to keep the timeline intact, all communications and documents were made available to all council members during numerous work sessions. There was a mistake in one of the Grant County Press notices regarding the time of the Water Rate Ordinance Public Hearing, the mistake was inadvertently made by the city's legal council

in Charleston, once the mistake was noticed it was brought to their attention and changes immediately to reflect the proper information.

Councilman Deadrick presented several letters received by the city regarding the Water Plant Upgrade Project, they are as follows:

*I am a Senior Citizen and can't hardly get along now because of the bills going so high and I am sure there are other seniors just like me. I have no way to come to the meeting and I can't walk or stand very long. So please accept this letter.*

*Mary Sherman  
14 N. Ave*

*I can't get to the meeting because I will be working but the cost of living is up now so high we can't make it so I am against the raise on the water bills and so is my wife.*

*David L. Sherman  
Thelma J. Sherman*

*To Whom It Concerns*

*We oppose the raising of the water bills. We can not afford to pay a large water bill. The economy is in to bad of a shape to raise the bills now.*

*Thank you  
Fred & Mary Sherman  
109 Trenton St.  
Petersburg, WV 26847*

*Mayor & City Council*

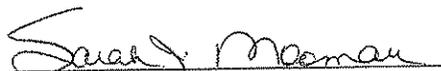
*As residence of Grant County, at times, we need to work together to build a better community for all people living here. Although, the Grant County Public Service District realizes that our water rates will increase to our customers, we will support the City of Petersburg in their bid for the new water treatment plant. We know that if we were forced to build and maintain our own facility, it would cost us substantially more than the present rate increase.*

*Sincerely,*

*GRANT COUNTY PUBLIC SERVICE DISTRICT BOARD OF DIRECTORS*

Councilman Deadrick provided a demonstration with the cost of twelve bottles of drinking water representing the rate increase of 4,000 gallons of water to the residents of Petersburg for the plant upgrade, the members of the GCPSD will be paying an increase equivalent to one bottle for every thousand gallons of water. City resident Bob McCalley made a comment regarding establishing a plan for the city. Discussion ensued. Councilman Deadrick emphasized that the city has to provide water to any business that establishes itself in Petersburg. He stated that the letters sent to Congressman Mollohan emphasized the grant money requested and received was to be used to provide water to not only the residents of Petersburg, but to all of Grant County. City resident Buggy Rodgers asked a question regarding the ability to get water to acreage that borders Corridor H with the current system. Councilman Deadrick answered that he doubts the GCPSD has transmitting capability.

Councilman Deadrick made a motion to adjourn. Councilman Hyre seconded the motion. The motion carried unanimously.

  
Sarah J. Mooman, Recorder

**CITY OF PETERSBURG  
REGULAR MEETING  
September 8, 2008**

Mayor Michael called the regular scheduled meeting of the City Council to order at 7:00pm.

**Roll Call**

Mayor: Gary Michael  
Recorder: Sarah J. Moomau  
Council: Paige Alexander, Bill Deadrick and Alvin Rumer

**Approval of Minutes:**

Councilman Deadrick made a motion to approve the minutes of the Regular Meeting of August 4, 2008, the Special Meeting of August 13, 2008 and the Special Meeting of August 27, 2008. Councilman Rumer seconded the motion. The motion carried unanimously.

**PERSONS REQUESTING TO SPEAK TO COUNCIL**

Terry Lively of the Region 8 Planning & Development Council appeared before council to offer an update on the Water Project. He has been in Charleston twice and the project has been through the Infrastructure Council, it made it through the Funding Council okay and then it made it through the Full Council okay, so it has been approved. He said there were some that complained about the interest rate, they thought it should have been more, but the city's accountant, Michael Griffith, took his share of arguing those cases and did a good job. The loans came through with what was proposed, one loan at 1% for thirty years and the other loan at 3% for twenty years. He advised that now the city is in the process of following our timeline for our Rate Ordinance. He said that it is important to keep everything on schedule and not delay it so that the bids will not go bad. The bids are good for 120 days and there is a 75 day extension that has been agreed upon by everyone. Councilman Deadrick said that the council needs to do all of the ordinances and get those to Charleston. Terry Lively said that in our packet with our Rate Ordinance there is a schedule to follow. The publications are being done by the city's attorney Robert Rodecker. Councilman Deadrick said that he provided a schedule of hearings and meetings to council members via e-mail. Mr. Lively stated that the new water rates for the City of Petersburg fall within the lowest 25% in the state of West Virginia. He further stated that one year of extended time will cost anywhere from 10 to 15% of the project. Councilman Deadrick stated that Michael Griffith did a great job on behalf of the City of Petersburg. Terry stated that now the city needs to proceed through the process of closing the loan.

**COMMISSIONER'S REPORTS**

**Building Permits, Planning and Zoning:** Councilman Rumer presented the following building permit applications for consideration by council:

#7185	Les Givan	130 Lee St.	patio & arbor
#7186	Mary Alice James	221 Judy St.	replace roof
#7187	Jimmie Hedrick	64 Cedar Manor	roof over existing deck
#7188	Res Care	26 Davis Street	replace roof
#7189	Vernon Layton	22 Pierpont St.	handicap ramp
#7190	Paul Evans	12 VanMeter Drive	replace roof
#7191	Diane Harlow	3 VanMeter Drive	replace sewer line
#7192	Harry Nelson	7 Jackson Street	replace windows & siding
#7193	Memorial Church of the Brethren	14 Highland Ave.	replace windows
#7194	Roland Miller	414 Highland Ave.	replace storage building
#7195	Nelson Poe	115 Central Ave.	extend patio
#7196	Dorothy Kesner	7 Short St.	remove old trailer & replace with new
#7197	Jebco Properties	11 North Ave.	replace roof & replace section of house
#7198	James Wimer	108 Cedar Manor	deck & roof

Councilman Rumer made a motion to approve the building permit applications. Councilwoman Alexander seconded the motion. The motion carried unanimously.

**Cemetery, Refuse and Streets:** no report

**Police:** Mayor Michael presented a price quote to council for a new city police vehicle, 2009 Dodge Durango, the price is \$21,181.00, but they have another vehicle that is the same type with a different motor, this motor is \$3,000.00 more and will run on four cylinders in "town" driving instead of eight cylinders, yet has the added power when needed. Councilwoman Alexander asked what the opinion of Councilman Hyre, the police commissioner was; after contacting him by phone he agreed with the decision to proceed with the purchase. Councilwoman Alexander made a motion to purchase the new police vehicle. Councilman Rumer seconded the motion. The motion carried unanimously.

The following Activity Report was presented:

**PETERSBURG CITY POLICE DEPARTMENT  
ACTIVITY REPORT FOR AUGUST 2008**

COMPAINTS HANDLED/ RECEIVED .....	60
VERBAL WARNINGS FOR TRAFFIC .....	05
WRITTEN WARNINGS FOR TRAFFIC .....	01
CITATIONS ISSUED .....	27
NO INSURANCE .....	04
EXPIRED REGISTRATION.....	15
SHOPLIFTING.....	01
UNDERAGE DRINKING.....	01
DRIVING SUSPENDED (CITATIONS).....	01
SPEEDING.....	03
FAIL TO YIELD.....	01
FAIL TO MAINTAIN CONTROL.....	01
MISDEMEANOR.....	01
PETIT LARCENY.....	01
FELONY ARREST.....	01
THIRD OFFENSE SHOPLIFTING.....	01
ACCIDENTS INVESTIGATED.....	01
CRIMINAL INVESTIGATIONS OPENED.....	03
ALARMS .....	02

JOHN E. SHOCKEY  
PETERSBURG POLICE DEPARTMENT

**Taxation and Finance:** Each council member was presented with a Balance Sheet as of August 31, 2008

**Water, Recreation and Pool:** Councilman Rumer authorized the Water Commissioner and Recorder to interview applicants and hire an Operator in Training at the city's water plant. Councilwoman Alexander seconded the motion. The motion carried unanimously.

**Sanitary Board:** no report

**NEW BUSINESS**

- ✓ Councilman Deadrick made a motion to approve the 1<sup>st</sup> reading of the Water Rate Ordinance as presented. Councilman Rumer seconded the motion. The motion carried unanimously.
- ✓ Councilman Deadrick made a motion to approve the 2<sup>nd</sup> reading of the City of Petersburg Water Revenue Bond Series 2008-A and City of Petersburg Water Revenue Bond Series

2008-B, the WV Drinking Water Revolving Loan Fund. Councilman Rumer seconded the motion. The motion carried unanimously.

Councilman Deadrick made a motion that the City of Petersburg acknowledge receipt of the revised Binding Commitment letter from the Department of Health and Human Resources, the Bureau of Public Health Offices of Environmental Health Services, from Robert W. DeCrease in the amount of \$7,700,000 and authorizing the mayor to sign said commitment letter and return it to the Bureau of Public Health. Councilwoman Alexander seconded the motion. The motion carried unanimously.

Councilman Deadrick made a motion to approve the following:

TOWN OF PETERSBURG

*Waterworks System Refunding Bond Anticipation Note,  
Series 2005*

SECOND SUPPLEMENTAL RESOLUTION

*SECOND SUPPLEMENTAL RESOLUTION  
PROVIDING FOR THE EXTENSION OF THE  
MATURITY DATE OF THE SERIES 2005  
NOTE AND AMENDMENT OF PRIOR  
ORDINANCE TO EFFECT SUCH  
MODIFICATION THEREOF*

*WHEREAS, the Town of Petersburg (the "Issuer") has previously issued its Waterworks System Refunding Bond Anticipation Notes, Series 2005, dated April 13, 2005, issued in the original aggregate principal amount of \$450,000 (the "Series 2005 Note"), and held by the Grant County Bank (the "Purchaser");*

*WHEREAS, the Ordinance authorizing the Series 2005 Note is known as the Prior Ordinance;*

*WHEREAS, the Series 2005 Note matured August 13, 2008;*

*WHEREAS, the Issuer has requested, and the Purchaser has agreed, that the maturity date of the Series 2005 Note be extended six months making the new maturity date February 13, 2009;*

*WHEREAS, the Prior Ordinance provides for amendments by supplemental resolution with the prior written consent of the Purchaser, specifically including but not limited to, the extension of the maturity date of the Note and such consent has been received by the Issuer; and*

*WHEREAS, the Issuer deems it essential and desirable that this second supplemental resolution (the "Second Supplemental Resolution") be adopted,*

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF TOWN OF PETERSBURG:**

*Section 1. The Prior Ordinance is amended, as necessary, to reflect the extension of the maturity date, making the new maturity date February 13, 2009.*

*Section 2. The Mayor and Recorder are hereby authorized and directed to execute and deliver a new note and such other documents and certificates as may be required or desirable in connection with the Note hereby and by the Ordinance approved and provided for, to the end that the Note may be delivered to the Purchaser on or about September 12, 2008.*

*Section 3. This Second Supplemental Resolution shall be effective immediately following adoption hereof.*

Councilwoman Alexander seconded the motion. The motion carried unanimously. Councilman Deadrick stated the Supplemental Resolution, the original note was held by the Grant County Bank and that was purchased by Citizens Bank.

Councilman Deadrick made a motion to approve the following RESOLUTION:  
**RESOLUTION OF THE COUNCIL OF THE CITY PETERSBURG APPROVING INVOICES RELATING TO THE DESIGN OF IMPROVEMENTS AND EXTENSIONS TO THE EXISTING PUBLIC WATERWORKS SYSTEM OF THE CITY AND AUTHORIZING PAYMENT THEREOF**

*Whereas, the City of Petersburg (the "City") has reviewed the invoices attached hereto and incorporated herein by reference relating to the design of certain additions, betterments and improvements to the waterworks system of the City (the "Project") to be financed, in part, by the proceeds of the City's*

*Waterworks System bond Anticipation Notes Series 2003 (the "Bonds") and by other sources, if any, and finds as follows:*

- 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 such costs has been otherwise properly incurred; and*
- D. *That payment for each of the items proposed is now due and owing.*

*NOW THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY AS FOLLOWS:*

*There is hereby authorized and directed the payment of the attached invoices as summarized as follows:*

<u>Name of Payee</u>	<u>Invoice Amount</u>
Griffith & Associates Inv. #2744	\$2,049.04
Total:	\$2,049.04

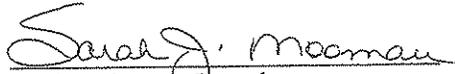
Councilman Rumer seconded the motion. The motion carried unanimously.

Mayor Michael granted permission to Love Christian Assembly to conduct a New Year's Celebration in the City's parking lot.

Mayor Michael announced that Trick or Treat night will be held Thursday, October 30, 2008 from 6:00pm till 8:00pm and residents are urged to have their porch lights on if they wish to participate.

Mayor Michael announced that the city will strictly enforce the "Yard Sale" sign ordinance. Any persons not removing Yard Sale sign notices by the following Monday will be cited according to the Ordinance.

Councilman Rumer made a motion to adjourn. Councilwoman Alexander seconded the motion. The motion carried unanimously.

  
Sarah J. Moomau, Recorder

# Certificate of Publication

State of West Virginia  
County of Grant, to-wit:

The undersigned hereby certifies  
that the annexed notice was duly  
published in the

## Grant County Press

a weekly newspaper published at  
Petersburg, Grant County, West  
Virginia, for 2 consecutive  
weeks ending on the 28 day of  
October, 2008.

**GRANT COUNTY PRESS**

By William E. Touch

Editor

Publishing Notice \$ 159.39

Hand Bills \_\_\_\_\_

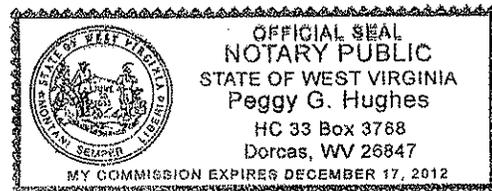
Miscellaneous \_\_\_\_\_

Total \$ 159.39

Sworn before me on this the 30  
day of Oct., 2008.

Peggy G. Hughes  
Notary Public

Dec 17, 2012  
My Commission Expires



**NOTICE OF PUBLIC HEARING ON  
TOWN OF PETERSBURG BOND ORDINANCE**

A public hearing will be held on the following entitled Ordinance at a regular meeting of the Council of the Town of Petersburg (the "Town") to be held on Monday, November 3, 2008, at 7:00 p.m. at the Town Hall, 21 Mount View Street, Petersburg, West Virginia, and at such hearing any person interested may appear before the Town and present protests, and all protests and suggestions shall be heard by the Town and it shall then take such actions as it shall deem proper in the premises upon an Ordinance entitled:

**TOWN OF PETERSBURG**

**ORDINANCE AUTHORIZING THE PAYMENT OF THE WATERWORKS SYSTEM REFUNDING BOND ANTICIPATION NOTES, SERIES 2005 AND THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC WATERWORKS SYSTEM OF THE TOWN OF PETERSBURG AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE TOWN OF PETERSBURG OF NOT MORE THAN \$4,700,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2008 A (WEST VIRGINIA DWTRF PROGRAM); AND NOT MORE THAN \$6,000,000 IN ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2008 B (WEST VIRGINIA DWTRF PROGRAM) PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING LOAN AGREEMENTS RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO**

The above-quoted title of the Ordinance describes generally the contents thereof and the purposes of the Bonds contemplated thereby. The Town contemplates the issuance of the Bonds described in the Ordinance. The proceeds of the Bonds will be used to provide financing of the costs of acquisition and construction of improvements to the existing waterworks system by the Town of Petersburg and to pay certain costs of issuance of the Bonds and related costs. The Bonds are payable solely from revenues to be derived from the ownership and operation of the water system of the Town. No taxes may at any time be levied for the payment of the Bonds or the interest thereon.

The above-entitled Ordinance was adopted by the Council of the Town of Petersburg on September 8, 2008. A certified copy of the above-entitled Ordinance is on file with the Town for review by interested parties during regular office hours.

Following the public hearing, the Town intends to enact the Ordinance upon final reading.  
Gary Michael, Mayor

10/21-10/28

# Certificate of Publication

State of West Virginia  
County of Grant, to-wit:

The undersigned hereby certifies  
that the annexed notice was duly  
published in the

**Grant County Press**

a weekly newspaper published at  
Petersburg, Grant County, West  
Virginia, for 2 consecutive  
weeks ending on the 23 day of  
September 2008.

**GRANT COUNTY PRESS**

*William C. Touch*  
Editor

Editor

Publishing Notice \$ 144.90

Hand Bills \_\_\_\_\_

Miscellaneous \_\_\_\_\_

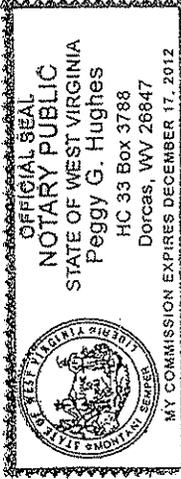
Total \$ 144.90

Sworn before me on this the 23

day of Sept., 2008.

*Peggy M. Hughes*  
Notary Public

Dec 17, 2012  
My Commission Expires



**NOTICE OF PUBLIC HEARING ON  
TOWN OF PETERSBURG BOND ORDINANCE**

A public hearing will be held on the following entitled Ordinance at a special meeting of the Council of the Town of Petersburg, the Town will be held on Wednesday, October 1, 2008, at 7:00 pm at the Town Hall, 21 Mount View Street, Petersburg, West Virginia and at such other time and place as may be determined by the Town and shall be taken at such actions as it shall deem proper in the premises upon an Ordinance entitled:

**Town of Petersburg**  
Ordinance authorizing the payment of the waterworks system re-  
financing bond participation notes series 2008 and the acquisition and  
construction of additional waterworks and improvements to the exist-  
ing public waterworks system of the Town of Petersburg and the in-  
curring of the costs of the same as provided therein through the is-  
suanace by the Town of Petersburg of the more than \$4,700,000 in ad-  
ditional principal amount of water revenue bonds series 2008 at West  
Virginia Water Program and to provide for the \$6,000,000 principal  
and adequate principal amount of water revenue bonds series 2008 B  
(West Virginia DWTR Program) providing for the rights and remedies  
of and security of the registered owners of such bonds, authorizing ex-  
ecution and delivery of all documents relating to the issuance of such  
bonds, approving, ratifying and confirming all agreements relating to  
such bonds, authorizing the sale and providing for the terms and provi-  
sions of such bonds and adopting other provisions relating thereto.

The above recited title of the Ordinance describes generally the contents thereof and the  
purposes of the Bonds contemplated hereby. The Town contemplates the issuance of the  
Bonds as herein provided. The proceeds of the Bonds will be used to provide financ-  
ing of the costs of acquisition and construction of improvements to the existing waterworks sys-  
tem of the Town of Petersburg and to pay certain costs of issuance of the Bonds and related  
costs. The Bonds are payable solely from the revenues to be derived from the ownership and op-  
eration of the water system of the Town. No taxes may be levied or imposed for the payment  
of the Bonds or the interest thereon. The above entitled Ordinance was adopted by the Coun-  
cil of the Town of Petersburg on September 8, 2008. A certified copy of the above entitled Or-  
dinance is on file with the Town for review by interested parties during regular office hours. Fol-  
lowing the public hearing, the Town intends to enact the Ordinance upon that reading.

Gary Michael, Mayor

9/16-9/23

TOWN OF PETERSBURG

Water Revenue Bonds, Series 2009 A; and  
Water Revenue Bonds, Series 2009 B  
(West Virginia DWTRF Program)

EXCERPT OF MINUTES ON ADOPTION OF BOND ORDINANCE,  
SUPPLEMENTAL RESOLUTION AND  
SWEEP RESOLUTION

The undersigned RECORDER of the Town of Petersburg of hereby certifies that the following is a true and correct excerpt of the minutes of a special meeting of the said Town Council:

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The Town Council of the Town of Petersburg met in special session, pursuant to notice duly posted, on the 15th day of April, 2009, in Grant County, West Virginia, at the hour of 7:00 p.m.

PRESENT:	Gary Michael	-	Mayor
	Sarah Mommau	-	Recorder
	Paige Alexander	-	Councilmember
	Bruce Hyre, Jr.	-	Councilmember
	John Vanmeter	-	Councilmember
	George Deadrick	-	Councilmember
	Alvin Rumer	-	Councilmember

Gary Michael, Mayor, presided, and Sarah Mommau, acted as Recorder. The Mayor announced that a quorum of members was present and that the meeting was open for any business properly before it.

Thereupon, the Mayor then presented a proposed Supplemental Resolution in writing entitled:

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNT, DATE, MATURITY DATE, REDEMPTION PROVISION, INTEREST RATE, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICE AND OTHER TERMS OF THE WATER REVENUE BONDS SERIES 2009 A, (WEST VIRGINIA DWTRF PROGRAM), AND WATER REVENUE BONDS, SERIES 2009 B (WEST

VIRGINIA DWTRF PROGRAM) OF THE TOWN OF PETERSBURG; APPROVING AND RATIFYING THE LOAN AGREEMENTS RELATING TO SUCH BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

and caused the same to be read and there was discussion. Thereupon, upon motion duly made and seconded, it was unanimously ordered that the said Supplemental Resolution be adopted and be in full force and effect on and from the date hereof.

Next, the Mayor presented a proposed Sweep Resolution for the authorization of electronic monthly debt service and reserve fund payments to the Municipal Bond Commission. Thereupon, on motion duly made and seconded, it was unanimously ordered that the said Sweep Resolution be adopted.

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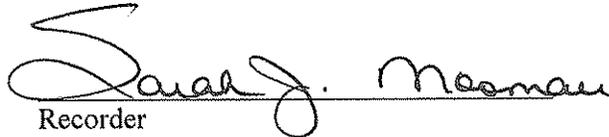
There being no further business to come before the meeting, on motion duly made and seconded, it was unanimously ordered that the meeting adjourn.

[Remainder of Page Intentionally Blank]

CERTIFICATION

I hereby certify that the foregoing is a true copy of the minutes of the Town of Petersburg and that such actions remain in full force and effect and have not been amended, rescinded, superseded, repealed or changed.

WITNESS my signature on this 16th day of April, 2009.

  
Recorder

698490.00008

**CITY OF PETERSBURG  
SPECIAL MEETING  
August 27, 2008**

On behalf of Mayor Michael, Recorder Moomau called the Special Meeting of the Petersburg City Council to order at 1:00 pm.

**Roll Call**

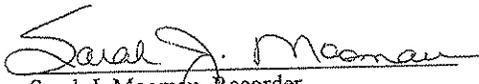
Recorder: Sarah J. Moomau

Council: Paige Alexander, Alvin Rumer and Bill Deadrick

This Special Meeting has been called for the 1<sup>st</sup> Reading of the Bond Ordinance for the Water Improvement Project.

✓ Councilman Deadrick made a motion to approve the 1<sup>st</sup> Reading of the City of Petersburg Water Revenue Bond Series 2008 – A Water Revenue Bond Series, B WV Drinking Water Revolving Loan Fund. Councilman Rumer seconded the motion. The motion carried unanimously.

Councilman Deadrick made a motion to adjourn. Councilman Rumer seconded the motion. The motion carried unanimously.

  
Sarah J. Moomau, Recorder

**CITY OF PETERSBURG  
REGULAR MEETING  
September 8, 2008**

Mayor Michael called the regular scheduled meeting of the City Council to order at 7:00pm.

**Roll Call**

Mayor: Gary Michael  
Recorder: Sarah J. Moomau  
Council: Paige Alexander, Bill Deadrick and Alvin Rumer

**Approval of Minutes:**

Councilman Deadrick made a motion to approve the minutes of the Regular Meeting of August 4, 2008, the Special Meeting of August 13, 2008 and the Special Meeting of August 27, 2008. Councilman Rumer seconded the motion. The motion carried unanimously.

**PERSONS REQUESTING TO SPEAK TO COUNCIL**

Terry Lively of the Region 8 Planning & Development Council appeared before council to offer an update on the Water Project. He has been in Charleston twice and the project has been through the Infrastructure Council, it made it through the Funding Council okay and then it made it through the Full Council okay, so it has been approved. He said there were some that complained about the interest rate, they thought it should have been more, but the city's accountant, Michael Griffith, took his share of arguing those cases and did a good job. The loans came through with what was proposed, one loan at 1% for thirty years and the other loan at 3% for twenty years. He advised that now the city is in the process of following our timeline for our Rate Ordinance. He said that it is important to keep everything on schedule and not delay it so that the bids will not go bad. The bids are good for 120 days and there is a 75 day extension that has been agreed upon by everyone. Councilman Deadrick said that the council needs to do all of the ordinances and get those to Charleston. Terry Lively said that in our packet with our Rate Ordinance there is a schedule to follow. The publications are being done by the city's attorney Robert Rodecker. Councilman Deadrick said that he provided a schedule of hearings and meetings to council members via e-mail. Mr. Lively stated that the new water rates for the City of Petersburg fall within the lowest 25% in the state of West Virginia. He further stated that one year of extended time will cost anywhere from 10 to 15% of the project. Councilman Deadrick stated that Michael Griffith did a great job on behalf of the City of Petersburg. Terry stated that now the city needs to proceed through the process of closing the loan.

**COMMISSIONER'S REPORTS**

**Building Permits, Planning and Zoning:** Councilman Rumer presented the following building permit applications for consideration by council:

#7185	Les Givan	130 Lee St.	patio & arbor
#7186	Mary Alice James	221 Judy St.	replace roof
#7187	Jimmie Hedrick	64 Cedar Manor	roof over existing deck
#7188	Res Care	26 Davis Street	replace roof
#7189	Vernon Layton	22 Pierpont St.	handicap ramp
#7190	Paul Evans	12 VanMeter Drive	replace roof
#7191	Diane Harlow	3 VanMeter Drive	replace sewer line
#7192	Harry Nelson	7 Jackson Street	replace windows & siding
#7193	Memorial Church of the Brethern	14 Highland Ave.	replace windows
#7194	Roland Miller	414 Highland Ave.	replace storage building
#7195	Nelson Poe	115 Central Ave.	extend patio
#7196	Dorothy Kesner	7 Short St.	remove old trailer & replace with new
#7197	Jebco Properties	11 North Ave.	replace roof & replace section of house
#7198	James Wimer	108 Cedar Manor	deck & roof

Councilman Rumer made a motion to approve the building permit applications. Councilwoman Alexander seconded the motion. The motion carried unanimously.

**Cemetery, Refuse and Streets:** no report

**Police:** Mayor Michael presented a price quote to council for a new city police vehicle, 2009 Dodge Durango, the price is \$21,181.00, but they have another vehicle that is the same type with a different motor, this motor is \$3,000.00 more and will run on four cylinders in "town" driving instead of eight cylinders, yet has the added power when needed. Councilwoman Alexander asked what the opinion of Councilman Hyre, the police commissioner was; after contacting him by phone he agreed with the decision to proceed with the purchase. Councilwoman Alexander made a motion to purchase the new police vehicle. Councilman Rumer seconded the motion. The motion carried unanimously.

The following Activity Report was presented:

**PETERSBURG CITY POLICE DEPARTMENT  
ACTIVITY REPORT FOR AUGUST 2008**

COMPLAINTS HANDLED/ RECEIVED .....	60
VERBAL WARNINGS FOR TRAFFIC .....	05
WRITTEN WARNINGS FOR TRAFFIC .....	01
CITATIONS ISSUED .....	27
NO INSURANCE .....	04
EXPIRED REGISTRATION.....	15
SHOPLIFTING.....	01
UNDERAGE DRINKING.....	01
DRIVING SUSPENDED (CITATIONS).....	01
SPEEDING.....	03
FAIL TO YIELD.....	01
FAIL TO MAINTAIN CONTROL.....	01
MISDEMEANOR.....	01
PETIT LARCENY.....	01
FELONY ARREST.....	01
THIRD OFFENSE SHOPLIFTING.....	01
ACCIDENTS INVESTIGATED.....	01
CRIMINAL INVESTIGATIONS OPENED.....	03
ALARMS .....	02

JOHN E. SHOCKEY  
PETERSBURG POLICE DEPARTMENT

**Taxation and Finance:** Each council member was presented with a Balance Sheet as of August 31, 2008

**Water, Recreation and Pool:** Councilman Rumer authorized the Water Commissioner and Recorder to interview applicants and hire an Operator in Training at the city's water plant. Councilwoman Alexander seconded the motion. The motion carried unanimously.

**Sanitary Board:** no report

**NEW BUSINESS**

- ✓ Councilman Deadrick made a motion to approve the 1<sup>st</sup> reading of the Water Rate Ordinance as presented. Councilman Rumer seconded the motion. The motion carried unanimously.
- ✓ Councilman Deadrick made a motion to approve the 2<sup>nd</sup> reading of the City of Petersburg Water Revenue Bond Series 2008-A and City of Petersburg Water Revenue Bond Series

2008-B, the WV Drinking Water Revolving Loan Fund. Councilman Rumer seconded the motion. The motion carried unanimously.

Councilman Deadrick made a motion that the City of Petersburg acknowledge receipt of the revised Binding Commitment letter from the Department of Health and Human Resources, the Bureau of Public Health Offices of Environmental Health Services, from Robert W. DeCrease in the amount of \$7,700,000 and authorizing the mayor to sign said commitment letter and return it to the Bureau of Public Health. Councilwoman Alexander seconded the motion. The motion carried unanimously.

Councilman Deadrick made a motion to approve the following:

TOWN OF PETERSBURG

*Waterworks System Refunding Bond Anticipation Note,  
Series 2005*

SECOND SUPPLEMENTAL RESOLUTION

*SECOND SUPPLEMENTAL RESOLUTION  
PROVIDING FOR THE EXTENSION OF THE  
MATURITY DATE OF THE SERIES 2005  
NOTE AND AMENDMENT OF PRIOR  
ORDINANCE TO EFFECT SUCH  
MODIFICATION THEREOF*

*WHEREAS, the Town of Petersburg (the "Issuer") has previously issued its Waterworks System Refunding Bond Anticipation Notes, Series 2005, dated April 13, 2005, issued in the original aggregate principal amount of \$450,000 (the "Series 2005 Note"), and held by the Grant County Bond (the "Purchaser");*

*WHEREAS, the Ordinance authorizing the Series 2005 Note is known as the Prior Ordinance;*

*WHEREAS, the Series 2005 Note matured August 13, 2008;*

*WHEREAS, the Issuer has requested, and the Purchaser has agreed, that the maturity date of the Series 2005 Note be extended six months making the new maturity date February 13, 2009;*

*WHEREAS, the Prior Ordinance provides for amendments by supplemental resolution with the prior written consent of the Purchaser, specifically including but not limited to, the extension of the maturity date of the Note and such consent has been received by the Issuer; and*

*WHEREAS, the Issuer deems it essential and desirable that this second supplemental resolution (the "Second Supplemental Resolution") be adopted,*

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF TOWN OF PETERSBURG:**

Section 1. *The Prior Ordinance is amended, as necessary, to reflect the extension of the maturity date, making the new maturity date February 13, 2009.*

Section 2. *The Mayor and Recorder are hereby authorized and directed to execute and deliver a new note and such other documents and certificates as may be required or desirable in connection with the Note hereby and by the Ordinance approved and provided for, to the end that the Note may be delivered to the Purchaser on or about September 12, 2008.*

Section 3. *This Second Supplemental Resolution shall be effective immediately following adoption hereof.*

Councilwoman Alexander seconded the motion. The motion carried unanimously. Councilman Deadrick stated the Supplemental Resolution, the original note was held by the Grant County Bank and that was purchased by Citizens Bank.

Councilman Deadrick made a motion to approve the following RESOLUTION:  
**RESOLUTION OF THE COUNCIL OF THE CITY PETERSBURG APPROVING INVOICES RELATING TO THE DESIGN OF IMPROVEMENTS AND EXTENSIONS TO THE EXISTING PUBLIC WATERWORKS SYSTEM OF THE CITY AND AUTHORIZING PAYMENT THEREOF**

*Whereas, the City of Petersburg (the "City") has reviewed the invoices attached hereto and incorporated herein by reference relating to the design of certain additions, betterments and improvements to the waterworks system of the City (the "Project") to be financed, in part, by the proceeds of the City's*

Waterworks System bond Anticipation Notes Series 2003 (the "Bonds") and by other sources, if any, and finds as follows:

- 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 such costs has been otherwise properly incurred; and
- D. That payment for each of the items proposed is now due and owing.

NOW THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY AS FOLLOWS:

There is hereby authorized and directed the payment of the attached invoices as summarized as follows:

<u>Name of Payee</u>	<u>Invoice Amount</u>
Griffith & Associates Inv. #2744	\$2,049.04
Total:	\$2,049.04

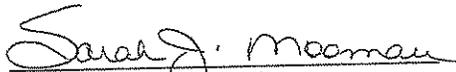
Councilman Rumer seconded the motion. The motion carried unanimously.

Mayor Michael granted permission to Love Christian Assembly to conduct a New Year's Celebration in the City's parking lot.

Mayor Michael announced that Trick or Treat night will be held Thursday, October 30, 2008 from 6:00pm till 8:00pm and residents are urged to have their porch lights on if they wish to participate.

Mayor Michael announced that the city will strictly enforce the "Yard Sale" sign ordinance. Any persons not removing Yard Sale sign notices by the following Monday will be cited according to the Ordinance.

Councilman Rumer made a motion to adjourn. Councilwoman Alexander seconded the motion. The motion carried unanimously.

  
Sarah J. Moomau, Recorder

**CITY OF PETERSBURG  
REGULAR MEETING  
November 3, 2008**

Mayor Michael called the regular scheduled meeting of the City Council to order at 7:00pm.

**Roll Call**

Mayor: Gary Michael  
Recorder: Sarah J. Moomau  
Council: Paige Alexander, Bruce Hyre, Jr., Bill Deadrick, Alvin Rumer and John VanMeter

**Approval of Minutes:**

Councilman Rumer made a motion to approve the minutes of the Regular Meeting of October 6, 2008. Councilman Hyre seconded the motion. The motion carried unanimously. Councilman Deadrick made a motion to approve the minutes of the Public Hearing of October 1, 2008. Councilwoman Alexander seconded the motion. The motion carried unanimously.

**COMMISSIONER'S REPORTS**

**Building Permits, Planning and Zoning:** Councilman Rumer presented the following building permit applications for consideration by council:

#7213	Freddie Hinkle	Keyser Ave	replace storage building
#7214	Lawrence Barr	6 Shoobe St.	storage building
#7215	John VanMeter	28 Virginia Ave.	replace front porch floor
#7216	Dorothy Dodson	223 Mt. View St.	chain link fence & hand rails
#7217	V&W Electric	123 S. Main St.	new sign
#7218	John Leatherman	11 Lee St.	replace shingles with metal
#7219	Bruce Hyre, Jr.	1 Virginia Ave.	replace roofing
#7220	GC Development Authority	114 N. Grove St.	replace porch roof & sidewalk handicap accessible
#7221	Bonnie Crites	20 Trenton St.	replace shingles
#7222	Kirk George	72 Laurel Place	concrete patio
#7223	Viola Porter	lot # 5 Cedar Manor	storage building
#7224	Gary Michael	205 N. Main St.	siding on overhang of porch
#7225	Diane Judy	231 Judy St.	extend existing outbuilding

Councilman Rumer made a motion to approve the presented building permit applications. Councilman Deadrick seconded the motion. The motion carried unanimously.

**Cemetery, Refuse and Streets:** Councilwoman Alexander reported the angel at the cemetery entrance that was torn apart by vandalism has been replaced with a new one.

**Police:** Councilman Hyre reported he has received applications for employment within the Police Department. He further reported that a couple of the applicants are certified and a couple are not and would have to attend the academy. He submitted the following report:

**PETERSBURG CITY POLICE DEPARTMENT  
ACTIVITY REPORT OCTOBER 2008**

COMPLAINTS HANDLED/ RECEIVED .....	76
VERBAL WARNINGS FOR TRAFFIC .....	15
WRITTEN WARNINGS FOR TRAFFIC .....	00
CITATIONS ISSUED.....	22
NO INSURANCE .....	06
EXPIRED REGISTRATION.....	03
TOBACCO AT SCHOOL.....	01

NO SEATBELT USE.....	04
DRIVING SUSPENDED (CITATIONS).....	02
SPEEDING.....	05
IMPROPER REGISTRATION.....	01
MISDEMEANOR ARREST.....	02
WORTHLESS CHECKS.....	04
BATTERY.....	01
FELONY ARREST.....	00
ACCIDENTS INVESTIGATED.....	00
CRIMINAL INVETIGATIONS OPENED.....	12
ALARMS.....	02

JOHN E. SHOCKEY  
PETERSBURG POLICE DEPARTMENT

**Taxation and Finance:** A balance sheet for the City of Petersburg, as of October 31, 2008 was presented to each councilmember.

**Water, Recreation/ Pool:** Councilman Deadrick reported that at the last meeting we requested an extension on the EPA SAP grant till December 31, 2010; we received a notice that needs to be signed and returned within twenty one days of receipt that extends the grant until December 31, 2010. Councilman Deadrick made a motion authorizing the mayor to sign the agreements extending the grant to December 31, 2010. Councilman Rumer seconded the motion. The motion carried unanimously.

**Sanitary Board:** no report

**NEW BUSINESS**

Vince Collins introduced himself as an attorney with Steptoe & Johnson from the Morgantown office; they are serving as Bond Council for the City of Petersburg. He stated that a Public Hearing is being conducted. The Ordinance is to authorize the building of a water treatment plant upgrade, water storage tank, painting another water tank and additional improvements. Approximately \$10,700,000 in borrowing altogether, the borrowing comes from the State DWTRF program and the interest rates are very good on about two-thirds it's about 0% and another third is about 2%, the interest rates are subsidized by the state, the bonds won't be issued until we close, this is the last action to be taken on the ordinance itself, before we close on this financing there will be a supplemental resolution and there will be other things. Councilman Deadrick added for clarification that \$3,000,000 of the figure is SAP grant money. Vince Collins repeated that this is a good package.

**PUBLIC HEARING**

Mayor Michael called the Public Hearing on the Bond Ordinance to order. Bob McCalley asked the duration of the bonds, Vince Collins answered that the A-Bond is for thirty years and the B-Bond is for twenty years, he commented there is an administrative fee on both. Councilman VanMeter asked if Mr. Collins knew the amount of money it will take to retire the bond and keep the interest current. Mr. Collins replied that he did not have a debt service calculation; he offered a ball park figure of approximately \$30,000.00 per month. Councilman VanMeter offered that currently the city's monthly payment of \$4,000.00 per month will retire the current bond. Mayor Michael asked if any of these old debts will be paid. Mr. Collins answered no, they will continue to be paid until they mature, and this bond will pay off the 2005 notes. With extremely rough estimating the figures yield approximately \$26.15 per customer which is a substantial increase, however Mr. Collins went onto say that this is a situation that is occurring all over the state at intervals of ten to fifteen years. He continued to say that often there is not much work done for a decade or so and then a lot of work needs to be done at one and when it's all done at once there is a big rate increase because there is big borrowing and there are minor increases after that and then another ten to fifteen years there are large

increases, the PSC will not allow for small increments of increases each year. Vince Collins said that delaying the project will cost money, when people protest the rates to the PSC it usually causes about a six month delay in getting the project underway. He continued to say that with winter approaching; hopefully we will not have to re-bid the project because that will cost us more money, causing more borrowing and a higher rate increase.

Bob McCalley, a citizen of the City of Petersburg asked to make a few comments. *"Back towards the end of last September there was an article in the Petersburg Press talking about a renovation of the water treatment plant and I believe the title of that article was "What's the Controversy All About?", anyway I think we learned from our recent petition drive the controversy is about costs spiraling out of control and I say that with a great deal of confidence. But costs for the various proposed water plant upgrade projects have gone from about \$1,100,000 for the tank, \$4,800,000 for the plant upgrade to \$6,800,000 for the plant upgrade, now it's at \$10,700,000 for the plant upgrade and tank. I would like to applaud the hard work, dedication, commitment and energy the city council and the mayor puts into projects such as this water plant upgrade. I know from experience there is probably a lot of lost sleep at night wrestling with some of the issues that come up with these things, but I honestly think this time you've got it wrong. I think you've got it wrong and if I can speak for the citizens of Petersburg water plant users of the city, of the PSD and those that sort of lay in between, I guess we call them city customers, but they lay outside the city limits; overwhelmingly they also do not think you have it right and the petition they signed was really after just two things; it was after a third party review and an effort to see if we could come up with approach that was planned and phased, in other words, they didn't get hit with the increase all at once and what I listed here are some of the more frequent comments made by the citizens, there were a lot of comments and some I wouldn't want to repeat here and there were good comments too and not so good comments, the most frequent one we heard was people saying "I've been waiting for someone to knock on my door"; now I don't know why they wouldn't come to a meeting, there are all kinds of questions associated with that, but that was the most frequent comment that people who got petitions heard; also, "everyday I try to decide between spending for food and medicine and now heating, I can't afford more cost, I can't afford these increases they just keep coming", we heard that a lot, I don't know the history, I haven't been here that long, but they talked about water plant, they talked about sewer plant, I don't know if they are expecting more sewer plant increases, landfill or trash or something got thrown into it, I'm repeating what I got from people that got the petition signed. One lady said, "I always throw a small birthday party for my mother, I can't afford to do it this year", things are really that tight. We heard that it "sounds like they need an upgrade to the plant, but why didn't they plan it in pieces instead of all at once", we heard that a lot; "\$10.00 is big given the current situation, these prices are doubling", etc., etc., etc. The last one we heard was that "I'm not getting a raise to cover this increase". Approximately thirty percent of the water users in the city signed the petition and it was an easy thirty percent to get, there is not a doubt in my mind we could have gotten ninety plus percent of the people to sign that petition, if we could coordinate schedules to get together and get a signing, so they clearly feel this time the City Council has it wrong. After listening to a little bit of the bond discussion there is an example, I'm more on the business side than the government side, but if I sit down and look at the revenue that comes in from the water plant from the customers of the water plant, the revenue is about \$500,000 a year, give or take, \$500,000 a year we are going out on a bond issue that is somewhere in excess of \$7,000,000 a year, to users that have a product they liked in the past and they like now, but we are asking them to essentially pay for the same product for twice the price, \$7,000,000 that gets paid off in an average of twenty-five years, if I take the twenty years and thirty years and put them together, doesn't sound like a great move to me purely from a business point of view and most everyone sitting around this table in business for themselves, would you make that decision for your own business, \$500,000 in revenue a twenty year note for \$7,000,000 and the way you are going to get your money back is by double the cost of the product to our customers, I don't think any business would do that, I would be very surprised, so I really wonder how the city council can vote yes, in this case the Bond Ordinance, but more importantly the \$10,700,000 plant upgrade that sits behind the ordinance. So given these reasons that I just outlined about and given the reasons I gave at the Water Rate Ordinance meeting which are a little bit different than*

these, I oppose this Bond Ordinance, just for completeness I will summarize, there were five issues I gave before; there is no current need, when I say current need I'm talking about there is no must have need, there is no requirement from the state for meeting a deficiency in the plant, there is no hard need to double the plant capacity or anything else for that matter for our current water treatment plant, there is no comprehensive plan to guide any decision making there just isn't any plan out there that I have been able to find, it's not a good time to double the water rates given other cost of living increases and we talked about that a little bit already, there was some discussion that this will cost more if we delay, probably in normal times that's true, but this isn't normal times, this is kind of the perfect storm if you will in terms of costs for projects, when this project was bid steel, reinforcing steel was at double it's price just three months prior to the bid process, reinforcing steel went from \$800.00 per ton to \$1,600.00 per ton almost overnight, unfortunately it was at the time we bid the project which nobody could have foreseen at the time. Reinforcing steel is back down to \$1,000.00 per ton the last time I checked and my guess is since commodity prices are coming down it's probably back down to \$800.00 where it started, I know it's down to at least \$1,000.00 and in the last couple of months contractors have hit a wall, projects have been stopped all over the country, public projects as well as private projects, contractors in general are hurting for business, these types of contractors. I don't know specifically with respect to the vendors that bid on this particular project, but they've hit a wall, so I really question whether it will cost more going forward, but in any case projects are being stopped and/or delayed all over the country, so in summary here, after reviewing, considerable amounts of specifications, engineering drawings, documents from region eight, the Clean Water Act, Safe Drinking Water Act, long discussion with WV Department of Health, there is not a doubt in my mind that if we put the right people together with a desire, which I think is important, and a willingness to work through the issues we can come up with a plan and phased approach to affordable plant upgrade, there isn't a doubt in my mind about being able to do that, but we have to have the desire and the willingness of the people to sit down and figure out how to do that and as I said in the comments we got from people I think that people are willing to put some money toward a plant, they are willing to accept some increase, but not 117% increase in the city and whatever it amounts to in the county. Thank you." Vince Collins responded, first by saying he is not an engineer of course, he agreed with Mr. McCalley that when the project was bid there was a spike in commodity prices, especially steel and concrete, which is a big part of the project. He suggested the city has three options: 1- stay with the bids we received; 2- we could try to re-bid the project, it is an option, sometimes you end up with prices higher than the original and you cannot choose between them; 3- negotiate with the low bidders to adjust specific materials. He went onto say with respect to doing the improvements incrementally as Mr. McCalley suggested, he doesn't think that is a good idea, if you try to do that it will cost a lot more, he has seen that happen many times. He went onto say it is much better to do a big capacity increase than to do the same amount of increase over two or three stages, you will spend much more money in the long run.

Phyllis Cole a citizen of Petersburg read the following prepared statement:

*I again wish to go on record opposing the water plant and request you table the Bond ordinance you have before you tonight. I have repeatedly opposed this project especially since it has spiraled into a 10.7 million dollar project particularly since the water plant is completely in compliance with every State requirement. Now my opposition is further reinforced with a poor economic situation with hundreds of local folks being laid off, terminated, or having work hours reduced.*

*Bob McCalley can be commended for his due diligence regarding this project. He has an engineering degree and worked with government contracts throughout his career. Bob has reviewed all of the original and current plans, reviewed the City records, talked with several State Agencies and continues to assert this project can be scaled down to be make it more affordable. For instance, in reviewing the plans it revealed an additional floor been added to the plant marked "Classroom". It is a 20 X 54" room, bigger than some people's homes. Is this necessary? What other hidden and/or unnecessary items are in this project that has raised it to 10.7 million dollars?*

*On October 23 and 24, 2008, we contacted the City Council members informing them we had the necessary signatures in order to make a formal complaint to the Public Service Commission. We offered to hold the petitions if they would agree to a third party*

*review in order to scale back the project, thereby reducing the proposed rate increase. We waited until October 29<sup>th</sup> and had not even a courtesy response from the Council. The petition was mailed on October 29, 2008.*

*Again, I request you table this bond ordinance and vote to review this project to make it more affordable for our citizens.*

Vince Collins addressed this discussion and repeated that if the plant capacity is increased in small increments the project will cost twice as much. He cautioned that renegotiated bids may result in the loss of the grant money, dollar for dollar. He also said that if the cost of the project is reduced the reduction will come directly from the grant money. Discussion ensued as to the application of the grant money. Councilman Deadrick commented that at the request of the Health Department who is managing the entire SAP grant they requested that the whole thing be moved into one project. Bob McCalley stated the minutes from a council meeting reflect there is a grant for the water tank project of six-hundred and some thousand dollars and later there is two million and some dollars for the water plant upgrade. Mr. McCalley continued to say that in the Dunn Engineering needs analysis dated July 2002, Fred Hypes, the engineer references a tank study and recommendation which was completed and the project was underway according to the Dunn document. He further commented that later the project was consolidated in 2005. Discussion ensued regarding the scope of the project. Further discussion ensued regarding the needed additional capacity of water storage. Councilman Deadrick quoted the 1998 study that was conducted by the county, that study identified the need for a 1,100,000 million gallon storage tank at the "hospital" and a water plant upgrade because of the hours in operation of the current plant, also that study looked at combining the City of Petersburg and the GCPSD into one operation. He further discussed the need for improved infrastructure to serve the water plant and the need to refurbish the aging water tank on the "Point". Discussion ensued regarding fire fighting capability, no agreement was reached. Councilman Deadrick asked if there were any more questions regarding the bond issue. No further questions were posed.

Councilman Hyre made a motion to close the Public Hearing. Councilwoman Alexander seconded the motion. The motion carried unanimously.

Vince Collins passed to each councilmember a copy of the Bond Ordinance. Councilman Rumer asked Mr. Collins what to expect as a response to the petition filed to the PSC disputing the water rates. Mr. Collins responded that the PSC will determine the water rates for the City of Petersburg, they can be expected to modify the rates, and the only appeal for the city will be to the Supreme Court. Councilman Hyre advised that this project has been going on since 2001, pointing out how long it takes to realize a project of this nature. Mr. Collins addressed the comment of "scaling back" the project, he stated that you will delay the project, by how much will depend on a lot of things; the engineer will have to go back and re-engineer it, we will have to go back and reapply for the certificate of convenience and necessity, 270 days, and we will have to rework the rates, as a guess he believes it is a two to three year delay if you scale the project back. Mr. Collins commented that it might be cheaper but, in his experience having done thousands of these projects, he has never seen a delayed project cheaper than it was before. Phyllis Cole asked Mr. Collins how many projects he does that had compliant issues compared to projects that have no compliant issues. Mr. Collins replied that it is either compliance or capacity issues. Discussion ensued regarding the argument of compliance and capacity issue, no agreement on that matter was reached. Councilwoman Alexander explained the compliance issues have been satisfied because the city is correcting the aluminum problem that has been identified. Mr. Collins commented that if the correction effort stops they will come down hard on the city for being out of compliance. Mrs. Cole commented that they are not asking the city to stop the project, but to review it. Vince Collins replied that would be stopping the project, you cannot simple stop and review; you will be stopping the project and restarting a new project. Bob McCalley said that they have stopped the project, but that they are not saying we shouldn't do anything. Councilwoman Alexander stated that reviewing and stopping this project will not help one thing, but it will cost money to do that. Councilman Hyre stated this project has been scrutinized and analyzed by the state and federal, the grant and low interest loans that have been received by the city do not come easy, obviously those in the state government

that have been a part of this process feel this project is reputable and needs to be done. The discussion continued arguing the need to review the project, no agreement was reached. Vince Collins stated that the city will not save any money; the project will cost more if we do the project piecemeal, it will also cost more if we delay the project. Mayor Michael stated the city was hoping for more contractors bidding the project, that was a big disappointment. Councilman Deadrick responded to comments by Bob McCalley regarding the three high pressure pumps in line, he stated that two of those are used at one time and the third pump is in case one would happen to go down, in the event you have to pull one the third is in line, the classroom is not a classroom it was wrongly described, the space is not finished space it is open and is to be used for storage, when the consideration was made to remove the space, it was found the redesign of the roof would create more cost than removing the space. One of the goals for the project is to be able to operate the water plant in one shift, which is what the State Health Department looks for. Bob McCalley commented that the State Health Department told them they get worried when a plant runs over fourteen hours on a sustained basis, part of the dilemma, he stated is that it is very easy to design a plant when there is no financial requirements on the table, engineers love that and the cost of this plant didn't service until August 2008. Bob McCalley went onto to question the work session procedure and reviews of the project. He further commented that there is redundancy on top of redundancy in the design. Vince Collins asked what the current water rate was for 4,500 gallons of water, he was told \$12.00, he then commented that we were doubling the price and the funding is key to the rates, if we cut out parts of the project we stand to lose the grant and the 0% money will be reduced and the rate will be about \$26.00 per 4,500 gallons, the state is in business of keeping your rates in the 1.5 median household income, if your rates go below that you are not eligible for the low percent money or the grant money. Vince Collins went onto to say that even if you start cutting 30 to 40 percent of the project and the rates will be exactly the same, he stated it was a futile argument. Bob McCalley stated the city council has done a disservice to the citizens of Petersburg. Mr. Collins disagreed and commended the city council for attaining extremely good financing for the project. Councilwoman Alexander stated the council has tried to keep the rates as low as possible. Mr. Collins argued that a lesser costly plant would have resulted in higher financing rates, for every dollar the project cost goes down the interest rate goes up. The problem with Petersburg is the rates are ridiculously low, nobody has \$12.00 rates anymore most places are looking at \$50.00 rates and Petersburg still ends up with rates one-half of that. He agreed it is a big percentage increase, but he noted we are starting with such a small base. Phyllis Cole pointed out that if the city doesn't bond the entire \$7,000,000 Steptoe and Johnson is not going to get as much money. Vince Collins stated the law firm gets paid when the bonds close. He went onto to explain that with the 0% and 2% loans, you want to stretch it out for as long as possible, if they were higher we would want to pay it off sooner, these are subsidized rates. He continued that we had an advantage of being small and rural in that we receive more grant money than many places.

Councilman Deadrick made a motion to approve the third reading of the Water Revenue Bond Series 2008 – A and Water Revenue Bond Series 2008 – B Ordinance, the title of the Ordinance is: **ORDINANCE AUTHORIZING THE PAYMENT OF THE WATERWORKS SYSTEM REFUNDING BOND ANTICIPATION NOTES, SERIES 2005 AND THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC WATERWORKS SYSTEM OF THE TOWN OF PETERSBURG AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE TOWN OF PETERSBURG OF NOT MORE THAN \$4,700,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2008 B (WEST VIRGINIA DWTRF PROGRAM) PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS, AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING LOAN AGREEMENTS RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.** Councilman Rumer seconded the motion. A roll call vote was called for.

Bill Deadrick ----- yes  
Paige Alexander -----yes  
Bruce Hyre, Jr. -----yes  
Alvin Rumer -----yes  
John VanMeter -----no

Motion carried.

Councilman Deadrick made a motion to approve the First Draw Contract Resolution. Councilman Hyre seconded the motion. A roll call vote was called for.

Bill Deadrick -----yes  
Paige Alexander -----yes  
Bruce Hyre, Jr. -----yes  
Alvin Rumer -----yes  
John VanMeter -----no

The motion carried.

In response to a question regarding the timeline of rate increase, Councilman Deadrick responded that "everything is off the table", the PSC will review the current situation and if they find the need for an increase they will implement that effective immediately and what our rates are and will be and when they will be implement them.

Crystal Summers appeared before council to ask for the city to install speed bumps on Lee Street. She said she talked to Grant County Deputy Tim Thompson about the problem. Mayor Michael told her to start writing down license numbers and call Sheila at City Hall and file a report. Councilman Hyre offered to place the city's speed sign on the street. She asked for "Slow Children Playing" signs.

Councilman Deadrick made a motion to increase our contract with Griffith and Associates to \$40,000 for work on the water project. Councilman Rumer seconded the motion. A roll call vote was called for.

Bill Deadrick -----yes  
Paige Alexander -----yes  
Bruce Hyre, Jr. -----yes  
Alvin Rumer -----yes  
John VanMeter -----no

The motion carried.

Councilman Deadrick made a motion to accept the DWTRF Cross Cutter Assurances Certification for the Department of Public Health and authorize the mayor to sign the agreement. Councilman Hyre seconded the motion. The motion carried unanimously.

Councilman VanMeter made a motion to adopt the transfer cable franchise agreement from Rapid Cable to Shentel Cable Co. Councilman Hyre seconded the motion. The motion carried unanimously.

Councilman Deadrick made a motion to enter into Executive Session to discuss personnel matters. Councilman Rumer seconded the motion. The motion carried unanimously.

Councilman Hyre made a motion to re-enter the Regular Scheduled Meeting of the City Council. Councilman Rumer seconded the motion. The motion carried unanimously.

Councilman Hyre made a motion to initiate a 2% cost of living increase to all City of Petersburg full time employees and qualifying part time employees. Councilwoman Alexander seconded the motion. The motion carried unanimously.

Councilman Deadrick made a motion to adjust the Chief Operator of the Water Plant's salary from \$31,500 to \$35,000 that increase includes the 2% increase given to the other employees. Councilman Hyre seconded the motion. The motion carried unanimously.

Councilman Hyre made a motion to adjourn. Councilman Rumer seconded the motion. The motion carried unanimously.

*Sarah J. Moomau*  
Sarah J. Moomau, Recorder

**WV MUNICIPAL BOND COMMISSION**  
 1207 Quarrier Street  
 Suite 401  
 Charleston, WV 25301  
 (304) 558-3971

**NEW ISSUE REPORT FORM**

Date of Report: 16-Apr-09

ISSUE: <u>Town of Petersburg</u> <u>Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program)</u>	
ADDRESS: <u>21 Mount View Street, Petersburg, WV 26847</u>	COUNTY: <u>Grant</u>
PURPOSE OF ISSUE: New Money: <u>x</u> Refunding: _____	
REFUNDS ISSUE(S) DATED: <u>NA</u>	CLOSING DATE: <u>16-Apr-09</u>
ISSUE DATE: <u>16-Apr-09</u>	RATE: <u>2% Administrative Fee: 1%</u>
ISSUE AMOUNT: <u>\$2,700,000</u>	1ST DEBT SERVICE DUE: <u>1-Mar-11</u>
1ST DEBT SERVICE AMOUNT: <u>\$41,032</u>	1ST PRINCIPAL DUE: <u>1-Mar-11</u>
PAYING AGENT: <u>Municipal Bond Commission</u>	
<b>BOND COUNSEL:</b> Firm: <u>Steptoe &amp; Johnson PLLC</u> Contact: <u>John Stump, Esquire</u> Phone: <u>(304) 353.8196</u>	
<b>UNDERWRITERS COUNSEL:</b> Firm: <u>Jackson Kelly, PLLC</u> Contact: <u>Samme Gee, Esquire</u> Phone: <u>(304) 340-1318</u>	
<b>CLOSING BANK:</b> Bank: <u>Grant County Bank</u> Contact: <u>George Ford</u> Phone: <u>304.257.4111</u>	
<b>ESCROW TRUSTEE:</b> Firm: _____ Contact: _____ Phone: _____	
<b>KNOWLEDGEABLE ISSUER CONTACT:</b> Contact: <u>Gary Michael</u> Position: <u>Mayor</u> Phone: <u>(304) 257-4944</u>	
<b>OTHER:</b> Agency: <u>West Virginia Bureau for Public Health</u> Contact: <u>Robert DeCrease</u> Position: <u>Manager</u> Phone: <u>(304) 558-2981</u>	
<b>DEPOSITS TO MBC AT CLOSE</b> By: _____ Wire _____ _____ Check _____	
Accrued Interest: \$ _____	Capitalized Interest: \$ _____
Reserve Account: \$ _____	Other: \$ _____
<b>REFUNDS &amp; TRANSFERS BY MBC AT CLOSE</b> By: _____ Wire _____ _____ Check _____ _____ IGT _____	
To Escrow Trustee: \$ _____	To Issuer: \$ _____
To Cons. Invest. Fund: \$ _____	To Other: \$ _____
NOTES: <u>The Series 2009 A Reserve Account to be funded over 10 years</u> _____ _____	
<b>FOR MUNICIPAL BOND COMMISSION USE ONLY:</b> DOCUMENTS REQUIRED: _____ TRANSFERS REQUIRED: _____ _____	

**WV MUNICIPAL BOND COMMISSION**  
 1207 Quarrier Street  
 Suite 401  
 Charleston, WV 25301  
 (304) 558-3971

**NEW ISSUE REPORT FORM**

Date of Report: 16-Apr-09

ISSUE: <u>Town of Petersburg</u>	
<u>Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program)</u>	
ADDRESS: <u>21 Mount View Street, Petersburg, WV 26847</u>	COUNTY: <u>Grant</u>
PURPOSE OF ISSUE:	
New Money: <u>x</u>	REFUNDS ISSUE(S) DATED: <u>NA</u>
Refunding: _____	
ISSUE DATE: <u>16-Apr-09</u>	CLOSING DATE: <u>16-Apr-09</u>
ISSUE AMOUNT: <u>\$5,000,000</u>	RATE: <u>0% Administrative Fee: 1%</u>
1ST DEBT SERVICE DUE: <u>1-Mar-11</u>	1ST PRINCIPAL DUE: <u>1-Mar-11</u>
1ST DEBT SERVICE AMOUNT: <u>\$41,667</u>	PAYING AGENT: <u>Municipal Bond Commission</u>
BOND COUNSEL:	
Firm: <u>Steptoe &amp; Johnson PLLC</u>	UNDERWRITERS COUNSEL
Contact: <u>John Stump, Esquire</u>	Firm: <u>Jackson Kelly, PLLC</u>
Phone: <u>(304) 353.8196</u>	Contact: <u>Samme Gee, Esquire</u>
	Phone: <u>(304) 340-1318</u>
CLOSING BANK:	
Bank: <u>Grant County Bank</u>	ESCROW TRUSTEE:
Contact: <u>George Ford</u>	Firm: _____
Phone: <u>304.257.4111</u>	Contact: _____
	Phone: _____
KNOWLEDGEABLE ISSUER CONTACT	
Contact: <u>Gary Michael</u>	OTHER:
Position: <u>Mayor</u>	Agency: <u>West Virginia Bureau for Public Health</u>
Phone: <u>(304) 257-4944</u>	Contact: <u>Robert DeCrease</u>
	Position: <u>Manager</u>
	Phone: <u>(304) 558-2981</u>
DEPOSITS TO MBC AT CLOSE	
By: _____ Wire	Accrued Interest: \$ _____
_____ Check	Capitalized Interest: \$ _____
	Reserve Account: \$ _____
	Other: \$ _____
REFUNDS & TRANSFERS BY MBC AT CLOSE	
By: _____ Wire	To Escrow Trustee \$ _____
_____ Check	To Issuer \$ _____
_____ IGT	To Cons. Invest. Fund \$ _____
	To Other: _____ \$ _____
NOTES: <u>The Series 2009 B Reserve Account to be funded over 10 years</u>	
_____	
_____	
FOR MUNICIPAL BOND COMMISSION USE ONLY:	
DOCUMENTS REQUIRED: _____	
TRANSFERS REQUIRED: _____	
_____	

TOWN OF PETERSBURG

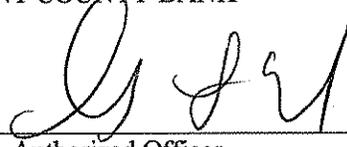
Water Revenue Bonds, Series 2009 A; and  
Water Revenue Bonds, Series 2009 B  
(West Virginia DWTRF Program)

ACCEPTANCE OF APPOINTMENT AS DEPOSITORY BANK

GRANT COUNTY BANK, Petersburg, West Virginia, hereby accepts appointment as Depository Bank in connection with the Bond Ordinance of the Town of Petersburg (the "Issuer") enacted November 3, 2008, and the Supplemental Resolution of the Issuer adopted April 15, 2009 (collectively, the "Bond Legislation"), authorizing issuance of the Issuer's Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program), dated April 16, 2009, issued in the principal amount of \$2,700,000 and Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program), dated April 16, 2009, issued in the principal amount of \$5,000,000 (collectively the "Bonds"), and agrees to serve as Depository Bank in connection with the Bonds, all as set forth in the Bond Legislation.

WITNESS my signature on this 16th day of April, 2009.

GRANT COUNTY BANK

By:   
Its: Authorized Officer

04.08.09  
698490.00008

TOWN OF PETERSBURG

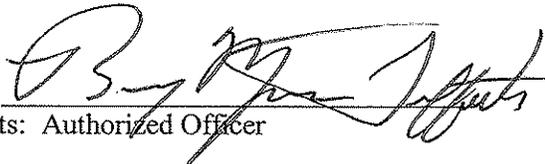
Water Revenue Bonds, Series 2009 A; and  
Water Revenue Bonds, Series 2009 B  
(West Virginia DWTRF Program)

ACCEPTANCE OF DUTIES AS REGISTRAR

THE HUNTINGTON NATIONAL BANK, Charleston, West Virginia, hereby accepts appointment as Registrar in connection with the Town of Petersburg Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program), dated April 16, 2009, issued in the principal amount of \$2,700,000 and Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program), dated April 16, 2009, issued in the principal amount of \$5,000,000 (collectively the "Bonds"), and agrees to perform all duties of Registrar in connection with the Bonds, all as set forth in the Bond Legislation authorizing issuance of the Bonds.

WITNESS my signature on this 16th day of April, 2009.

THE HUNTINGTON NATIONAL BANK

By:   
Its: Authorized Officer

04.08.09  
698490.00008

TOWN OF PETERSBURG

Water Revenue Bonds, Series 2009 A; and  
Water Revenue Bonds, Series 2009 B  
(West Virginia DWTRF Program)

CERTIFICATE OF REGISTRATION OF BONDS

THE HUNTINGTON NATIONAL BANK, Charleston, West Virginia, as Registrar under the Bond Legislation and Registrar's Agreement providing for the above-captioned Bonds of the Town of Petersburg (the "Issuer"), hereby certifies that on the date hereof, the single, fully registered Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program), of the Issuer, dated April 16, 2009, in the principal amount of \$2,700,000, numbered AR-1, and the single, fully registered Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program), of the Issuer, dated April 16, 2009 in the principal amount of \$5,000,000, numbered BR-1, were registered as to principal and interest, if any, in the name of "West Virginia Water Development Authority" in the books of the Issuer kept for that purpose at our office, by a duly authorized officer on behalf of The Huntington National Bank, as Registrar.

WITNESS my signature on this 16th day of April, 2009.

THE HUNTINGTON NATIONAL BANK

By:   
Its: Authorized Officer

04.08.09  
698490.00008

CH4918296.1

TOWN OF PETERSBURG

Water Revenue Bonds, Series 2009 A; and  
Water Revenue Bonds, Series 2009 B  
(West Virginia DWTRF Program)

REGISTRAR'S AGREEMENT

THIS REGISTRAR'S AGREEMENT, dated as of the 16th day of April, 2009, by and between the TOWN OF PETERSBURG, a municipal corporation and political subdivision of the State of West Virginia (the "Issuer"), and THE HUNTINGTON NATIONAL BANK, Charleston, West Virginia (the "Registrar").

WHEREAS, the Issuer has, contemporaneously with the execution hereof, issued and sold its \$2,700,000 Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program) and \$5,000,000 Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program), in fully registered form (collectively, the "Bonds"), pursuant to the Bond Ordinance of the Issuer duly enacted November 3, 2008, and the Supplemental Resolution of the Issuer duly adopted April 15, 2009 (collectively, the "Bond Legislation");

WHEREAS, capitalized words and terms used in this Registrar's Agreement and not otherwise defined herein shall have the respective meanings given them in the Bond Legislation, a copy of which is attached as EXHIBIT A hereto and incorporated herein by reference;

WHEREAS, the Bond Legislation provides for an appointment by the Issuer of a Registrar for the Bonds; and

WHEREAS, the Issuer desires to appoint, and by the Bond Legislation and this Registrar's Agreement does appoint, the Registrar to act as Registrar under the Bond Legislation and to take certain other actions hereinafter set forth;

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

1. Upon the execution of this Registrar's Agreement by the Issuer and the Registrar and during the term hereof, the Registrar does accept and shall have and carry out the powers and duties of Registrar for the Bonds, all as set forth in the Bond Legislation, such duties including, among other things, the duties to authenticate, register and deliver Bonds upon original issuance and when properly presented for exchange or transfer, and shall do so with the intention of maintaining the exclusion of interest, if any, on the Bonds from gross income for federal income tax purposes, in accordance with any rules and regulations promulgated by the United States Treasury Department or by the Municipal Securities Rulemaking Board or similar regulatory bodies as the Issuer advises it of and with generally accepted industry standards.

2. The Registrar agrees to furnish the Issuer with appropriate records of all transactions carried out by it as Registrar and to furnish the Issuer with the names and specimen signatures of the Registrar's authorized officers for the purposes of acting as the Registrar and with such other information and reports as the Issuer may from time to time reasonably require.

3. The Registrar shall have no responsibility or liability for any action taken by it at the specific direction of the Issuer.

4. As compensation for acting as Registrar pursuant to this Registrar's Agreement, the Issuer hereby agrees to pay to the Registrar the compensation for services rendered as provided in the annexed schedule.

5. It is intended that this Registrar's Agreement shall carry out and implement provisions of the Bond Legislation with respect to the Registrar. In the event of any conflict between the terms of this Registrar's Agreement and the Bond Legislation, the terms of the Bond Legislation shall govern.

6. The Issuer and the Registrar each warrants and represents that it is duly authorized and empowered to execute and enter into this Registrar's Agreement and that neither such execution nor the performance of its duties hereunder or under the Bond Legislation will violate any order, decree or agreement to which it is a party or by which it is bound.

7. This Registrar's Agreement may be terminated by either party upon 60 days' written notice sent by registered or certified mail to the other party, at the following respective addresses:

ISSUER: Town of Petersburg  
P.O. Box 669  
Petersburg, WV 26847  
Attention: Mayor

REGISTRAR: The Huntington National Bank  
One Huntington Square  
Charleston, West Virginia 25301  
Attention: Corporate Trust Department

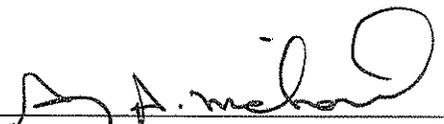
8. The Registrar is hereby requested and authorized to authenticate and deliver the Bonds in accordance with the Bond Legislation.

9. This document may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same document.

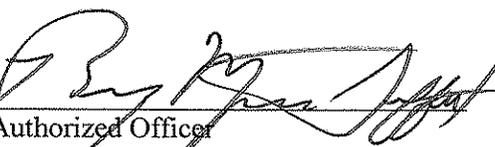
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IN WITNESS WHEREOF, the parties hereto have respectively caused this Registrar's Agreement to be signed in their names and on their behalf, all as of the day and year first above-written.

TOWN OF PETERSBURG

By:   
Its: Mayor

THE HUNTINGTON NATIONAL BANK

By:   
Its: Authorized Officer

04.09.09  
698490.00008

EXHIBIT A

Bond Legislation included in bond transcript as Documents Nos. 1 and 2.

SCHEDULE OF COMPENSATION

(Please see attached)

Private Financial Group  
P.O. Box 633 - WE3013  
Charleston, West Virginia 25322-0633



STATEMENT OF REGISTRAR'S FEES  
Invoice Date April 16, 2009

**Town of Petersburg**  
**Account Number 6089001809**

Town of Petersburg  
Water Revenue Bonds, Series 2009 A  
C/o John C. Stump  
Steptoe & Johnson, PLLC  
P.O. Box 1588  
Charleston, WV 25326-1588

SUMMARY OF ACCOUNT

\*\*\*\*\*  
FEE CALCULATION FOR April, 2009  
\*\*\*\*\*

TOTAL AMOUNT	\$	500.00
TOTAL DUE	\$	<u>500.00</u>

- \* FEE INVOICES ARE PAYABLE WITHIN 30 DAYS. IF PAYMENT \*
- \* IS NOT RECEIVED, FEES WILL BE DEDUCTED FROM THE PLAN \*
- \* .. MAIL CHECK TO: HUNTINGTON NATIONAL BANK, ATTN: BARRY. . \*
- \* .. GRIFFITH, PO BOX 633, CHARLESTON, WV 25322-0633 . . . . . \*

PLEASE INCLUDE A COPY OF THIS INVOICE WITH YOUR PAYMENT

IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT  
Barry Morgan Griffith at (304)348-5035

Private Financial Group  
P.O. Box 633 - WE3013  
Charleston, West Virginia 25322-0633



STATEMENT OF REGISTRAR'S FEES  
Invoice Date April 16, 2009

**Town of Petersburg**  
**Account Number 6089001809**

Town of Petersburg  
Water Revenue Bonds, Series 2009 B  
C/o John C. Stump  
Steptoe & Johnson, PLLC  
P.O. Box 1588  
Charleston, WV 25326-1588

SUMMARY OF ACCOUNT

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- \* .. MAIL CHECK TO: HUNTINGTON NATIONAL BANK, ATTN: BARRY. . \*
- \* .. GRIFFITH, PO BOX 633, CHARLESTON, WV 25322-0633 . . . . . \*

PLEASE INCLUDE A COPY OF THIS INVOICE WITH YOUR PAYMENT

IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT  
Barry Morgan Griffith at (304)348-5035

# State of West Virginia

## OFFICE OF ENVIRONMENTAL HEALTH SERVICES

CAPITOL and WASHINGTON STREETS 1 DAVIS SQUARE, SUITE 200 CHARLESTON, WEST VIRGINIA 25301  
TELEPHONE 304-558-2981

### PERMIT

(Water)

PROJECT: 2400 G.P.M. Water Treatment Plant

PERMIT NO.: 17,719

LOCATION: Petersburg

COUNTY: Grant

DATE: 10-2-2007

THIS IS TO CERTIFY that after reviewing plans, specifications, application forms, and other essential information that

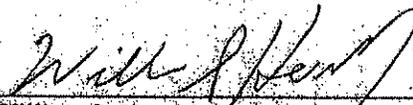
**City of Petersburg**  
**P. O. Box 699**  
**Petersburg, West Virginia 26847**

is hereby granted approval to: install approximately 6,200 LF of 12" water line and replace the existing 300,000 gallon Hospital Hill water storage tank with a new 1,500,000 gallon tank. The existing City of Petersburg 1200 G.P.M. water treatment plant will be upgraded and expanded to a 2400 G.P.M. water treatment plant with major work to consist of the addition of second air compressor for the raw water intake structure; modifying the existing raw water pump station to a 2400 G.P.M. duplex station; addition of a static mixer; chemical feed and storage equipment for soda ash, polymer, fluoride, powdered activated carbon, and chlorine; addition of two (2) 50 ft. diameter by 22 ft. deep flocculating clarifiers with sludge being transferred to a new duplex sludge dewatering bag system; replacement of the existing filter with eight (8) 100 SF mixed media gravity filters with water and air backwashing; addition of a 42 ft. diameter by 24 ft deep baffled chlorine contact tank; use of the existing 21,000 gallon clearwell for chlorine residual and as a pump sump; three (3) 1200 G.P.M. clearwell pumps; three (3) 1200 G.P.M. high service pumps; raw and finished water flow meters; a new emergency generator; converting the existing clarifiers into filter backwash clarifiers with clarified backwash water being recycled; and all necessary piping, valves, controls and appurtenances.

The Environmental Engineering Division of the OEHS-Kearneysville District Office, telephone (304) 725-9453, is to be notified when construction begins.

Validity of this permit is contingent upon conformity with plans, specifications, application forms, and other information submitted to the West Virginia Bureau for Public Health.

FOR THE DIRECTOR

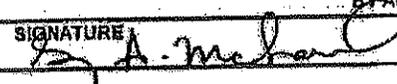
  
William S. Herold, Jr., P.E., Assistant Manager  
Infrastructure and Capacity Development  
Environmental Engineering Division

WSH:emf

pc **Duna Engineers, Inc.**  
James W. Ellars, P.E., PSC-Engineering Division  
Amy Swann, PSC  
Grant County Health Department  
OEHS-EED Kearneysville District Office

**RECEIVED**  
MAY 09 2007

XP - 97350501 - 0 Page 1

 <p><b>U.S. ENVIRONMENTAL PROTECTION AGENCY</b></p> <p><b>Grant Agreement</b></p>	<b>ASSISTANCE ID NO.</b>		<b>DATE OF AWARD</b>
	<b>PRG</b>	<b>DOC ID</b>	<b>AMEND#</b>
	XP -	97350501	- 0
	<b>TYPE OF ACTION</b>		
New			04/25/2007
<b>PAYMENT METHOD:</b>			<b>ACH#</b>
Reimbursement			
<b>RECIPIENT TYPE:</b>			
Municipal			
<b>RECIPIENT:</b>			
City of Petersburg PO Box 669 Petersburg, WV 26847 EIN: 65-6000231		City of Petersburg PO Box 669 Petersburg, WV 26847	
<b>PROJECT MANAGER</b>		<b>EPA PROJECT OFFICER</b>	<b>EPA GRANT SPECIALIST</b>
G. William Deadrick, Jr. PO Box 669 Petersburg, WV 26847 E-Mail: Phone: 304-257-4944		Bruce A. Smith 1650 Arch Street, 3WP50 Philadelphia, PA 19103-2029 E-Mail: Smith.Bruce@epamail.epa.gov Phone: 215-814-5770	Nancy Schruby Grants and Audit Management Branch, 3PM70 E-Mail: Schruby.Nancy@epamail.epa.gov Phone: 215-814-5414
<b>PROJECT TITLE AND DESCRIPTION</b>			
UPGRADE AND EXPANSION OF A WATER TREATMENT PLANT Upgrade and expansion of the City's existing water treatment plant from 1.7 million gallon per day (GPD) capacity to a 3.4 million GPD capacity plant. Improvement of the distribution system, including replacement of the existing 300,000 gallon storage tank with a new 1,500,000 gallon storage tank; construction of 500 linear feet of 12" water line to connect the new storage tank to the system; and replacement of 1,200 water meters in WV.			
<b>BUDGET PERIOD</b>	<b>PROJECT PERIOD</b>	<b>TOTAL BUDGET PERIOD COST</b>	<b>TOTAL PROJECT PERIOD COST</b>
09/01/2007 - 12/31/2008	09/01/2007 - 12/31/2008	\$5,329,819.00	\$5,329,819.00
<b>NOTICE OF AWARD</b>			
Based on your application dated 11/07/2005, including all modifications and amendments, the United States acting by and through the US Environmental Protection Agency (EPA), hereby awards \$2,931,400. EPA agrees to cost-share 55.00% of all approved budget period costs incurred, up to and not exceeding total federal funding of \$2,931,400. Such award may be terminated by EPA without further cause if the recipient fails to provide timely affirmation of the award by signing under the Affirmation of Award section and returning all pages of this agreement to the Grants Management Office listed below within 21 days after receipt, or any extension of time, as may be granted by EPA. This agreement is subject to applicable EPA statutory provisions. The applicable regulatory provisions are 40 CFR Chapter 1, Subchapter B, and all terms and conditions of this agreement and any attachments.			
<b>ISSUING OFFICE (GRANTS MANAGEMENT OFFICE)</b>		<b>AWARD APPROVAL OFFICE</b>	
<b>ORGANIZATION / ADDRESS</b>		<b>ORGANIZATION / ADDRESS</b>	
US EPA Region 3, 3PM70 1650 Arch Street Philadelphia, PA 19103-2029		U.S. EPA, Region 3 Water Protection Division 3WP00 1650 Arch Street Philadelphia, PA 19103-2029	
<b>THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY</b>			
<b>SIGNATURE OF AWARD OFFICIAL</b>	<b>TYPED NAME AND TITLE</b>	<b>DATE</b>	
Digital signature applied by EPA Award Official	James W. Newsom, ARA for Policy and Management	04/18/2007	
<b>AFFIRMATION OF AWARD</b>			
<b>BY AND ON BEHALF OF THE DESIGNATED RECIPIENT ORGANIZATION</b>			
<b>SIGNATURE</b>	<b>TYPED NAME AND TITLE</b>	<b>DATE</b>	
	Gary A. Michael, Mayor	5/7/07	

<b>Approved Budget</b>	
Program Element Classification (Construction)	Approved Allowable Budget Period Cost
1. Administration Expense	\$0
2. Preliminary Expense	\$0
3. Land Structure, Right Of Way	\$0
4. Architectural Engineering Basic Fees	\$0
5. Other Architectural Engineering Fees	\$0
6. Project Inspection Fees	\$0
7. Land Development	\$0
8. Relocation Expenses	\$0
9. Relocation Payments to Individuals & Bus.	\$0
10. Demolition and Removal	\$0
11. Construction and Project Improvement	\$5,240,000
12. Equipment	\$0
13. Miscellaneous	\$0
14. Total (Lines 1 thru 13)	\$5,240,000
15. Estimate Income	\$0
16. Net Project Amount (Line 14 minus 15)	\$5,240,000
17. Less: Ineligible Exclusions	\$0
18. Add: Contingencies	\$89,819
19. Total (Share: Recip 45.00% Fed 55.00%)	\$5,329,819
20. TOTAL APPROVED ASSISTANCE AMOUNT	\$2,931,400

### Administrative Conditions

1. Any State agency or agency of a political subdivision of a State which is using appropriated Federal funds shall comply with the requirements set forth in Section 6002 of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6962). Regulations issued under RCRA Section 6002 apply to any acquisition of an item where the purchase price exceeds \$10,000 or where the quantity of such items acquired in the course of the preceding fiscal year was \$10,000 or more. RCRA Section 6002 requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by EPA. These guidelines are listed in 40 CFR 247.

2. The recipient shall fully comply with Subpart C of 2 CFR Part 180 and 2 CFR Part 1532, entitled "Responsibilities of Participants Regarding Transactions (Doing Business with Other Persons)." The recipient is responsible for ensuring that any lower tier covered transaction, as described in Subpart B of 2 CFR Part 180 and 2 CFR Part 1532, entitled "Covered Transactions," includes a term or condition requiring compliance with Subpart C. The recipient is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. The recipient acknowledges that failing to disclose the information as required at 2 CFR 180.335 may result in the delay or negation of this assistance agreement, or pursuance of legal remedies, including suspension and debarment.

The recipient may access the Excluded Parties List System at <http://epls.arnet.gov>. This term and condition supersedes EPA Form 5700-49, "Certification Regarding Debarment, Suspension, and Other Responsibility Matters."

3. The recipient agrees to comply with Title 40 CFR Part 34, New Restrictions on Lobbying. The recipient shall include the language of this provision in award documents for all subawards exceeding \$100,000, and require that subrecipients submit certification and disclosure forms accordingly.

In accordance with the Byrd Anti-Lobbying Amendment, any recipient who makes a prohibited expenditure under Title 40 CFR Part 34 or fails to file the required certification or lobbying forms shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure.

4. Pursuant to EPA's annual Appropriations Act, the chief executive officer of this recipient agency shall require that no grant funds have been used to engage in lobbying of the Federal Government or in litigation against the United States unless authorized under existing law. As mandated by this Act, the recipient agrees to provide certification to the award official via EPA Form 5700-53, Lobbying and Litigation Certificate, with the final payment request.

The recipient shall abide by its respective OMB Circular (A-21, A-87, or A-122), which prohibits the use of federal grant funds for litigation against the United States. Any Part 30 recipient shall abide by its respective OMB Circular (A-21 or A-122), which prohibits the use of Federal grant funds to participate in various forms of lobbying or other political activities.

5. In accordance with EPA Order 1000.25 and Executive Order 13101, *Greening the Government Through Waste Prevention, Recycling, and Federal Acquisition*, the recipient agrees to use recycled paper for all reports which are prepared as a part of this agreement and delivered to EPA. This requirement does not apply to reports prepared on forms supplied by EPA, or to Standard Forms, which are printed on recycled paper and are available through the General Services Administration. Please note that Section 901 of E.O. 13101, dated September 14, 1998, revoked E.O. 12873, *Federal Acquisition, Recycling, and Waste Prevention* in its entirety.

6. If a contract is awarded under this assistance agreement, the recipient agrees and is required to utilize the following affirmative steps:

- a. placing Small Businesses in Rural Areas (SBRAs) on solicitation lists;

agrees to obtain a single audit from an independent auditor if it expends \$500,000 or more in total Federal funds in any fiscal year. Within nine months after the end of a recipient's fiscal year or 30 days after receiving the report from the auditor, the recipient shall submit a copy of the report to:

Federal Audit Clearinghouse  
1201 East 10th Street  
Jeffersonville, IN 47132

9. EPA participation in the salary rate (excluding overhead and travel) paid to individual consultants retained by recipients or by a recipient's contractors or subcontractors shall be limited to the maximum daily rate for Level IV of the Executive Schedule, to be adjusted annually. This limit applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. As of January 1, 2007, the limit is \$559.23 per day and \$69.90 per hour. The rate does not include overhead or travel costs and the recipient may pay these in accordance with its normal travel practices.

Subagreements with firms for services which are awarded using the procurement requirements in 40 CFR Parts 30 or 31, as applicable, are not affected by this limitation unless the terms of the contract provide the recipient with responsibility for the selection, direction, and control of the individuals who will be providing services under the contract at an hourly or daily rate of compensation. See 40 CFR 31.36(j)(2) or 30.27(b), as applicable.

10. The recipient organization of this EPA assistance agreement must make an ongoing, good faith effort to maintain a drug-free workplace pursuant to the specific requirements set forth in Title 40 CFR 36.200 - 36.230. Additionally, in accordance with these regulations, the recipient organization must identify all known workplaces under its federal awards, and keep this information on file during the performance of the award.

Those recipients who are individuals must comply with the drug-free provisions set forth in Title 40 CFR 36.300.

The consequences for violating this condition are detailed under Title 40 CFR 36.510. Recipients can access the Code of Federal Regulations (CFR) Title 40 Part 36 at [http://www.access.gpo.gov/nara/cfr/waisidx\\_06/40cfr36\\_06.html](http://www.access.gpo.gov/nara/cfr/waisidx_06/40cfr36_06.html).

11. Pursuant to 40 CFR 30.18, if applicable, and 15 USC 2225a, the recipient agrees to ensure that all space for conferences, meetings, conventions, or training seminars funded in whole or in part with federal funds complies with the protection and control guidelines of the Hotel and Motel Fire Safety Act (PL 101-391, as amended). Recipients may search the Hotel-Motel National Master List at <http://www.usfa.dhs.gov/applications/hotel/> to see if a property is in compliance (FEMA ID is currently not required), or to find other information about the Act.

### **Programmatic Conditions**

#### **1. Procurement**

a. The recipient agrees to procure all services, supplies, and construction awarded under this grant in accordance with 40 CFR Part 31.

b. A copy of all proposed subagreements for services and supplies over \$100,000 shall be submitted to the West Virginia Bureau for Public Health (WV BPH), for review and pre-award approval, as appropriate, under 40 CFR Part 31. The submittal of the proposed subagreements shall include procurement records. Also, the contract cost and price data shall be submitted on EPA Form 5700-41, or on a form which contains similar information.

c. A copy of all proposed subagreements for construction shall be submitted to the WV BPH, for review and pre-award approval, as appropriate, under 40 CFR Part 31. The submittal of the proposed

application, is included as a condition.

Advertise for Bids	April 2007
Award Construction Contract	October 2007
Initiate Construction	October 2007
Complete Construction	October 2008
Submit Final Payment Request	December 2008

#### 10. Environmental Review

The recipient agrees not to begin the preparation of plans and specifications (design), or to initiate construction, until such time as EPA determines that the project complies with the National Environmental Policy Act, 42 USC Subsection 4321 et seq., CFR Parts 6 and 1500 et seq.

The recipient agrees that upon completion of the NEPA review, design and construction shall be undertaken in accordance with the results of that review. EPA reserves the right to unilaterally terminate this grant in the event the recipient fails to comply with this condition, in accordance with 40 CFR 31.43.

#### 11. Initiation of Construction

It is agreed that the WV BPH must approve the design before contracts are advertised for bids. Bids will be submitted to the WV BPH for approval prior to contract award.

#### 12. Open Competition and Government Neutrality

The assistance recipient agrees to comply with Executive Order 13202 (February 22, 2001, 66 Fed. Reg. 11225) of February 17, 2001, entitled "Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects," as amended by Executive Order 13208 (April 11, 2001, 66 Fed. Reg. 18717) of April 6, 2001, entitled "Amendment to Executive Order 13202, Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects."

#### 13. Performance Reports

In accordance with 40 C.F.R. § 31.40, the recipient agrees to submit performance reports that include brief information on each of the following areas; 1) a comparison of actual accomplishments to the outputs/outcomes established in the assistance agreement work plan for the period; 2) the reasons for slippage if established outputs/outcomes were not met; and 3) additional pertinent information, including, when appropriate, analysis and information of cost overruns or high unit costs.

In accordance with 40 C.F.R. § 31.40 (d), the recipient agrees to inform EPA as soon as problems, delays or adverse conditions become known which will materially impair the ability to meet the outputs/outcomes specified in the assistance agreement work plan.

#### 14. Outputs and Outcomes

EPA Order 5700.7, Environmental Results under EPA Assistance Agreements, requires that the award of grant assistance is tied to the accomplishment of agreed-upon products/activities and the effect of those products/activities, referred to as environmental "outputs" and "outcomes." The outputs and outcomes must be measurable and identified in the application work plan. The award of grant assistance constitutes EPA agreement with the outputs and outcomes identified in the application work plan.

EPA Order 5700.7 further requires that following the award of grant assistance, grant recipients must report on their progress in achieving the accepted environmental outputs and outcomes. The preceding Performance Reporting condition highlights this obligation.

Pursuant to EPA regulation 40 CFR 31.40(e), *Construction performance reports*, for the purpose of this grant award the recipient may satisfy the above Performance Reporting obligation by providing information on the interim status or completion of the project to the WV BPH during the course of interim and final project inspections.

subagreements shall include procurement records.

## 2. Grant Payments

The recipient agrees that:

a. Payments are on a reimbursable basis. Requests for payments should be submitted to the WV BPH, using Standard Form 271.

b. Payment for professional services and construction will be limited to the Federal share of EPA approved contracts.

## 3. Project Performance Certification

Prior to the release of the final payment on the grant, the recipient agrees to certify that the project is capable of meeting the objectives for which it was planned, designed, and built. In addition, all remaining documentation of costs (invoice copies) and proof of payment (check copies) must be provided to WV BPH.

## 4. Project Changes

For any changes in the project which affect the grant amount, delay or accelerate the project or alter the project in other ways, the recipient must receive a formal grant amendment from EPA. Of particular interest is any change in completion of final design drawings and specifications, date of advertisement for bids, and the building completion date.

## 5. Land Acquisition

In the event the recipient procures land or relocates people, 49 CFR Part 24 applies.

## 6. Sites, Easements and Rights-of-Way

The recipient 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 restrictions or encumbrances that might restrict their use for the purpose intended. Said opinion shall be submitted to EPA no later than the time at which the recipient requests approval to award construction contracts.

## 7. Flood Insurance

The recipient agrees to acquire and maintain at his own cost any flood insurance made available to it under the National Flood Insurance Act of 1968, as amended, before the project is placed in operation. This condition shall not be applicable if, on the date of execution of this Grant Agreement by both parties, flood insurance was not available pursuant to the Flood Insurance Act of 1968, as amended, for property in the project location.

## 8. Review

The recipient recognizes that approval of any part of this grant, change orders, grant increase amendments, subagreements, any special items or allowableness of any other costs will be subject to final review, including project officer review, audit review, and final determination of the grant approving official.

## 9. Project Schedule

EPA's policy requires that projects be initiated, constructed, and placed in operation in a timely manner. For that reason, the schedule shown below, which was developed in conjunction with your grant

- b. ensuring that SBRAs are solicited whenever they are potential sources;
- c. dividing total requirements, when economically feasible, into small tasks or quantiles to permit maximum participation by SBRAs;
- d. establishing delivery schedules, where the requirements of work will permit, which would encourage participation by SBRAs;
- e. using the services of the Small Business Administration (SBA), the Minority Business Development Agency (MBDA) of the U.S. Department of Commerce and the SBA PRO-Net Internet-based system <http://pro-net.sba.gov>, as appropriate; and
- f. requiring the contractor to take the affirmative steps in subparagraphs a. through e. of this part if subcontracts are awarded.

7. The recipient agrees to comply with the requirements of EPA's Program for Utilization of Small, Minority and Women's Business Enterprises in procurement under assistance agreements:

- a. The recipient accepts the applicable Minority Business Enterprise (MBE)/Women's Business Enterprise (WBE) "fair share" goals/objectives negotiated with EPA by the West Virginia Department of Health and Human Resources, as follows:

	<u>MBE%</u>	<u>WBE%</u>
Construction	1.61	6.0
Equipment	4.12	28.0
Services	2.90	29.0
Supplies	2.05	29.0

- b. The recipient agrees to ensure to the fullest extent possible, that at least the applicable "fair share" objectives of Federal funds for prime contracts or subcontracts for supplies, construction, equipment or services are made available to organizations owned or controlled by socially or economically disadvantaged individuals, women and historically black colleges and universities.
- c. The recipient agrees to include in its bid documents the applicable "fair share" objectives and require all of its prime contractors to include in their bid documents for subcontracts the negotiated "fair share" percentages.
- d. The recipient agrees to follow the six affirmative steps or positive efforts stated in 40 CFR 30.44(b), 40 CFR 31.36(e), or 40 CFR 35.6580, as appropriate, and retain records documenting compliance.
- e. The recipient agrees to submit an EPA Form 5700-52A, "MBE/WBE Utilization Under Federal Grants, Cooperative Agreements and Interagency Agreements," beginning with the Federal fiscal year quarter the recipient receives the award and continuing until the project is completed. These reports must be submitted to R. Catherine King, Municipal Financial Assistance Branch (3WP21), within 30 days of the end of the Federal fiscal quarter (January 30, April 30, July 30, and October 30).
- f. If race and/or gender neutral efforts prove inadequate to achieve a "fair share" objective, the recipient agrees to notify EPA in advance of any race and/or gender conscious action it plans to take to more closely achieve the "fair share" objective.

EPA may take corrective action under 40 CFR Parts 30, 31, and 35, as appropriate, if the recipient fails to comply with these terms and conditions.

- 8. In accordance with OMB Circular A-133, which implements the Single Audit Act, the recipient hereby

## Budget Summary Page

Table A - Object Class Category (Non-construction)	Total Approved Allowable Budget Period Cost
1. Personnel	\$0
2. Fringe Benefits	\$0
3. Travel	\$0
4. Equipment	\$0
5. Supplies	\$0
6. Contractual	\$0
7. Construction	\$5,240,000
8. Other	\$89,819
9. Total Direct Charges	\$5,329,819
10. Indirect Costs: % Base	\$0
11. Total (Share: Recipient 100.00 % Federal 0.00 %.)	\$5,329,819
12. Total Approved Assistance Amount	\$2,931,400
13. Program Income	\$0
14. Total EPA Amount Awarded This Action	\$2,931,400
15. Total EPA Amount Awarded To Date	\$2,931,400

## EPA Funding Information

FUNDS	FORMER AWARD	THIS ACTION	AMENDED TOTAL
EPA Amount This Action	\$	\$ 2,931,400	\$ 2,931,400
EPA In-Kind Amount	\$	\$	\$ 0
Unexpended Prior Year Balance	\$	\$	\$ 0
Other Federal Funds	\$	\$	\$ 0
Recipient Contribution	\$	\$ 2,398,419	\$ 2,398,419
State Contribution	\$	\$	\$ 0
Local Contribution	\$	\$	\$ 0
Other Contribution	\$	\$	\$ 0
Allowable Project Cost	\$ 0	\$ 5,329,819	\$ 5,329,819

Assistance Program (CFDA)	Statutory Authority	Regulatory Authority
68.202 - Congressionally Mandated Projects	Consolidated Appropriations Act of 2004 (PL 108-199) Consolidated Appropriations Act of 2005 (PL 108-447)	40 CFR PART 31

Fiscal									
Site Name	Req No	FY	Approp. Code	Budget Organization	PRC	Object Class	Site/Project	Cost Organization	Obligation / Decbligation
	0703LL0084	07	E4C	0300GEG	201B51E	4183			2,931,400
									2,931,400

# ACORD CERTIFICATE OF LIABILITY INSURANCE

INSURED COPY

DATE (MM/DD/YY)  
04/13/09

PRODUCER  
WV BOARD OF RISK & INSURANCE MGT  
90 MACCORKLE AVE SW SUITE 203  
SOUTH CHARLESTON WV 25303

Serial # A12060

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE

INSURED  
City of Petersburg  
PO Box 669  
Petersburg, WV 26847

INSURER A: NATIONAL UNION FIRE CO OF PITTSBURGH, PA  
INSURER B:  
INSURER C:  
INSURER D:  
INSURER E:

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

RISK CLASS	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> WRONGFUL ACT <input checked="" type="checkbox"/> PROFESSIONAL GENL AGGREGATE LIMIT APPLIES PER POLICY <input type="checkbox"/> PER OCC <input type="checkbox"/> LOC	L0458	07/01/2008	07/01/2009	EACH OCCURRENCE \$ 1,000,000 FIRE DAMAGE (Any one fire) \$ 100,000 MED EXP (Any one person) \$ 0 PERSONAL & ADY INJURY \$ INCLUDED GENERAL AGGREGATE \$ N/A PRODUCTS COMP/OP AGG \$ N/A
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	L0458	07/01/2008	07/01/2009	COMBINED SINGLE LIMIT (EA accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EA AGG \$ AGG \$
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$
	EXCESS LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION				\$ \$ \$ \$
A	WORKERS COMPENSATION AND EMPLOYERS LIABILITY STOPGAP		07/01/2008	07/01/2009	EL EACH ACCIDENT \$ EL DISEASE - EA EMPLOYEE \$ EL DISEASE - POLICY LIMIT \$
B	OTHER				

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS  
 SUBJECT TO THE PROVISIONS, CONDITIONS AND EXCLUSIONS OF THE POLICIES LISTED ABOVE, IT IS AGREED THAT THE CERTIFICATE HOLDER IS AN ADDITIONAL INSURED WITH RESPECTS TO:  
 General Liability Coverage

CERTIFICATE HOLDER  
 WV Water Development Authority  
 180 Association Drive  
 Charleston, WV 25031

ADDITIONAL INSURED, INSURER LETTER  
 CANCELLATION  
 SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.  
 AUTHORIZED REPRESENTATIVE  
*Joseph Gladwell*

CERTIFICATE OF LIABILITY INSURANCE

ADDITIONAL INSURED: CITY OF PETERSBURG  
P. O. BOX 669  
PETERSBURG, WV 26847

CERTIFICATE NO: L 0458 - Jul 1, 1986

This certifies that the insured named above is an Additional Insured for the Coverage indicated below under General Liability Policy GL 4006069 and Automobile Policy CA 3853305 issued to the State of West Virginia by NATIONAL UNION FIRE INSURANCE CO. OF PITTSBURGH, PA.

COVERAGE PERIOD: Jul 1, 2006 to Jul 1, 2007 12:01 a.m. Eastern Time

COVERAGE AFFORDED: Comprehensive General Liability Insurance  
Personal Injury Liability Insurance  
Professional Liability Insurance  
Stop Gap Liability Insurance  
Wrongful Act Liability Coverage  
Comprehensive Auto Liability Coverage  
Auto Physical Damage Insurance  
Garagekeepers Insurance

LIMIT OF LIABILITY: \$1,000,000 each occurrence\* and is SUBJECT TO \$2,500 DEDUCTIBLE. \*For all coverages combined. This limit is not increased if a claim is insured under more than one coverage or if claim is made against more than one insured.

SPECIAL LIMITS: The auto physical damage limit is the actual cash value of each vehicle subject to a deductible of \$1,000.

CLAIM REPORTING: Claims should be reported to:  
Claim Manager  
West Virginia Board of Risk & Insurance Management  
90 MacCorkle Avenue S.W. Suite 203  
South Charleston, West Virginia 25303

Claims Made Prior Acts Date: February 7, 1984

THE INSURANCE EVIDENCED BY THIS CERTIFICATE IS SUBJECT TO ALL OF THE TERMS, CONDITIONS, EXCLUSIONS AND DEFINITIONS IN THE POLICIES. IT IS A CONDITION PRECEDENT OF COVERAGE UNDER THE POLICIES THAT THE ADDITIONAL INSURED DOES NOT WAIVE ANY STATUTORY OR COMMON LAW IMMUNITY CONFERRED UPON IT.

BY: *Bill A. May* DATED: June 22, 2006  
AUTHORIZED REPRESENTATIVE

AGENT OF RECORD: COOKMAN INSURANCE GROUP  
PETERSBURG OFFICE  
2 ALTS AVENUE  
PETERSBURG, WV 26847-1758

304-257-4484 x 20706  
Sherida Koontz

JERTIFICATE OF PROPERTY INSURANCE

INSURED: CITY OF PETERSBURG  
P. O. BOX 669  
PETERSBURG, WV 26847

CERTIFICATE NO: P 0458 - Jul 1, 1997

This certifies that the Additional Insured named above is insured for first party Property Coverages procured and/or administered by the West Virginia Board of Risk and Insurance Management (BRIM). The coverages are provided through a combination of custom designed and conventional commercial insurance products.

THE INSURANCE EVIDENCED BY THIS CERTIFICATE IS SUBJECT TO ALL OF THE TERMS, CONDITIONS, EXCLUSIONS AND DEFINITIONS CONTAINED IN THE POLICIES.

COVERAGE PERIOD: Jul 1, 2006 to Jul 1, 2007 12:01 a.m. Eastern Time

LIMIT OF LIABILITY: Stated values, for real and personal property, which have been declared to and accepted by BRIM, not to exceed the maximum coverage procured by BRIM.

THIS POLICY DOES NOT COVER DAMAGE FROM FLOOD.  
FOR INFORMATION ABOUT FLOOD INSURANCE, CONTACT THE NATIONAL FLOOD INSURANCE PROGRAM OR YOUR INSURANCE AGENT.

SPECIAL LIMITS: Each policy shall be governed by the special limits of liability contained therein.

DEDUCTIBLE: The State of West Virginia has a \$1,000,000.00 deductible on coverages it procures. The above listed insured has a \$2,500 deductible that is applicable to each loss.

CLAIM REPORTING: Claims should be reported to:  
Claim Manager  
West Virginia Board of Risk & Insurance Management  
90 MacCorkle Avenue S.W. Suite 203  
South Charleston, West Virginia 25303

BY:  DATED: June 22, 2006  
AUTHORIZED REPRESENTATIVE

AGENT OF RECORD: COOKMAN INSURANCE GROUP  
PETERSBURG OFFICE  
2 ALTS AVENUE  
PETERSBURG, WV 26847-1758

CITY OF PETERSBURG

\$474,000 Water Revenue Bond,  
Series 1975

BOND ORDINANCE

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CITY OF PETERSBURG

ORDINANCE AUTHORIZING THE ISSUANCE OF A \$474,000 WATER REVENUE BOND, SERIES 1975, OF THE CITY OF PETERSBURG, TO FINANCE IMPROVEMENT AND MODIFICATION OF AND ADDITIONS AND BETTERMENTS TO AN EXISTING WATERWORKS OF THE CITY; DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE BOND; PROVIDING FOR RATES FOR THE SERVICES OF THE WATERWORKS; PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES AND SECURITIES OF THE HOLDER OF THE BOND; AND PROVIDING WHEN THIS ORDINANCE SHALL TAKE EFFECT

BE IT ORDAINED AND ENACTED BY THE CITY OF THE CITY OF PETERSBURG:

ARTICLE I

STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01. Authority for This Ordinance. This Ordinance is enacted pursuant to the provisions of Article 19, Chapter 8 of the West Virginia Code and other applicable provisions of law.

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

(A) The City of Petersburg (herein called the "City"), in the County of Grant, State of West Virginia, now owns a waterworks and water plant facilities but such waterworks and water plant is no longer adequate for the needs of the public served by it, and improvement and modification of and additional betterments thereto are urgently needed.

(B) It is deemed essential, convenient and desirable for the health, welfare, safety, advantage and convenience of the inhabitants of the City, and accordingly, it is hereby ordered that the City modify, improve and extend the existing waterworks by constructing and adding thereto modifications and additions to the water plant facility and the waterworks, including additional water lines, with all necessary appurtenant facilities (such modifications, improvements and additions to the waterworks being called the "Project"), particularly described in and ac-

ording to the plans and specifications prepared by the Consulting Engineer and heretofore filed in the office of the Recorder.

(C) It is necessary for the Town to issue its revenue bond in the principal amount of \$474,000 to finance the costs of acquisition and construction of the Project, in the manner hereinafter provided.

(D) The estimated maximum cost of the acquisition and construction of the Project is \$1,058,000, of which \$474,000 will be obtained from the proceeds of sale of the Bond herein authorized and \$584,000 from a grant by the Government.

(E) The costs of such acquisition and construction of the Project shall be deemed to include, without being limited to, the construction and acquisition of the additions, extensions and improvements for the existing waterworks; the acquisition of any necessary additional property, real or personal, or interest therein; interest on the 1975 Bond during and for six months after the estimated completion of such construction to the extent that revenues of the System (hereinafter defined) are not sufficient therefor; engineering and legal expenses; expenses for estimates of costs and revenues; expenses for plans, specifications and surveys; and such other expenses as may be necessary or incidental to the acquisition and construction of the Project and the financing authorized hereby.

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

Section 1.03. Ordinance to Constitute Contract. In consideration of the acceptance of the Bond authorized to be issued hereunder by the holder thereof from time to time, this Ordinance shall be deemed to be and shall constitute a contract between the Town and such Bondholder, and the covenants and agreements herein set forth to be performed by the Town shall be for the benefit, protection and security of the legal holder of the Bond.

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

"Act" means Article 19, Chapter 8 of the West Virginia Code.

"Bond" or "Bonds" means the \$474,000 Water Revenue Bond, Series 1975, originally authorized to be issued pursuant to this Ordinance, and also includes any additional Bonds hereafter issued on a parity with the 1975 Bond within the terms, restrictions and conditions contained in this Ordinance, and the interest coupons appertaining to such additional parity Bonds.

"1975 Bond" means the Bond hereby authorized to be issued initially.

"City" means the City of Petersburg in Grant County, West Virginia, and, where appropriate, also means the Common Council thereof and any department, board, agency or instrumentality thereof in control of the management and operation of the System.

"Consulting Engineer" means Carrone & Vaughn, Inc., Wheeling, West Virginia, or any qualified engineer or firm of engineers which shall at any time hereafter be retained by the Town as Consulting Engineer for the System.

"Facilities" means all the facilities of the System initially consisting of the existing waterworks as expanded by the Project, and also any facilities which may hereafter be added to the System by any additions, betterments, extensions and improvements thereto and properties, furniture, fixtures or equipment therefor hereafter at any time constructed or acquired.

"Fiscal Year" means each year beginning on July 1 and ending on the succeeding June 30.

"Government" means United States Department of Agriculture, Farmers Home Administration, and any successor thereof.

"Herein" means in this Ordinance.

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

"Mayor" means the Mayor of the Town.

"Net Revenues" means the balance of the gross revenues, as defined below, remaining after deduction only of operating expenses, as defined below.

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

"Original Purchaser" means the purchaser, directly from the Town, of any series of Bonds issued pursuant hereto, or any part of any such series.

"Project" shall have the meaning stated above in Section 1.02(B).

"Recorder" means the Recorder of the Town.

"Revenues" or "gross revenues" means all rates, rents, fees, charges or other income received by the Town, or accrued to the Town, or any department, board, agency or instrumentality thereof in control of the management and operation of the System, from the operation of

the System, and all parts thereof, all as calculated in accordance with sound accounting practices.

"System" means the existing waterworks serving the Town and to be purchased by the Town, as expanded by the Project, and all facilities and other property of every nature, real or personal, now or hereafter owned, held or used in connection with the waterworks owned by the Town; and shall also include any and all additions, extensions, improvements, properties, or other facilities at any time acquired or constructed for the waterworks after completion of the Project.

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

ARTICLE II

AUTHORIZATION, TERMS, EXECUTION,  
REGISTRATION AND ISSUE OF BOND

Section 2.01. Authorization of 1975 Bond. Subject and pursuant to the provisions hereof, the Bond of the Town to be known as "Water Revenue Bond, Series 1975" is hereby authorized to be issued in the principal amount of not exceeding Four Hundred Seventy-Four Thousand Dollars (\$474,000) for the purpose of financing the costs of the construction and acquisition of the Project.

Section 2.02. Description of 1975 Bond. The 1975 Bond shall be issued in single form, shall be dated on the date of delivery thereof, and shall bear interest from date of delivery at the rate of five per centum (5%) per annum. The price for the 1975 Bond shall be the par value thereof.

The 1975 Bond shall be payable in monthly installments covering principal and interest in accordance with and as shown in the form hereinafter set forth.

The 1975 Bond shall be payable in advance in whole or in part, without premium, at any time, at the option of the Town.

The 1975 Bond shall be payable with respect to both principal and interest in lawful money of the United States of America at the National Finance Office of the Farmers Home Administration, United States Department of Agriculture, St. Louis, Missouri 63103, or at such other place as the Government may designate in writing.

Section 2.03. Execution of Bond. The Bond shall be executed in the name of the Town by the Mayor and the corporate seal of the Town shall be affixed thereto and attested by the Recorder. In case any one or more of the officers who shall have signed or sealed the Bond shall cease to be such officer before the Bond so signed and sealed shall have been actually sold and delivered, such Bond may nevertheless be sold and

delivered as herein provided and may be issued as if the person who signed or sealed such Bond had not ceased to hold such office. The Bond may be signed and sealed on behalf of the Town by such person as at the actual time of the execution of such Bond shall hold the proper office in the Town, although at the date of such Bond such person may not have held such office or may not have been so authorized.

Section 2.04. Bonds Mutilated, Destroyed, Stolen or Lost.

In case any Bond shall become mutilated or be destroyed, stolen or lost, the Town may, in its discretion, issue and deliver a new Bond of like tenor as the Bond 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 the Town proof of his ownership thereof and satisfactory indemnity and complying with such other reasonable regulations and conditions as the Town may require; provided, however, that no indemnity shall be required of the Government except as to lost or destroyed unregistered coupon Bonds, if any. Any Bond so surrendered shall be canceled and held for the account of the Town. If any such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the Town may pay the same, upon being indemnified as aforesaid, and, if such Bond be destroyed, stolen or lost, without surrender thereof.

Section 2.05. Bonds Secured by Pledge of Revenues and Statutory Mortgage Lien. The payment of the debt service of the Bond shall be secured forthwith equally and ratably, in addition to the statutory mortgage lien provided by the Act, by a first lien on the revenues derived from the System. The revenues derived from the System, in an amount sufficient to pay the principal of and interest on the Bond, and to make the payments into the Sinking Fund and otherwise as hereinafter provided, are hereby irrevocably pledged to the payment of the principal of and interest on the Bond as the same become due as herein provided.

A statutory mortgage lien is granted by the Act, and the 1975 Bond shall be additionally secured thereby.

Section 2.06. Form of 1975 Bond. Subject to the provisions hereof, the text of the 1975 Bond and the other details thereof shall be of substantially the following tenor, with such omissions, insertions and variations as may be authorized or permitted by this Ordinance or any subsequent ordinance or resolution enacted or adopted prior to the issuance thereof:

(Form of Bond)

CITY OF PETERSBURG

WATER REVENUE BOND  
SERIES 1975

No. 1

\$474,000

Date: \_\_\_\_\_

FOR VALUE RECEIVED, the CITY OF PETERSBURG (herein called "Borrower") promises to pay to the order of the United States of America, acting through the Farmers Home Administration, United States Department of Agriculture (herein called the "Government") at its National Finance Office, St. Louis, Missouri 63103, or at such other place as the Government may hereafter designate in writing, the principal sum of Four Hundred Seventy Four Thousand Dollars (\$474,000), plus interest on the unpaid principal balance at the rate of five percent (5%) per annum. The said principal and interest shall be paid in the following installments on the following dates: Installments of interest only on the first day of each month for the first twelve months after the date hereof and \$2,304 covering principal and interest, on the first day of each month thereafter, except that the final installment shall be paid at the end of forty (40) years from the date of this Bond, and except that prepayments may be made as provided hereinbelow. The consideration herefor shall support any agreement modifying the foregoing schedule of payments.

If the total amount of the loan is not advanced at the time of loan closing, the loan shall be advanced to Borrower as requested by Borrower and approved by the Government and interest shall accrue on the amount of each advance from its actual date as shown on the reverse hereof.

Every payment made on any indebtedness evidenced by this Bond shall be applied first to interest computed to the effective date of the payment and then to principal.

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of Borrower. Refunds and extra payments, as defined in the regulations of the Farmers Home Administration according to the source of funds involved, shall, after payment of interest, be applied to the installments last to become due under this Bond and shall not affect the obligation of Borrower to pay the remaining installments as scheduled herein.

If the Government at any time assigns this Bond and insures the payment thereof, Borrower shall continue to make payments to the Government as collection agent for the holder.

While this Bond is held by an insured lender, prepayments as above authorized made by Borrower may, at the option of the Government, be remitted by the Government to the holder promptly or, except for final payment, be retained by the Government and remitted to the holder on either a calendar quarter basis or an annual installment due date basis. The effective date of every payment made by Borrower, except payments retained and remitted by the Government on an annual installment due date basis, shall be the date of the United States Treasury check by which the Government remits the payment to the holder. The effective date of any prepayment retained and remitted by the Government to the holder on an annual installment due date basis shall be the date of the prepayment by Borrower, and the Government will pay the interest to which the holder is entitled accruing between the effective date of any such prepayment and the date of the Treasury check to the holder.

Any amount advanced or expended by the Government for the collection hereof or to preserve or protect any security herefor, or otherwise under the terms of any security or other instrument executed in connection with the loan evidenced hereby, at the option of the Government shall become a part of and bear interest at the same rate

as the principal of the debt evidenced hereby and be immediately due and payable by Borrower to the Government without demand. Borrower agrees to use the loan evidenced hereby solely for purposes authorized by the Government.

Borrower hereby certifies that it is unable to obtain sufficient credit elsewhere to finance its actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in or near its community for loans for similar purposes and periods of time.

This Bond, together with any additional bonds ranking on a parity herewith which may be issued and outstanding for the purpose of providing funds for financing costs of construction and acquisition of additions to the waterworks of the Borrower is payable solely from the revenues to be derived from the operation of the waterworks after there have been first paid from such revenues the reasonable current costs of operation and maintenance of the waterworks. This Bond does not in any manner constitute an indebtedness of the Borrower within the meaning of any constitutional or statutory provision or limitation.

This Bond has been issued under and in full compliance with the Constitution and statutes of the State of West Virginia, including, among others, Article 19 of Chapter 8 of the West Virginia Code (herein called the "Act"), and represents the entire Series 1975.

If at any time it shall appear to the Government that Borrower may be able to obtain a loan from a responsible cooperative or private credit source at reasonable rates and terms for loans for similar purposes and periods of time, Borrower will, at the Government's request, apply for and accept such loan in sufficient amount to repay the Government.

This Bond is given as evidence of a loan to Borrower made

or insured by the Government pursuant to the Consolidated Farmers Home Rural Development Act. This Bond shall be subject to the present regulations of the Farmers Home Administration and to its future regulations not inconsistent with the express provisions hereof.

[CORPORATE SEAL]

CITY OF PETERSBURG

(Name of Borrower)

ATTEST:

\_\_\_\_\_  
(Signature of Executive Official)

Mayor

(Title of Executive Official)

\_\_\_\_\_  
(Signature of Attesting Official)

Municipal Office, 23 Virginia Avenue

(Post Office Box No. or Street Address)

Recorder

(Title of Attesting Official)

Petersburg, West Virginia 26847

(City, State and Zip Code)

RECORD OF ADVANCES

AMOUNT	DATE	AMOUNT	DATE
(1) \$		(6) \$	
(2) \$		(7) \$	
(3) \$		(8) \$	
(4) \$		(9) \$	
(5) \$		(10) \$	

TOTAL \_\_\_\_\_

Pay to the Order of \_\_\_\_\_  
\_\_\_\_\_

UNITED STATES OF AMERICA  
FARMERS HOME ADMINISTRATION

By \_\_\_\_\_

\_\_\_\_\_  
(Title)

ARTICLE III  
1975 BOND PROCEEDS; REVENUES AND  
APPLICATION THEREOF

Section 3.01. 1975 Bond Proceeds: Project Construction Account.

All moneys received from the sale of the 1975 Bond and all moneys received under any construction loan or grant, except as may be otherwise provided in this Section, shall be deposited on receipt by the City in The Potomac Valley Bank of Petersburg, West Virginia (the "Bank"), a member of Federal Deposit Insurance Corporation (FDIC), in a special account hereby now established and designated as "City of Petersburg Waterworks Construction Account" (herein called the "Project Construction Account"). The moneys in the Project Construction Account in excess of the amount insured by FDIC shall be secured at all times by such bank by securities or in a manner lawful for the securing of deposits of State and municipal funds under West Virginia law. Moneys in the Project Construction Account shall be expended by the City solely for the purchase of the existing waterworks and payment of the costs of the Project as provided herein.

Until completion of construction of the Project, the City will transfer from the Project Construction Account and deposit in the Sinking Fund monthly such sums as shall be from time to time required to pay the monthly interest installments on the 1975 Bond as herein and in the Bond provided.

If the City shall determine at any time that all funds on deposit in the Project Construction Account exceed the estimated disbursements on account of the Project for the ensuing 90 days, the City may invest such excess funds in direct obligations of, or obligations the principal of and interest on which are guaranteed by, the United States of America, which shall mature not later than eighteen months after the date of such investment. All such investments and the income therefrom shall be carried to the credit of the Project Construction Account.

When construction of the Project has been completed and all costs thereof have been paid or provision for such payment has been made, any balance remaining in the Project Construction Account shall be used in accordance with the Regulations of Farmers Home Administration or paid to said National Finance Office as a prepayment on the Bond, but the monthly installments provided in the Bond shall not be reduced as a result thereof.

Section 3.02. Covenants as to Revenues and Funds. So long as the Bond shall be outstanding and unpaid, or until there shall have been set apart in the Sinking Fund and the Reserve Account, hereinafter described, a sum sufficient to pay, when due or at the earliest practical redemption date, the entire principal of the Bonds remaining unpaid together with interest accrued and to accrue thereon, the Town further covenants with the holders of any and all Bonds issued pursuant hereto as follows:

(A) Revenue Fund. The entire gross revenues derived from the operation of the System, and all parts thereof, and all tap fees received, except as otherwise provided herein, shall be deposited as collected by the City in a special fund known as the "Revenue Fund", hereby established with the said Bank. The Revenue Fund shall constitute a trust fund for the purposes provided herein and shall be kept separate and distinct from all other funds of the City and used only for the purposes and in the manner provided herein.

(B) Disposition of Revenues. All revenues at any time on deposit in the Revenue Fund shall be disposed of only in the following order and priority:

(1) The City shall first, each month, pay from the Revenue Fund the costs of operating and maintaining the System for the current month.

(2) The City shall next, each month, remit to the said National Finance Office (the "Sinking Fund") the amount provided in the 1975 Bond to pay the interest on and the principal of the 1975 Bond.

(3) The City shall next, each month, transfer from the Revenue Fund and deposit into the Reserve Account hereby established with the Bank, one-twelfth of one-tenth of the maximum annual aggregate amount of interest and principal which will fall due on the 1975 Bond until the amount in the Reserve Account equals the sum of \$27,650 for the 1975 Bond. After such amount has been accumulated in the Reserve Account, the City shall monthly deposit into the Reserve Account such part of the moneys remaining in the Revenue Fund, after such provision for payment of maturing principal of and interest on the Bond, as shall be required to maintain such amount in the Reserve Account. Moneys in the Reserve Account shall be used solely to make up any deficiency for payment of the installments on the Bond as the same shall become due or for mandatory prepayment of Bonds as hereinafter provided and for no other purpose.

(4) The City shall next, each month, transfer from the Revenue Fund the moneys then remaining in the Revenue Fund and shall deposit the same in the Depreciation Reserve hereby established with the Bank, until there has been accumulated therein the aggregate sum of \$28,000 and thereafter such sums as shall be required to maintain such amount therein. Moneys in the Depreciation Reserve shall be used by the City first to make up any deficiencies in the payment of installments on the Bond as the same become due, and next to restore to the Reserve Account any sum or sums transferred therefrom to the Sinking Fund. Thereafter, and provided that payments into the Sinking Fund and the Reserve Account are current and in accordance with the foregoing provisions, moneys in the Depreciation Reserve may be withdrawn by the City and used for extensions, replacements and improvements of the System, or any part thereof.

(5) After all the foregoing provisions for use of moneys in the Reserve Fund have been fully complied with, any moneys remaining therein may be used to prepay or redeem Bonds outstanding or for any lawful purpose in connection with the System, the Recorder to handle prepayment of Bonds upon written instructions of the Council.

Whenever the moneys in the Reserve Account shall be sufficient to pay all Bonds outstanding, it shall be the mandatory duty of the City, anything to the contrary in this Ordinance notwithstanding, to direct the Recorder to arrange payment of all outstanding Bonds at the earliest practical date and in accordance with applicable provisions hereof, any such purchase to be at a price or prices not exceeding the then market price of Bonds so purchased, but in no event exceeding the then redemption price of the Bonds, as to Bonds subject to redemption, and not exceeding the par value of Bonds not subject to redemption but available for purchase or prepayment.

All the funds provided for in this Section shall constitute trust funds and shall be used only for the purposes and in the order provided herein, and until so used, the Bondholders shall have a lien thereon for further securing payment of the Bonds and the interest thereon. The moneys in excess of the sum insured by FDIC in the Revenue Fund, the Reserve Account and the Depreciation Reserve shall at all times be secured, to the full extent thereof in excess of such insured sum, in a manner lawful for securing deposits of State and municipal funds under the laws of the State of West Virginia.

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

The City shall keep the moneys in the Reserve Account and the Depreciation Reserve invested and reinvested to the fullest extent practicable in direct obligations of, or obligations the payment of the principal of and interest on which are guaranteed by, the United States of America and having maturities not exceeding two years.

The said Bank is hereby designated as the Fiscal Agent for the administration of the Reserve Account as herein provided.

ARTICLE IV

GENERAL COVENANTS

Section 4.01. General Statement. So long as any of the Bonds shall be outstanding and unpaid, or until there shall have been set apart in the Sinking Fund and the Reserve Account a sum sufficient to pay when due, or redeem or purchase prior to maturity, the entire principal of the Bonds remaining unpaid, together with interest accrued and to accrue thereon and any applicable redemption premiums, the covenants and agreements contained herein shall be and constitute valid and legally binding covenants between the City and the Bondholders.

Section 4.02. Rates. The City will, in the manner provided in the Act, fix and collect such rates, fees or other charges for the services and facilities of the System, and revise the same from time to time whenever necessary, as will always provide revenues in each fiscal year sufficient to produce net revenues equal to not less than 110% of the average annual debt service on all Bonds outstanding and to make the payments required herein to be made into the Sinking Fund, the Reserve Account and the Depreciation Reserve, and such rates, fees and other charges shall not be reduced so as to be insufficient to provide adequate revenues for such purposes.

Section 4.03. Sale of the System. The System will not be sold without the prior written consent of the Government, which consent will cover use of any proceeds of such disposition.

Section 4.04. Covenant Against Encumbrances. The City will not issue any obligations whatsoever, except additional parity Bonds hereinafter provided for, 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; and all obligations hereafter issued by the City payable from the revenues of the System, except such additional parity Bonds, shall contain an express statement that such obligations are junior and subordinate, as to lien on and source of and security for

payment from such revenues, and in all other respects, to the Bonds.

Except as herein provided as to additional parity Bonds, the City will 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 hereby as security therefor, or upon the System or any part thereof.

Section 4.05. Issuance of Additional Parity Bonds. No additional parity Bonds, as in this Section defined, payable out of the revenues of the System, shall be issued after the issuance of the Bond pursuant hereto, except under the conditions and in the manner herein provided.

(A) No such additional parity Bonds shall be issued except for the purpose of financing the costs of the construction or acquisition of extensions, additions and improvements to the System or refunding Bonds issued hereunder, except as provided in subsection (F) of this Section.

(B) No such additional parity Bonds shall be issued at any time, however, unless and until there has been procured and filed with the Recorder a written certification by a certified public accountant not in the regular employ of the City based upon the necessary investigation, reciting the conclusion that the net revenues, as defined herein, actually derived from the System during the fiscal year immediately preceding the date of the issuance of such additional parity Bonds, shall have been not less than one hundred twenty per centum (120%) of the average aggregate amount which will mature or become due in any succeeding fiscal year for principal of and interest on the Bonds then outstanding and on the additional parity Bonds then proposed to be issued. This limitation may be waived or modified by the written consent of Bondholders representing 75% of each Series of the then outstanding Bonds issued pursuant hereto.

(C) Prior to the issuance of any such additional parity Bonds, the City shall have entered into written contracts for the immediate acquisition or construction of such additions, extensions or improvements to the System which are to be financed by such additional parity Bonds.

(D) The term "additional parity Bonds", as used in this Section, shall be deemed to mean additional Bonds issued under the provisions and within the limitations of this Section, payable from the revenues of the System on a parity with the 1975 Bond, and all the covenants and other provisions of this Ordinance (except as to details of such additional parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the holders of the Bond issued pursuant to this Ordinance and the holders of any additional parity Bonds subsequently issued within the limitations of and in compliance with this Section. All such 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 Bond or coupon over any other. The City shall comply fully with all the increased payments into the various funds created herein required for such additional parity Bonds, in addition to the payments required for Bonds originally issued hereunder. Redemption of Bonds prior to maturity in the event that the 1975 Bond and additional parity Bonds hereby authorized are outstanding, shall as nearly as practical be on an equal pro rata basis reflecting the original amounts of each issue.

(E) No additional parity Bonds shall be issued at any time unless all the payments into the respective Funds provided for herein on Bonds then outstanding and all other payments provided for herein shall have been made or paid up as required to the date of issuance

of the additional parity Bonds and the City shall have fully complied with all the covenants, agreements and terms hereof or shall have remedied any deficiency in such compliance.

(F) With the written consent in advance of the original purchaser of the 1975 Bond and of Farmers Home Administration and anything to the contrary in subsections (A), (B) and (C) of this Section notwithstanding, additional parity Bonds may be authorized and issued by the City pursuant to supplemental ordinance in the event that the 1975 Bonds should be insufficient, together with other funds lawfully available therefor, to pay all costs of construction of the Project. Any such additional parity Bonds authorized and issued under the provisions of this subsection shall be limited to the aggregate principal amount required to make up any deficiency in funds for payment of such construction costs, and the maturities of any such additional parity Bonds shall be in years and amounts suggested by said original purchaser and Farmers Home Administration.

Section 4.06. Insurance and Bonds. The City hereby covenants and agrees that so long as any of the Bonds remain outstanding, it will, as an expense of operation and maintenance of the System, procure, carry and maintain insurance with a reputable insurance carrier or carriers covering the following risks and in the following amounts:

(a) Fire, Lightning, Vandalism, Malicious Mischief and Extended Coverage Insurance, to be procured upon acceptance of any part of the Project from the contractor, on all above-ground insurable portions of the System in an amount equal to the actual cost thereof. In the event of any damage to or destruction of any portion of the System, the City will promptly arrange for the application of the insurance proceeds for the repair or reconstruction of such damaged or destroyed portion. The City will itself, or will require each contractor contracting directly with the City to, obtain and maintain builder's risk insurance to protect the interests of the City during construction of the Project in the full insurable value thereof.

(b) Public Liability Insurance, with limits of not less than \$100,000 for one person and \$300,000 for more than one person injured or killed in one accident to protect the Town from claims for bodily injury and/or death and not less than \$50,000 from claims for damage to property of others which may arise from the operation of the System, such insurance to be procured at the commencement of construction of the Project.

(c) Vehicular Public Liability Insurance, in the event the City owns or operates any vehicle in the operation of the System, or in the event that any vehicle not owned by the City is operated for the benefit of the City with limits of not less than \$100,000 for one person and \$300,000 for more than one person injured or killed in one accident to protect the City from claims for bodily injury and/or death, and not less than \$50,000 from claims for damage to property of others which may arise from such operation of vehicles, such insurance to be procured prior to acquisition or commencement of operation of any such vehicle.

(d) Workmen'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, will be required of each contractor dealing directly with the Town ("prime contractor") and such payment bonds will be filed with the Clerk of the County Commission of said County prior to commencement of construction of the Project in compliance with West Virginia Code, Chapter 38, Article 2, Section 39.

(e) Fidelity Bonds will be provided as to every officer and employee of the Town having custody of the Revenue Fund or of any other funds of the System in an amount at least equal to the total funds in the custody of any such person at any one time, and initially in the amount of \$5,000 upon the Recorder, provided, however, that no bond shall be required insofar as custody of the Project Construction

Account is concerned.

Flood Insurance, if National Flood Insurance is available, must be purchased with coverage to the extent available.

(f) Provided, however, and in lieu of and notwithstanding the foregoing provisions of this Section, during construction of the Project and so long as the Government holds any of the Bonds, the Town will carry insurance and bonds or cause insurance and bonds to be carried for the protection of the City and during such construction will require each prime contractor to carry insurance, of such types and in such amounts as the Government may specify, with insurance carriers or bonding companies acceptable to the Government.

Section 4.07. Events of Default. Each of the following events is hereby declared an "Event of Default":

(A) Failure to make payment of the principal, and, if any premium be due, of such premium, of any of the Bonds either at the date therein specified for their payment or by proceedings for redemption or otherwise;

(B) Failure to make payment of any installment of interest due on any of the Bonds on the date specified for the payment of such interest;

(C) Failure duly and punctually to observe or perform any of the covenants, conditions and agreements on the part of the City in the Bonds or herein, or violation of or failure to observe any provision of any pertinent law.

Section 4.08. Enforcement. Upon the happening of any Event of Default specified above, then, and in every such case, any Bondholder may proceed to protect and enforce the rights of the Bondholders by

an appropriate action in any court of competent jurisdiction, either for the specific performance of any covenant or agreement or execution of any power, or for the enforcement of any proper legal or equitable remedy as shall be deemed most effectual to protect and enforce such rights.

Upon application by such Bondholder, such court may, upon proof of such default, appoint a receiver for the affairs of the City and the System. The receiver so appointed shall administer the System on behalf of the City shall exercise all the rights and powers of the City with respect to the System and shall have the power to collect and receive all revenues and apply the same in such manner as the court may direct.

Section 4.09. No Priority Between Bonds. The Bonds, as herein defined, shall not be entitled to priority one over the other in the application of the revenues of the System or with respect to the security for their payment, regardless of the time or times of their issuance, it being the intention hereof that there shall be no priority among such Bonds, regardless of the fact that they may be actually issued and delivered at different times.

Section 4.10. Fiscal Year; Budget. While any Bonds are outstanding and unpaid and to the extent not now prohibited by law, the System shall be operated and maintained on a fiscal year basis commencing on July 1 of each year and ending on the following June 30, which period shall also constitute the budget year for the operation and maintenance of the System. Not later than thirty days prior to the beginning of each fiscal year, the City agrees to adopt the Annual Budget for the ensuing year, and no expenditures for operation and maintenance expenses of the System in excess of the Annual budget shall be made during such fiscal year unless unanimously authorized and directed by the Council. Copies of each Annual Budget shall be delivered to the Government, by the beginning of each fiscal year and shall be mailed

to those Bondholders who shall have filed their names and addresses with the Recorder for such purpose.

If for any reason the City shall not have adopted the Annual Budget before the first day of any fiscal year, it shall adopt a Budget of Current Expenses from month to month until the adoption of the Annual Budget; provided, however, that no such monthly budget shall exceed the budget for the corresponding month in the year next preceding by more than ten per centum; and provided further, that adoption of a Budget of Current Expenses shall not constitute compliance with the covenant to adopt an Annual Budget unless failure to adopt an Annual Budget be for a reason beyond the control of the Town. Each such Budget of Current Expenses shall be delivered and mailed immediately as in the case of the Annual Budget.

Section 4.11. Covenant to Proceed and Complete. The City hereby covenants to proceed as promptly as possible with the construction of the Project to completion thereof in accordance with the plans and specifications prepared by the Consulting Engineer and on file with the Recorder on the date of enactment hereof, subject to permitted changes.

Section 4.12. Books and Records. The City will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the City in which complete and correct entries shall be made of all transactions relating to the System, and any holder of a Bond or Bonds, his agents and representatives, shall have the right at all reasonable times to inspect the System and all records, accounts and data of the City relating thereto.

The City shall, at least once a year, cause said books, records and accounts of the System to be properly audited by an independent competent firm of certified public accountants, shall mail a copy of such audit report to the Government and shall make available the report of said accountants at all reasonable times to any holder or holders of the Bonds,

or any customer receiving services from the System, or anyone acting for and in behalf of such Bondholder, Bondholders or customer. The Government, so long as it holds all the Bonds, may permit substitution of a copy of the annual audit report by the office of the State Tax Commissioner for the copy of annual audit report by a certified public accountant.

Section 4.13. Maintenance of the System. The City covenants that it will continuously operate, in an economical and efficient manner, and maintain the System as a revenue-producing utility as herein provided so long as any of the Bonds are outstanding.

Section 4.14. No Competition. The City will not permit competition with the System within its boundaries or within the territory served by it and will not grant or cause, consent to, or allow the granting of any franchise, permit or other authorization for any person, firm, corporation, public or private body, agency or instrumentality whatsoever to provide any of the services supplied by the System within the boundaries of the City or within the territory served by the System.

Section 4.15. Concerning Arbitrage. It is not reasonably expected that the proceeds of sale of the Bond will be invested in such a way as to violate the operating rules in the regulations of the Internal Revenue Service or of the Treasury Department of the United States of America in connection with the arbitrage provisions of Section 103(d) of the Internal Revenue Code of 1954, as amended. The fiscal agent is hereby expressly instructed not to violate such rules in investing such proceeds.

ARTICLE V

RATES, ETC.

Section 5.01. Initial Schedule of Rates and Charges; Rules.

A. The initial schedule of rates and charges for the services and facilities of the System shall be as follows:

AVAILABILITY OF SERVICE

Available for general domestic, commercial and industrial service.

METERED RATE

First	2,000 gallons used per month or any fraction thereof, \$4.00 gross - \$3.50 net if paid within fifteen (15) days from date of bill.
Next	2,000 gallons used per month \$1.25 per thousand gals.
Next	30,000 gallons used per month \$1.00 per thousand gals.
Next	66,000 gallons used per month \$0.75 per thousand gals.
All Over	100,000 gallons used per month \$0.55 per thousand gals.

CONNECTION CHARGE (TAP FEES)

The tap fee for new customers shall be \$100.

RECONNECTION CHARGE

A reconnection charge of \$5 shall be made to restore discontinued service.

MULTIPLE OCCUPANCY

On apartment buildings or other multiple occupancy buildings, each family or business unit shall be required to pay not less than the minimum monthly charge herein established for a 5/8" meter. Motels and hotels shall pay according to the size of the meter installed.

TRAILER COURTS

House trailer courts shall be provided with a master meter. No bill shall be rendered for less than the following:

\$ \_\_\_\_\_ multiplied by the number of units situated on the court site at the time the meter is read. House trailer (as used hereinabove) shall include both mobile and immobile units.

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

B. The City will not render or cause to be rendered any free services of any nature by the System nor any of the facilities; and in the event that the City or any department, agency, officer or employee thereof should avail itself or themselves of the services or facilities of the System, the same fees, rates and charges applicable to other customers receiving like services under similar circumstances shall be charged, such charges shall be paid as they accrue, and revenues so received shall be deposited and accounted for in the same manner as other revenues of the System.

C. The City may require any applicant for any service by the System to deposit a reasonable and equitable amount to insure payment of all charges for the services rendered by the System, which deposit shall be handled and disposed of under the applicable rules and regulations of the Public Service Commission of West Virginia.

D. No allowance or adjustment in any bill for use of the services and facilities of the System shall be made for any leakage occurring on the customer's side of any water meter.

E. The City shall not be liable to any customer for any damage resulting from bursting or breakage of any line, main, pipe, valve, equipment or part or from discontinuance of the operation of any part of the System or from failure of any part thereof for any cause whatsoever.

F. In case of emergency, the City shall have the right to restrict the use of any part of the System in any reasonable manner for the protection of the System and the inhabitants of the Town.

G. The fees, rates and charges above provided will be increased whenever such increase is necessary in order to comply fully with all provisions hereof, and the City shall always be obligated to and shall fix, establish and collect fees, rates and charges for the services and facilities of the System which shall at all times be sufficient to provide net revenues to meet its obligations hereunder, but not less than 110% of the average annual debt service on all Bonds outstanding.

H. The City will not accept payment of a water or a sewer bill separately, when the customer concerned owes for both water and sewer services. For non-payment of charges for water or sewer services, or both, the City, after notice of discontinuance in accordance with the applicable Public Service Commission rules and regulations, will shut off water service and lock the meter, and will restore service only upon payment of all water and sewer charges, accrued penalties and reconnect charge.

ARTICLE VI

MISCELLANEOUS

Section 6.01. Filing Under Uniform Commercial Code. Contemporaneously with the delivery of the Bond, or sooner, the City shall execute Financing Statements meeting the requirements of the Uniform Commercial Code of West Virginia and promptly thereafter shall file such Financing Statements in the offices of the Secretary of State of the State of West Virginia and of the Clerk of the County Commission of said County.

Section 6.02. Modification or Amendment. No material modification or amendment of this Ordinance, or of any ordinance amendatory hereof or supplemental hereto, may be made without the consent in writing of the holders of two-thirds or more in principal amount of each series of the Bonds then outstanding; provided, however, that no modification or amendment shall permit a change in the maturity of any of the Bonds or a reduction in the rate of interest thereon, or in the amount of the principal obligation, or affecting the unconditional promise of the City to pay the principal of and interest on the Bonds as the same shall become due from the revenues of the System, without the consent of the holders of such Bonds. Notwithstanding the above, no amendment or modification shall be made which would reduce the percentage of the principal amount of Bonds required for consent to the above-permitted amendments or modifications, and for consent of 75% of the holders of each Series of Bonds outstanding to waiver or modification of the limitation upon issuance of additional parity Bonds contained in Section 4.05B.

Section 6.03. Award of 1975 Bond. The 1975 Bond is hereby awarded in its entirety to the Government, the 1975 Bond to bear interest at the rate of 5% per annum; provided, that if, prior to delivery of the 1975 Bond, the Government requires public sale thereof, then this award shall be and become void.

Section 6.04. Refunding of Bonds Permitted. The City reserves the right to refund the Bonds, subject to applicable provisions of West Virginia law, when in its judgment it would be to the best interests of the City and of its inhabitants so to do. Upon payment of all the Bonds outstanding, prior to or simultaneously with the issuance of any refunding bonds or of an issue of bonds for the purposes of refunding the Bonds then outstanding and providing funds for additions, extensions and improvements to the System, or upon provision for such payment by deposit irrevocably in trust, with the aforesaid Bank, or other lawfully designated paying agent, of a sum equal to the principal amount of the Bonds outstanding, plus an amount equal to all interest accrued and to accrue to the date of payment or redemption of such Bonds, and plus an amount sufficient to pay all applicable redemption premiums on the earliest practical redemption date, the security, pledge and any lien applicable to the Bonds then outstanding shall immediately cease. The sum so deposited in trust shall be used solely to prepay or to pay at the earliest practical redemption date the principal amount of the Bonds and all interest thereon to the date of redemption or prepayment and the applicable redemption premiums, or to purchase Bonds at not to exceed the par value of the Bonds plus interest accrued to date of purchase. The moneys so deposited may be invested by the Bank or such paying agent in direct obligations of the United States of America or obligations the payment of the principal of and interest on which is guaranteed by the United States of America, having maturities not later than the dates on which the moneys shall be required to be used for such redemption or prepayment.

Section 6.05. Severability of Invalid Provision. If any one or more of the covenants, agreements or provisions of this Ordinance should be held contrary to any express provision of law or contrary to the policy of express law, although not expressly prohibited, or

against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements or provisions, and shall in no way affect the validity of all the other provisions hereof or the Bonds or coupons appertaining thereto.

Section 6.06. Conflicting Provisions Repealed. All ordinances, resolutions and orders, or parts thereof, in conflict with the provisions hereof are, to the extent of such conflicts, hereby repealed.

Section 6.07. Table of Contents and Headings. The Table of Contents and headings of the articles, sections and subsections hereof are for convenience only and shall neither control nor affect in any way the meaning or construction of any of the provisions hereof.

Section 6.08. Effective Time. This Ordinance shall take effect following public hearing hereon in accordance with the Act.

Section 6.09. Statutory Notice and Public Hearing. Upon enactment hereof, an abstract of this Ordinance determined by the Council to contain sufficient information to give notice of the contents of this Ordinance, 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 Grant County Press, a newspaper published and of general circulation in the said City, publication of which abstract of this Ordinance shall be together with a notice stating that this Ordinance has been enacted and that a certified copy of this Ordinance is on file with the Council in the office of the Recorder for review by interested persons during office hours of the Recorder, and that the City contemplates the issuance of the 1975 Bond, and that any person interested may appear before the Council upon a date certain, not less than ten days subsequent to the date of the second publication of the said abstract 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 10/6/75

Passed on Final Reading 10/27/75

Effective following public hearing held on the  
date of Final Reading stated above.

John H. Snow  
Mayor

Walter H. McCarley  
Recorder

CITY OF PETERSBURG

WATER REVENUE BOND  
SERIES 1975

No. 1

\$474,000

Date: December 10, 1976

FOR VALUE RECEIVED, the CITY OF PETERSBURG (herein called "Borrower") promises to pay to the order of the United States of America, acting through the Farmers Home Administration, United States Department of Agriculture (herein called the "Government") at its National Finance Office, St. Louis, Missouri 63103, or at such other place as the Government may hereafter designate in writing, the principal sum of Four Hundred Seventy-Four Thousand Dollars (\$474,000), plus interest on the unpaid principal balance at the rate of five percent (5%) per annum. The said principal and interest shall be paid in the following installments on the following dates: Installments of interest only on the first day of each month for the first twelve months after the date hereof and \$2,304 covering principal and interest, on the first day of each month thereafter, except that the final installment shall be paid at the end of forty (40) years from the date of this Bond, and except that prepayments may be made as provided hereinbelow. The consideration herefor shall support any agreement modifying the foregoing schedule of payments.

If the total amount of the loan is not advanced at the time of loan closing, the loan shall be advanced to Borrower as requested by Borrower and approved by the Government and interest shall accrue on the amount of each advance from its actual date as shown on the reverse hereof.

Every payment made on any indebtedness evidenced by this Bond shall be applied first to interest computed to the effective date of the payment and then to principal.

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of Borrower. Refunds and extra payments, as defined in the regulations of the Farmers Home Administration according to the source of funds involved, shall, after payment of interest, be applied to the installments last to become due under this Bond and shall not affect the obligation of Borrower to pay the remaining installments as scheduled herein.

If the Government at any time assigns this Bond and insures the payment thereof, Borrower shall continue to make payments to the Government as collection agent for the holder.

While this Bond is held by an insured lender, prepayments as above authorized made by Borrower may, at the option of the Government, be remitted by the Government to the holder promptly or, except for final payment, be retained by the Government and remitted to the holder on either a calendar quarter basis or an annual installment due date basis. The effective date of every payment made by Borrower, except payments retained and remitted by the Government on an annual installment due date basis, shall be the date of the United States Treasury check by which the Government remits the payment to the holder. The effective date of any prepayment retained and remitted by the Government to the holder on an annual installment due date basis shall be the date of the prepayment by Borrower, and the Government will pay the interest to which the holder is entitled accruing between the effective date of any such prepayment and the date of the Treasury check to the holder.

Any amount advanced or expended by the Government for the collection hereof or to preserve or protect any security herefor, or otherwise under the terms of any security or other instrument executed in connection with the loan evidenced hereby, at the option of the Government shall become a part of and bear interest at the same rate as the principal of the debt evidenced hereby and be immediately due and payable by Borrower to the Government without demand. Borrower agrees to use the loan evidenced hereby solely for purposes authorized by the Government.

Borrower hereby certifies that it is unable to obtain sufficient credit elsewhere to finance its actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in or near its community for loans for similar purposes and periods of time.

This Bond, together with any additional bonds ranking on a parity herewith which may be issued and outstanding for the purpose of providing funds for financing costs of construction and acquisition of additions to the waterworks of the Borrower is payable solely from the revenues to be derived from the operation of the waterworks after there have been first paid from such revenues the reasonable current costs of operation and maintenance of the waterworks. This Bond does not in any manner constitute an indebtedness of the Borrower within the meaning of any constitutional or statutory provision or limitation.

This Bond has been issued under and in full compliance with the Constitution and statutes of the State of West Virginia, including, among others, Article 19 of Chapter 8 of the West Virginia Code (herein called the "Act"), and represents the entire Series 1975.

If at any time it shall appear to the Government that Borrower may be able to obtain a loan from a responsible cooperative or private credit source at reasonable rates and terms for loans for similar purposes and periods of time, Borrower will, at the Government's request, apply for and accept such loan in sufficient amount to repay the Government.

This Bond is given as evidence of a loan to Borrower made or insured by the Government pursuant to the Consolidated Farmers Home Rural Development Act. This Bond shall be subject to the present regulations of the Farmers Home Administration and to its future regulations not inconsistent with the express provisions hereof.

CITY OF PETERSBURG

By \_\_\_\_\_

Mayor

[CORPORATE SEAL]

Municipal Office, 23 Virginia Avenue  
Petersburg, West Virginia 26847

ATTEST:

\_\_\_\_\_  
Recorder

**CITY OF PETERSBURG**

**WATER REVENUE BONDS, SERIES 1996  
(WEST VIRGINIA WATER DEVELOPMENT AUTHORITY)**

**BOND ORDINANCE**

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CITY OF PETERSBURG

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE PUBLIC WATERWORKS SYSTEM OF THE CITY OF PETERSBURG AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$500,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 1996 (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

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

ARTICLE I

STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01. Authority for this Ordinance. This Ordinance (together with any ordinance, order or resolution supplemental hereto or amendatory hereof, the "Bond Legislation") is enacted pursuant to the provisions of Chapter 8, Article 19 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 Petersburg (the "Issuer") is a municipal corporation and political subdivision of the State of West Virginia in Grant County of said State.

B. The Issuer presently owns and operates a public water treatment and distribution system. However, it is deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer that there be acquired and constructed certain

extensions, additions, betterments and improvements to the existing public waterworks system of the Issuer, consisting of replacement of various items of equipment, improvements to the existing plant filter system, construction of a new backwash recycle/sludge handling and dewatering system and installation of an upgraded plant, water tank and booster telephone monitoring system, together with all appurtenant facilities, (collectively, the "Project") (the existing public waterworks system of the Issuer, the Project and any further extensions, additions, betterments and improvements thereto are herein called the "System") at an estimated cost of not more than \$963,500, in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have heretofore been filed with the Issuer.

C. The estimated revenues to be derived in each year after completion of the Project from the operation of the System will be sufficient to pay all costs of operation and maintenance of the System and the principal of and interest on the Bonds (as hereinafter defined) and to make payments into all Sinking Funds, Reserve Accounts and other payments provided for herein.

D. It is deemed necessary for the Issuer to issue its Water Revenue Bonds, Series 1996 (West Virginia Water Development Authority), in the total aggregate principal amount of not more than \$500,000 (the "Series 1996 Bonds"), initially to be represented by a single bond, to permanently finance the costs of acquisition and construction of the Project. The remaining costs of the Project shall be funded from the sources set forth in Section 2.01 hereof. Said costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor; interest upon the Series 1996 Bonds prior to and during acquisition and construction of the Project and for a period not exceeding 6 months after completion of acquisition and construction of the Project; amounts which may be deposited in the Series 1996 Bonds Reserve Account (as hereinafter defined); engineering and legal expenses; expenses for estimates of costs and revenues, expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense, commitment fees, fees and expenses of the West Virginia Water Development Authority (the "Authority"), discount, initial fees for the services of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Series 1996 Bonds and such other expenses as may be necessary or incidental to the financing herein authorized, the acquisition or construction of the Project and the placing of same in operation, and the performance of the things herein required or permitted, in connection with any thereof, provided, that reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Series 1996 Bonds or the repayment of indebtedness incurred by the Issuer for such purposes shall be deemed Costs of the Project, as hereinafter defined.

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

F. It is in the best interests of the Issuer that its Series 1996 Bonds be sold to the Authority pursuant to the terms and provisions of a loan agreement to be entered into by and between the Issuer and the Authority, in form satisfactory to the Issuer and the Authority, as shall be approved by supplemental resolution of the Issuer.

G. There are outstanding obligations of the Issuer which will rank on a parity with the Series 1996 Bonds as to liens, pledge, source of and security for payment, being the Issuer's Water Revenue Bond, Series 1975, dated November 10, 1976, issued in the original principal amount of \$474,000 (the "Series 1975 Bonds"), pursuant to an ordinance enacted by the Issuer on October 27, 1975 (the "Prior Ordinance"). The holder of the Series 1975 Bonds is the United States Department of Agriculture, Rural Utilities Service and it has given its consent (or will have given its consent prior to issuance of the Series 1996 Bonds), as required in the Prior Ordinance, to the issuance of the Series 1996 Bonds on a parity with the Series 1975 Bonds. Other than the Series 1975 Bonds, there are no outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System.

H. The Issuer has complied with all requirements of West Virginia law and the Loan Agreement relating to authorization of the acquisition, construction and operation of the Project and the System and issuance of the Series 1996 Bonds, or will have so complied prior to issuance of any thereof, including, among other things, the approval (or "grandfathering") of the Project and the financing thereof by the West Virginia Infrastructure and Jobs Development Council, and the obtaining of a certificate of convenience and necessity from the Public Service Commission of West Virginia by final order, the time for rehearing and appeal of which will either have expired prior to the date of issuance of the Series 1996 Bonds or such final order will not be subject to appeal or rehearing.

I. The Issuer is a governmental unit which has general taxing powers to finance operations of or facilities of the nature of the Project and the System; 95% or more of the Net Proceeds of the Series 1996 Bonds are to be used for local governmental activities of the Issuer (or of a governmental unit the jurisdiction of which is entirely within the jurisdiction of the Issuer); and the Issuer, all subordinate entities, all entities which issue obligations on behalf of the Issuer, and all entities formed or, to the extent provided under Section 148 of the Code, herein defined, availed of, to avoid the purposes of Section 148(f)(4)(D) of the Code and all other entities benefiting thereby reasonably expect to issue less than \$5,000,000 aggregate principal amount of tax-exempt obligations (other than private activity bonds) during the calendar year in which the Series 1996 Bonds are to be issued.

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of Series 1996 Bonds by the registered owners of the same from time to time, this Bond Legislation shall be deemed to be and shall constitute a contract between the Issuer and such Bondholders, and the covenants and agreements herein set forth to be

performed by the Issuer shall be for the equal benefit, protection and security of the Bondholders of any and all of such Bonds, all which shall be of equal rank and without preference, priority or distinction between any one Bond and any other Bonds and by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

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

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

"Authority" means the West Virginia Water Development Authority, which is expected to be the original purchaser and Registered Owner of the Series 1996 Bonds, or any other agency, board or department of the State that succeeds to the functions of the Authority.

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

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

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

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

"Bonds" means, collectively, the Series 1996 Bonds, the Series 1975 Bonds and, where appropriate, any bonds on a parity therewith subsequently authorized to be issued hereunder or by another ordinance of the Issuer.

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

"Closing Date" means the date upon which there is an exchange of the Series 1996 Bonds for the proceeds representing the purchase price of the Series 1996 Bonds from the Authority.

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

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

"Consulting Engineers" means Chapman Technical Group, St. Albans, West Virginia, or any qualified engineer or firm of engineers that shall at any time hereafter be retained by the Issuer as Consulting Engineers for the System, or portion thereof; provided, however, that the Consulting Engineers shall not be a regular, full-time employee of the State or any of its agencies, commissions or political subdivisions.

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

"Council" means the Council of the Issuer or any other governing body of the Issuer that succeeds to the functions of the Council as presently constituted.

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

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

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

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

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

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

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

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

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

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

"Issuer" means the City of Petersburg, a municipal corporation and political subdivision of the State of West Virginia, in Grant County, West Virginia, and, unless the context clearly indicates otherwise, includes the Governing Body of the Issuer.

"Loan Agreement" means the Loan Agreement to be entered into between the Authority and the Issuer, providing for the purchase of the Series 1996 Bonds from the Issuer by the Authority, the form of which shall be approved, and the execution and delivery by the Issuer authorized and directed or ratified by the Supplemental Resolution.

"Mayor" means the Mayor of the Issuer.

"Net Proceeds" means the face amount of the Series 1996 Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds, if any, deposited in the Series 1996 Bonds Reserve Account. For purposes of the Private Business Use limitations set forth herein, the term Net Proceeds shall include any amounts resulting from the investment of proceeds of the Series 1996 Bonds, without regard to whether or not such investment is made in tax-exempt obligations.

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

"Nonpurpose Investment" means any Investment Property which is acquired with the gross proceeds or any other proceeds of the Series 1996 Bonds and is not acquired in order to carry out the governmental purpose of the Series 1996 Bonds.

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

of the Authority, fiscal agents, the Depository Bank, the Registrar and the Paying Agent (all as herein 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 Series 1996 Bonds, charges for depreciation, losses from the sale or other disposition of, or from any decrease in the value of, capital assets, amortization of debt discount or such miscellaneous deductions as are applicable to prior accounting periods.

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

"Prior Ordinance" means the ordinance of the Issuer enacted on October 27, 1975, authorizing the Series 1975 Bonds.

"Private Business Use" means use directly or indirectly in a trade or business carried on by a natural person, including all persons "related" to such person within the meaning of Section 144(a)(3) of the Code, or in any activity carried on by a person other than a natural person, including all persons "related" to such person within the meaning of Section 144(a)(3) of the Code, excluding, however, use by a state or local governmental unit and use as a member of the general public. All of the foregoing shall be determined in accordance with the Code, including, without limitation, giving due regard to "incidental use," if any, of the proceeds of the issue and/or proceeds used for "qualified improvements," if any.

"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 the water development revenue bonds of the Authority.

"Project" means the acquisition and construction of certain extensions, additions, betterments and improvements to the existing public water treatment and distribution system of the Issuer, consisting of replacement of various items of equipment, improvements to the existing plant filter system, construction of a new backwash recycle/sludge handling and dewatering system and installation of an upgraded plant, water tank and booster telephone monitoring system, together with all appurtenant facilities.

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

- (a) Government Obligations;
- (b) Government Obligations which have been stripped of their unmatured interest coupons, interest coupons stripped from Government Obligations, and receipts or certificates evidencing payments from Government Obligations or interest coupons stripped from Government Obligations;
- (c) Bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Banks for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Bank System; Export-Import Bank of the United States; Federal Land Banks; Government National Mortgage Association; Tennessee Valley Authority; or Washington Metropolitan Area Transit Authority;
- (d) Any bond, debenture, note, participation certificate or other similar obligations issued by the Federal National Mortgage Association to the extent such obligation is guaranteed by the Government National Mortgage Association or issued by any other federal agency and backed by the full faith and credit of the United States of America;
- (e) Time accounts (including accounts evidenced by time certificates of deposit, time deposits or other similar banking arrangements) which, to the extent not insured by the FDIC, shall be secured by a pledge of Government Obligations, provided, that said Government Obligations pledged either must mature as nearly as practicable coincident with the maturity of said time accounts or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said time accounts;
- (f) Money market funds or similar funds whose only assets are investments of the type described in paragraphs (a) through (e) above;
- (g) Repurchase agreements, fully secured by investments of the types described in paragraphs (a) through (e) above, with banks or national banking associations which are members of FDIC or with government bond dealers recognized as primary dealers by the Federal Reserve Bank of New York,

provided, that said investments securing said repurchase agreements either must mature as nearly as practicable coincident with the maturity of said repurchase agreements or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said repurchase agreements, and provided further that the holder of such repurchase agreement shall have a prior perfected security interest in the collateral therefor; must have (or its agent must have) possession of such collateral; and such collateral must be free of all claims by third parties;

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

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

"Recorder" means the Recorder 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" means the Bond Registrar.

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

"Renewal and Replacement Fund" means, collectively, the Renewal and Replacement Fund established by Section 5.01 hereof and the Depreciation Reserve established in the Prior Ordinance.

"Reserve Accounts" means, collectively, the respective reserve account established for the Series 1996 Bonds and the Series 1975 Bonds.

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

"Revenue Fund" means the Revenue Fund established by the Prior Ordinance.

"Series 1996 Bonds" means the not more than \$500,000 aggregate principal amount of Water Revenue Bonds, Series 1996 (West Virginia Water Development Authority), of the Issuer, authorized by this Ordinance.

"Series 1996 Bonds Construction Trust Fund" means the Series 1996 Bonds Construction Trust Fund established by Section 5.01 hereof.

"Series 1996 Bonds Reserve Account" means the Series 1996 Bonds Reserve Account established in the Series 1996 Bonds Sinking Fund pursuant to Section 5.02 hereof.

"Series 1996 Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 1996 Bonds in the then current or any succeeding year.

"Series 1996 Bonds Sinking Fund" means the Series 1996 Bonds Sinking Fund established by Section 5.02 hereof.

"Series 1975 Bonds" means the Issuer's Water Revenue Bonds, Series 1975, dated November 10, 1976, issued in the original principal amount of \$474,000.

"Series 1975 Bonds Reserve Account" means the Series 1975 Bonds Reserve Account established in the Series 1975 Bonds Sinking Fund pursuant to Section 3.02 of the Prior Ordinance.

"Series 1975 Bonds Sinking Fund" means the Series 1975 Bonds Sinking Fund established by Section 3.02 of the Prior Ordinance.

"Sinking Funds" means, collectively, the respective sinking fund established for the Series 1975 Bonds and the Series 1996 Bonds.

"State" means the State of West Virginia.

"Supplemental Resolution" means any resolution, ordinance or order of the Issuer supplementing or amending this Ordinance and, when preceded by the article "the," refers specifically to the supplemental resolution authorizing the sale of the Series 1996 Bonds; provided, that any matter intended by this Ordinance to be included in the Supplemental Resolution with respect to the Series 1996 Bonds and not so included, may be included in another Supplemental Resolution.

"System" means the complete public waterworks system of the Issuer, as presently existing in its entirety or any integral part thereof, and shall include the Project and any further extensions, additions, betterments and improvements thereto hereafter constructed or acquired from any sources whatsoever.

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

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

## ARTICLE II

### AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF THE PROJECT

Section 2.01. Authorization of Acquisition and Construction of the Project. There is hereby authorized and ordered the acquisition and construction of the Project, at an estimated cost of not to exceed \$963,500, in accordance with the plans and specifications which have been prepared by the Consulting Engineers, heretofore filed in the office of the Governing Body. The proceeds of the Series 1996 Bonds hereby authorized shall be applied as provided in Article VI hereof. The Issuer has received bids and will enter into contracts for the acquisition and construction of the Project, compatible with the financing plan submitted to the Authority.

The cost of the Project is estimated not to exceed \$963,500, of which approximately \$500,000 will be obtained from proceeds of the Series 1996 Bonds and approximately \$463,500 from a grant by the United States Department of Housing and Urban Development (Small Cities Block Grant through the State of West Virginia).

### ARTICLE III

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

Section 3.01.      Authorization of Bonds. For the purposes of capitalizing interest on the Series 1996 Bonds, funding a reserve account for the Series 1996 Bonds, paying Costs of the Project not otherwise provided for and paying certain costs of issuance and related costs, or any or all of such purposes, as determined by the Supplemental Resolution, there shall be and hereby are authorized to be issued the negotiable Series 1996 Bonds of the Issuer. The Series 1996 Bonds shall be issued as a single bond, designated "Water Revenue Bond, Series 1996 (West Virginia Water Development Authority)," in the principal amount of not more than \$500,000, and shall have such terms as set forth hereinafter and in the Supplemental Resolution. The proceeds of the Series 1996 Bonds remaining after funding of the Series 1996 Bonds Reserve Account (if funded from Bond proceeds) and capitalizing interest on the Series 1996 Bonds, if any, shall be deposited in or credited to the Series 1996 Bonds Construction Trust Fund established by Section 5.01 hereof.

Section 3.02.      Terms of Bonds. The Series 1996 Bonds shall bear interest at such rate or rates, not exceeding the then legal maximum, payable semiannually on such dates; shall mature on such dates and in such amounts; and shall be redeemable, in whole or in part, all as the Issuer shall prescribe in a Supplemental Resolution. The Bonds shall be payable as to principal at the office of the Paying Agent, in any coin or currency which, on the dates of payment of principal, is legal tender for the payment of public or private debts under the laws of the United States of America. Interest on the Bonds shall be paid by check or draft of the Paying Agent or its agent, mailed to the registered owner thereof at the address as it appears on the books of the Bond Registrar, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner thereof.

Unless otherwise provided by the Supplemental Resolution, the Series 1996 Bonds shall initially be issued in the form of a single bond, fully registered to the Authority, with a debt service schedule attached, representing the aggregate principal amount of the Series 1996 Bonds, and shall mature in principal installments, all as provided in the Supplemental Resolution. The Bonds shall be exchangeable at the option and expense of the Registered Owner for another fully registered Bond or Bonds of the same series in aggregate principal amount equal to the amount of said Bonds then Outstanding and being exchanged, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of said Bonds; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

Subsequent series of Bonds, if any, shall be issued in fully registered form and in denominations as determined by a Supplemental Resolution. The Series 1996 Bonds shall

be dated as of the date specified in a Supplemental Resolution and shall bear interest from the date so specified therein.

Section 3.03. Execution of Bonds. The Series 1996 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 Series 1996 Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Bond Legislation unless and until the Certificate of Authentication and Registration on such Bond, substantially in the form set forth in Section 3.10 hereof, shall have been manually executed by the Bond Registrar. Any such executed Certificate of Authentication and Registration upon any such Bond shall be conclusive evidence that such Bond has been authenticated, registered and delivered under this Bond Legislation. The Certificate of Authentication and Registration on any Bond shall be deemed to have been executed by the Bond Registrar if manually signed by an authorized officer of the Bond Registrar, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all of the Bonds issued hereunder.

Section 3.05. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Series 1996 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 or its agent, 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 period commencing on the 15th day of the month next preceding an interest payment date on the Bonds or, in the case of any proposed redemption of Bonds, next preceding the date of the selection of Bonds to be redeemed, and ending on such interest payment date or redemption date.

Section 3.06.      Bonds Mutilated, Destroyed, Stolen or Lost. In case any Series 1996 Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue, and the Bond Registrar shall, if so advised by the Issuer, authenticate and deliver, a new Bond of the same series and of like tenor as the Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Holder's furnishing satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer and the Bond Registrar may incur. All Bonds so surrendered shall be cancelled by the Bond Registrar and held for the account of the Issuer. If any such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the Issuer may pay the same, upon being indemnified as aforesaid, and if such Bond be lost, stolen or destroyed, without surrender thereof.

Section 3.07.      Bonds not to be Indebtedness of the Issuer. The Series 1996 Bonds shall not, in any event, be or constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Net Revenues derived from the operation of the System as herein provided and amounts, if any, in the Series 1996 Bonds Sinking Fund and the Series 1996 Bonds Reserve Account. No holder or holders of any of the Series 1996 Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 1996 Bonds or the interest thereon.

Section 3.08.      Bonds Secured by Pledge of Net Revenues. The payment of the debt service of all Series 1996 Bonds shall be secured forthwith equally and ratably with each other by a first lien on the Net Revenues derived from the System, on parity with the lien on the Net Revenues in favor of the Holders of the Series 1975 Bonds. Such Net Revenues in an amount sufficient to pay the principal of and interest on and other payments for the Series 1996 Bonds and to make all other payments provided for in the Bond Legislation, are hereby irrevocably pledged to such payments as they become due.

Section 3.09.      Delivery of Bonds. The Issuer shall execute and deliver the Series 1996 Bonds to the Bond Registrar, and the Bond Registrar shall authenticate, register and deliver the Series 1996 Bonds to the original purchasers upon receipt of the documents set forth below:

A. If other than the Authority, a list of the names in which the Series 1996 Bonds are to be registered upon original issuance, together with such taxpayer identification and other information as the Bond Registrar may reasonably require;

B. A request and authorization to the Bond Registrar on behalf of the Issuer, signed by an Authorized Officer, to authenticate and deliver the Series 1996 Bonds to the original purchasers;

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

D. An executed copy of the Loan Agreement; and

E. The unqualified approving opinion of bond counsel on the Series 1996 Bonds.

Section 3.10.      Form of Series 1996 Bonds. The text of the Series 1996 Bonds shall be in substantially the following form, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted hereby, or by any Supplemental Resolution adopted prior to the issuance thereof:

(FORM OF SERIES 1996 BOND)

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
CITY OF PETERSBURG  
WATER REVENUE BOND,  
SERIES 1996  
(WEST VIRGINIA WATER DEVELOPMENT AUTHORITY)

No. R-\_\_\_\_\_

\$\_\_\_\_\_

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

The interest on each installment shall run from the original date of delivery of this Bond to the Authority and payment therefor, and until payment of such installment, and such interest shall be payable on April 1 and October 1 in each year, beginning \_\_\_\_\_ 1, 199\_\_\_\_. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent"). The interest on this Bond is payable by check or draft of the Paying Agent mailed to the registered owner hereof at the address as it appears on the books of One Valley Bank, National Association, Charleston, West Virginia, as registrar (the "Registrar"), on the 15th day of the month next preceding an interest payment date, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner hereof.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority, and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement by and between the Issuer and the Authority, dated \_\_\_\_\_, 199\_\_\_\_.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain extensions, additions, betterments and improvements to the existing public waterworks system of the Issuer (the "Project"); (ii) [to pay interest on the Bonds of this Series (the "Bonds") during construction of the Project and for not more than 6 months thereafter; (iii) to fund a reserve account for the Bonds; and (iv)] to pay certain costs of issuance hereof and related costs. The Project, and any further extensions, additions, betterments or improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 8, Article 19 of the West Virginia Code of 1931, as amended (the "Act"), and a Bond Ordinance duly enacted by the Issuer on \_\_\_\_\_, 199\_\_\_\_, and a Supplemental Resolution duly adopted by the Issuer on \_\_\_\_\_, 199\_\_\_\_ (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S WATER REVENUE BOND, SERIES 1975, DATED NOVEMBER 10, 1976, ISSUED IN THE ORIGINAL PRINCIPAL AMOUNT OF \$474,000 (THE "SERIES 1975 BONDS").

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on parity with the pledge of Net Revenues in favor of the Holders of the Series 1975 Bonds, and from moneys in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 1996 Bonds Reserve Account"), and unexpended proceeds of the Bonds. The Gross Revenues (as defined in the Bond Legislation) shall be sufficient to pay all operating expenses of the System and the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest hereon except from said special fund provided from the Net Revenues, the moneys in the Series 1996 Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 120% of the maximum amount payable in any year for principal of and interest on the Bonds, and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds, so long as the Series 1975 Bonds are outstanding, and thereafter, 115% of such amount; provided however, that when the Series 1975 Bonds are no longer outstanding

and so long as there exists in the Series 1996 Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding prior to or on a parity with the Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

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

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

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

In accordance with the requirements of the United States Department of Agriculture for the issuance of parity obligations, the Bonds will be in default should any proceeds of the Bonds be used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity.

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

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

IN WITNESS WHEREOF, the CITY OF PETERSBURG has caused this Bond to be signed by its Mayor, and its corporate seal to be hereunto affixed and attested by its Recorder, and has caused this Bond to be dated \_\_\_\_\_, 199\_\_\_\_\_.

[SEAL]

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Recorder

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 1996 Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: \_\_\_\_\_, 199\_\_.

ONE VALLEY BANK, NATIONAL  
ASSOCIATION,  
as Registrar

\_\_\_\_\_  
Authorized Officer

EXHIBIT A

SCHEDULE OF ANNUAL DEBT SERVICE

2010 2011 2012 2013 2014 2015 2016 2017 2018 2019 2020 2021 2022 2023 2024 2025 2026 2027 2028 2029 2030

2010



(Form of)

ASSIGNMENT

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

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

\_\_\_\_\_

In the presence of:

\_\_\_\_\_

Section 3.11. Sale of Bonds; Approval and Ratification of Execution of Loan Agreement. The Series 1996 Bonds shall be sold to the Authority, pursuant to the terms and conditions of the Loan Agreement. If not so authorized by previous ordinance or resolution, the Mayor is specifically authorized and directed to execute the Loan Agreement in the form attached hereto as "Exhibit A" and made a part hereof, and the Recorder is directed to affix the seal of the Issuer, attest the same and deliver the Loan Agreement to the Authority, and any such prior execution and delivery is hereby authorized, approved, ratified and confirmed.

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

ARTICLE IV

[RESERVED]

## ARTICLE V

### FUNDS AND ACCOUNTS; SYSTEM REVENUES AND APPLICATION THEREOF

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

- (1) Revenue Fund (established by the Prior Ordinance);
- (2) Reserve Account (established by the Prior Ordinance and herein referred to as "Series 1975 Bonds Reserve Account");
- (3) Sinking Fund (established by the Prior Ordinance and herein referred to as "Series 1975 Bonds Sinking Fund");
- (4) Depreciation Reserve (established by the Prior Ordinance and herein combined with and made a part of the "Renewal and Replacement Fund"); and
- (5) Series 1996 Bonds Construction Trust Fund.

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

- (1) Series 1996 Bonds Sinking Fund; and
- (2) Within the Series 1996 Bonds Sinking Fund, the Series 1996 Bonds 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 provided in this Bond Legislation. All revenues at any time on deposit in the Revenue Fund shall be disposed of only in the following order and priority:

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

(2) The Issuer shall next (i) on the first day of each month, commencing 7 months prior to the first date of payment of interest on the Series 1996 Bonds for which interest has not been capitalized, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1996 Bonds Sinking Fund, an amount equal to 1/6th of the amount of interest which will become due on the Series 1996 Bonds on the next ensuing semiannual interest payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 1996 Bonds Sinking Fund and the next semiannual interest payment date is less than 7 months, then such monthly payments shall be increased proportionately to provide, one month prior to the next semiannual interest payment date, the required amount of interest coming due on such date and (ii) simultaneously with the transfers set forth in subsection 5.03A(2)(i), transfer from the Revenue Fund and remit to the National Finance Office, as designated in the Prior Ordinance, the amount required by the Prior Ordinance to be deposited in the Series 1975 Bonds Sinking Fund for payment of interest, if any, on the Series 1975 Bonds.

(3) The Issuer shall next (i) on the first day of each month, commencing 13 months prior to the first date of payment of principal of the Series 1996 Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1996 Bonds Sinking Fund, an amount equal to 1/12th of the amount of principal which will mature and become due on the Series 1996 Bonds on the next ensuing annual principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 1996 Bonds Sinking Fund and the next annual principal payment date is less than 13 months, then such monthly payments shall be increased proportionately to provide, one month prior to the next annual principal payment date, the required amount of principal coming due on such date, and (ii) simultaneously with the transfers set forth in subsections 5.03A(3)(i), on the first day of each month, transfer from the Revenue Fund and remit to the National Finance Office, as designated in the Prior Ordinance, the amounts required by the Prior Ordinance to be deposited in the Series 1975 Bonds Sinking Fund for payment of the principal of the Series 1975 Bonds.

(4) The Issuer shall next, (i) on the first day of each month, commencing 13 months prior to the first date of payment of principal of the Series 1996 Bonds, if not fully funded upon issuance of the Series 1996 Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1996 Bonds Reserve Account, an amount equal to 1/120 of the Series 1996 Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 1996 Bonds Reserve

Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 1996 Bonds Reserve Requirement, and (ii) simultaneously with the transfer set forth in subsection 5.03A(3)(i), on the first day of each month, transfer from the Revenue Fund and remit to the Depository Bank established by the Prior Ordinance, the amount, if any, required by the Prior Ordinance to be deposited in the Series 1975 Bonds Reserve Account.

(5) The Issuer shall next, from the moneys remaining in the Revenue Fund, on the first day of each month, commencing with the first month in which any of the above payments shall be payable from the Revenue Fund, transfer to the Renewal and Replacement Fund (formerly the Depreciation Reserve established by the Prior Ordinance), all moneys remaining in the Revenue Fund, until there has been accumulated therein the aggregate sum of \$28,000, and thereafter such sums as shall be required to maintain such amount therein. The Issuer shall thereafter transfer from the funds remaining in the Revenue Fund a sum equal to 2 1/2% of the Gross Revenues each month, exclusive of any payment for account of any Reserve Account. Provided, that no transfer to the Renewal and Replacement Fund shall be less than a sum equal to 2 1/2% of the Gross Revenues each month, exclusive of any payments for account of any 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. Funds in the Renewal and Replacement Fund shall be used by the Issuer first to make up any deficiencies in the transfers to the Sinking Funds required under the respective Bond Ordinances and next, eliminate any deficiencies in the Reserve Requirement held in each Reserve Account under the respective Bond Ordinances [except to the extent such deficiency exists because the required payments into such accounts have not, as of the date of determination of a deficiency, funded such account to the maximum extent required hereof]. Thereafter, and provided that payments into the Sinking Funds and Reserve Accounts are current and in accordance with the foregoing provisions, withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, emergency repairs, improvements or extensions to the system.

Moneys in the Series 1996 Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest on the Series 1996 Bonds as the same shall become due. Moneys in the Series 1996 Bonds Reserve Account shall be used only for the purpose of paying principal of and interest on the Series 1996 Bonds as the same shall come due, when other moneys in the Series 1996 Bonds Sinking Fund are insufficient therefor, and for no other purpose.

All investment earnings on moneys in the Series 1996 Bonds Sinking Fund and the Series 1996 Bonds Reserve Account (if equal to at least the Reserve Requirement) shall be returned, not less than once each year, by the Commission to the Issuer, and such

amounts shall, during construction of the Project, be deposited in the Series 1996 Bonds Construction Trust Fund, and following completion of construction of the Project, shall be deposited in the Revenue Fund and applied in full, first to the next ensuing interest payment due on the Series 1996 Bonds, and then to the next ensuing principal payment due thereon.

Any withdrawals from the Series 1996 Bonds Reserve Account which result in a reduction in the balance of the Series 1996 Bonds Reserve Account to below the Series 1996 Bonds Reserve Requirement shall be subsequently restored from the first Net Revenues available after all required payments have been made in full to the Series 1975 Bonds Sinking Fund and the Series 1996 Bonds Sinking Fund.

As and when additional Bonds ranking on a parity with the Series 1996 Bonds are issued, provision shall be made for additional payments into the respective sinking funds sufficient to pay the interest on such additional parity Bonds and accomplish retirement thereof at maturity and to accumulate a balance in the appropriate reserve account in an amount equal to the maximum amount of principal and interest which will become due in any year for account of the Bonds of such series, including such additional Bonds.

The Issuer shall not be required to make any further payments into the Series 1996 Bonds Sinking Fund, or the Series 1996 Bonds Reserve Account therein when the aggregate amount of funds therein are at least equal to the aggregate principal amount of the Series 1996 Bonds issued pursuant to this Bond Legislation then Outstanding and all interest to accrue until the maturity thereof.

Principal and interest payments, and any payments made for the purpose of funding a deficiency in any Reserve Account, shall be made on a parity and pro rata, with respect to the Series 1975 Bonds and the Series 1996 Bonds in accordance with the respective principal amounts then Outstanding.

The Commission is hereby designated as the fiscal agent for the administration of the Series 1996 Bonds Sinking Fund and the Series 1996 Bonds Reserve Account created hereunder, and all amounts required for said accounts shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein.

Moneys in the Series 1996 Bonds Sinking Fund and the Series 1996 Bonds Reserve Account shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

The Series 1996 Bonds Sinking Fund, including the Series 1996 Bonds Reserve Account therein, shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Series 1996 Bonds under the conditions and restrictions hereinafter set forth.

B. The Issuer shall on the first day of each month (if such day is not a business day, then the next succeeding business day) deposit with the Commission the required principal, interest and reserve payments with respect to the Series 1996 Bonds and all such payments shall be remitted to the Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of this Bond Legislation.

C. 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 such funds 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.

D. The Issuer shall remit from the Revenue Fund to the Commission, the Registrar, the Paying Agent or the Depository Bank, on such dates as the Commission, the Registrar, the Paying Agent or the Depository Bank, as the case may be, shall require, such additional sums as shall be necessary to pay their respective charges, fees and expenses then due.

E. 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.

F. If on any monthly payment date the revenues are insufficient to place the required amount in any of the funds and accounts as hereinabove provided, the deficiency shall be made up in the subsequent payments in addition to the payments which would otherwise be required to be made into the funds and accounts on the subsequent payment dates; provided, however, that the priority of curing deficiencies in the funds and accounts herein shall be in the same order as payments are to be made pursuant to this Section 5.03 and Section 3.02 of the Prior Ordinance, and the Net Revenues shall be applied to such deficiencies before being applied to any other payments hereunder.

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

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

## ARTICLE VI

### BOND PROCEEDS; CONSTRUCTION DISBURSEMENTS

Section 6.01. Application of Bond Proceeds; Pledge of Unexpended Bond Proceeds. From the moneys received from the sale of any or all of the Series 1996 Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. From the proceeds of the Series 1996 Bonds or from other funds available to the Issuer, there shall first be deposited with the Commission in the Series 1996 Bonds Sinking Fund, the amount, if any, set forth in the Supplemental Resolution as capitalized interest; provided, that such amount may not exceed the amount necessary to pay interest on the Series 1996 Bonds for the period commencing on the date of issuance of the Series 1996 Bonds and ending 6 months after the estimated date of completion of construction of the Project.

B. Next, from the proceeds of the Series 1996 Bonds or from other funds available to the Issuer, there shall be deposited with the Commission in the Series 1996 Bonds Reserve Account, the amount, if any, set forth in the Supplemental Resolution for funding the Series 1996 Bonds Reserve Account.

C. Next, from the proceeds of the Series 1996 Bonds, there shall first be credited to the Series 1996 Bonds Construction Trust Fund and then paid, any and all other borrowings by the Issuer made for the purpose of temporarily financing a portion of the Costs of the Project and any borrowings by the Issuer from the Authority, including interest accrued thereon to the date of such payment, not otherwise paid from funds of the Issuer.

D. The remaining moneys derived from the sale of the Series 1996 Bonds shall be deposited with the Depository Bank in the Series 1996 Bonds Construction Trust Fund and applied solely to payment of Costs of the Project in the manner set forth in Section 6.02 hereof.

E. The Depository Bank shall act as a trustee and fiduciary for the Bondholder with respect to the Series 1996 Bonds Construction Trust Fund and shall comply with all requirements with respect to the disposition of the Series 1996 Bonds Construction Trust Fund set forth in the Bond Legislation. Moneys in the Series 1996 Bonds Construction Trust Fund shall be used solely to pay Costs of the Project and until so transferred or expended, are hereby pledged as additional security for the Series 1996 Bonds.

Section 6.02. Disbursements From the Bond Construction Trust Fund. Payments for Costs of the Project shall be made monthly. Except as provided in Section 6.01 hereof, disbursements from the Series 1996 Bonds Construction Trust Fund

(except for the costs of issuance of the Series 1996 Bonds which shall be made upon request of the Issuer), shall be made only after submission to the Depository Bank of a certificate, signed by an Authorized Officer and the Consulting Engineers, stating:

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

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

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

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

In case any contract provides for the retention of a portion of the contract price, the Depository Bank shall disburse from the Series 1996 Bonds Construction Trust Fund only the net amount remaining after deduction of any such portion. All payments made from the Series 1996 Bonds 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 Series 1996 Bonds 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 Series 1996 Bonds Construction Trust Fund, including any accounts therein, shall be invested and reinvested in Qualified Investments at the written direction of the Issuer.

After completion of the Project, as certified by the Consulting Engineers, and all Costs have been paid, the Depository Bank shall transfer any moneys remaining in the Series 1996 Bonds Construction Trust Fund to the Series 1996 Bonds Reserve Account, and when fully funded, shall return such remaining moneys to the Issuer for deposit in the Revenue Fund; provided that, in no event shall more than 10% of the proceeds of the Series 1996 Bonds be deposited in the Series 1996 Bonds Reserve Account and any balance in excess of said amounts shall be returned to the Issuer for deposit in the Revenue Fund. The Issuer shall thereafter, apply such moneys in full, first to the next ensuing interest payments due on the Series 1996 Bonds and thereafter to the next ensuing principal payments due thereon.

## ARTICLE VII

### ADDITIONAL COVENANTS OF THE ISSUER

Section 7.01.      General Covenants of the Issuer. All the covenants, agreements and provisions of this Bond Legislation shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any Holder or Holders of the Series 1996 Bonds. In addition to the other covenants, agreements and provisions of this Bond Legislation, the Issuer hereby covenants and agrees with the Holders of the Series 1996 Bonds as hereinafter provided in this Article VII. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of the Series 1996 Bonds or the interest thereon is Outstanding and unpaid.

Section 7.02.      Bonds not to be Indebtedness of the Issuer. The Series 1996 Bonds shall not be nor constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Bond Legislation. No Holder or Holders of the Series 1996 Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 1996 Bonds or the interest thereon.

Section 7.03.      Bonds Secured by Pledge of Net Revenues. The payment of the debt service of the Series 1996 Bonds issued hereunder shall be secured forthwith equally and ratably by a first lien on the Net Revenues derived from the operation of the System, on a parity with the lien on said Net Revenues in favor of the Holders of the Series 1975 Bonds. The Net 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 all funds and accounts and all other payments provided for in the Bond Legislation are hereby irrevocably pledged, in the manner provided herein, to such payments as they become due, and for the other purposes provided in the Bond Legislation.

Section 7.04.      Rates and Charges. The initial schedule of water rates and charges for the services and facilities of the System shall be as set forth in the water rate ordinance of the Issuer enacted June 5, 1995, which rates are incorporated herein by reference as a part hereof.

Section 7.05.      Sale of the System. So long as any of the Series 1975 Bonds are Outstanding, the System shall not be sold without (i) the prior written consent of the Owner or Owners of the Series 1975 Bonds, which consent shall direct the disposition of proceeds of any such sale and (ii) compliance with the requirements of this Section 7.05. Thereafter, except as otherwise required by law or with the written consent of the Authority, the System may not be sold, mortgaged, leased or otherwise disposed of, except as a whole, or substantially as a whole, and only if the net proceeds to be realized

shall be sufficient to pay fully all the Bonds Outstanding, or to effectively defease this Bond Legislation in accordance with Article X hereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall, with respect to the Series 1996 Bonds, immediately be remitted to the Commission for deposit in the Series 1996 Bonds Sinking Fund, and, with the written permission of the Authority, or in the event the Authority is no longer a Bondholder, the Issuer shall direct the Commission to apply such proceeds to the payment of principal at maturity of and interest on the Series 1996 Bonds. Any balance remaining after the payment of all the Series 1996 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 Series 1996 Bonds 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. Such payment of such proceeds into the Series 1996 Bonds 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 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. The Issuer shall prepare the form of such approval and consent for execution by the then

Holders of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 7.06. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. Except as provided for in Section 7.06 and Section 7.07 hereof, the Issuer shall not issue any other obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Series 1996 Bonds. All obligations issued by the Issuer after the issuance of the Series 1996 Bonds and payable from the revenues of the System, except additional parity Bonds, shall contain an express statement that such obligations are junior and subordinate, as to lien on, pledge and source of and security for payment from such revenues and in all other respects, to the Series 1996 Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into all funds and accounts set forth herein have been made and are current at the time of the issuance of such subordinate obligations.

Except as provided above, the Issuer shall not create, or cause or permit to be created, any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or being on a-parity with the lien of the 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.

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

Section 7.07. Parity Bonds. So long as any of the Series 1975 Bonds are Outstanding, no Parity Bonds may be issued without (i) the written consent of the Owner or Owners of the Series 1975 Bonds and (ii) compliance with the requirements set forth in this Section 7.07. Thereafter, no Parity Bonds, payable out of the revenues of the System, shall be issued after the issuance of any Bonds pursuant to this Bond Legislation, except under the conditions and in the manner herein provided.

All Parity Bonds issued hereunder shall be on a parity in all respects with the Series 1996 Bonds.

No such Parity Bonds shall be issued except for the purpose of financing the costs of the acquisition or construction of extensions, additions, betterments or improvements to the System or refunding the Series 1996 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, so long as the Series 1975 Bonds are outstanding, not be less than 120%, and thereafter, 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; and
- (3) The Parity Bonds then proposed to be issued.

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

Within 30 days of the delivery of such Parity Bonds, the Issuer shall have entered into written contracts for the immediate acquisition or construction of such extensions, 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.

Bonds issued on a parity, regardless of the time or times of their issuance, shall rank equally with respect to their lien on the revenues of the System and their source of and security for payment from said revenues, without preference of any Bond of one series over any other Bond of the same series. The Issuer shall comply fully with all the increased payments into the various funds and accounts created in this Bond Legislation required for and on account of such Parity Bonds, in addition to the payments required for Bonds theretofore issued pursuant to this Bond Legislation.

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on the revenues of the System is subject to the prior and superior liens of the Series 1996 Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from the revenues of the System, or any part thereof, which rank prior to or, except in the manner and under the conditions provided in this section, equally, as to lien on and source of and security for payment from such revenues, with the Series 1996 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.

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

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

The Issuer shall permit the Authority, or its agents and representatives, to inspect all records pertaining to the operation of the System at all reasonable times following completion of construction of the Project and commencement of operation thereof, or, if the

Project is an improvement to an existing system, at any reasonable time following commencement of construction.

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

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

The Issuer shall file with the Consulting Engineers and the Authority or any other original purchaser of the Series 1996 Bonds and shall mail in each year to any Holder or Holders of the Series 1996 Bonds requesting the same, an annual report containing the following:

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

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

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

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be audited by Independent 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 the Series 1996 Bonds and shall submit said report to the Authority, or any other original purchaser of the Series 1996 Bonds. Such audit report submitted to the Authority shall include a statement that the Issuer is in compliance with the terms and provisions of the Loan Agreement and this Bond Legislation and that the revenues of the System are adequate to meet the Issuer's Operating Expenses and debt service requirements.

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

Section 7.09.      Rates. Equitable rates or charges for the use of and service rendered by the System have been established all in the manner and form required by law, and copies of such rates and charges so established will be continuously on file with the Recorder, which copies will be open to inspection by all interested parties. The schedule of rates and charges shall at all times be adequate to produce Gross Revenues from said System sufficient to pay Operating Expenses and to make the prescribed payments into the funds created hereunder. Such schedule of rates and charges shall be changed and readjusted whenever necessary so that the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and continuous performance of this covenant, with a margin for contingencies and temporary unanticipated reduction in income and revenues, the Issuer hereby covenants and agrees that the schedule of rates or charges from time to time in effect shall be sufficient, together with other revenues of the System (i) to provide for all Operating Expenses of the System and (ii) to leave a balance each year equal to at least 120% of the maximum amount required in any year for payment of principal of and interest on the Series 1996 Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Series 1996 Bonds, including the Series 1975 Bonds, so long as the Series 1975 Bonds are outstanding, and thereafter 115% of such amount; provided that, in the event that the Series 1975 Bonds are no longer outstanding and an amount equal to or in excess of the Series 1996 Bonds Reserve Requirement is on deposit in the Series 1996 Bonds Reserve Account and any reserve accounts for obligations prior to or on a parity with the Series 1996 Bonds, are funded at least at the requirement therefor, such balance each year need only equal at least 110% of the maximum amount required in any year for payment of principal of and interest on the Series 1996 Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Series 1996 Bonds. In any event, the Issuer shall not reduce the rates or charges for services set forth in the rate ordinance described in Section 7.04.

Section 7.10.      Operating Budget; Audit and Monthly Financial Report.  
The Issuer shall annually, at least 45 days preceding the beginning of each Fiscal Year, prepare and adopt by resolution a detailed, balanced budget of the estimated revenues and expenditures for operation and maintenance of the System during the succeeding Fiscal Year and shall submit a copy of such budget to the Authority within 30 days of adoption thereof. No expenditures for the operation and maintenance of the System shall be made in any Fiscal Year in excess of the amounts provided therefor in such budget without a written finding and recommendation by a registered professional engineer, which finding and recommendation shall state in detail the purpose of and necessity for such increased

expenditures for the operation and maintenance of the System, and no such increased expenditures shall be made until the Issuer shall have approved such finding and recommendation by a resolution duly adopted. No increased expenditures in excess of 10% of the amount of such budget shall be made except upon the further certificate of a registered professional engineer that such increased expenditures are necessary for the continued operation of the System. The Issuer shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the Authority and to any Holder of any Bonds who shall file his or her address with the Issuer and request in writing that copies of all such budgets and resolutions be furnished him or her and shall make available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to any Holder of any Bonds or anyone acting for and in behalf of such Holder of any Bonds.

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 and that the revenues of the System are adequate to meet the Issuer's Operating Expenses and debt service requirements.

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

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

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

The Issuer agrees that qualified operating personnel properly certified by the State will be employed to operate the System so long as any of the Series 1996 Bonds are Outstanding.

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

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

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

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

Section 7.15. Insurance and Construction Bonds. A. The Issuer hereby covenants and agrees that so long as any of the Bonds remain Outstanding, the Issuer will,

as an Operating Expense, procure, carry and maintain insurance with a reputable insurance carrier or carriers as is customarily covered with respect to works and properties similar to the System. Such insurance shall initially cover the following risks and be in the following amounts:

(1) FIRE, LIGHTNING, VANDALISM, MALICIOUS MISCHIEF AND EXTENDED COVERAGE INSURANCE, on all above-ground insurable portions of the System in an amount equal to the actual cost thereof. In time of war the Issuer will also carry and maintain insurance to the extent available against the risks and hazards of war. The proceeds of all such insurance policies shall be placed in the 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 the 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, the Authority, the prime contractor and all subcontractors as their respective interests may appear, in accordance with the Loan Agreement, during construction of the Project on a 100% basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Issuer, the contractors and subcontractors, as their interests may appear.

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

(3) 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.

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

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

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

B. The Issuer shall also require all contractors engaged in the construction of the Project to carry such 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. In the event the Loan Agreement so requires, such insurance shall be made payable to the order of the Authority, the Issuer, the prime contractor and all subcontractors, as their interests may appear.

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

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

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

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

Section 7.19. Tax Covenants. The Issuer hereby further covenants and agrees as follows:

A. PRIVATE BUSINESS USE LIMITATION. The Issuer shall assure that (i) not in excess of 10% of the Net Proceeds of the Series 1996 Bonds are used for Private Business Use if, in addition, the payment of more than 10% of the principal or 10% of the interest due on the Series 1996 Bonds during the term thereof is, under the terms of the Series 1996 Bonds or any underlying arrangement, directly or indirectly, secured by any

interest in property used or to be used for a Private Business Use or in payments in respect of property used or to be used for a Private Business Use or is to be derived from payments, whether or not to the Issuer, in respect of property or borrowed money used or to be used for a Private Business Use; and (ii) and that, in the event that both (A) in excess of 5% of the Net Proceeds of the Series 1996 Bonds are used for a Private Business Use, and (B) an amount in excess of 5% of the principal or 5% of the interest due on the Series 1996 Bonds during the term thereof is, under the terms of the Series 1996 Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for said Private Business Use or in payments in respect of property used or to be used for said Private Business Use or is to be derived from payments, whether or not to the Issuer, in respect of property or borrowed money used or to be used for said Private Business Use, then said excess over said 5% of Net Proceeds of the Series 1996 Bonds used for a Private Business Use shall be used for a Private Business Use related to the governmental use of the Project, or if the Series 1996 Bonds are for the purpose of financing more than one project, a portion of the Project, and shall not exceed the proceeds used for the governmental use of that portion of the Project to which such Private Business Use is related, all of the foregoing to be determined in accordance with the Code.

B. **PRIVATE LOAN LIMITATION.** The Issuer shall assure that not in excess of 5% of the Net Proceeds of the Series 1996 Bonds are used, directly or indirectly, to make or finance a loan (other than loans constituting Nonpurpose Investments) to persons other than state or local government units.

C. **FEDERAL GUARANTEE PROHIBITION.** The Issuer shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Series 1996 Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

D. **INFORMATION RETURN.** The Issuer will file all statements, instruments and returns necessary to assure the tax-exempt status of the Series 1996 Bonds and the interest thereon, including, without limitation, the information return required under Section 149(e) of the Code.

E. **FURTHER ACTIONS.** The Issuer will take any and all actions that may be required of it (including, without limitation, those deemed necessary by the Authority) so that the interest on the Series 1996 Bonds will be and remain excludable from gross income for federal income tax purposes, and will not take any actions, or fail to take any actions (including, without limitation, those deemed necessary by the Authority), the result of which would adversely affect such exclusion.

**Section 7.20. Statutory Mortgage Lien.** For the further protection of the Holders of the Series 1996 Bonds, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding, shall take effect immediately upon delivery of the Series 1996 Bonds and

shall be on a parity with the statutory mortgage lien in favor of the Holders of the Series 1975 Bonds.

Section 7.21. Securities Laws Compliance. The Issuer will provide the Authority, in a timely manner, with any and all information that may be requested of it (including its annual audit report, financial statements, related information and notices of changes in usage and customer base) so that the Authority may comply with the provisions of SEC Rule 15c2-12 (17CFR Part 240).

## ARTICLE VIII

### INVESTMENT OF FUNDS; NON ARBITRAGE

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

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

The Depository Bank shall keep complete and accurate records of all funds, accounts and investments, and shall distribute to the Issuer, at least once each year, a summary of such funds, accounts and investment earnings. The Issuer shall retain all such records and any additional records with respect to such funds, accounts and investment earnings so long as any of the Series 1996 Bonds are Outstanding and as long thereafter as necessary to comply with the Code and assure the exclusion of interest on the Series 1996 Bonds from gross income for federal income tax purposes.

Section 8.02.      Arbitrage. The Issuer covenants that (i) it shall not take, or permit or suffer to be taken, any action with respect to the gross or other proceeds of the Series 1996 Bonds which would cause the Series 1996 Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code, and (ii) it will take all actions that may be required of it (including, without implied limitation, the timely filing of a Federal information return with respect to the Series 1996 Bonds) so that the interest on the Series 1996 Bonds will be and remain excludable from gross income for Federal income tax purposes, and will not take any actions which would adversely affect such exclusion.

Section 8.03. Small Issuer Exemption from Rebate of Excess Investment Earnings to the United States. In accordance with Section 148 (f)(4)(D) of the Code, the Issuer covenants that it is a governmental unit with general taxing powers; that no part of the Series 1996 Bonds are private activity bonds; that 95 % or more of the Net Proceeds of the Series 1996 Bonds are to be used for local governmental activities of the Issuer (or of a governmental unit the jurisdiction of which is entirely within the jurisdiction of the Issuer); and that the aggregate face amount of all the tax-exempt obligations (other than private activity bonds) issued by the Issuer during the calendar year in which the Series 1996 Bonds are issued does not and will not exceed \$5,000,000, determined in accordance with Section 148(f)(4)(D) of the Code and the Regulations from time to time in effect and applicable to the Series 1996 Bonds. For purposes of the first paragraph of Section 8.03 and for purposes of applying Section 148(f)(4)(D) of the Code, the Issuer and all entities which issue obligations on behalf of the Issuer shall be treated as one issuer; all obligations issued by a governmental unit to make loans to other governmental units with general taxing powers not subordinate to such unit shall, for purposes of applying this first paragraph of Section 8.03 and Section 148(f)(4)(D) of the Code, be treated as not issued by such unit; all obligations issued by a subordinate entity shall, for purposes of applying this first paragraph of Section 8.03 and Section 148(f)(4)(D) of the Code to each other entity to which such entity is subordinate, be treated as issued by such other entity; and an entity formed (or, to the extent provided by the Secretary, as set forth in the Code, availed of) to avoid the purposes of such Section 148(f)(4)(D) of the Code and all other entities benefiting thereby shall be treated as one issuer.

Notwithstanding the foregoing, if in fact the Issuer is subject to the rebate requirements of Section 148(f) of the Code, and not exempted from such requirements, the Issuer covenants to make, or cause to be made, all rebate calculations, computations and payments in the time, manner and as required in Section 148(f) of the Code and the Regulations from time to time in effect and applicable to the Series 1996 Bonds and otherwise covenants and agrees to comply with the provisions of such Section 148(f) of the Code and the Regulations from time to time in effect and applicable to the Series 1996 Bonds. In the event of a failure to pay the correct rebate amount or amounts, the Issuer will pay, from any lawful sources available therefor, to the United States such amount or amounts, plus a penalty equal to 50% of the rebate amount not paid when required to be paid, plus interest on that amount, unless waived. In order to provide for the administration of this paragraph, the Issuer may provide for the employment of independent attorneys, accountants and consultants compensated on such reasonable basis as the Issuer may deem appropriate.

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

rebates and hereby consents to the performance of all matters in connection with such rebates by the Authority at the expense of the Issuer.

The Issuer shall submit to the Authority within 15 days following the end of each Bond Year a certified copy of its rebate calculation or, if the Issuer qualifies for the small governmental issue exception to rebate, the Issuer shall submit a certificate stating that it is exempt from the rebate provisions and that no event has occurred to its knowledge during the Bond Year which would make the Series 1996 Bonds subject to rebate. The Issuer shall also furnish the Authority, at any time, such additional information relating to rebate as may be reasonably requested by the Authority, including information with respect to earnings on all funds constituting "gross proceeds" of the Bonds (as such term "gross proceeds" is defined in the Code).

## ARTICLE IX

### DEFAULT AND REMEDIES

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

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

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

(3) If the Issuer fails to duly and punctually observe or perform any of the covenants, conditions, or agreements on the part of the Issuer provided in the Prior Ordinance, or violates or fails to observe any provision of any pertinent law; or

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

Section 9.02.      Remedies. Upon the happening and continuance of any Event of Default, any Registered Owner of a Bond may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his or her rights and, in particular, (i) bring suit for any unpaid principal or interest then due, (ii) by mandamus or other appropriate proceeding enforce all rights of such Registered Owners including the right to require the Issuer to perform its duties under the Act and the Bond Legislation relating thereto, including, but not limited to, the making and collection of sufficient rates or charges for services rendered by the System, (iii) bring suit upon the Bonds; (iv) by action at law or bill in equity require the Issuer to account as if it were the trustee of an express trust for the Registered Owners of the Bonds, and (v) by action or bill in equity enjoin any acts in violation of the Bond Legislation with respect to the Bonds, or the rights of such Registered Owners; provided that, all rights and remedies of the Holders of the Series 1996 Bonds shall be on a parity with the Holders of the Series 1975 Bonds.

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

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

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

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

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

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

## ARTICLE X

### DEFEASANCE

Section 10.01. Defeasance of Bonds. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the respective Holders of all of the Series 1996 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 Series 1996 Bonds shall thereupon cease, terminate and become void and be discharged and satisfied, except as may otherwise be necessary to assure the exclusion of interest on the Series 1996 Bonds from gross income for federal income tax purposes.

Series 1996 Bonds for the payment of which either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the Paying Agent at the same or earlier time, shall be sufficient, to pay as and when due either at maturity or at the next redemption date, the principal installments of and interest on such Series 1996 Bonds shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section. All Series 1996 Bonds shall, prior to the maturity thereof, be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section if there shall have been deposited with the Commission or its agent, either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with other moneys, if any, deposited with the Commission at the same time, shall be sufficient to pay when due the principal installments of and interest due and to become due on said Series 1996 Bonds on and prior to the next redemption date or the maturity dates thereof. Neither securities nor moneys deposited with the Commission pursuant to this section nor principal or interest payments on any such securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal installments of and interest on said Series 1996 Bonds; provided, that any cash received from such principal or interest payments on such securities deposited with the Commission or its agent, if not then needed for such purpose, shall, to the extent practicable, be reinvested in securities maturing at times and in amounts sufficient to pay when due the principal installments of and interest to become due on said Bonds on and prior to the next redemption date or the maturity dates thereof, and interest earned from such reinvestments shall be paid over to the Issuer as received by the Commission or its agent, free and clear of any trust, lien or pledge. For the purpose of this section, securities shall mean and include only Government Obligations.

## ARTICLE XI

### MISCELLANEOUS

Section 11.01. Amendment or Modification of Bond Legislation. Prior to issuance of the Series 1996 Bonds, this Ordinance may be amended or supplemented in any way by Supplemental Resolution. Following issuance of the Series 1996 Bonds, no material modification or amendment of this Ordinance, or of any ordinance, resolution or order amendatory or supplemental hereto, that would materially and adversely affect the rights of Registered Owners of the 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 pledged therefor without the consent of the Registered Owner thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of Bonds required for consent to the above-permitted amendments or modifications. Notwithstanding the foregoing, this Bond Legislation may be amended without the consent of any Bondholder as may be necessary to assure compliance with Section 148(f) of the Code relating to rebate requirements or otherwise as may be necessary to assure the exclusion of interest on the Series 1996 Bonds from gross income of the Holders thereof.

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

Section 11.03. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Ordinance should be held invalid by any court of competent jurisdiction, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance, the Supplemental Resolution thereto, or the Series 1996 Bonds.

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

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

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

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

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

Passed on First Reading: - December 4, 1995

Passed on Second Reading: - December 20, 1995

Passed on Final Reading  
Following Public  
Hearing: - January 17, 1996

  
Mayor

CERTIFICATION

Certified a true copy of an Ordinance duly enacted by the Council of the CITY OF PETERSBURG on the 17th day of January, 1996.

Dated: August 29, 1996

[SEAL]

*Edna M. Yaman*

Recorder

08/09/96

PETWJM.A6

698490/95001

CITY OF PETERSBURG

Water Revenue Bonds, Series 1996  
(West Virginia Water Development Authority)

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNT, DATE, MATURITY DATE, REDEMPTION PROVISION, INTEREST RATE, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICE AND OTHER TERMS OF THE WATER REVENUE BONDS, SERIES 1996 (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY), OF THE CITY OF PETERSBURG; AUTHORIZING AND APPROVING A LOAN AGREEMENT RELATING TO SUCH BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the city council (the "Governing Body") of the City of Petersburg (the "Issuer"), has duly and officially adopted and enacted a bond ordinance, effective January 17, 1996 (the "Bond Ordinance"), entitled:

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE PUBLIC WATERWORKS SYSTEM OF THE CITY OF PETERSBURG AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$500,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 1996 (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A LOAN AGREEMENT RELATING TO SUCH BONDS;

AUTHORIZING THE SALE AND PROVIDING FOR THE  
TERMS AND PROVISIONS OF SUCH BONDS AND  
ADOPTING OTHER PROVISIONS RELATING THERETO.

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

WHEREAS, the Bond Ordinance provides for the issuance of Water Revenue Bonds, Series 1996 (West Virginia Water Development Authority), of the Issuer (the "Bonds" or the "Series 1996 Bonds"), in the aggregate principal amount not to exceed \$500,000, and has authorized the execution and delivery of a loan agreement relating to the Bonds to be dated the date of delivery of the Bonds (the "Loan Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), all in accordance with Chapter 8, Article 19 of the West Virginia Code of 1931, as amended (the "Act"); and in the Bond Ordinance it is provided that the form of the Loan Agreement and the exact principal amount, date, maturity date, redemption provision, interest rate, interest and principal payment dates, sale price and other terms of the Bonds should be established by a supplemental resolution pertaining to the Bonds; and that other matters relating to the Bonds be herein provided for;

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

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

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

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

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 Water

Revenue Bonds, Series 1996 (West Virginia Water Development Authority), of the Issuer, originally represented by a single Bond, numbered R-1, in the principal amount of \$492,590. The Series 1996 Bonds shall be dated the date of delivery thereof, shall finally mature October 1, 2035, shall bear interest at the rate of 6.25% per annum, payable semiannually on April 1 and October 1 of each year, first interest payable October 1, 1996, and shall be payable in installments of principal on October 1 in each of the years 1997 through 2035, inclusive, and in the amounts as set forth in "Schedule X," attached to the Loan Agreement and incorporated in and made a part of the Bonds. The Bonds shall be subject to redemption upon the written consent of the Authority, and upon payment of the interest and redemption premium, if any, and otherwise in compliance with the Loan Agreement, so long as the Authority is the registered owner of the Bonds.

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

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

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

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

Section 6. The Issuer does hereby appoint Potomac Valley Bank, Petersburg, West Virginia, as Depository Bank under the Bond Ordinance.

Section 7. Series 1996 Bonds proceeds in the amount of \$-0- shall be deposited in the Series 1996 Bonds Sinking Fund, as capitalized interest.

Section 8. Series 1996 Bonds proceeds in the amount of \$-0- shall be deposited in the Series 1996 Bonds Reserve Account.

Section 9. The balance of the proceeds of the Series 1996 Bonds shall be deposited in or credited to the Bond Construction Trust Fund for payment of Costs of the Project, including costs of issuance of the Bonds.

Section 10. The Mayor and Recorder 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 August 29, 1996, to the Authority pursuant to the Loan Agreement.

Section 11. The acquisition and construction of the Project and the financing thereof in part with proceeds of the Bonds is in the public interest, serves a public purpose of the Issuer and will promote the health, welfare and safety of the residents of the Issuer.

Section 12. The Issuer hereby determines that it is in the best interest of the Issuer to invest all moneys in the funds and accounts established by the Bond Ordinance held by the Depository Bank until expended, in repurchase agreements or time accounts, secured by a pledge of Government Obligations, and therefore, the Issuer hereby directs the Depository Bank to take such actions as may be necessary to cause such moneys to be invested in such repurchase agreements or time accounts, until further directed in writing by the Issuer. Moneys in the Series 1996 Bonds Sinking Fund, including the Series 1996 Bonds Reserve Account therein, shall be invested by the West Virginia Municipal Bond Commission in the West Virginia Consolidated Fund.

Section 13. The Issuer shall not permit at any time or times any of the proceeds of the Bonds or any other funds of the Issuer to be used directly or indirectly in a manner which would result in the exclusion of the Bonds from the treatment afforded by Section 103(a) of the Internal Revenue Code of 1986, as amended, and any regulations promulgated thereunder or under any predecessor thereto (the "Code"), by reason of the classification of the Bonds as "private activity bonds" within the meaning of the Code. The Issuer will take all actions necessary to comply with the Code and Treasury Regulations to be promulgated thereunder.

Section 14. The Issuer is a governmental unit with general taxing powers to finance operations of or facilities of the nature of the Project and the System; no part of the Bonds are private activity bonds; 95% or more of the net proceeds of the Bonds are to be used for local governmental activities of the Issuer; and the Issuer reasonably expects to issue less than \$5,000,000 aggregate principal face amount of tax-exempt obligations (other than private activity bonds) during the calendar year 1996, being the calendar year in which the Bonds are to be issued. For purposes of this Section and for purposes of applying Section 148(f)(4)(D) of the Code, the Issuer and all entities which issue obligations on behalf of the Issuer shall be treated as one issuer; all obligations issued by a governmental unit to make loans to other governmental units with general taxing powers not subordinate to such unit shall, for purposes of applying this Section and Section 148(f)(4)(D) of the

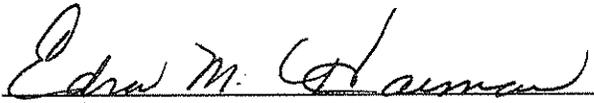
Code, be treated as not issued by such unit; all obligations issued by a subordinate entity shall, for purposes of applying this Section and Section 148(f)(4)(D) of the Code to each other entity to which such entity is subordinate, be treated as issued by such other entity; and an entity formed (or, to the extent provided by the Secretary, as set forth in the Code, availed of) to avoid the purposes of such Section 148(f)(4)(D) of the Code and all other entities benefiting thereby shall be treated as one issuer.

Section 15. This Supplemental Resolution shall be effective immediately following adoption hereof.

Adopted this 28th day of August, 1996.

CITY OF PETERSBURG

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
Recorder

(SPECIMEN SERIES 1996 BOND)

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
CITY OF PETERSBURG  
WATER REVENUE BOND,  
SERIES 1996

(WEST VIRGINIA WATER DEVELOPMENT AUTHORITY)

No. R-1

\$492,590

KNOW ALL MEN BY THESE PRESENTS: That the CITY OF PETERSBURG, a municipal corporation and political subdivision of the State of West Virginia in Grant County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the West Virginia Water Development Authority (the "Authority") or registered assigns the sum of FOUR HUNDRED NINETY-TWO THOUSAND FIVE HUNDRED NINETY DOLLARS (\$492,590), in installments on October 1 of each year as set forth on the "Schedule of Annual Debt Service" attached as Exhibit A hereto and incorporated herein by reference with interest on each installment at the rate per annum set forth on said Exhibit A.

The interest on each installment shall run from the original date of delivery of this Bond to the Authority and payment therefor, and until payment of such installment, and such interest shall be payable on April 1 and October 1 in each year, beginning October 1, 1996. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent"). The interest on this Bond is payable by check or draft of the Paying Agent mailed to the registered owner hereof at the address as it appears on the books of One Valley Bank, National Association, Charleston, West Virginia, as registrar (the "Registrar"), on the 15th day of the month next preceding an interest payment date, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner hereof.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority, and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement by and between the Issuer and the Authority, dated August 29, 1996.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain extensions, additions, betterments and improvements to the existing public waterworks system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of the Bonds of this Series (the "Bonds") and related costs. The Project, and any further extensions, additions, betterments or improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 8, Article 19 of the West Virginia Code of 1931, as amended (the "Act"), and a Bond Ordinance duly enacted by the Issuer on January 17, 1996, and a Supplemental Resolution duly adopted by the Issuer on August 28, 1996 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S WATER REVENUE BOND, SERIES 1975, DATED NOVEMBER 10, 1976, ISSUED IN THE ORIGINAL PRINCIPAL AMOUNT OF \$474,000 (THE "SERIES 1975 BONDS").

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on parity with the pledge of Net Revenues in favor of the Holders of the Series 1975 Bonds, and from moneys in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 1996 Bonds Reserve Account"), and unexpended proceeds of the Bonds. The Gross Revenues (as defined in the Bond Legislation) shall be sufficient to pay all operating expenses of the System and the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest hereon except from said special fund provided from the Net Revenues, the moneys in the Series 1996 Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 120% of the maximum amount payable in any year for principal of and interest on the Bonds, and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds, so long as the Series 1975 Bonds are outstanding, and

thereafter, 115% of such amount; provided however, that when the Series 1975 Bonds are no longer outstanding and so long as there exists in the Series 1996 Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding prior to or on a parity with the Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

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

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

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

In accordance with the requirements of the United States Department of Agriculture for the issuance of parity obligations, the Bonds will be in default should any proceeds of the Bonds be used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity.

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

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

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

IN WITNESS WHEREOF, the CITY OF PETERSBURG has caused this Bond to be signed by its Mayor, and its corporate seal to be hereunto affixed and attested by its Recorder, and has caused this Bond to be dated August 29, 1996.

[SEAL]

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Recorder

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 1996 Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: August 29, 1996.

ONE VALLEY BANK, NATIONAL  
ASSOCIATION,  
as Registrar

---

Authorized Officer

EXHIBIT A

SCHEDULE OF ANNUAL DEBT SERVICE

West Virginia Water Development Authority  
City of Petersburg, West Virginia  
Debt Service Schedule  
Closing August 29, 1996  
Total Amount Borrowed: \$492,590

Date	Coupon	Principal	Interest	Semi-Annual Debt Service	Annual Debt Service
10/1/96	6.25%	-	2,736.61	2,736.61	2,736.61
4/1/97	6.25%	-	15,393.44	15,393.44	
10/1/97	6.25%	3,194.58	15,393.44	18,588.02	33,981.46
4/1/98	6.25%	-	15,293.61	15,293.61	
10/1/98	6.25%	3,394.24	15,293.61	18,687.85	33,981.46
4/1/99	6.25%	-	15,187.54	15,187.54	
10/1/99	6.25%	3,606.38	15,187.54	18,793.92	33,981.46
4/1/00	6.25%	-	15,074.84	15,074.84	
10/1/00	6.25%	3,831.78	15,074.84	18,906.62	33,981.46
4/1/01	6.25%	-	14,955.09	14,955.09	
10/1/01	6.25%	4,071.26	14,955.09	19,026.35	33,981.44
4/1/02	6.25%	-	14,827.87	14,827.87	
10/1/02	6.25%	4,325.72	14,827.87	19,153.59	33,981.46
4/1/03	6.25%	-	14,692.69	14,692.69	
10/1/03	6.25%	4,596.07	14,692.69	19,288.76	33,981.45
4/1/04	6.25%	-	14,549.06	14,549.06	
10/1/04	6.25%	4,883.33	14,549.06	19,432.39	33,981.45
4/1/05	6.25%	-	14,396.46	14,396.46	
10/1/05	6.25%	5,188.54	14,396.46	19,585.00	33,981.46
4/1/06	6.25%	-	14,234.32	14,234.32	
10/1/06	6.25%	5,512.82	14,234.32	19,747.14	33,981.46
4/1/07	6.25%	-	14,062.04	14,062.04	
10/1/07	6.25%	5,857.37	14,062.04	19,919.41	33,981.45
4/1/08	6.25%	-	13,879.00	13,879.00	
10/1/08	6.25%	6,223.46	13,879.00	20,102.46	33,981.46
4/1/09	6.25%	-	13,684.51	13,684.51	
10/1/09	6.25%	6,612.42	13,684.51	20,296.93	33,981.44
4/1/10	6.25%	-	13,477.88	13,477.88	
10/1/10	6.25%	7,025.70	13,477.88	20,503.58	33,981.46
4/1/11	6.25%	-	13,258.32	13,258.32	
10/1/11	6.25%	7,464.80	13,258.32	20,723.12	33,981.44
4/1/12	6.25%	-	13,025.05	13,025.05	
10/1/12	6.25%	7,931.35	13,025.05	20,956.40	33,981.45
4/1/13	6.25%	-	12,777.19	12,777.19	
10/1/13	6.25%	8,427.06	12,777.19	21,204.25	33,981.44
4/1/14	6.25%	-	12,513.85	12,513.85	
10/1/14	6.25%	8,953.76	12,513.85	21,467.61	33,981.46
4/1/15	6.25%	-	12,234.04	12,234.04	
10/1/15	6.25%	9,513.37	12,234.04	21,747.41	33,981.45
4/1/16	6.25%	-	11,936.75	11,936.75	
10/1/16	6.25%	10,107.95	11,936.75	22,044.70	33,981.45

Date	Coupon	Principal	Interest	Semi-Annual Debt Service	Annual Debt Service
4/1/17	6.25%	-	11,620.88	11,620.88	
10/1/17	6.25%	10,739.70	11,620.88	22,360.58	33,981.46
4/1/18	6.25%	-	11,285.26	11,285.26	
10/1/18	6.25%	11,410.93	11,285.26	22,696.19	33,981.45
4/1/19	6.25%	-	10,928.67	10,928.67	
10/1/19	6.25%	12,124.11	10,928.67	23,052.78	33,981.45
4/1/20	6.25%	-	10,549.79	10,549.79	
10/1/20	6.25%	12,881.87	10,549.79	23,431.66	33,981.45
4/1/21	6.25%	-	10,147.23	10,147.23	
10/1/21	6.25%	13,686.99	10,147.23	23,834.22	33,981.45
4/1/22	6.25%	-	9,719.51	9,719.51	
10/1/22	6.25%	14,542.42	9,719.51	24,261.93	33,981.44
4/1/23	6.25%	-	9,265.06	9,265.06	
10/1/23	6.25%	15,451.32	9,265.06	24,716.38	33,981.44
4/1/24	6.25%	-	8,782.21	8,782.21	
10/1/24	6.25%	16,417.03	8,782.21	25,199.24	33,981.45
4/1/25	6.25%	-	8,269.18	8,269.18	
10/1/25	6.25%	17,443.10	8,269.18	25,712.28	33,981.46
4/1/26	6.25%	-	7,724.08	7,724.08	
10/1/26	6.25%	18,533.29	7,724.08	26,257.37	33,981.45
4/1/27	6.25%	-	7,144.92	7,144.92	
10/1/27	6.25%	19,691.62	7,144.92	26,836.54	33,981.46
4/1/28	6.25%	-	6,529.55	6,529.55	
10/1/28	6.25%	20,922.35	6,529.55	27,451.90	33,981.45
4/1/29	6.25%	-	5,875.73	5,875.73	
10/1/29	6.25%	22,229.99	5,875.73	28,105.72	33,981.45
4/1/30	6.25%	-	5,181.04	5,181.04	
10/1/30	6.25%	23,619.37	5,181.04	28,800.41	33,981.45
4/1/31	6.25%	-	4,442.94	4,442.94	
10/1/31	6.25%	25,095.58	4,442.94	29,538.52	33,981.46
4/1/32	6.25%	-	3,658.70	3,658.70	
10/1/32	6.25%	26,664.05	3,658.70	30,322.75	33,981.45
4/1/33	6.25%	-	2,825.45	2,825.45	
10/1/33	6.25%	28,330.56	2,825.45	31,156.01	33,981.46
4/1/34	6.25%	-	1,940.12	1,940.12	
10/1/34	6.25%	30,101.22	1,940.12	32,041.34	33,981.46
4/1/35	6.25%	-	999.45	999.45	
10/1/35	6.25%	31,982.54	999.45	32,981.99	33,981.44
		492,590.00	835,423.25	1,328,013.25	1,328,013.25

Average Coupon	6.250000%
TIC =	6.250567%
NIC =	6.250000%
Arbitrage Yield =	6.250567%
WAM =	27.14

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:

\_\_\_\_\_





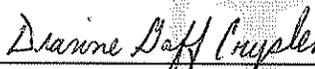
United States Department of Agriculture  
Rural Development  
West Virginia State Office

April 16, 2009

Town of Petersburg  
Water Revenue Bonds, Series 2009 A; and  
Water Revenue Bonds, Series 2009 B  
(West Virginia DWTRF Program)

TO WHOM IT MAY CONCERN:

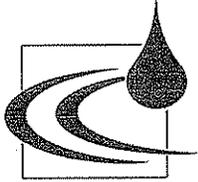
The undersigned duly authorized representative of the United States of America, acting through the Rural Utilities Service, United States Department of Agriculture, the present holder of the entire outstanding aggregate principal amount of the Prior Bonds, hereinafter defined and described, hereby (i) consents to the issuance of the Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program), in the original aggregate principal amount of \$2,700,000 and Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program), in the original aggregate principal amount of \$5,000,000 (collectively the "Bonds"), by the Town of Petersburg (the "Issuer"), under the terms of the bond ordinance authorizing the issuance of the Bonds (the "Ordinance"), on a parity, with respect to liens, pledge and source of and security for payment, with the Issuer's outstanding Water Revenue Bonds, Series 1975, dated November 10, 1976, issued in the original aggregate principal amount of \$474,000 (the "Prior Bonds"); and (ii) waives any requirements imposed by the Prior Bonds or the ordinance authorizing the Prior Bonds (the "Prior Ordinance"), regarding the issuance of parity bonds which are not met by the Bonds or the Ordinance.

  
\_\_\_\_\_  
Acting State Director

75 High Street Federal Building • Suite 320 • Morgantown, WV 26505-7500  
Phone: 304.284.4860 • 1.800.295.8228 • Fax: 304.284.4893 • TTY/TDD: 304.284.4836 • Web: <http://www.rurdev.usda.gov/wv>

Committed to the future of rural communities.

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To file a complaint of discrimination write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W.,  
Washington, DC 20250-9410 or call (800) 795-3272 (voice) or (202) 720-6382 (TDD).



WEST VIRGINIA  
**Water Development Authority**  
Celebrating 34 Years of Service 1974 - 2008

April 16, 2009

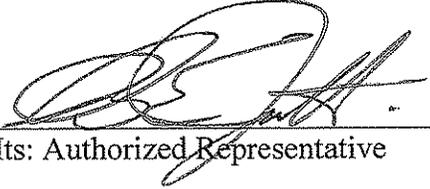
TOWN OF PETERSBURG

Water Revenue Bonds, Series 2009 A; and  
Water Revenue Bonds, Series 2009 B  
(West Virginia DWTRF Program)

TO WHOM IT MAY CONCERN:

In reliance upon the certificate of Griffith and Associates, the independent certified public accountant and an opinion of Steptoe & Johnson PLLC, bond counsel, that the coverage and parity tests have been met, the undersigned duly authorized representative of the West Virginia Water Development Authority (the "Authority"), the registered owner of the entire outstanding aggregate principal amount of the Series 1996 Bonds, hereinafter defined and described, hereby consents to the issuance of the Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program) (the "Series 2009 A Bonds"), in the original aggregate principal amount of \$2,700,000, and the Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program) (the "Series 2009 B Bonds") in the original aggregate principal amount of \$5,000,000 (collectively, the "Bonds" or the "Series 2009 Bonds"), by the Town of Petersburg (the "Issuer"), under the terms of the ordinance authorizing the Bonds, on a parity, with respect to liens, pledge and source of and security for payment, with the Issuer's Water Revenue Bonds, Series 1996 (West Virginia Water Development Authority), dated August 29, 1996, issued in the original aggregate principal amount of \$492,590 (the "Series 1996 Bonds").

WEST VIRGINIA WATER DEVELOPMENT  
AUTHORITY

By: 

Its: Authorized Representative

04.08.09  
698490.00008

180 Association Drive, Charleston, WV 25311-1217  
phone (304) 558-3612 / fax (304) 558-0299  
[www.wvwda.org](http://www.wvwda.org)

TOWN OF PETERSBURG

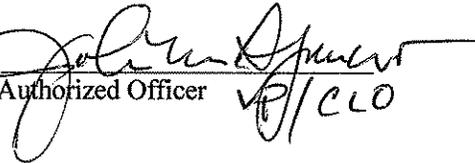
Water Revenue Bonds, Series 2009 A; and  
Water Revenue Bonds, Series 2009 B  
(West Virginia DWTRF Program)

RECEIPT AND RELEASE

The undersigned duly authorized representative of Citizens National Bank, Petersburg, West Virginia (the "Bank"), the holder of the Town of Petersburg Waterworks System Refunding Bond Anticipation Notes, Series 2005, dated April 13, 2005, issued in the original aggregate principal amount of \$450,000 (the "Series 2005 Note"), hereby certifies and declares that on the date hereof, he received on behalf of the Bank from the Town of Petersburg (the "Issuer") the sum of \$409,510 and that such sum is sufficient to pay in full the entire outstanding principal of and all interest accrued on the Series 2005 Note to the date hereof and to discharge all liens, pledges and encumbrances securing the Series 2005 Note.

Dated this 16th day of April, 2009.

CITIZENS NATIONAL BANK

By:   
Its: Authorized Officer VP/CLO

04.09.09  
698490.00008

## CLOSING MEMORANDUM

**To:** Financing Team  
**From:** John C. Stump, Esquire  
**Date:** April 16, 2009  
**Re:** Town of Petersburg Water Revenue Bonds, Series 2009 A; Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program)

---

### **1. DISBURSEMENTS TO THE TOWN OF PETERSBURG**

A. Payor: West Virginia Bureau for Public Health  
Water Revenue Bonds, Series 2009 A  
Amount: \$223,507  
Form: Wire Transfer  
Payee: City of Petersburg  
Bank: Grant County Bank  
Contact: George Ford  
Acct. No.: 6501121  
ABA: 052203046  
Account: Series 2009 Bonds Construction Trust Fund

### **2. DISBURSEMENTS TO THE CITIZENS NATIONAL BANK**

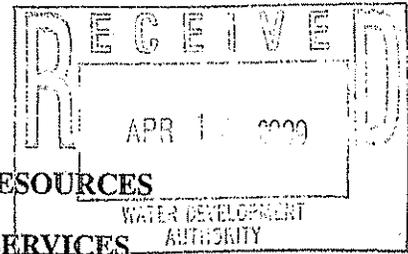
A. Payor: West Virginia Bureau for Public Health, Series 2009 A  
Amount: \$409,510  
Form: Wire  
Payee: Citizens National Bank  
Contact: John Spencer 304.636.4095 ext 114  
Acct. No.: 8300984  
ABA: 051501150  
For the benefit of the City of Petersburg  
Account: Pay the outstanding principal of and interest on the  
"Waterworks System Bond Anticipation Notes, Series 2005"

**Total Disbursements: \$633,017**

04.15.09  
698490.00008



STATE OF WEST VIRGINIA  
 DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
 BUREAU FOR PUBLIC HEALTH  
 OFFICE OF ENVIRONMENTAL HEALTH SERVICES



Joe Manchin III  
 Governor

**MEMORANDUM**

Martha Yeager Walker  
 Secretary

**To:** Ms. Diane Roy, CPA  
 Water Development Authority

**From:** Robert W. DeCrease, P. E., Manager *Robert DeCrease*

**Date:** April 10, 2009

**Subject:** Project Construction Payment  
**Payment Number Two (2) – City of Petersburg**  
 Drinking Water Treatment Revolving Fund

Supporting invoices have been reviewed and approved for the project listed below. Please initiate transfer of funds in accordance with the following information.

**Project Name:** City of Petersburg  
**Project IJDC#:** 2005W-882  
**DWTRF#:** 05DWTRFA009

<b>Total Amount of Draw:</b>	\$ 223,507
Amount of Draw from Federal Funds:	\$ 0
Amount of Draw from State Match Funds:	\$ 0
Amount of Draw from Repayments:	\$ 223,507

**Wiring Instructions:**

**Bank Name:** Grant County Bank  
 3 North Main Street

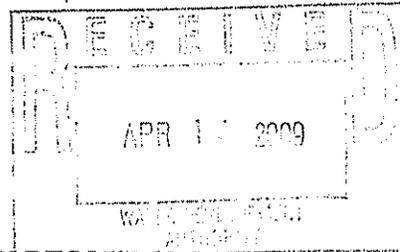
**Bank Address:** P. O. Box 929  
 Petersburg, WV 26847

**Contact:** George Ford  
**Phone No.:** (304) 257-4111

**ABA Number:** 052203046  
**Project Account Number:** 65-01121

RWD:bms

pc: Linda Jordan, Accountant Auditor Supervisor



STATE OF WEST VIRGINIA  
 DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
 BUREAU FOR PUBLIC HEALTH  
 OFFICE OF ENVIRONMENTAL HEALTH SERVICES

Joe Manchin III  
 Governor

Martha Yeager Walker  
 Secretary

**MEMORANDUM**

**To:** Diane Roy, CPA  
 Water Development Authority

**From:** Robert W. DeCrease, P. E., Manager *Robert DeCrease*  
 Infrastructure and Capacity Development

**Date:** April 10, 2009

**Subject:** Project Construction Payment  
 Payment Number One (1) – City of Petersburg  
 Drinking Water Treatment Revolving Fund

Supporting invoices have been reviewed and approved for the project as listed below. Please initiate payment in accordance with the following information:

**Project Name:** City of Petersburg  
**Project IJDC#:** 2005W-882  
**DWTRF#:** 05DWTRFA009

Total Amount of Draw:	\$ 409,510
Amount of Draw from Federal Funds:	\$ 0
Amount of Draw from State Match Funds:	\$ 0
Amount of Repayments:	\$ 409,510

**Wiring Instructions:**

Bank Name: Citizens National Bank  
 Bank Address: 211 - 213 Third Street  
 Elkins, WV 26241

**Contact:** John Spencer  
**Phone No.:** (304) 636-4095 Ext. 114

ABA Number: 051501150  
 Project Account Number: 8300984

RWD:bms

pc: Linda Jordan, Accountant Auditor Supervisor

© 2009 DEPARTMENT OF HEALTH AND HUMAN RESOURCES, BUREAU FOR PUBLIC HEALTH, OFFICE OF ENVIRONMENTAL HEALTH SERVICES

State of West Virginia  
**WATER DEVELOPMENT AUTHORITY**  
 180 Association Drive, Charleston, WV 25311-1217  
 (304) 558-3612 - (304) 558-0299 (Fax)  
 Internet: www.wvnda.org - Email: contact@wvnda.org

**CLOSING ATTENDANCE LIST**

Date April 16, 2009 Time 9:00 a.m. LGA Town of Petersburg Program DWTRF

NAME	COMPANY, AGENCY, OR ORGANIZATION	TELEPHONE	FAX	E-MAIL
Samuel Gre	Jackson Kelly PLLC	304.340.1318	304.1272	sgre@jacksonkelly.com
John Stump	Stump Johnson PLLC	304.353.8196	304.353.8181	john.stump@stump-johnson.com
Ryan White	<del>Stump Johnson</del> Jackson Kelly	304.340.1283	304.340.1272	rwwhite@jacksonkelly.com
Diane L. Roy	WV Water Development Authority	304.558-3612 x104	304.558-0299	droy@wvnda.org

The Authority requests that the following information concerning the individual who will be responsible for sending Debt Service Payments to the Municipal Bond Commission be provided. (If that individual is in attendance, he/she should also sign above.) Please Print:

Name Gary Michael, Mayor Telephone 304.257.4944 E-Mail N/A  
 Address 21 Mount View Street, Petersburg WV 26847

REMINDER: As a participant in this program, the Local Governmental Agency (LGA) agrees and is required to submit annually to the WDA a copy of its audited financial statements and a copy of its adopted budget. Also, pursuant to the Loan Agreement and the NonArbitrage Certificate (both of which are contained in the bond transcript) you are to provide annually to the WDA a rebate calculation certificate or an exception opinion showing whether a rebate amount is due to the US Government under arbitrage requirements in Section 148(f) of the US Internal Revenue Code, 1986, as amended.

## **SWEEP RESOLUTION**

### **Town of Petersburg**

**WHEREAS**, the Town of Petersburg (the "Issuer") is a governmental body and political subdivision of West Virginia;

**WHEREAS**, the Issuer has issued bonds, as more specifically set forth on Exhibit A, attached hereto and incorporated herein by reference (the "Bonds");

**WHEREAS**, the Issuer makes or will make monthly debt service payments on and transfers reserve funds for the Bonds by check to the West Virginia Municipal Bond Commission (the "MBC") which in turn pays the owners of the Bonds and deposits funds in the reserve accounts;

**WHEREAS**, the MBC may accept such monthly payments by electronic funds transfer, thereby eliminating delay in payments and lost checks;

**WHEREAS**, the Issuer finds and determines that it is in the best interest of the Issuer, its citizens and the owners of the Bonds that the administrative fees, monthly debt service and reserve fund payments be made by electronic funds transfer with the State Treasurer sweeping the Issuer's account.

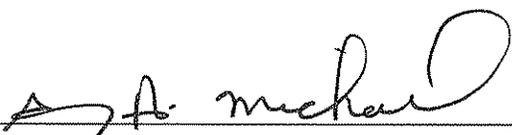
### **NOW THEREFORE BE IT RESOLVED AS FOLLOWS:**

1) The monthly debt service payments on and reserve funds for the Bonds, as set forth in Exhibit A, shall be made to the MBC by an electronic transfer, to the extent funds are available, by the State Treasurer from the accounts set forth in Exhibit A in such form and at such directions as are provided by the MBC.

2) The Mayor and Recorder are hereby authorized to sign and execute all such documents as are necessary to facilitate the electronic transfer of the Bond debt service and reserve fund payments.

3) This resolution shall be effective immediately upon adoption.

Adopted this 15th day of April, 2009.

  
\_\_\_\_\_  
Mayor

WATER REVENUE BONDS, SERIES 2008 B (WEST VIRGINIA DWTRF PROGRAM) PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

WHEREAS, the council (the "Governing Body") of the Town of Petersburg (the "Issuer") has duly and officially adopted a Supplemental Resolution, effective November 3, 2008 (the "Bond Ordinance"), entitled:

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNT, DATE, MATURITY DATE, REDEMPTION PROVISION, INTEREST RATE, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICE AND OTHER TERMS OF THE WATER REVENUE BONDS SERIES 2009 A, (WEST VIRGINIA DWTRF PROGRAM), AND WATER REVENUE BONDS, SERIES 2009 B (WEST VIRGINIA DWTRF PROGRAM) OF THE TOWN OF PETERSBURG; APPROVING AND RATIFYING THE LOAN AGREEMENT RELATING TO SUCH BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

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

WHEREAS, the Bond Ordinance provides for the issuance of Water Revenue Bonds, Series 2008 A (West Virginia DWTRF Program) in an aggregate principal amount not to exceed \$4,700,000 (the "Series 2008 A Bonds") and Water Revenue Bonds, Series 2008 B (West Virginia DWTRF Program) in an aggregate principal amount not to exceed \$6,000,000 (the "Series 2008 B Bonds" and together with the Series 2008 A Bonds, the "Series 2008 Bonds"), and has authorized the execution and delivery of the Loan Agreement relating to the Series 2008 A Bonds and Series 2008 B Bonds respectively, including all schedules and exhibits attached thereto, by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Bureau for Public Health for the Series 2008 A Bonds and Series 2008 B Bonds (collectively the "Loan Agreement"), all in accordance with Chapter 8, Article 19 and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended (collectively, the "Act"), and in the

Bond Ordinance it is provided that the form of the Loan Agreement and the exact principal amount, date, maturity date, redemption provision, interest rate, interest and principal payment dates, sale price and other terms of the Series 2008 Bonds should be established by a supplemental resolution pertaining to the Series 2008 Bonds; and that other matters relating to the Bonds be herein provided for;

WHEREAS, the Supplemental Resolution re-designated the Series 2008 A Bonds and Series 2008 B Bonds as Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program”) and Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program) respectively.

WHEREAS, the Series 2009 A Bonds were issued on April 16, 2009 in an original aggregate principal amount of \$2,700,000.

WHERE AS, the Series 2009 B Bonds were issued on April 16, 2009 in an original aggregate principal amount of \$5,000,000.

WHEREAS, the Governing Body desires to re-issue the Water Revenue Bonds, Series 2009 B as two series of bonds being the Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA); and Water Revenue Bonds, Series 2009 C (West Virginia DWTRF Program);

WHEREAS, the Series 2009 B Bonds and Series 2009 C Bonds are proposed to be purchased by the Authority pursuant to the Act; and

WHEREAS, the Governing Body deems it essential and desirable that this second supplemental resolution (the “Second Supplemental Resolution”) be adopted, that the exact principal amounts, the dates, the maturity dates, the redemption provisions, the interest rates, the interest and principal payment dates and the sale price of the Series 2009 B Bonds and Series 2009 C Bonds be fixed hereby in the manner stated herein, and that other matters relating to the Series 2009 B Bonds and Series 2009 C Bonds be herein provided for;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF TOWN OF PETERSBURG:

Section 1. The Water Revenue Bonds, Series 2009 B are re-issued as two series of bonds designated respectively as “Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA)” and “Water Revenue Bonds, Series 2009 C (West Virginia DWTRF Program)”;

Section 2. Section 2.01 of the Ordinance is hereby revised and restated in its entirety as follows:

Section 2.01 Authorization of Acquisition and Construction of the Project. There is hereby authorized and ordered the acquisition and construction of the Project, at an estimated cost of \$11,054,814, and ordered in accordance with the plans and specifications which have been prepared by the Consulting Engineers, heretofore filed in the office of the Governing Body. The proceeds

of the Series 2009 A Bonds, Series 2009 B Bonds and Series 2009 C Bonds are hereby authorized, shall be applied as provided in Article VI hereof.

The cost of the Project is estimated not to exceed \$11,054,814 of which \$2,700,000 has been obtained from proceeds of the Series 2009 A Bonds, \$2,915,000 will be obtained from the proceeds of the Series 2009 B Bonds, \$2,500,000 from the Series 2009 C Bonds, \$2,931,400 will be obtained from proceeds of a U.S. Environmental Protection Agency grant and \$8,414.98 will be contributed by the Issuer.

Section 3. Section 5.02 of the Ordinance is hereby revised and restated in its entirety as follows:

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

- (1) Series 1996 Bonds Sinking Fund (established by Prior Ordinance);
- (2) Series 1996 Bonds Reserve Account (established by Prior Ordinance);
- (3) Series 2009 A Bonds Sinking Fund;
- (4) Series 2009 A Bonds Reserve Account;
- (5) Series 2009 C Bonds Sinking Fund; and
- (6) Series 2009 C Bonds Reserve Account.

Section 4. Section 5.03 of the Ordinance is hereby revised and restated in its entirety as follows:

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

(1) The Issuer shall first, each month, transfer from the Revenue Fund an amount sufficient to pay all current Operating Expenses of the System.

(2) The Issuer shall next, each month on or before the due date, transfer from the Revenue Fund and simultaneously remit: (i) to the National Finance Office the amounts required to be paid by the Prior Ordinance for the interest on the Series 1975 Bonds; (ii) to the Commission on the first day of the month the amounts required to be paid by Prior Ordinance for the interest on the Series 1996 Bonds; and (iii) to the Commission on the first day of the month, commencing 3 months prior to the first date of payment of interest of the Series 2009 A Bonds for deposit in the Series 2009 A Bonds Sinking Fund, an amount equal to 1/3rd of the amount of interest which will mature and become due on the Series 2009 A Bonds on the next ensuing quarterly interest payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 2009 A Bonds Sinking Fund and the next quarterly interest payment date is less than 3 months, then such monthly payments shall be increased proportionately to provide, 1 month prior to the next quarterly interest payment date, the required amount of interest coming due on such date.

(3) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit (i) to the National Finance Office the amounts required to be paid by the Prior Ordinance for the principal on the Series 1975 Bonds; (ii) to the Commission the amounts required to be paid by Prior Ordinance for the principal on the Series 1996 Bonds; (iii) to the Commission commencing 4 months prior to the first date of payment of principal of the Series 2009 A Bonds for deposit in the Series 2009 A Bonds Sinking Fund, an amount equal to 1/3rd of the amount of principal which will mature and become due on the Series 2009 A Bonds on the next ensuing quarterly principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 2009 A Bonds Sinking Fund and the next quarterly principal payment date is less than 3 months, then such monthly payments shall be increased proportionately to provide, 1 month prior to the next quarterly principal payment date, the required amount of principal coming due on such date; and (iv) to the Commission commencing 4 months prior to the first date of payment of principal of the Series 2009 C Bonds for deposit in the Series 2009 C Bonds Sinking Fund, an amount equal to 1/3rd of the amount of principal which will mature and become due on the Series 2009 C Bonds on the next ensuing quarterly principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 2009 C Bonds Sinking Fund and the next quarterly principal payment date is less than 3 months, then such monthly payments shall be increased proportionately to provide, 1 month prior to the next quarterly principal payment date, the required amount of principal coming due on such date.

(4) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit (i) to the depository bank for deposit in the Series 1975 Bonds Reserve Account the amounts required by Prior Ordinance; (ii) to the Commission for deposit in the Series 1996 Bonds Reserve Account, the amounts required by the Prior Ordinance to be deposited therein; (iii) to the Commission commencing 4 months prior to the first date of payment of principal of the Series 2009 A Bonds, if not fully funded upon issuance of the Series 2009 A Bonds, for deposit in the Series 2009 A Bonds Reserve Account, an amount equal to 1/120th of the Series 2009 A Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 2009 A Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 2009 A Bonds Reserve Requirement; and (iv) to the Commission, commencing 4 months prior to the first date of payment of principal of the Series 2009 C Bonds, if not fully funded upon issuance of the Series 2009 C Bonds, for deposit in the Series 2009 C Bonds Reserve Account, an amount equal to 1/120th of the Series 2009 C Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 2009 C Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 2009 C Bonds Reserve Requirement.

(5) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and remit to the Depository Bank for deposit in the Renewal and Replacement Fund, a sum equal to 2 1/2% of the Gross Revenues each month, exclusive of any payments for account of any 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 as provided herein. 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 deficiencies in any 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 hereof) shall be promptly eliminated with monies from the Renewal and Replacement Fund.

Monies in the Series 2009 A Bonds Sinking Fund and the Series 2009 B Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest, if any, on the Series 2009 Bonds as the same shall become due. Monies in the Series 2009 A Bonds Reserve Account and the Series 2009 C Bonds Reserve Account shall be used only for the purposes of paying principal of and interest, if any, on the Series 2009 Bonds as the same shall come due, when other monies in the

Series 2009 A Bonds Sinking Fund and the Series 2009 C Bonds Sinking Fund are insufficient therefor, and for no other purpose.

All investment earnings on monies in the Series 2009 A Bonds Sinking Fund, the Series 2009 C Sinking Fund, the Series 2009 A Bonds Reserve Account and the Series 2009 C Bonds Reserve Account shall be returned, not less than once each year, by the Commission to the Issuer, and such amounts shall, during construction of the Project, be deposited in the Series 2009 Bonds Construction Trust Fund, and following completion of construction of the Project, shall be deposited in the Revenue Fund and applied in full, first to the next ensuing interest payment, if any, due on the Series 2009 Bonds and then to the next ensuing principal payment due thereon, all on a pro rata basis.

Any withdrawals from the Series 2009 A Bonds Reserve Account or the Series 2009 C Bonds Reserve Account which result in a reduction in the balance of such accounts to below the respective Reserve Requirements, shall be subsequently restored from the first Net Revenues available after all required payments have been made in full in the priority as set forth above, all on a prorata basis.

As and when additional Bonds ranking on a parity with the Series 2009 Bonds are issued, provision shall be made for additional payments into the respective sinking fund sufficient to pay the interest on such additional parity Bonds and accomplish retirement thereof at maturity and to accumulate a balance in the respective reserve account in an amount equal to the requirement therefor.

The Issuer shall not be required to make any further payments into the Series 2009 A Bonds Sinking Fund, the Series 2009 C Bonds Sinking Fund, the Series 2009 A Bonds Reserve Account or the Series 2009 C Bonds Reserve Account, when the aggregate amount of funds therein are at least equal to the aggregate principal amount of the Series 2009 Bonds issued pursuant to this Bond Legislation then Outstanding and all interest, if any, to accrue until the maturity thereof.

Principal, interest or reserve payments, whether made for a deficiency or otherwise, shall be made on a parity and pro rata, with respect to the Prior Bonds, the Series 2009 A Bonds and the Series 2009 C Bonds, in accordance with the principal amounts then outstanding.

The Commission is hereby designated as the fiscal agent for the administration of the Series 2009 A Bonds Sinking Fund, the Series 2009 C Bonds Sinking Fund the Series 2009 A Bonds Reserve Account and the Series 2009 C Bonds Reserve Account, created hereunder, and all amounts required for said accounts shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein. All

remittances made by the Issuer to the Commission shall clearly identify the fund or account into which each amount is to be deposited. If required by the Authority at anytime, the Issuer shall make the necessary arrangements whereby required payments into said accounts shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required hereunder.

Monies in the Series 2009 A Bonds Sinking Fund, the Series 2009 C Bonds Sinking Fund, the Series 2009 A Bonds Reserve Account and the Series 2009 C Bonds Reserve Account, shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

The Series 2009 A Bonds Sinking Fund, the Series 2009 A Bonds Reserve Account, the Series 2009 C Bonds Sinking Fund and the Series 2009 C Bonds Reserve Account shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Series 2009 Bonds under the conditions and restrictions set forth herein.

B. The Issuer shall on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the Commission the required principal, interest, if any, and reserve payments with respect to the Series 2009 A Bonds and all such payments shall be remitted to the Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of this Bond Legislation. The Issuer shall also on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the Commission the Administrative Fee, if any, as set forth in the Schedule Y attached to the Loan Agreement for the Series 2009 A Bonds.

C. Whenever all of the required and provided transfers and payments from the Revenue Fund into the several special funds, as herein above provided, are current and there remains in the Revenue Fund a balance in excess of the estimated amounts required to be so transferred and paid into such funds during the following month or such other period as required by law, such excess shall be considered as surplus revenues (the "Surplus Revenues"). Surplus Revenues may be used for any lawful purpose of the System.

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

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

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

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

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

Section 5. Section 6.01 of the Bond Ordinance is hereby revised and restated in its entirety as follows:

Section 6.01. Application of Bond Proceeds; Pledge of Unexpended Bond Proceeds. From the monies received from the sale of the Series 2009 Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. From the proceeds of the Series 2009 Bonds, there shall be deposited with the Commission in the respective Bonds Reserve Accounts, the amount, if any, set forth in the Supplemental Resolution for funding of the respective Bonds Reserve Account.

B. As the Issuer receives advances of the remaining monies derived from the sale of the Series 2009 A Bonds, such monies shall be deposited with the Depository Bank in the Series 2009 Bonds Construction Trust Fund and

applied solely to payment of the costs of the Project in the manner set forth in Section 6.02 hereof and, until so expended, are hereby pledged as additional security for the Series 2009 A Bonds.

C. As the Issuer receives advances of the remaining monies derived from the sale of the Series 2009 B Bonds, such monies shall be deposited with the Depository Bank in the Series 2009 Bonds Construction Trust Fund and applied solely to payment of the costs of the Project in the manner set forth in Section 6.02 hereof and, until so expended, are hereby pledged as additional security for the Series 2009 B Bonds.

D. As the Issuer receives advances of the remaining monies derived from the sale of the Series 2009 C Bonds, such monies shall be deposited with the Depository Bank in the Series 2009 Bonds Construction Trust Fund and applied solely to payment of the costs of the Project in the manner set forth in Section 6.02 hereof and, until so expended, are hereby pledged as additional security for the Series 2009 C Bonds.

E. After completion of construction of the Project, as certified by the Consulting Engineers, and all costs have been paid, any remaining proceeds of the Series 2009 Bonds shall be expended as approved by the BPH.

Section 6. Pursuant to the Bond Ordinance and the Act, this Second Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA), of the Issuer, originally represented by a single Bond, numbered BR-1, in the principal amount of \$2,915,000. The Series 2009 B Bonds shall be dated the date of delivery thereof, shall finally mature December 1, 2020, and shall bear no interest. The principal of the Series 2009 B Bonds shall be 100% forgiven as set forth in ARRA Assistance Agreement and Schedule B attached to the Series 2009 B Bonds. The Series 2009 B Bonds shall be subject to redemption upon the written consent of the Authority and the DEP, and upon payment of the redemption premium, if any, and otherwise in compliance with the ARRA Assistance Agreement, so long as the Authority shall be the registered owner of the Series 2009 B Bonds. The Series 2009 B Bonds are not subject to the DWTRF Administrative Fee.

Section 7. All other provisions relating to the Series 2009 B Bonds and the text of the Series 2009 B Bonds shall be in substantially the form in Exhibit A attached hereto.

Section 8. Pursuant to the Bond Ordinance and the Act, this Second Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the Water Revenue Bonds, Series 2009 C (West Virginia DWTRF Program), of the Issuer, originally represented by a single Bond, numbered CR-1, in the principal amount of \$2,500,000. The Series 2009 C Bonds shall be dated the date of delivery thereof, shall finally mature December 1, 2040 and shall bear no interest. The principal of the Series 2009 C Bonds shall be payable quarterly, on March 1, June 1, September 1 and December 1 of each year, commencing March 1, 2011 to and including December 1, 2040 and in the amounts as set forth in the "Schedule Y" attached to the Series 2009 C ARRA Assistance Agreement and incorporated in and made a part of the Series 2009 C Bonds. The Series

2009 C Bonds shall be subject to redemption upon the written consent of the Authority and the BPH, and upon payment of the redemption premium, if any, and otherwise in compliance with the ARRA Assistance Agreement, so long as the Authority shall be the registered owner of the Series 2009 C Bonds. The Series 2009 C Bonds are not subject to the DWTRF Administrative Fee.

Section 9. All other provisions relating to the Series 2009 C Bonds and the text of the Series 2009 C Bonds shall be in substantially the form in Exhibit B attached hereto.

Section 10. The Issuer does hereby authorize, approve, ratify and accept the ARRA Assistance Agreement, copies of which are incorporated herein by reference, and the execution and delivery of the ARRA Assistance Agreement by the Mayor, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, directed, ratified and approved. The Issuer hereby affirms all covenants and representations made in the ARRA Assistance Agreement and in the applications to the Authority and the BPH. The price of the Series 2009 B Bonds and Series 2009 C Bonds shall be 100% of par value, there being no interest accrued thereon, provided that the proceeds of the Series 2009 B Bonds and Series 2009 C Bonds shall be advanced from time to time as requisitioned by the Issuer.

Section 11. The Issuer hereby incorporates herein the ARRA Assistance Agreement attached hereto as Exhibit C and hereby covenants and agrees to the terms and conditions set forth in Exhibit D of the ARRA Assistance Agreement.

Section 12. The Issuer does hereby appoint and designate The Huntington National Bank, Charleston, West Virginia, to serve as Registrar (the "Registrar") for the Bonds under the Bond Ordinance and does approve and accept the Registrar's Agreement to be dated the date of delivery of the Bonds, by and between the Issuer and the Registrar, and the execution and delivery of the Registrar's Agreement by the Mayor, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, approved and directed.

Section 13. The Issuer does hereby appoint and designate the West Virginia Municipal Bond Commission, Charleston, West Virginia, to serve as Paying Agent for the Bonds under the Bond Ordinance.

Section 14. Series 2009 B Bonds proceeds in the amount of \$409,510 were wired to Citizens National Bank to pay a portion of the Waterworks System Bond Anticipation Notes, Series 2005.

Section 15. The balance of the proceeds of the Series 2009 B Bonds shall be deposited in or credited to the Series 2009 Bonds Construction Trust Fund as received from the BPH from time to time for payment of the costs of the Project, including, without limitation, costs of issuance of the Series 2009 B Bonds and related costs.

Section 16. The proceeds of the Series 2009 C Bonds shall be deposited in or credited to the Series 2009 Bonds Construction Trust Fund as received from the BPH from time to

time for payment of the costs of the Project, including, without limitation, costs of issuance of the Series 2009 C Bonds and related costs.

Section 17. The Mayor and the Recorder 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 Series 2009 B Bonds and Series 2009 C Bonds may be delivered on or about August 13, 2009, to the Authority pursuant to the ARRA Assistance Agreement.

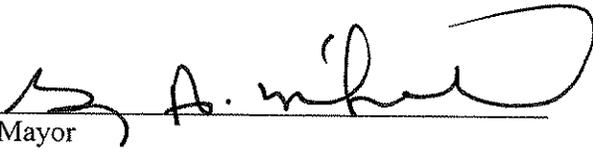
Section 18. The acquisition and construction of the Project and the financing thereof in part with proceeds of the Series 2009 B Bonds and Series 2009 C Bonds are in the public interest, serve a public purpose of the Issuer and will promote the health, welfare and safety of the residents of the Issuer.

Section 19. The Issuer does hereby approve and authorize all contracts relating to the financing, acquisition and construction of the Project.

Section 20. The Issuer hereby determines to invest all monies in the funds and accounts established by the Bond Ordinance held by the Depository Bank until expended, in repurchase agreements or time accounts, secured by a pledge of Government Obligations, and therefore, the Issuer hereby directs the Depository Bank to take such actions as may be necessary to cause such monies to be invested in such repurchase agreements or time accounts until further directed in writing by the Issuer. Monies in the Series 2009 A Sinking Fund and the Series 2009 C Sinking Fund shall be invested by the West Virginia Municipal Bond Commission in the West Virginia Consolidated Fund.

Section 21. This Second Supplemental Resolution shall be effective immediately following adoption hereof.

Adopted this 6th day of July, 2009.

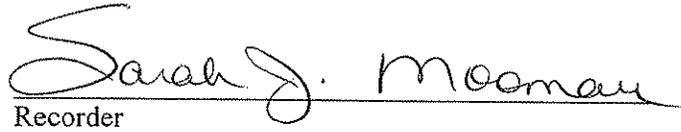
By:   
Its: Mayor

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Council of the Town of Petersburg on the 6th of July, 2009.

Dated:

[SEAL]

  
Recorder

06.26.09  
698490.00008

EXHIBIT A

FORM OF

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
TOWN OF PETERSBURG  
WATER REVENUE BONDS, SERIES 2009 B  
(WEST VIRGINIA DWTRF PROGRAM/ARRA)

No. BR-1

\$ \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS: That on this the \_\_\_\_ day of \_\_\_\_\_, 2009, the TOWN OF PETERSBURG, a municipal corporation and political subdivision of the State of West Virginia in Grant County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the West Virginia Water Development Authority (the "Authority") or registered assigns the sum of \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing \_\_\_\_ 1, 20\_\_ to and including \_\_\_\_ 1, 20\_\_, as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference. This Bond shall not be subject to the DWTRF Administrative fee (as defined in the hereinafter describe Bond Legislation).

This Bond shall bear no interest. Principal installments of this Bond are 100% forgivable as set forth on EXHIBIT B hereto.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Bureau for Public Health (the "BPH"), and upon the terms and conditions prescribed by, and otherwise in compliance with; the ARRA Assistance Agreement by and between the Issuer and the Authority on behalf of the BPH, dated \_\_\_\_\_, 2009.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain additions, betterments and improvements to the existing public waterworks system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of the Bonds and related costs. The existing public waterworks system of the Issuer, the Project, and any further additions, betterments or improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 8, Article 19 and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended (collectively, the "Act"), a Bond Ordinance duly enacted by the Issuer on November 3, 2008, a Supplemental Resolution duly adopted by the Issuer on April 15, 2009 and a Second Supplemental Resolution duly adopted by the Issuer on July 6, 2009 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to

be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S (1) WATER REVENUE BOND, SERIES 1975 (UNITED STATES DEPARTMENT OF AGRICULTURE), DATED NOVEMBER 10, 1976, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$474,000 (THE "SERIES 1975 BONDS"); (2) WATER REVENUE BOND, SERIES 1996 (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY), DATED AUGUST 29, 1996, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$492,590, (THE "SERIES 1996 BONDS")(COLLECTIVELY REFERRED TO AS THE "PRIOR BONDS") ; (3) THE WATER REVENUE BONDS, SERIES 2009 A (WEST VIRGINIA DWTRF PROGRAM) DATED APRIL 16, 2009 ISSUED IN THE ORIGINAL AGGREGATE AMOUNT OF \$2,700,000 (THE "SERIES 2009 A BONDS"); AND (4) THE WATER REVENUE BONDS, SERIES 2009 C (WEST VIRGINIA DWTRF PROGRAM) DATED \_\_\_\_\_, 2009 ISSUED IN THE ORIGINAL AGGREGATE AMOUNT OF \$ \_\_\_\_\_ (THE "SERIES 2009 C BONDS").

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on a parity with the pledge of Net Revenue in favor of the Holders of the Prior Bonds the Series 2009 A Bonds and the Series 2009 C Bonds, 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, if any, hereon, except from said special fund provided from the Net Revenues, the monies in the Series 2009 B Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds, and all other obligations secured by a lien on or payable from such revenues on a parity with the Bonds, including the Prior Bonds and the Series 2009 A Bonds; provided however, that so long as there exists in the Series 2009 B Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with the Bonds, including the Prior Bonds, the Series 2009 A Bonds and the Series 2009 C 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 (as defined in the Bond

Legislation) by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

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

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

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

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

[Remainder of page intentionally blank]

IN WITNESS WHEREOF, the TOWN OF PETERSBURG has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed and attested by its Recorder, and has caused this Bond to be dated as of the day and year first written above.

[SEAL]

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Recorder

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2009 B Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: August \_\_\_\_, 2009.

THE HUNTINGTON NATIONAL BANK,  
as Registrar

---

Authorized Officer

EXHIBIT A

RECORD OF ADVANCES

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

TOTAL \$ \_\_\_\_\_

EXHIBIT B

DEBT SERVICE SCHEDULE

(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: \_\_\_\_\_, 20\_\_.

\_\_\_\_\_

In the presence of:

\_\_\_\_\_

**EXHIBIT B**

FORM OF

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
TOWN OF PETERSBURG  
WATER REVENUE BONDS, SERIES 2009 C  
(WEST VIRGINIA DWTRF PROGRAM)

No. CR-1

\$ \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS: That on this the \_\_\_\_ day of \_\_\_\_\_, 2009, the TOWN OF PETERSBURG, a municipal corporation and political subdivision of the State of West Virginia in Grant County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the West Virginia Water Development Authority (the "Authority") or registered assigns the sum of \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, the principal of, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing \_\_\_\_ 1, 20\_\_\_\_, to and including \_\_\_\_\_ 1, 20\_\_\_\_ as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference. The Series 2009 C Bonds are not subject to the DWTRF Administrative Fee.

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 The Huntington National Bank, Charleston, West Virginia, as registrar (the "Registrar"), on the 15th day of the month next preceding an interest payment date, or by such other method as shall be mutually agreeable so long as the Authority is the registered owner hereof.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Bureau for Public Health (the "BPH), and upon the terms and conditions prescribed by, and otherwise in compliance with, the ARRA Assistance Agreement by and between the Issuer and the Authority, on behalf of the BPH, dated April 16, 2009.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain additions, betterments and improvements to the existing public waterworks system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of the Bonds and related costs. The existing public waterworks system of the Issuer, the Project, and any further additions, betterments or improvements thereto are herein called the "System." This Bond is issued under the authority of

and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 8, Article 19 and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended (collectively, the "Act"), a Bond Ordinance duly enacted by the Issuer on November 3, 2008, a Supplemental Resolution duly adopted by the Issuer on April 15, 2009 and a Second Supplemental Resolution duly adopted by the Issuer on July 6, 2009 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S (1) WATER REVENUE BOND, SERIES 1975 (UNITED STATES DEPARTMENT OF AGRICULTURE), DATED NOVEMBER 10, 1976, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$474,000 (THE "SERIES 1975 BONDS"); (2) WATER REVENUE BOND, SERIES 1996 (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY), DATED AUGUST 29, 1996, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$492,590, (THE "SERIES 1996 BONDS")(COLLECTIVELY REFERRED TO AS THE "PRIOR BONDS") ; (3) THE WATER REVENUE BONDS, SERIES 2009 A (WEST VIRGINIA DWTRF PROGRAM) DATED APRIL 16, 2009 ISSUED IN THE ORIGINAL AGGREGATE AMOUNT OF \$2,700,000 (THE "SERIES 2009 A BONDS"); AND (4) THE WATER REVENUE BONDS, SERIES 2009 B (WEST VIRGINIA DWTRF PROGRAM) DATED \_\_\_\_\_, 2009 ISSUED IN THE ORIGINAL AGGREGATE AMOUNT OF \$ \_\_\_\_\_(THE "SERIES 2009 B BONDS").

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on a parity with the pledge of Net Revenue in favor of the Holders of the Prior Bonds the Series 2009 A Bonds and the Series 2009 B Bonds, and from monies in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 2009 C Bonds 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, if any, hereon, except from said special fund provided from the Net Revenues, the monies in the Series 2009 C Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds, and all other obligations secured by a lien on or payable from such revenues on a parity with the Bonds, including the Prior Bonds, the Series 2009 A Bonds and the Series 2009 B Bonds; provided however, that so long as there exists in the Series 2009 C Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a

parity with the Bonds, including the Prior Bonds, the Series 2009 A Bonds and the Series 2009 B 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 (as defined in the Bond Legislation) by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

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

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

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

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

[Remainder of page intentionally blank]

IN WITNESS WHEREOF, the TOWN OF PETERSBURG has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed and attested by its Recorder, and has caused this Bond to be dated as of the day and year first written above.

[SEAL]

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Recorder

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2009 C Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: \_\_\_\_\_, 2009.

THE HUNTINGTON NATIONAL BANK,  
as Registrar

\_\_\_\_\_  
Authorized Officer

EXHIBIT A

RECORD OF ADVANCES

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

TOTAL \$ \_\_\_\_\_

EXHIBIT B

DEBT SERVICE SCHEDULE

(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: \_\_\_\_\_, 20\_\_.

\_\_\_\_\_

In the presence of:

\_\_\_\_\_

**EXHIBIT C**  
**ARRA ASSISTANCE AGREEMENT**

DWTRF – ARRA  
(07/09)

ARRA ASSISTANCE AGREEMENT

THIS DRINKING WATER TREATMENT REVOLVING FUND ARRA ASSISTANCE AGREEMENT (the “ARRA Assistance 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”), acting under the direction of the WEST VIRGINIA BUREAU FOR PUBLIC HEALTH, a division of the West Virginia Department of Health and Human Resources (the “BPH”), and the local entity designated below (the “Local Entity”).

CITY OF PETERSBURG  
(2005W – 882)

WITNESSETH:

WHEREAS, the United States Congress under Section 1452 of the Safe Drinking Water Act, as amended (the “Safe Drinking Water Act”), has provided for capitalization grants to be awarded to states for the express purpose of establishing and maintaining drinking water treatment revolving funds for the construction, acquisition and improvement of drinking water systems;

WHEREAS, the United States Congress has provided additional capitalization grant funding under the Clean Water Act through the American Recovery and Reinvestment Act of 2009 (the “ARRA”);

WHEREAS, pursuant to the provisions of Chapter 16, Article 13C of the Code of West Virginia, 1931, as amended (the “Act”), the State of West Virginia (the “State”) has established a drinking water treatment revolving fund program (the “Program”) to direct the distribution of loans and funding assistance to eligible Local Entities pursuant to the Safe Drinking Water Act and the ARRA;

WHEREAS, under the Act the BPH is designated the instrumentality to enter into capitalization agreements with the United States Environmental Protection Agency (“EPA”) to accept capitalization grant awards (U.S. General Services

the Fund, subject to the Local Entity's satisfaction of certain legal and other requirements of the Program.

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

## ARTICLE I

### Definitions

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

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

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

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

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

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

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

other security interest as is provided for in the Local Statute unless a sale or transfer of all or a portion of said property is approved by BPH and the Authority.

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

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

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

2.7 The Local Entity 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 and shall verify or have verified such bonds prior to commencement of construction.

2.8 The Local Entity shall require that each of its contractors and all subcontractors maintain, during the life of the construction contract, workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Authority and BPH

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

2.13 The Local Entity, during construction of the Project, shall complete Payment Requisition Forms, the form of which is attached hereto as Exhibit B and incorporated herein by reference, and forward such forms to BPH in compliance with the Local Entity's construction schedule.

2.14 The Local Entity shall serve the additional customers, if any, at the location(s) as set forth in Schedule X. The Local Entity shall not reduce the number of additional customers served by the project without the prior written approval of the Authority Board. Following completion of the Project the Local Entity shall certify to the Authority the number of customers added to the System.

2.15 The Local Entity shall perform an annual maintenance audit which maintenance audit shall be submitted to the Authority and the Public Service Commission of West Virginia (the "PSC").

### ARTICLE III

#### Conditions to Loan; Issuance of Local Bonds

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

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

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

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

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

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

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

3.4 The Local Bonds shall be delivered to the Authority, at the offices of the Authority, on a date designated by the Local Entity by written notice to the Authority, which written notice shall be given not less than ten (10) business days prior to the date designated; provided, however, that if the Authority is unable to accept delivery on the date designated, the Local Bonds shall be delivered to the Authority on a date as close as possible to the designated date and mutually agreeable to the Authority, BPH and the Local Entity. The date of delivery so designated or agreed upon is hereinafter referred to as the "Date of Loan Closing." Notwithstanding the foregoing, the Date of Loan Closing

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

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

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

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

(b) Covenants substantially as follows:

(i) That the Local Bonds shall be secured by a pledge of either the gross or net revenues, as applicable, of the System as provided in the Local Act;

(ii) That the schedule of rates or charges for the services of the System shall be sufficient to provide funds which, along with other revenues of the System, will pay all Operating Expenses and leave a balance each year equal to at least one hundred fifteen percent (115%) of the maximum amount required in any year for debt service on the Local Bonds and all other obligations secured by a lien on or payable from the revenues of the System prior to or on a parity with the Local Bonds or, if the

construction of the Project, or both, as provided by law and all rights as set forth in Section 5 of the Act;

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

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

(xi) That the Local Entity shall annually, within six months of the end of the fiscal year, cause the records of the System to be audited by an independent certified public accountant or independent public accountant and shall submit the report of said audit to the Authority and BPH. If the Local Entity receives \$500,000 or more (in federal funds) in a fiscal year, the audit shall be obtained in accordance with the Single Audit Act (as amended from time to time) and the applicable OMB Circular (or any successor thereto). Financial statement audits are required once all funds have been received by the Local Entity. The audit shall include a statement that notes whether the results of tests disclosed instances of noncompliance that are required to be reported under government auditing standards and, if they are, describes the instances of noncompliance and the audited financial statements shall include a statement that notes whether the Local Entity's revenues are adequate to meet its Operating Expenses and debt service and reserve requirements;

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

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

(xiv) That the proceeds of the Local Bonds, advanced from time to time, except for accrued interest and capitalized interest, if any, must (a) be deposited in a construction fund, which, except as otherwise agreed to in writing by the Authority, shall be held separate and apart from all other funds of the Local Entity and on which the owners of the Local Bonds shall have a lien until such proceeds are applied to the construction of the Project (including the repayment of any incidental interim financing) and/or (b) be used to pay (or redeem) bond anticipation notes or other interim

the System and will not restore such services until all delinquent charges for the services of the System have been fully paid; and

(xxi) That the Local Entity shall submit all proposed change orders to the BPH for written approval. The Local Entity shall obtain the written approval of the BPH before expending any proceeds of the Local Bonds held in "contingency" as set forth in the final Schedule A attached to the certificate of the Consulting Engineer. The Local Entity shall obtain the written approval of the BPH before expending any proceeds of the Local Bonds available due to bid/construction/project underruns.

The Local Entity hereby represents and warrants that the Local Act has been or shall be duly adopted or 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, validity, sale and delivery of the Local Bonds shall be approved without qualification by nationally recognized bond counsel acceptable to the Authority in substantially the form of legal opinion attached hereto as Exhibit F.

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

4.3 At least two and one half percent (2.5%) of the proceeds of the Local Bonds will be advanced on the Date of Loan Closing. The remaining proceeds of the Local Bonds shall be advanced by the Authority monthly as required by the Local Entity to pay Costs of the Project, provided, however, if the proceeds of the Local Bonds will be used to repay an interim financing, the proceeds will be advanced on a schedule mutually agreeable to the Local Entity, the BPH and the Authority. The Local Bonds shall not bear interest during the construction period but interest shall commence accruing on the completion date as defined in the DWTRF Regulations, provided that the annual repayment of principal and payment of interest shall begin not later than one (1) year after the completion date. The repayment of principal and interest on the Local Bonds shall be as set forth on Schedule Y hereto. In no event shall the interest rate on or the net interest cost of the Local Bonds exceed any statutory limitation with regard thereto.

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

bear interest at the interest rate of the installment of the Loan next due, from the date of the default until the date of the payment thereof.

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

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

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

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

## ARTICLE VII

### Miscellaneous

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

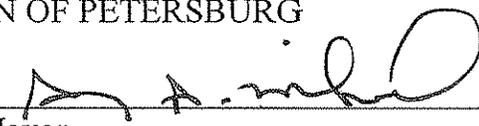
7.2 If any provision of this ARRA Assistance Agreement shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not affect any of the remaining provisions of this ARRA Assistance Agreement, and this ARRA Assistance Agreement shall be construed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

7.3 This ARRA Assistance 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 ARRA Assistance Agreement.

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

TOWN OF PETERSBURG

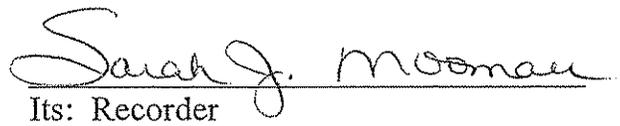
(SEAL)

By: 

Its: Mayor

Attest:

Date: August 13, 2009

  
Its: Recorder

WEST VIRGINIA WATER  
DEVELOPMENT AUTHORITY

(SEAL)

By: \_\_\_\_\_

Its: Executive Director

Attest:

Date: August 13, 2009

\_\_\_\_\_  
Its: Secretary-Treasurer

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

CITY OF PETERSBURG

(SEAL)

Attest:

By: \_\_\_\_\_

Its: Mayor

Date: August 13, 2009

\_\_\_\_\_  
Its: Recorder

WEST VIRGINIA WATER  
DEVELOPMENT AUTHORITY

(SEAL)

Attest:

By:  \_\_\_\_\_

Its: Executive Director

Date: August 13, 2009

  
Its: Secretary-Treasurer

## INSTRUCTIONS FOR COMPLETING MONTHLY FINANCIAL REPORT

Item 1 You will need a copy of the current fiscal year budget adopted by the Local Entity to complete Items 1 and 2. In Item 1, provide the amount of actual **Gross Revenues** for the current month and the total amount year-to-date in the respective columns. Divide the budgeted annual Gross Revenues by 12. For example, if Gross Revenues of \$1,200 are anticipated to be received for the year, each month the base would be increased by \$100 ( $\$1,200/12$ ). This is the incremental amount for the Budget Year-to-Date column.

Item 2 Provide the amount of actual **Operating Expenses** for the current month and the total amount year-to-date in the respective columns. Any administrative fee should be included in the Operating Expenses. Divide the budgeted annual Operating Expenses by 12. For example, if Operating Expenses of \$900 are anticipated to be incurred for the year, each month the base would be increased by \$75 ( $\$900/12$ ). This is the incremental amount for the Budget Year-to-Date column.

Item 3 Provide the **Bond Payments (principal, interest and reserve account)** for all the outstanding bonds of the Local Entity according to the source of funding. For example, Clean Water State Revolving Fund loan from Department of Environmental Protection, Drinking Water Treatment Revolving Fund loan from Bureau for Public Health, Infrastructure Fund loan from Infrastructure and Jobs Development Council, or a loan from the Water Development Authority, etc.

Item 4 Provide the amount deposited into the **Renewal and Replacement Fund** each month. This amount is equal to 2.5% of Gross Revenues minus the total reserve account payments included in Item 3. If Gross Revenues are \$1,200, then \$30 (2.5% of \$1,200), LESS the amount of all reserve account payments in Item 3 should be deposited into the Renewal and Replacement Fund. The money in the Renewal and Replacement Fund should be kept separate and apart from all other funds of the Local Entity.

**The Local Entity must complete the Monthly Financial Report and forward it to the Water Development Authority by the 10<sup>th</sup> day of each month, commencing on the date contracts are executed for the acquisition or construction of the Project and for two years following the completion of acquisition or construction of the Project.**

TOTAL FUNDING									
	CLASSIFICATION	APPROVED BUDGET	ADJUSTMENTS	REVISED BUDGET	PAID PRIOR TO THIS DRAW	REQUESTED THIS REQUEST	PAID TO DATE	BALANCE REMAINING	
1	Construction & Cons. Cont.	0	0	0	0	0	0	0	0
	a. Contract 1 - Contractor Name	0	0	0	0	0	0	0	0
	b. Contract 2 - Contractor Name	0	0	0	0	0	0	0	0
	c. Contract 3 - Contractor Name	0	0	0	0	0	0	0	0
	g. Construction contingency	0	0	0	0	0	0	0	0
2	Technical Services	0	0	0	0	0	0	0	0
	a. Basic Engineering Design	0	0	0	0	0	0	0	0
	b. Inspection	0	0	0	0	0	0	0	0
	c. Special Services	0	0	0	0	0	0	0	0
3	Legal/Fiscal	0	0	0	0	0	0	0	0
	a. Legal	0	0	0	0	0	0	0	0
	b. Accounting	0	0	0	0	0	0	0	0
4	Administrative	0	0	0	0	0	0	0	0
	a. Administrative Expenses	0	0	0	0	0	0	0	0
	b. Tap Fees	0	0	0	0	0	0	0	0
	c. Accounting	0	0	0	0	0	0	0	0
	d. Registrar Fee	0	0	0	0	0	0	0	0
5	Sites & Other Lands	0	0	0	0	0	0	0	0
6	WV DOH Fees	0	0	0	0	0	0	0	0
7	Interest	0	0	0	0	0	0	0	0
8	Contingency	0	0	0	0	0	0	0	0
9	Miscellaneous (Equipment)	0	0	0	0	0	0	0	0
10	TOTAL of Lines 1 through 9	0	0	0	0	0	0	0	0

for all insurance and payment and performance bonds and that such insurance policies or binders and such bonds have been verified for accuracy; (iv) the successful bidders received any and all addenda to the original bid documents; (v) the bid documents relating to the Project reflect the Project as approved by the BPH and the bid forms provided to the bidders contain all critical operational components of the Project; (vi) the successful bids include prices for every item on such bid forms; (vii) the uniform bid procedures were followed; (viii) the Issuer has obtained all permits required by the laws of the State of West Virginia and the United States necessary for the acquisition and construction of the Project and operation of the System; (ix) as of the effective date thereof<sup>2</sup>, the rates and charges for the System as adopted by the Issuer will be sufficient to comply with the provisions of the ARRA Assistance Agreement; (x) the net proceeds of the Bonds, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants, if any, irrevocably committed therefor, are sufficient to pay the costs of acquisition and construction of the Project approved by BPH; and (xi) attached hereto as Exhibit A is the final amended "Schedule B - Total Cost of Project; Sources of Funds and Cost of Financing" for the Project.

WITNESS my signature and seal on this \_\_\_\_day of \_\_\_\_\_,

\_\_\_\_\_.

[SEAL]

By: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

West Virginia License No. \_\_\_\_\_

\_\_\_\_\_  
insert the following: [and in reliance upon the opinion of \_\_\_\_\_, Esq.] and delete "my firm has ascertained that".

<sup>2</sup>If the Rule 42 Exhibit and/or rate structure was prepared by an accountant, then insert the following: "In reliance upon the certificate of \_\_\_\_\_ of even date herewith," at the beginning of (ix).

D. ASSET MANAGEMENT – The Local Entity shall develop and implement an asset management plan in accordance with guidelines issued by BPH and as approved by BPH.

E. CONTRACTS – The Local Entity shall enter into contracts or commence construction by February 17, 2010.

F. LOGO – The Local Entity must display the ARRA logo in a manner that informs the public that the project is an ARRA investment.

G. LOBBYING - The Local Entity shall comply with Title 40 CFR Part 34, New Restrictions on Lobbying and shall submit certification and disclosure forms as required by BPH.

H. PURCHASING REQUIREMENTS – The Local Entity shall comply with Section 6002 of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6962). Regulations issued under RCRA Section 6002 apply to any acquisition of an item where the purchase price exceeds \$10,000 or where the quantity of such items acquired in the course of the preceding fiscal year was \$10,000 or more. RCRA Section 6002 requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by EPA. These guidelines are listed in 40 CFR 247.

I. SUSPENSION AND DEBARMENT – The Local Entity shall comply with Subpart C of 2 CFR Part 180 and 2 CFR Part 1532, entitled “Responsibilities of Participants Regarding Transactions (Doing Business with Other Persons). To the extent required by BPH, the Local Entity shall provide certifications as to compliance.

J. REPORTING – The Local Entity shall comply with all requests for data related to the use of the funds provided under this agreement, including the information required in section 1512 of ARRA when requested by BPH.

K. INSPECTOR GENERAL REVIEWS – The Local Entity shall allow any appropriate representative of the Office of US Inspector General to (1) examine its records relating to the Project and this ARRA Assistance Agreement and (2) interview any officer or employee of the Local Entity.

L. FALSE CLAIMS – The Local Entity must promptly refer to EPA’s Inspector General any credible evidence that a principal, employee, agent, sub-grantee contractor, subcontractor, loan recipient, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws

S. USER RATES – The Local Entity shall covenant that it will not reduce its approved customer rates for at least eighteen months after completion of the Project or (a) until such time as a cost of service study has been completed establishing the actual operation and maintenance expenses or (b) new rates have been established by order of the Public Service Commission. The Local Entity shall notify the Authority and the BPH of any action to reduce rates during the eighteen months following completion of construction of the Project.

## EXHIBIT D-2

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**ADDENDUM**  
**FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT**  
**AMERICAN RECOVERY AND REINVESTMENT ACT**

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### A. Purpose and Summary

The purpose of this Addendum is to ensure that recipients of grant awards from the West Virginia Department of Health and Human Resources understand their responsibilities under the Federal Funding Accountability and Transparency Act of 2006 and the American Recovery and Reinvestment Act of 2009, as may be applicable.

As part of these responsibilities, and as condition for execution of this Grant Agreement, Grantees must remain current in the Central Contractor Registration (CCR) database (<http://www.ccr.gov>) at all times during which they have active DHHR grant awards. The CCR database is the repository for standard information about Federal financial assistance applicants, recipients and subrecipients. Grantees must update or renew their CCR registration at least once per year to maintain an active status.

In order to register in the Central Contractor Registration database, Grantees must first obtain a valid Data Universal Numbering System (DUNS) Number from Dun and Bradstreet at <http://www.dnb.com>. A DUNS number is a unique nine-digit sequence recognized as the universal standard for identifying and keeping track of entities receiving Federal funds. The identifier is used for tracking purposes and for validating the address and point of contact information for Federal assistance applicants, recipients and subrecipients.

Additional information about obtaining a DUNS number and maintaining registration with the CCR are included on the websites referenced above and on the attached Instructions for Completion of the Subrecipient (Grantee) Information Form. As further explained within this Addendum, the attached Subrecipient (Grantee) Information Form must be completed by the Grantee and submitted to the DHHR during the negotiation (pre-award) stage of the grant cycle.

### B. Federal Funding Accountability and Transparency Act of 2006

The Federal Funding Accountability and Transparency Act of 2006, Public Law 109-282, hereinafter referred to as the Transparency Act, is an Act of Congress that requires full disclosure to the public of all entities or organizations receiving Federal funds. The Transparency Act directed the Office of Management and Budget (OMB), by January 1, 2008, to ensure the existence and operation of a single searchable website, accessible to the public at no cost, which includes for each Federal award:

1. The amount of the award;
2. Information including transaction type, funding agency, the North American Industry Classification System code or Catalog of Federal Domestic Assistance number (where applicable), program source, and an award title descriptive of the purpose of each funding action;
3. The name and location of the recipient and the primary location of performance;
4. A unique identifier of the recipient and any parent agency (DUNS Number); and
5. Any other relevant information specified by the OMB.

The Transparency Act also required the OMB, by July 1, 2007, to commence a pilot program to test the collection of and access to data about subgrants and to determine how to implement a subaward-reporting program across the Federal Government. Thereafter, the Transparency Act required the OMB to terminate the pilot program by January 1, 2009 and, subject to extensions, replace it with a permanent system of ensuring that data regarding subawards is disclosed in the same manner as data regarding other Federal awards.

ADDENDUM  
FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT  
AMERICAN RECOVERY AND REINVESTMENT ACT

**D. DHHR Reporting to the Federal Government**

At present time, direct reporting to the Federal Government lies solely at the primary recipient level. Therefore, while subrecipients of grant awards from the DHHR do not have to report data directly to the Federal Government, the DHHR, as a primary recipient and pass-through entity of Federal awards, does have a responsibility to report on certain data elements regarding its subgrant activities. As such, the DHHR is required to report the following information to the Federal Government with respect to its subawards:

1. Subrecipient OHS number
2. Award number or other identifying number
3. Subrecipient name
4. Subrecipient location
5. Subrecipient type
6. Amount of subaward disbursed
7. Total amount of subaward
8. Subaward date
9. Subaward project/grant period
10. Primary performance location
11. Names and total compensation of the five most highly compensated officers of the entity

**E. Subrecipient (Grantee) Information Form**

Both the Transparency Act and the ARRA address the primary recipient's requirements to report information on the subawards it makes to subrecipient (Grantee) organizations. To ensure completeness and consistency in accounting for the funds received and subawarded by the West Virginia Department of Health and Human Resources (DHHR) to DHHR Grantees, the DHHR has developed a standardized form in which Grantees shall be required to complete and submit to the DHHR during the negotiation (pre-award) stage of the grant cycle. The DHHR will not process the Grant Agreement or commit any of the funds related thereto until the Grantee submits a signed copy of the Subrecipient (Grantee) Information Form.

**F. Future Information/Updates and Regulatory Requirements**

Currently, the rules, regulations and guidance issued by the Federal Government with respect to the oversight, accountability and reporting requirements associated with the Transparency Act and the ARRA are a work-in-progress. As referenced in the aforementioned sections of this Addendum, there are a number of reporting requirements (data elements) for which the DHHR, as a primary recipient of Federal funds, must report directly to the Federal Government. While the Federal Government has not currently placed specific reporting obligations on all subrecipients (Grantees), by all indications, these requirements are forthcoming from the Executive Office of the President or through the release of individual Federal agency regulations. Therefore, as additional information becomes available and the Federal Government provides more details on managing Federal funds, the DHHR will transmit the information or requirements to its grant community through an update to this memorandum or by other determinable means to ensure overall compliance with the Transparency Act and the ARRA.

**G. Source of Information / Websites**

Federal Funding Accountability and Transparency Act of 2006  
<http://www.usaspending.gov/>

EXHIBIT E

MONTHLY PAYMENT FORM

West Virginia Water Development Authority  
180 Association Drive  
Charleston, WV 25311

Re: [Name of bond issue]

Ladies and Gentlemen:

The following deposits were made to the West Virginia Municipal Bond Commission

on behalf of \_\_\_\_\_ on \_\_\_\_\_  
[Local Entity] [Date]

Sinking Fund:

Interest \$ \_\_\_\_\_

Principal \$ \_\_\_\_\_

Total: \$ \_\_\_\_\_

Reserve Account: \$ \_\_\_\_\_

Witness my signature this \_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
[Name of Local Entity]

By: \_\_\_\_\_  
Authorized Officer

Enclosure: wire transfer form

Assistance Agreement has been undertaken. The Local Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Local Act and the ARRA Assistance 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 ARRA Assistance Agreement has been duly authorized by and executed on behalf of the Local Entity and is a valid and binding special obligation of the Local Entity, enforceable in accordance with the terms thereof.

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

3. The Local Entity is a duly organized and validly existing \_\_\_\_\_, with full power and authority to acquire and construct the Project, to operate and maintain the System, to adopt or enact the Local Act and to issue and sell the Local Bonds, all under the Local Statute and other applicable provisions of law.

4. The Local Act and all other necessary orders and resolutions have been legally and effectively adopted or enacted by the Local Entity and constitute valid and binding obligations of the Local Entity, enforceable against the Local Entity in accordance with their terms. The Local Act contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the ARRA Assistance Agreement.

5. The Local Bonds have been duly authorized, issued, executed and delivered by the Local Entity to the Authority and are valid, legally enforceable and binding special obligations of the Local Entity, payable from the gross or net revenues of the System set forth in the Local Act and secured by a first lien on and pledge of the gross or net revenues of the System, all in accordance with the terms of the Local Bonds and the Local Act.

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

SCHEDULE X

DESCRIPTION OF LOCAL BONDS

A. Series A Bonds (Base Program)

Principal Amount of Local Bonds	\$2,500,000
Purchase Price of Local Bonds	\$2,500,000

The Local Bonds shall bear no interest. Commencing March 1, 2011, principal of the Local Bonds is payable quarterly, with an administrative fee of 0%. Quarterly payments will be made on March 1, June 1, September 1 and December 1 of each year as set forth on the Schedule Y attached hereto and incorporated herein by reference.

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

The Local Bonds are fully registered in the name of the Authority as to principal and interest, if any, and the Local Bonds shall grant the Authority a first lien on the gross or net revenues of the Local Entity's system as provided in the Local Act.

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

As of the date of the ARRA Assistance Agreement, the Local Bonds are on a parity as to liens, pledge and source of and security for payment with the following obligations of the Local Entity:

Number of New Customers To Be Served: 0  
Location: N/A

**SCHEDULE Y**  
**DEBT SERVICE SCHEDULE**

City of Petersburg				
30 Years				
0% Interest Rate				
	Dated Date		4/16/09	
	Delivery Date		4/16/09	
Period Ending	Principal	Interest	Debt Service	
4/16/09				
3/1/11	20,834			20,834
6/1/11	20,834			20,834
9/1/11	20,834			20,834
12/1/11	20,834			20,834
3/1/12	20,834			20,834
6/1/12	20,834			20,834
9/1/12	20,834			20,834
12/1/12	20,834			20,834
3/1/13	20,834			20,834
6/1/13	20,834			20,834
9/1/13	20,834			20,834
12/1/13	20,834			20,834
3/1/14	20,834			20,834
6/1/14	20,834			20,834
9/1/14	20,834			20,834
12/1/14	20,834			20,834
3/1/15	20,834			20,834
6/1/15	20,834			20,834
9/1/15	20,834			20,834
12/1/15	20,834			20,834
3/1/16	20,834			20,834
6/1/16	20,834			20,834
9/1/16	20,834			20,834
12/1/16	20,834			20,834
3/1/17	20,834			20,834
6/1/17	20,834			20,834
9/1/17	20,834			20,834
12/1/17	20,834			20,834
3/1/18	20,834			20,834
6/1/18	20,834			20,834
9/1/18	20,834			20,834
12/1/18	20,834			20,834
3/1/19	20,834			20,834
6/1/19	20,834			20,834
9/1/19	20,834			20,834
12/1/19	20,834			20,834
3/1/20	20,834			20,834
6/1/20	20,834			20,834
9/1/20	20,834			20,834
12/1/20	20,833			20,833
3/1/21	20,833			20,833
6/1/21	20,833			20,833
9/1/21	20,833			20,833
12/1/21	20,833			20,833

City of Petersburg			
30 Years			
0% Interest Rate			
Period Ending	Principal	Interest	Debt Service
6/1/34	20,833		20,833
9/1/34	20,833		20,833
12/1/34	20,833		20,833
3/1/35	20,833		20,833
6/1/35	20,833		20,833
9/1/35	20,833		20,833
12/1/35	20,833		20,833
3/1/36	20,833		20,833
6/1/36	20,833		20,833
9/1/36	20,833		20,833
12/1/36	20,833		20,833
3/1/37	20,833		20,833
6/1/37	20,833		20,833
9/1/37	20,833		20,833
12/1/37	20,833		20,833
3/1/38	20,833		20,833
6/1/38	20,833		20,833
9/1/38	20,833		20,833
12/1/38	20,833		20,833
3/1/39	20,833		20,833
6/1/39	20,833		20,833
9/1/39	20,833		20,833
12/1/39	20,833		20,833
3/1/40	20,833		20,833
6/1/40	20,833		20,833
9/1/40	20,833		20,833
12/1/40	20,834		20,834
	2,500,000		2,500,000

TOWN OF PETERSBURG

Water Revenue Bonds, Series 2009 B  
(West Virginia DWTRF Program/ARRA); and  
Water Revenue Bonds, Series 2009 C  
(West Virginia DWTRF Program)

CROSS-RECEIPT FOR BONDS

On the 13th day of August, 2009, the undersigned authorized representative of the West Virginia Water Development Authority (the "Authority"), for and on behalf of the Authority, and the undersigned Mayor of the Town of Petersburg (the "Issuer"), for and on behalf of the Issuer, hereby certify as follows:

1. On the date hereof, the Authority received the Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA), of the Issuer, in the principal amount of \$2,915,000, numbered BR-1 (the "Series 2009 B Bonds") and the Water Revenue Bonds, Series 2009 C (West Virginia DWTRF Program), in the principal amount of \$2,500,000, numbered CR-1 (the "Series 2009 B Bonds"), each issued as a single, fully registered Bond, and dated August 13, 2009.

2. The Series 2009 B Bonds and the Series 2009 C Bonds are being substituted for the Issuer's Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program), dated April 16, 2009, issued in the original aggregate principal amount of \$5,000,000 (the "Prior Bond").

3. At the time of such receipt, all the Series 2009 B Bonds and Series 2009 C Bonds had been executed by the Mayor and the Recorder of the Issuer by their respective manual signatures, and the official seal of the Issuer had been affixed upon the Series 2009 B Bonds and Series 2009 C Bonds.

4. The principal amount of the Series 2009 B Bonds will be advanced by the Authority and the West Virginia Bureau for Public Health to the Issuer as acquisition and construction of the Project progresses.

5. The principal amount of the Series 2009 C Bonds will be advanced by the Authority and the West Virginia Bureau for Public Health to the Issuer as acquisition and construction of the Project progresses.

6. With the receipt by the Authority of the Series 2009 B Bonds and Series 2009 C Bonds, the Prior Bond is hereby cancelled and released.

Dated as of the day and year first written above.

WEST VIRGINIA WATER DEVELOPMENT  
AUTHORITY

By: Carol A. Cummings  
Its: Authorized Representative

TOWN OF PETERSBURG

By: [Signature]  
Its: Mayor

TOWN OF PETERSBURG

Water Revenue Bonds, Series 2009 B  
(West Virginia DWTRF Program/ARRA); and  
Water Revenue Bonds, Series 2009 C  
(West Virginia DWTRF Program)

DIRECTION TO AUTHENTICATE AND DELIVER BONDS

The Huntington National Bank,  
as Bond Registrar  
Charleston, West Virginia

Ladies and Gentlemen:

There are delivered to you herewith on this 13th day of August, 2009:

(1) Bond No. BR-1, constituting the entire original issue of the Town of Petersburg Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA), in the principal amount of \$2,915,000 (the Series 2009 B Bonds) and Bond No. CR-1 constituting the entire Water Revenue Bonds, Series 2009 C (West Virginia DWTRF Program) in the principal amount of \$2,500,000 (the "Series 2009 C Bonds"), both dated August 13, 2009 executed by the Mayor and Recorder of the Town of Petersburg (the "Issuer") and bearing the official seal of the Issuer, authorized to be issued under and pursuant to a Bond Ordinance duly enacted by the Issuer on November 3, 2008, and a Supplemental Resolution duly adopted by the Issuer on April 15, 2009 and Second Supplemental Resolution duly adopted by the Issuer on July 6, 2009 (collectively, the "Bond Legislation");

(2) A copy of the Bond Legislation authorizing the above-captioned Bonds, duly certified by the Recorder of the Issuer;

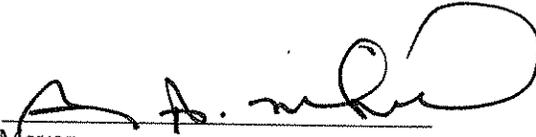
(3) Executed counterparts of an ARRA Assistance Agreement for the Series 2009 B Bonds and Series 2009 C Bonds, dated August 13, 2009 both by and between the Issuer and the West Virginia Water Development Authority, on behalf of the West Virginia Bureau for Public Health (the "Loan Agreement"); and

(4) Executed opinion of nationally recognized bond counsel regarding the validity of the Loan Agreements and the Series 2009 B Bonds and Series 2009 C Bonds.

You are hereby requested and authorized to deliver the Series 2009 B Bonds to the Authority. You are further hereby requested and authorized to deliver the Series 2009 C Bonds to the Authority. Prior to such delivery of the Bonds, you will please cause the Bonds to be authenticated and registered by an authorized officer, as Bond Registrar, in accordance with the form of Certificate of Authentication and Registration thereon.

Dated as of the day and year first written above.

TOWN OF PETERSBURG

By:   
Its: Mayor

698490.00008

SPECIMEN

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
TOWN OF PETERSBURG  
WATER REVENUE BONDS, SERIES 2009 B  
(WEST VIRGINIA DWTRF PROGRAM/ARRA)

No. BR-1

\$2,915,000

KNOW ALL MEN BY THESE PRESENTS: That on this the 13th day of AUGUST, 2009, the TOWN OF PETERSBURG, a municipal corporation and political subdivision of the State of West Virginia in Grant County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the West Virginia Water Development Authority (the "Authority") or registered assigns the sum of TWO MILLION NINE HUNDRED AND FIFTEEN THOUSAND DOLLARS (\$2,915,000), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing March 1, 2011 to and including December 1, 2020, as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference. This Bond shall not be subject to the DWTRF Administrative fee (as defined in the hereinafter describe Bond Legislation).

This Bond shall bear no interest. Principal installments of this Bond are forgivable quarterly as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Bureau for Public Health (the "BPH"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the ARRA Assistance Agreement by and between the Issuer and the Authority on behalf of the BPH, dated August 13, 2009.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain additions, betterments and improvements to the existing public waterworks system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of the Bonds and related costs. The existing public waterworks system of the Issuer, the Project, and any further additions, betterments or improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 8, Article 19 and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended (collectively, the "Act"), a Bond Ordinance duly enacted by the Issuer on November 3, 2008, a Supplemental Resolution duly adopted by the Issuer on April 15, 2009 and a Second Supplemental Resolution duly adopted by the Issuer on July 6, 2009 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S (1) WATER REVENUE BOND, SERIES 1975 (UNITED STATES DEPARTMENT OF AGRICULTURE), DATED NOVEMBER 10, 1976, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$474,000 (THE "SERIES 1975 BONDS"); (2) WATER REVENUE BOND, SERIES 1996 (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY), DATED AUGUST 29, 1996, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$492,590, (THE "SERIES 1996 BONDS")(COLLECTIVELY REFERRED TO AS THE "PRIOR BONDS") ; (3) THE WATER REVENUE BONDS, SERIES 2009 A (WEST VIRGINIA DWTRF PROGRAM) DATED APRIL 16, 2009 ISSUED IN THE ORIGINAL AGGREGATE AMOUNT OF \$2,700,000 (THE "SERIES 2009 A BONDS"); AND (4) THE WATER REVENUE BONDS, SERIES 2009 C (WEST VIRGINIA DWTRF PROGRAM) DATED AUGUST 13, 2009 ISSUED IN THE ORIGINAL AGGREGATE AMOUNT OF \$2,500,000 (THE "SERIES 2009 C BONDS").

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on a parity with the pledge of Net Revenue in favor of the Holders of the Prior Bonds the Series 2009 A Bonds and the Series 2009 C Bonds, 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, if any, hereon, except from said special fund provided from the Net Revenues, the monies in the Series 2009 B Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds, and all other obligations secured by a lien on or payable from such revenues on a parity with the Bonds, including the Prior Bonds and the Series 2009 A Bonds; provided however, that so long as there exists in the Series 2009 B Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with the Bonds, including the Prior Bonds, the Series 2009 A Bonds and the Series 2009 C 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 (as defined in the Bond Legislation) by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

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

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

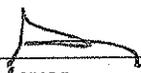
IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond do exist, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond,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

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

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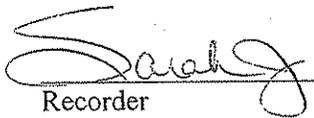
IN WITNESS WHEREOF, the TOWN OF PETERSBURG has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed and attested by its Recorder, and has caused this Bond to be dated as of the day and year first written above.

[SEAL]

  
\_\_\_\_\_  
Mayor

**SPECIMEN**

ATTEST:

  
\_\_\_\_\_  
Recorder

**SPECIMEN**

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2009 B Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: August 13, 2009.

THE HUNTINGTON NATIONAL BANK,  
as Registrar

  
Authorized Officer

~~SPECIMEN~~

EXHIBIT A

RECORD OF ADVANCES

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

TOTAL \$ \_\_\_\_\_

EXHIBIT B

DEBT SERVICE SCHEDULE

**BOND DEBT SERVICE**  
City of Petersburg  
10 Years

Dated Date 4/16/2009  
Delivery  
Date 4/16/2009

Period Ending	Debt Service	Principal Forgiveness
4/16/2009		
3/1/2011	72,875	72,875
6/1/2011	72,875	72,875
9/1/2011	72,875	72,875
12/1/2011	72,875	72,875
3/1/2012	72,875	72,875
6/1/2012	72,875	72,875
9/1/2012	72,875	72,875
12/1/2012	72,875	72,875
3/1/2013	72,875	72,875
6/1/2013	72,875	72,875
9/1/2013	72,875	72,875
12/1/2013	72,875	72,875
3/1/2014	72,875	72,875
6/1/2014	72,875	72,875
9/1/2014	72,875	72,875
12/1/2014	72,875	72,875
3/1/2015	72,875	72,875
6/1/2015	72,875	72,875
9/1/2015	72,875	72,875
12/1/2015	72,875	72,875
3/1/2016	72,875	72,875
6/1/2016	72,875	72,875
9/1/2016	72,875	72,875
12/1/2016	72,875	72,875
3/1/2017	72,875	72,875
6/1/2017	72,875	72,875
9/1/2017	72,875	72,875
12/1/2017	72,875	72,875
3/1/2018	72,875	72,875
6/1/2018	72,875	72,875
9/1/2018	72,875	72,875
12/1/2018	72,875	72,875
3/1/2019	72,875	72,875
6/1/2019	72,875	72,875
9/1/2019	72,875	72,875
12/1/2019	72,875	72,875
3/1/2020	72,875	72,875
6/1/2020	72,875	72,875
9/1/2020	72,875	72,875
12/1/2020	72,875	72,875
	<b>2,915,000</b>	<b>2,915,000</b>

(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: \_\_\_\_\_, 20\_\_.

\_\_\_\_\_

In the presence of:

\_\_\_\_\_

SPECIMEN

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
TOWN OF PETERSBURG  
WATER REVENUE BONDS, SERIES 2009 C  
(WEST VIRGINIA DWTRF PROGRAM)

No. CR-1

\$2,500,000

KNOW ALL MEN BY THESE PRESENTS: That on this the 13th day of August, 2009, the TOWN OF PETERSBURG, a municipal corporation and political subdivision of the State of West Virginia in Grant County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the West Virginia Water Development Authority (the "Authority") or registered assigns the sum of TWO MILLION FIVE HUNDRED THOUSAND DOLLARS (\$2,500,000), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, the principal of, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing March 1, 2011, to and including December 1, 2040 as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference. The Series 2009 C Bonds are not subject to the DWTRF Administrative Fee.

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 The Huntington National Bank, Charleston, West Virginia, as registrar (the "Registrar"), on the 15th day of the month next preceding an interest payment date, or by such other method as shall be mutually agreeable so long as the Authority is the registered owner hereof.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Bureau for Public Health (the "BPH), and upon the terms and conditions prescribed by, and otherwise in compliance with, the ARRA Assistance Agreement by and between the Issuer and the Authority, on behalf of the BPH, dated August 13, 2009.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain additions, betterments and improvements to the existing public waterworks system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of the Bonds and related costs. The existing public waterworks system of the Issuer, the Project, and any further additions, betterments or improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 8, Article 19 and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended (collectively, the "Act"), a Bond Ordinance duly enacted by the Issuer on November

3, 2008, a Supplemental Resolution duly adopted by the Issuer on April 15, 2009 and a Second Supplemental Resolution duly adopted by the Issuer on July 6, 2009 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S (1) WATER REVENUE BOND, SERIES 1975 (UNITED STATES DEPARTMENT OF AGRICULTURE), DATED NOVEMBER 10, 1976, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$474,000 (THE "SERIES 1975 BONDS"); (2) WATER REVENUE BOND, SERIES 1996 (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY), DATED AUGUST 29, 1996, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$492,590, (THE "SERIES 1996 BONDS")(COLLECTIVELY REFERRED TO AS THE "PRIOR BONDS") ; (3) THE WATER REVENUE BONDS, SERIES 2009 A (WEST VIRGINIA DWTRF PROGRAM) DATED APRIL 16, 2009 ISSUED IN THE ORIGINAL AGGREGATE AMOUNT OF \$2,700,000 (THE "SERIES 2009 A BONDS"); AND (4) THE WATER REVENUE BONDS, SERIES 2009 B (WEST VIRGINIA DWTRF PROGRAM) DATED AUGUST 13, 2009 ISSUED IN THE ORIGINAL AGGREGATE AMOUNT OF \$2,915,000 (THE "SERIES 2009 B BONDS").

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on a parity with the pledge of Net Revenue in favor of the Holders of the Prior Bonds the Series 2009 A Bonds and the Series 2009 B Bonds, and from monies in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 2009 C Bonds 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, if any, hereon, except from said special fund provided from the Net Revenues, the monies in the Series 2009 C Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds, and all other obligations secured by a lien on or payable from such revenues on a parity with the Bonds, including the Prior Bonds, the Series 2009 A Bonds and the Series 2009 B Bonds; provided however, that so long as there exists in the Series 2009 C Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with the Bonds, including the Prior Bonds, the Series 2009 A Bonds and the Series 2009 B 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 (as defined in the Bond Legislation) by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

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

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

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

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

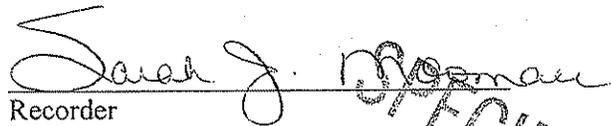
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IN WITNESS WHEREOF, the TOWN OF PETERSBURG has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed and attested by its Recorder, and has caused this Bond to be dated as of the day and year first written above.

[SEAL]

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
Recorder

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2009 C Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: August 13, 2009.

THE HUNTINGTON NATIONAL BANK,  
as Registrar

  
Authorized Officer

EXHIBIT A

RECORD OF ADVANCES

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

TOTAL \$ \_\_\_\_\_

EXHIBIT B

DEBT SERVICE SCHEDULE

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**BOND DEBT SERVICE**

City of Petersburg

30 Years

0% Interest Rate

Dated Date 4/16/2009

Delivery

Date 4/16/2009

<u>Period</u> <u>Ending</u>	<u>Principal</u>	<u>Interest</u>	<u>Debt Service</u>
4/16/2009			
3/1/2011	20,834		20,834
6/1/2011	20,834		20,834
9/1/2011	20,834		20,834
12/1/2011	20,834		20,834
3/1/2012	20,834		20,834
6/1/2012	20,834		20,834
9/1/2012	20,834		20,834
12/1/2012	20,834		20,834
3/1/2013	20,834		20,834
6/1/2013	20,834		20,834
9/1/2013	20,834		20,834
12/1/2013	20,834		20,834
3/1/2014	20,834		20,834
6/1/2014	20,834		20,834
9/1/2014	20,834		20,834
12/1/2014	20,834		20,834
3/1/2015	20,834		20,834
6/1/2015	20,834		20,834
9/1/2015	20,834		20,834
12/1/2015	20,834		20,834
3/1/2016	20,834		20,834
6/1/2016	20,834		20,834
9/1/2016	20,834		20,834
12/1/2016	20,834		20,834
3/1/2017	20,834		20,834
6/1/2017	20,834		20,834
9/1/2017	20,834		20,834
12/1/2017	20,834		20,834
3/1/2018	20,834		20,834
6/1/2018	20,834		20,834
9/1/2018	20,834		20,834
12/1/2018	20,834		20,834
3/1/2019	20,834		20,834
6/1/2019	20,834		20,834
9/1/2019	20,834		20,834
12/1/2019	20,834		20,834
3/1/2020	20,834		20,834
6/1/2020	20,834		20,834
9/1/2020	20,834		20,834
12/1/2020	20,833		20,833
3/1/2021	20,833		20,833
6/1/2021	20,833		20,833
9/1/2021	20,833		20,833
12/1/2021	20,833		20,833

**BOND DEBT SERVICE**  
City of Petersburg  
30 Years  
0% Interest Rate

Period Ending	Principal	Interest	Debt Service
3/1/2022	20,833		20,833
6/1/2022	20,833		20,833
9/1/2022	20,833		20,833
12/1/2022	20,833		20,833
3/1/2023	20,833		20,833
6/1/2023	20,833		20,833
9/1/2023	20,833		20,833
12/1/2023	20,833		20,833
3/1/2024	20,833		20,833
6/1/2024	20,833		20,833
9/1/2024	20,833		20,833
12/1/2024	20,833		20,833
3/1/2025	20,833		20,833
6/1/2025	20,833		20,833
9/1/2025	20,833		20,833
12/1/2025	20,833		20,833
3/1/2026	20,833		20,833
6/1/2026	20,833		20,833
9/1/2026	20,833		20,833
12/1/2026	20,833		20,833
3/1/2027	20,833		20,833
6/1/2027	20,833		20,833
9/1/2027	20,833		20,833
12/1/2027	20,833		20,833
3/1/2028	20,833		20,833
6/1/2028	20,833		20,833
9/1/2028	20,833		20,833
12/1/2028	20,833		20,833
3/1/2029	20,833		20,833
6/1/2029	20,833		20,833
9/1/2029	20,833		20,833
12/1/2029	20,833		20,833
3/1/2030	20,833		20,833
6/1/2030	20,833		20,833
9/1/2030	20,833		20,833
12/1/2030	20,833		20,833
3/1/2031	20,833		20,833
6/1/2031	20,833		20,833
9/1/2031	20,833		20,833
12/1/2031	20,833		20,833
3/1/2032	20,833		20,833
6/1/2032	20,833		20,833
9/1/2032	20,833		20,833
12/1/2032	20,833		20,833
3/1/2033	20,833		20,833
6/1/2033	20,833		20,833
9/1/2033	20,833		20,833
12/1/2033	20,833		20,833
3/1/2034	20,833		20,833

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**BOND DEBT SERVICE**

City of Petersburg

30 Years

0% Interest Rate

<b>Period Ending</b>	<b>Principal</b>	<b>Interest Debt Service</b>
6/1/2034	20,833	20,833
9/1/2034	20,833	20,833
12/1/2034	20,833	20,833
3/1/2035	20,833	20,833
6/1/2035	20,833	20,833
9/1/2035	20,833	20,833
12/1/2035	20,833	20,833
3/1/2036	20,833	20,833
6/1/2036	20,833	20,833
9/1/2036	20,833	20,833
12/1/2036	20,833	20,833
3/1/2037	20,833	20,833
6/1/2037	20,833	20,833
9/1/2037	20,833	20,833
12/1/2037	20,833	20,833
3/1/2038	20,833	20,833
6/1/2038	20,833	20,833
9/1/2038	20,833	20,833
12/1/2038	20,833	20,833
3/1/2039	20,833	20,833
6/1/2039	20,833	20,833
9/1/2039	20,833	20,833
12/1/2039	20,833	20,833
3/1/2040	20,833	20,833
6/1/2040	20,833	20,833
9/1/2040	20,833	20,833
12/1/2040	20,834	20,834
	<b>2,500,000</b>	<b>2,500,000</b>

(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: \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_

In the presence of:

\_\_\_\_\_

August 13, 2009

Town of Petersburg  
Water Revenue Bonds, Series 2009 B  
(West Virginia DWTRF Program/ARRA)

Town of Petersburg  
Petersburg, West Virginia

West Virginia Water Development Authority  
Charleston, West Virginia

West Virginia Bureau for Public Health  
Charleston, West Virginia

Ladies and Gentlemen:

We have served as bond counsel in connection with the issuance by the Town of Petersburg (the "Issuer"), a municipal corporation and political subdivision created and existing under the laws of the State of West Virginia, of its \$2,915,000 Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA), dated the date hereof (the "Series 2009 B Bonds").

On April 16, 2009, the Issuer issued its Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program), in the original aggregate principal amount of \$5,000,000 (the "Prior Bonds." The Series 2009 B Bonds, in conjunction with the Issuer's \$2,500,000 Water Revenue Bonds, Series 2009 C (West Virginia DWTRF Program) issued contemporaneously herewith (the "Series 2009 C Bonds") are being substituted for the Prior Bonds.

We have examined the law and a certified copy of proceedings and other papers relating to the authorization of (i) an ARRA assistance agreement dated August 13, 2009, including all schedules and exhibits attached thereto (the "ARRA Assistance Agreement"), by and among the Issuer, the West Virginia Water Development Authority (the "Authority"), and the West Virginia Department of Environmental Protection (the "DEP"), and (ii) the Series 2009 B Bonds to be purchased by the Authority in accordance with the provisions of the ARRA Assistance Agreement. The Series 2009 B Bonds are issued in the principal amount of \$2,915,000, in the form of one bond, bearing no interest, registered as to principal only to the Authority, with 100% of the principal being forgiven as set forth in Exhibit B of the Series 2009 B Bonds. The Series 2009 B Bonds are not subject to the DWTRF Administrative Fee.

The Series 2009 B 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 8,

Article 19 and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended (collectively, the "Act"), for the purposes of (i) paying the costs of acquisition and construction of certain additions, betterments and improvements to the existing public waterworks system of the Issuer; and (ii) paying certain costs of issuance and related costs.

We have also examined the applicable provisions of the Act and the Bond Ordinance duly enacted by the Issuer on November 3, 2008, as supplemented by a Supplemental Resolution duly adopted by the Issuer on April 15, 2009 and Second Supplemental Resolution duly adopted by the Issuer on July 6, 2009 (collectively, the "Bond Legislation"), pursuant to and under which Act and Bond Legislation the Series 2009 B Bonds are authorized and issued, and the ARRA Assistance Agreement has been entered into. The Series 2009 B Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Bond Legislation and the ARRA Assistance Agreement. All capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Bond Legislation and the ARRA Assistance Agreement when used herein.

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

1. The Issuer is a duly created and validly existing municipal corporation and political subdivision of the State of West Virginia, with full power and authority to acquire and construct the Project, to operate and maintain the System, to adopt the Bond Legislation and to issue and sell the Series 2009 B Bonds, all under the Act and other applicable provisions of law.

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

3. The Bond Legislation and all other necessary ordinances, orders and resolutions have been duly and effectively enacted and adopted by the Issuer in connection with the issuance and sale of the Series 2009 B Bonds and constitute valid and binding obligations of the Issuer enforceable against the Issuer in accordance with their terms. The Bond Legislation contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the ARRA Assistance Agreement.

4. The Series 2009 B Bonds have been duly authorized, issued, executed and delivered by the Issuer to the Authority and are valid, legally enforceable and binding special obligations of the Issuer, payable from the Net Revenues of the System and secured by a first lien on and pledge of the Net Revenues of the System, on a parity with respect to liens, pledge and source of and security for payment with the Issuer's (i) Water Revenue Bonds, Series 1975 (United States Department of Agriculture), dated November 10, 1976, issued in the original aggregate principal amount of \$474,000 (the "Series 1975 Bonds"); (ii) Water Revenue Bonds, Series 1996 (West Virginia Water Development Authority), dated August 29, 1996, issued in the original aggregate principal amount of \$492,590 (the "Series 1996 Bonds"); (iii) Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program) dated April 16, 2009 with the original aggregate principal amount of \$2,700,000; and (iv) Water Revenue Bonds, Series 2009 C (West Virginia

DWTRF Program) dated August 13, 2009 with the original aggregate principal amount of \$2,500,000 issued concurrently herewith.

5. The Series 2009 B Bonds are, under the Act, exempt from all taxation by the State of West Virginia, or any county, municipality or county commission, political subdivision or agency thereof, and the interest, if any, on the Series 2009 B Bonds is exempt from personal and corporate net income taxes imposed directly thereon by the State of West Virginia.

6. The Series 2009 B Bonds have not been issued on the basis that the interest thereon, if any, is or will be excluded from the gross income of the owners thereof for federal income tax purposes. We express no opinion regarding the excludability of such interest from the gross income of the owners thereof for federal income tax purposes or other federal tax consequences arising with respect to the Series 2009 B Bonds.

7. In reliance upon the Cross Receipt executed by the Issuer and the Authority of even date herewith, the Prior Bonds have been released and cancelled.

It is to be understood that the rights of the holders of the Series 2009 B Bonds and the enforceability of the Series 2009 B Bonds, the ARRA Assistance Agreement and the Bond Legislation, and the liens and pledges set forth therein, may be subject to and limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted to the extent constitutionally applicable and that their enforcement may also be subject to the exercise of judicial discretion and the application of equitable remedies in appropriate cases.

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

Very truly yours,

  
STEPHENS & JOHNSON PLLC

August 13, 2009

Town of Petersburg  
Water Revenue Bonds, Series 2009 C  
(West Virginia DWTRF Program)

Town of Petersburg  
Petersburg, West Virginia

West Virginia Water Development Authority  
Charleston, West Virginia

West Virginia Bureau for Public Health  
Charleston, West Virginia

Ladies and Gentlemen:

We have served as bond counsel in connection with the issuance by the Town of Petersburg (the "Issuer"), a municipal corporation and political subdivision created and existing under the laws of the State of West Virginia, of its \$2,500,000 Water Revenue Bonds, Series 2009 C (West Virginia DWTRF Program), dated the date hereof (the "Series 2009 C Bonds").

On April 16, 2009, the Issuer issued its Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program), in the original aggregate principal amount of \$5,000,000 (the "Prior Bonds"). The Series 2009 C Bonds, in conjunction with the Issuer's \$2,915,000 Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA) issued contemporaneously herewith (the "Series 2009 B Bonds") are being substituted for the Prior Bonds.

We have examined the law and certified copies of proceedings and other papers relating to the authorization of a ARRA Assistance agreement dated August 13, 2009, including all schedules and exhibits attached thereto (the "ARRA Assistance Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Bureau for Public Health (the "BPH"), and the Series 2009 C Bonds, which are to be purchased by the Authority in accordance with the provisions of the ARRA Assistance Agreement. The Series 2009 C Bonds are originally issued in the form of one Bond, registered as to principal only to the Authority, bearing no interest with principal installments payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing March 1, 2011, to and including December 1, 2040, all as set forth in the "Schedule Y" attached to the ARRA Assistance Agreement and incorporated in and made a part of the Series 2009 C Bonds.

The Series 2009 C 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 8, Article 19 and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended (collectively, the "Act"), for the purposes of (i) paying the costs of acquisition and construction of certain additions, betterments and improvements to the existing public waterworks system of the Issuer; and (ii) paying certain costs of issuance and related costs.

We have also examined the applicable provisions of the Act and the Bond Ordinance duly enacted by the Issuer on November 3, 2008, as supplemented by a Supplemental Resolution duly adopted by the Issuer on April 15, 2009 and Second Supplemental Resolution duly adopted on July 6, 2009 (collectively, the "Bond Legislation"), pursuant to and under which Act and Bond Legislation the Series 2009 C Bonds are authorized and issued, and the ARRA Assistance Agreement has been entered into. The Series 2009 C Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Bond Legislation and the ARRA Assistance Agreement. All capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Bond Legislation and the ARRA Assistance Agreement when used herein.

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

1. The Issuer is a duly created and validly existing municipal corporation and political subdivision of the State of West Virginia, with full power and authority to acquire and construct the Project, to operate and maintain the System, to adopt the Bond Legislation and to issue and sell the Series 2009 C Bonds, all under the Act and other applicable provisions of law.

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

3. The Bond Legislation and all other necessary ordinances, orders and resolutions have been duly and effectively enacted and adopted by the Issuer in connection with the issuance and sale of the Series 2009 C Bonds and constitute valid and binding obligations of the Issuer enforceable against the Issuer in accordance with their terms. The Bond Legislation contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the ARRA Assistance Agreement.

4. The Series 2009 C Bonds have been duly authorized, issued, executed and delivered by the Issuer to the Authority and are valid, legally enforceable and binding special obligations of the Issuer, payable from the Net Revenues of the System and secured by a first lien on and pledge of the Net Revenues of the System, on a parity with respect to liens, pledge and source of and security for payment with the Issuer's (i) Water Revenue Bonds, Series 1975 (United States Department of Agriculture), dated November 10, 1976, issued in the original aggregate principal amount of \$474,000 (the "Series 1975 Bonds"); (ii) Water Revenue Bonds, Series 1996 (West Virginia Water Development Authority), dated August 29, 1996, issued in the original aggregate principal amount of \$492,590 (the "Series 1996 Bonds"); (iii) Water Revenue Bonds,

Series 2009 A (West Virginia DWTRF Program) dated April 16, 2009 with the original aggregate principal amount of \$2,700,000; and (iv) Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA) dated August 13, 2009, issued simultaneously herewith with in the original aggregate principal amount of \$2,915,000.

5. The Series 2009 C Bonds are, under the Act, exempt from all taxation by the State of West Virginia, or any county; municipality or county commission, political subdivision or agency thereof, and the interest, if any, on the Series 2009 C Bonds is exempt from personal and corporate net income taxes imposed directly thereon by the State of West Virginia.

6. The Series 2009 C Bonds have not been issued on the basis that the interest thereon, if any, is or will be excluded from the gross income of the owners thereof for federal income tax purposes. We express no opinion regarding the excludability of such interest from the gross income of the owners thereof for federal income tax purposes or other federal tax consequences arising with respect to the Series 2009 C Bonds.

7. In reliance upon the Cross Receipt executed by the Issuer and the Authority of even date herewith, the Prior Bonds have been released and cancelled.

It is to be understood that the rights of the holders of the Series 2009 C Bonds and the enforceability of the Series 2009 C Bonds, the ARRA Assistance Agreement and the Bond Legislation, and the liens and pledges set forth therein, may be subject to and limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted to the extent constitutionally applicable and that their enforcement may also be subject to the exercise of judicial discretion and the application of equitable remedies in appropriate cases.

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

Very truly yours,

  
STEPTOE & JOHNSON PLLC

GEARY AND GEARY, L.C.

ATTORNEYS AT LAW

104 N. MAIN STREET

P. O. BOX 218

PETERSBURG, WEST VIRGINIA 26847-0218

(304) 257-4155

FAX (304) 257-1728

E-MAIL: gearyl@frontiernet.net

JAMES PAUL GEARY  
JAMES PAUL GEARY, II  
PATRICIA L. KOTCHEK

MARY JANE GEARY (1982)

August 13, 2009

Town of Petersburg  
Water Revenue Bonds, Series 2009 B  
(West Virginia DWTRF Program/ARRA); and  
Water Revenue Bonds, Series 2009 C  
(West Virginia DWTRF Program)

Town of Petersburg  
Petersburg, West Virginia

West Virginia Water Development Authority  
Charleston, West Virginia

West Virginia Bureau for Public Health  
Charleston, West Virginia

Steptoe & Johnson PLLC  
Charleston, West Virginia

Ladies and Gentlemen:

I am counsel to the Town of Petersburg, in Grant County, West Virginia (the "Issuer"). As such counsel, I have examined copies of the approving opinions of Steptoe & Johnson PLLC, as bond counsel, ARRA Assistance Agreement dated August 13, 2009, including all schedules and exhibits attached thereto (the "ARRA Assistance Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Bureau for Public Health (the "BPH"), the Bond Ordinance duly enacted by the Issuer on November 3, 2008, as supplemented by the Supplemental Resolution duly adopted by the Issuer on April 15, 2009 and Second Supplemental Resolution duly adopted on July 6, 2009 (collectively, the "Bond Legislation"), and other documents relating to the above-captioned Bonds of the Issuer (the "Bonds"). Capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Bond Legislation and the ARRA Assistance Agreement when used herein.

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I am of the opinion that:

1. The Issuer has been duly created and is validly existing as a municipal corporation and political subdivision of the State of West Virginia, with full power and authority to acquire and construct the Project, to operate and maintain the System and to enact the Bond Legislation, all under the

2. Act and other applicable provisions of law, and the Mayor, Recorder and members of the council of the Issuer have been duly and properly elected or appointed, as applicable, have taken the requisite oaths, and are authorized to act on behalf of the Issuer in their respective capacities.

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

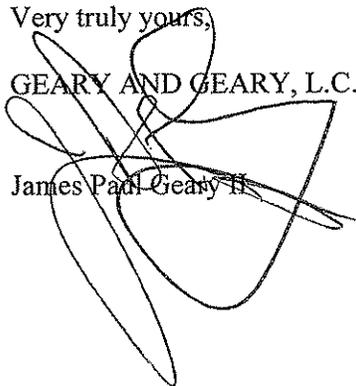
4. The ARRA Assistance Agreement has been duly authorized, executed and delivered by the Issuer and, assuming due authorization, execution and delivery by the Authority, constitutes a valid and binding agreement of the Issuer enforceable in accordance with its terms.

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

5. To the best of my knowledge, there is no litigation, 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 Bonds, the ARRA Assistance Agreement, the Bond Legislation, the acquisition and construction of the Project, the operation of the System, the validity of the Bonds or the collection or pledge of the Net Revenues therefor.

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

Very truly yours,  
GEARY AND GEARY, L.C.  
James Paul Geary II



TOWN OF PETERSBURG

Water Revenue Bonds, Series 2009 B  
(West Virginia DWTRF Program/ARRA); and  
Water Revenue Bonds, Series 2009 C  
(West Virginia DWTRF Program)

CERTIFICATE OF ENGINEER

I, Frederick Hypes, Registered Professional Engineer, West Virginia License No.9327, of Dunn Engineers, Inc., Charleston, West Virginia, hereby certify this 13th day of August, 2009 as follows:

1. My firm is engineer for the acquisition and construction of certain additions, betterments and improvements (the "Project") to the existing public waterworks facilities (the "System") of the Town of Petersburg (the "Issuer"), to be constructed in Grant County, West Virginia, which acquisition and construction are being financed in part by the proceeds of the above-captioned bonds (collectively, the "Bonds") of the Issuer. Capitalized terms used herein and not defined herein shall have the same meaning set forth in the Bond Ordinance enacted by the Issuer on November 3, 2008, as supplemented by the Supplemental Resolution adopted by the Issuer on April 15, 2009 and Second Supplemental resolution adopted by the Issuer on July 6, 2009, and the ARRA Assistance Agreement by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Bureau for Public Health (the "BPH"), dated August 13, 2009 (the "ARRA Assistance Agreement").

2. The Bonds are being issued (i) to pay the costs of acquisition and construction of the Project; and (ii) to pay certain costs of issuance and related costs.

3. To the best of my knowledge, information and belief, (i) within the limits and in accordance with the applicable and governing contractual requirements relating to the Project, the Project will be constructed in general accordance with the approved plans, specifications and designs prepared by my firm and approved by the BPH and any change orders approved by the Issuer, the BPH and all necessary governmental bodies; (ii) the Project, as designed, is adequate for its intended purpose and has a useful life of at least 32 years, if properly constructed, operated and maintained, excepting anticipated replacements due to normal wear and tear; (iii) the Issuer has received bids for the acquisition and construction of the Project which are in an amount and otherwise compatible with the plan of financing set forth in Schedule B attached hereto as Exhibit A and the Issuer's counsel has ascertained that all successful bidders 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 for accuracy; (iv) the successful bidders received any and all addenda to the original bid documents; (v) the bid documents relating to the Project reflect the Project as approved by the BPH and the bid forms provided to the bidders contain the critical operational components of the Project; (vi) the successful bids include prices for every item on such bid forms; (vii) the uniform bid procedures were followed; (viii) the Issuer has obtained all permits required by the laws of the State of West Virginia and the United States necessary for the

acquisition and construction of the Project and the operation of the System; (ix) in reliance upon the certificate of Griffith & Associates, the Issuer's certified public accountant, of even date herewith, as of the effective date thereof, the rates and charges for the System will be sufficient to comply with the provisions of the ARRA Assistance Agreement; (x) the net proceeds of the Bonds, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants, if any, irrevocably committed therefor, are sufficient to pay the costs of acquisition and construction of the Project approved by the BPH; and (xi) attached hereto as Exhibit A is the final amended "Schedule B - Final Total Cost of Project, Sources of Funds and Cost of Financing" for the Project.

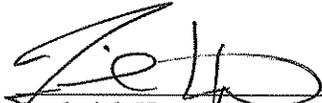
4. I have received the Buy American Certification from each contractor.
5. The Project will serve no new customers.

[Remainder of Page Intentionally Blank]

WITNESS my signature and seal on the day and year first written above.



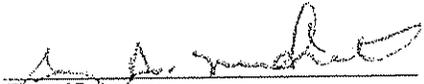
DUNN ENGINEERS, INC.

  
Frederick Hypes, P.E.  
West Virginia License No. 9327

698490.00008

**CITY OF PETERSBURG SCHEDULE B (REVISED) 7-31-09**

A. COST OF PROJECT	TOTAL	Design Loan	Final Total	City	SAP	DWTRF (A) (2nd round)	DWTRF ARRA Principal Forgiveness	DWTRF Base Loan 0%, 30 years
1 Construction								
a WTP (Breckenridge)	6,797,000.00		6,797,000.00		2,693,508.00	2,273,808.00	1,329,842.00	499,842.00
b Lines to Tank (Mid-Atlantic)	1,458,620.00		1,458,620.00				1,003,659.00	454,761.00
c Tank Replacement( DL Morgan)	507,506.01		507,506.01				253,753.01	253,753.01
d High Point Tank Paint (Welding)	168,000.00		168,000.00				84,000.00	84,000.00
2 Technical Services (Dunn)								
a Study & report	25,000.00	25,000.00	0.00				0.00	0.00
b Preliminary Design	30,000.00	30,000.00	0.00				0.00	0.00
c Final design	317,900.00	302,095.00	15,895.00			15,895.00	0.00	0.00
d Bidding	10,000.00		10,000.00			10,000.00	0.00	0.00
e Construction Phase	117,000.00		117,000.00				58,500.00	58,500.00
f Inspection	225,000.00		225,000.00				112,500.00	112,500.00
g Post Construction Phase	35,000.00		35,000.00				17,500.00	17,500.00
h Additional Engineering								
A. Archeological	5,121.92	5,121.92	0.00				0.00	0.00
B. Stag Grant	25,000.00		25,000.00			25,000.00	0.00	0.00
C. Alumnum	4,192.50	4,192.50	0.00				0.00	0.00
D. PSC	1,950.00		1,950.00			1,950.00	0.00	0.00
E. Chionne	25,723.64		25,723.64			25,723.64	0.00	0.00
3 Legal & Fiscal								
a Project Attorney (Geary)	10,000.00		10,000.00			5,000.00	2,500.00	2,500.00
b ROW (Geary)	5,000.00	175.00	4,825.00				2,412.50	2,412.50
c PSC (Rodecker)	20,000.00		20,000.00			6,047.00	6,977.00	6,976.00
d Closing Design Loan	7,192.67	7,192.67	0.00				0.00	0.00
4 Administrative								
a Region 8	90,000.00	0.00	90,000.00		90,000.00	0.00	0.00	0.00
b Other Admin costs (ads)	5,000.00	826.75	4,173.25			626.00	1,773.50	1,773.75
5 Accounting (Griffith)	40,000.00	28,295.73	11,704.27				5,853.00	5,851.28
6 Permits	1,000.00	300.00	700.00				350.00	350.00
7 Lends & ROWs	80,000.00		80,000.00			9,640.00	35,180.00	35,180.00
8 Contingency 10.79%	954,099.57		954,099.57					954,099.57
9 Repay Design Loan		403,109.57						
a Interest due	18,414.98		18,414.98			18,414.98	0.00	0.00
b Interest paid (thru 10/15/08)	30,093.69		30,093.69			30,093.69	0.00	0.00
c Principal			403,109.57	8,414.98	147,892.00	246,802.59	0.00	0.00
10 TOTAL of Lines 1 through 9	11,023,814.98		11,023,814.98	8,414.98	2,931,400.00	2,669,000.00	2,915,000.00	2,500,000.00
<b>B. COST OF FINANCING</b>								
11 Funded Reserve	0.00		0.00		0.00	0.00	0.00	0.00
12 Capitalized Interest	0.00		0.00		0.00	0.00	0.00	0.00
13 Registrar	1,000.00		1,000.00		0.00	1,000.00	0.00	0.00
14 Bond Counsel	30,000.00		30,000.00		0.00	30,000.00	0.00	0.00
15 Cost of Issuance (lines 11 through 14)	31,000.00		31,000.00	0.00	0.00	31,000.00	0.00	0.00
16 TOTAL PROJECT COST line 10 plus line 15	11,054,814.98		11,054,814.98	8,414.98	2,931,400.00	2,700,000.00	2,915,000.00	2,500,000.00
<b>C. SOURCES OF OTHER FUNDS</b>								
17 Federal Grants SAP	2,931,400.00		2,931,400.00		2,931,400.00	0.00	0.00	0.00
18 State Grants	0.00		0.00		0.00	0.00	0.00	0.00
19 Other Grants City	8,414.98		8,414.98	8,414.98	0.00	0.00	0.00	0.00
20 TOTAL GRANTS Lines 17 through 19	2,939,814.98		2,939,814.98	8,414.98	2,931,400.00	0.00	0.00	0.00
21 Size of Bond Issue	8,115,000.00		8,115,000.00	0.00	0.00	2,700,000.00	2,915,000.00	2,500,000.00

  
 Town of Petersburg  
  
 Dunn Engineers

Date  
 August 2009  
 Date





August 13, 2009

Town of Petersburg  
Water Revenue Bonds, Series 2009 B  
(West Virginia DWTRF Program/ARRA); and  
Water Revenue Bonds, Series 2009 C  
(West Virginia DWTRF Program)

Town of Petersburg  
Petersburg, West Virginia

West Virginia Water Development Authority  
Charleston, West Virginia

West Virginia Bureau for Public Health  
Charleston, West Virginia

Ladies and Gentlemen:

Based upon the water rates and charges as set forth in the Water Rate Ordinance enacted by the Town of Petersburg (the "Issuer") on October 16, 2008 which was amended by Recommended Decision entered January 28, 2009 and Commission Order dated March 13, 2009 in Case No. 08-1873-W-MA and the projected operating expenses and the anticipated customer usage as furnished to us by Dunn Engineers, Inc., the Consulting Engineer to the Town of Petersburg (the "Issuer"), it is our opinion that such rates and charges will be sufficient to provide revenues which, together with other revenues of the waterworks system (the "System") of the Issuer, will pay all operating expenses of the System and leave a balance each year equal to at least 115% of the maximum amount required in any year for debt service on the Issuer's Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA) (the "Series 2009 B Bonds") and Water Revenue Bonds, Series 2009 C, (West Virginia DWTRF Program) (the "Series 2009 C Bonds") and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2009 Bonds, including the Series 2009 A Bonds and the Prior Bonds, as defined in the Bond Ordinance authorizing the Bonds.

It is further our opinion that (i) the Net Revenues for the Fiscal Year following the year in which the Bonds are issued will be at least 120% of the average annual debt service requirements on the Series 2009 B Bonds, Series 2009 C Bonds, Series 2009 A Bonds and the Prior Bonds and that (ii) the Net Revenues actually derived from the System during any 12 consecutive months, within the 18 months immediately preceding the date of the actual issuance of the 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 the Series 2009 Bonds, are not less than 115% of the largest aggregate amount that will mature and become due in any succeeding fiscal year for the principal of and interest on the Series 2009 B Bonds, Series 2009 C Bonds, Series 2009 A Bonds and the Prior Bonds.

Very truly yours,

Michael D. Griffith, CPA, AFI  
Griffith & Associates, PLLC

MDG/dk

Michael D. Griffith, CPA, AFI  
michaelgriffithcpa@verizon.net

950 Little Coal River Road Alum Creek, WV 25003  
Phone: (304) 756.3600 Facsimile: (304) 756.2911

OATH OF OFFICE  
CITY MAYOR

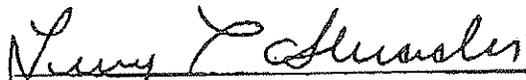
I, Gary A. Michael, do solemnly swear that I will uphold and defend the constitution of the United States and the State of West Virginia, and that I will to the best of my ability, faithfully discharge the duties of the Mayor of the City of Petersburg.

  
\_\_\_\_\_  
Gary A. Michael

6/29/09  
Date

State of West Virginia  
County of Grant, to wit;

I, the undersigned, Terry Shrader, Judge of the City of Petersburg, West Virginia do certify that I have this date administered the foregoing oath to the duly elected Mayor for the City of Petersburg.

  
\_\_\_\_\_  
Terry Shrader

6-29-09  
Date

OATH OF OFFICE  
CITY COUNCIL

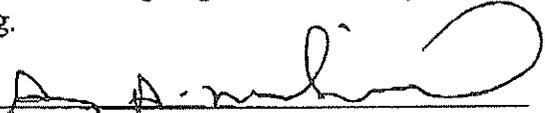
I, John Paul Hott II, do solemnly swear that I will uphold and defend the constitution of the United States and the State of West Virginia, and that I will to the best of my ability, faithfully discharge the duties of the City Council of the City of Petersburg.

  
\_\_\_\_\_  
John Paul Hott II

6-25-2009  
Date

State of West Virginia  
County of Grant, to wit:

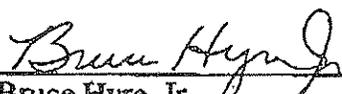
I, the undersigned, Gary A. Michael, Mayor of the City of Petersburg, West Virginia do certify that I have this date administered the foregoing oath to the duly elected City Councilman for the City of Petersburg.

  
\_\_\_\_\_  
Gary A. Michael, Mayor

6/25/09  
Date

OATH OF OFFICE  
CITY COUNCIL

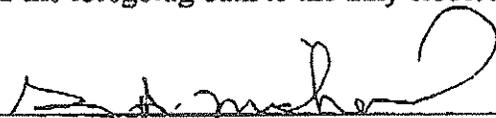
I, Bruce Hyre, Jr., do solemnly swear that I will uphold and defend the constitution of the United States and the State of West Virginia, and that I will to the best of my ability, faithfully discharge the duties of the City Council of the City of Petersburg.

  
\_\_\_\_\_  
Bruce Hyre, Jr.

6-25-09  
Date

State of West Virginia  
County of Grant, to wit:

I, the undersigned, Gary A. Michael, Mayor of the City of Petersburg, West Virginia do certify that I have this date administered the foregoing oath to the duly elected City Councilman for the City of Petersburg.

  
\_\_\_\_\_  
Gary A. Michael, Mayor

6/25/09  
Date

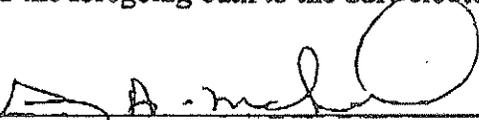
**OATH OF OFFICE  
CITY COUNCIL**

I, Michael Feaster, do solemnly swear that I will uphold and defend the constitution of the United States and the State of West Virginia, and that I will to the best of my ability, faithfully discharge the duties of the City Council of the City of Petersburg.

  
\_\_\_\_\_  
Michael Feaster,  
6/25/09  
\_\_\_\_\_  
Date

State of West Virginia  
County of Grant, to wit:

I, the undersigned, Gary A. Michael, Mayor of the City of Petersburg, West Virginia do certify that I have this date administered the foregoing oath to the duly elected City Councilman for the City of Petersburg.

  
\_\_\_\_\_  
Gary A. Michael, Mayor  
6/25/09  
\_\_\_\_\_  
Date

# CITY OF PETERSBURG

P.O. BOX 669  
PETERSBURG, W. VA.  
26847

(304) 257-4944

Incorporated 1910

## OATH OF OFFICE CITY COUNCIL

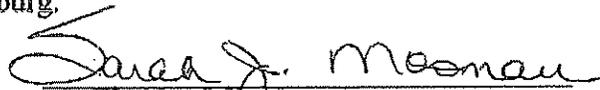
I, Paige S Alexander, do solemnly swear that I will uphold and defend the constitution of the United States and the State of West Virginia, and that I will to the best of my ability, faithfully discharge the duties of the City Council of the City of Petersburg.

  
Paige S. Alexander

June 24, 2007  
Date

State of West Virginia  
County of Grant, to wit:

I, the undersigned, Sarah J. Moomau, Recorder of the City of Petersburg, West Virginia do certify that I have this date administered the foregoing oath to the duly elected City Councilman for the City of Petersburg.

  
Sarah J. Moomau, Recorder

June 24, 2007  
Date

# CITY OF PETERSBURG

P.O. BOX 669  
PETERSBURG, W. VA.  
26847

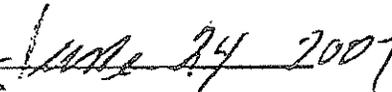
(304) 257-4944

Incorporated 1910

## OATH OF OFFICE CITY COUNCIL

I, Alvin E. Rumer, do solemnly swear that I will uphold and defend the constitution of the United States and the State of West Virginia, and that I will to the best of my ability, faithfully discharge the duties of the City Council of the City of Petersburg.

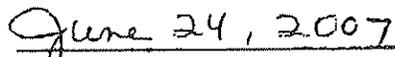
  
Alvin E. Rumer

  
Date

State of West Virginia  
County of Grant, to wit:

I, the undersigned, Sarah J. Moomau, Recorder of the City of Petersburg, West Virginia do certify that I have this date administered the foregoing oath to the duly elected City Councilman for the City of Petersburg.

  
Sarah J. Moomau, Recorder

  
Date

# CITY OF PETERSBURG

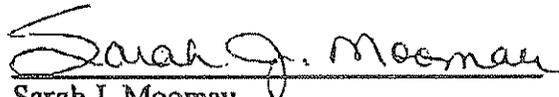
P.O. BOX 669  
PETERSBURG, W. VA.  
26847

(304) 257-4944

Incorporated 1910

## OATH OF OFFICE CITY RECORDER

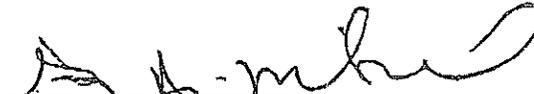
I, Sarah Jane Moomau , do solemnly swear that I will uphold and defend the constitution of the United States and the State of West Virginia, and that I will to the best of my ability, faithfully discharge the duties of the Recorder of the City of Petersburg.

  
Sarah J. Moomau

June 24, 2007  
Date

State of West Virginia  
County of Grant, to wit:

I, the undersigned, Gary A. Michael, Mayor of the City of Petersburg, West Virginia do certify that I have this date administered the foregoing oath to the duly elected Recorder for the City of Petersburg.

  
Gary A. Michael, Mayor

6 / 24 / 07  
Date

TOWN OF PETERSBURG

Water Revenue Bonds, Series 2009 B; and  
Water Revenue Bonds, Series 2009 C  
(West Virginia DWTRF Program/ARRA)

EXCERPT OF MINUTES ON SECOND  
SUPPLEMENTAL RESOLUTION

The undersigned RECORDER of the Town of Petersburg hereby certifies that the following is a true and correct excerpt of the minutes of a special meeting of the said Town Council:

\*\*\*

\*\*\*

\*\*\*

The Town Council of the Town of Petersburg met in regular session, pursuant to notice duly posted, on the 6th day of July, 2009; in Grant County, West Virginia, at the hour of 7:00 p.m.

PRESENT:	Gary Michael	-	Mayor
	Sarah Mommau	-	Recorder
	Paige Alexander	-	Councilmember
	Bruce Hyre, Jr.	-	Councilmember
	John Vanmeter	-	Councilmember
	George Deadrick	-	Councilmember
	Alvin Rumer	-	Councilmember

Gary Michael, Mayor, presided, and Sarah Mommau, acted as Recorder. The Mayor announced that a quorum of members was present and that the meeting was open for any business properly before it.

Thereupon, the Mayor then presented a proposed Second Supplemental Resolution in writing entitled:

SECOND SUPPLEMENTAL RESOLUTION AUTHORIZING THE RE-ISSUANCE OF SERIES 2009 B BONDS IN TWO SERIES, PROVIDING THE PRINCIPAL AMOUNT, DATE, MATURITY DATE, REDEMPTION PROVISION, INTEREST RATE, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICE AND OTHER TERMS OF THE WATER REVENUE BONDS SERIES 2009 B, (WEST VIRGINIA DWTRF PROGRAM/ARRA), AND WATER REVENUE BONDS, SERIES 2009 C (WEST VIRGINIA DWTRF PROGRAM) OF THE TOWN OF PETERSBURG; APPROVING AND RATIFYING THE LOAN AGREEMENT

RELATING TO SUCH BONDS AND THE SALE AND  
DELIVERY OF SUCH BONDS TO THE WEST VIRGINIA  
WATER DEVELOPMENT AUTHORITY; AND MAKING  
OTHER PROVISIONS AS TO THE BONDS.

and caused the same to be read and there was discussion. Thereupon, upon motion duly made by Alvin Rumer and seconded by Bruce Hyre, Jr, it was unanimously ordered that the said Supplemental Resolution be adopted and be in full force and effect on and from the date hereof.

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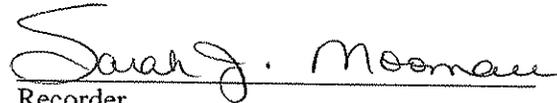
\*\*\*

There being no further business to come before the meeting, on motion duly made and seconded, it was unanimously ordered that the meeting adjourn.

[Remainder of Page Intentionally Blank]

CERTIFICATION

I hereby certify that the foregoing is a true copy of the minutes of the Town of Petersburg and that such actions remain in full force and effect and have not been amended, rescinded, superseded, repealed or changed.

  
Recorder

698490.00008

**WV MUNICIPAL BOND COMMISSION**

1207 Quarrier Street  
Suite 401  
Charleston, WV 25301  
(304) 558-3971

**NEW ISSUE REPORT FORM**

Date of Report: 8/13/2009

ISSUE: Town of Petersburg  
Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA)

ADDRESS: 21 Mount View Street, Petersburg, WV 26847 COUNTY: Grant

PURPOSE OF ISSUE:

New Money: x

Refunding: \_\_\_\_\_

REFUNDS ISSUE(S) DATED: NA

ISSUE DATE: 8/13/2009

CLOSING DATE: 8/13/2009

ISSUE AMOUNT: \$2,915,000

RATE: 0% Administrative Fee: none

1ST DEBT SERVICE DUE: 100% forgivable

1ST PRINCIPAL DUE: 100% forgivable

1ST DEBT SERVICE AMOUNT 100% forgivable

PAYING AGENT: Municipal Bond Commission

BOND COUNSEL:

Firm: Steptoe & Johnson PLLC

Contact: John Stump, Esquire

Phone: (304) 353.8196

UNDERWRITERS COUNSEL

Firm: Jackson Kelly, PLLC

Contact: Samme Gee, Esquire

Phone: (304) 340-1318

CLOSING BANK:

Bank: Grant County Bank

Contact: George Ford

Phone: 304.257.4111

ESCROW TRUSTEE:

Firm: \_\_\_\_\_

Contact: \_\_\_\_\_

Phone: \_\_\_\_\_

KNOWLEDGEABLE ISSUER CONTACT

Contact: Gary Michael

Position: Mayor

Phone: (304) 257-4944

OTHER:

Agency: West Virginia Bureau for Public Health

Contact: Robert DeCrease

Position: Manager

Phone: (304) 558-2981

DEPOSITS TO MBC AT CLOSE

By:	<input type="checkbox"/> Wire	Accrued Interest:	\$ _____
	<input type="checkbox"/> Check	Capitalized Interest:	\$ _____
		Reserve Account:	\$ _____
		Other:	\$ _____

REFUNDS & TRANSFERS BY MBC AT CLOSE

By:	<input type="checkbox"/> Wire	To Escrow Trustee	\$ _____
	<input type="checkbox"/> Check	To Issuer	\$ _____
	<input type="checkbox"/> IGT	To Cons. Invest. Func	\$ _____
		To Other:	\$ _____

NOTES: The Series 2009 B Bonds are 100% forgivable. The Reserve Account will not be funded

FOR MUNICIPAL BOND COMMISSION USE ONLY:

DOCUMENTS REQUIRED: \_\_\_\_\_

TRANSFERS REQUIRED: \_\_\_\_\_

**WV MUNICIPAL BOND COMMISSION**

1207 Quarrier Street  
Suite 401  
Charleston, WV 25301  
(304) 558-3971

**NEW ISSUE REPORT FORM**

Date of Report: 13-Aug-09

(See Reverse for Instructions)

ISSUE: Town of Petersburg  
Water Revenue Bonds, Series 2009 C (West Virginia DWTRF Program)

ADDRESS: 21 Mount View Street, Petersburg, WV 26847 COUNTY: Grant

PURPOSE OF ISSUE:

New Money: x  
Refunding: \_\_\_\_\_

REFUNDS ISSUE(S) DATED: NA

ISSUE DATE: 13-Aug-09

CLOSING DATE: 13-Aug-09

ISSUE AMOUNT: \$2,500,000

RATE: 0% NO Administrative Fee

1ST DEBT SERVICE DUE: 1-Mar-11

1ST PRINCIPAL DUE: 1-Mar-11

1ST DEBT SERVICE AMOUNT \$20,834

PAYING AGENT: Municipal Bond Commission

BOND COUNSEL:

Firm: Steptoe & Johnson PLLC  
Contact: John Stump, Esquire  
Phone: (304) 353.8196

UNDERWRITERS COUNSEL

Firm: Jackson Kelly, PLLC  
Contact: Samme Gee, Esquire  
Phone: (304) 340-1318

CLOSING BANK:

Bank: Grant County Bank  
Contact: George Ford  
Phone: 304.257.4111

ESCROW TRUSTEE:

Firm: \_\_\_\_\_  
Contact: \_\_\_\_\_  
Phone: \_\_\_\_\_

KNOWLEDGEABLE ISSUER CONTACT

Contact: Gary Michael  
Position: Mayor  
Phone: (304) 257-4944

OTHER:

Agency: West Virginia Bureau for Public Health  
Contact: Robert DeCrease  
Position: Manager  
Phone: (304) 558-2981

DEPOSITS TO MBC AT CLOSE

By: \_\_\_\_\_ Wire \_\_\_\_\_  
\_\_\_\_\_ Check \_\_\_\_\_  
Accrued Interest: \$ \_\_\_\_\_  
Capitalized Interest: \$ \_\_\_\_\_  
Reserve Account: \$ \_\_\_\_\_  
Other: \$ \_\_\_\_\_

REFUNDS & TRANSFERS BY MBC AT CLOSE

By: \_\_\_\_\_ Wire \_\_\_\_\_  
\_\_\_\_\_ Check \_\_\_\_\_  
\_\_\_\_\_ IGT \_\_\_\_\_  
To Escrow Trustee \$ \_\_\_\_\_  
To Issuer \$ \_\_\_\_\_  
To Cons. Invest. Func \$ \_\_\_\_\_  
To Other: \_\_\_\_\_ \$ \_\_\_\_\_

NOTES: The Series 2009 C Reserve Account to be funded over 10 years  
\_\_\_\_\_  
\_\_\_\_\_

FOR MUNICIPAL BOND COMMISSION USE ONLY:

DOCUMENTS REQUIRED: \_\_\_\_\_  
TRANSFERS REQUIRED: \_\_\_\_\_  
\_\_\_\_\_

TOWN OF PETERSBURG

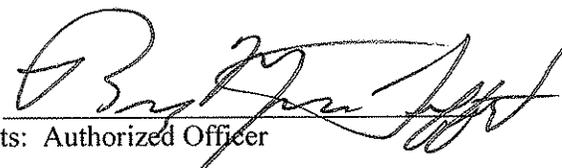
Water Revenue Bonds, Series 2009 B  
(West Virginia DWTRF Program/ARRA); and  
Water Revenue Bonds, Series 2009 C  
(West Virginia DWTRF Program)

ACCEPTANCE OF DUTIES AS REGISTRAR

THE HUNTINGTON NATIONAL BANK, Charleston, West Virginia, hereby accepts appointment as Registrar in connection with the Town of Petersburg Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA), dated August 13, 2009, issued in the principal amount of \$2,915,000 and Water Revenue Bonds, Series 2009 C (West Virginia DWTRF Program), dated August 13, 2009, issued in the principal amount of \$2,500,000 (collectively the "Bonds"), and agrees to perform all duties of Registrar in connection with the Bonds, all as set forth in the Bond Legislation authorizing issuance of the Bonds.

WITNESS my signature on this 13 day of August, 2009.

THE HUNTINGTON NATIONAL BANK

By: 

Its: Authorized Officer

TOWN OF PETERSBURG

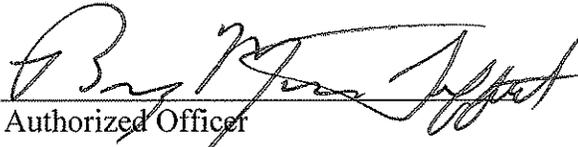
Water Revenue Bonds, Series 2009 B  
(West Virginia DWTRF Program/ARRA); and  
Water Revenue Bonds, Series 2009 C  
(West Virginia DWTRF Program)

CERTIFICATE OF REGISTRATION OF BONDS

THE HUNTINGTON NATIONAL BANK, Charleston, West Virginia, as Registrar under the Bond Legislation and Registrar's Agreement providing for the above-captioned Bonds of the Town of Petersburg (the "Issuer"), hereby certifies that on the date hereof, the single, fully registered Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA), of the Issuer, dated August 13, 2009, in the principal amount of \$2,915,000, numbered BR-1, and the single, fully registered Water Revenue Bonds, Series 2009 C (West Virginia DWTRF Program), of the Issuer, dated August 13, 2009 in the principal amount of \$2,500,000, numbered CR-1, were registered as to principal and interest, if any, in the name of "West Virginia Water Development Authority" in the books of the Issuer kept for that purpose at our office, by a duly authorized officer on behalf of The Huntington National Bank, as Registrar.

WITNESS my signature on this 13th day of August, 2009.

THE HUNTINGTON NATIONAL BANK

By:   
Its: Authorized Officer

TOWN OF PETERSBURG

Water Revenue Bonds, Series 2009 B  
(West Virginia DWTRF Program/ARRA); and  
Water Revenue Bonds, Series 2009 C  
(West Virginia DWTRF Program)

REGISTRAR'S AGREEMENT

THIS REGISTRAR'S AGREEMENT, dated as of the 13th day of August, 2009, by and between the TOWN OF PETERSBURG, a municipal corporation and political subdivision of the State of West Virginia (the "Issuer"), and THE HUNTINGTON NATIONAL BANK, Charleston, West Virginia (the "Registrar").

WHEREAS, the Issuer has, contemporaneously with the execution hereof, issued and sold its \$2,915,000 Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program/ARRA) and \$2,500,000 Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA), in fully registered form (collectively, the "Bonds"), pursuant to the Bond Ordinance of the Issuer duly enacted November 3, 2008, the Supplemental Resolution of the Issuer duly adopted April 15, 2009 and Second Supplemental Resolution duly adopted on July 6, 2009 (collectively, the "Bond Legislation");

WHEREAS, capitalized words and terms used in this Registrar's Agreement and not otherwise defined herein shall have the respective meanings given them in the Bond Legislation, a copy of which is attached as EXHIBIT A hereto and incorporated herein by reference;

WHEREAS, the Bond Legislation provides for an appointment by the Issuer of a Registrar for the Bonds; and

WHEREAS, the Issuer desires to appoint, and by the Bond Legislation and this Registrar's Agreement does appoint, the Registrar to act as Registrar under the Bond Legislation and to take certain other actions hereinafter set forth;

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

1. Upon the execution of this Registrar's Agreement by the Issuer and the Registrar and during the term hereof, the Registrar does accept and shall have and carry out the powers and duties of Registrar for the Bonds, all as set forth in the Bond Legislation, such duties including, among other things, the duties to authenticate, register and deliver Bonds upon original issuance and when properly presented for exchange or transfer, and shall do so with the intention of maintaining the exclusion of interest, if any, on the Bonds from gross income for federal income tax purposes, in accordance with any rules and regulations promulgated by the United States Treasury Department or by the Municipal

Securities Rulemaking Board or similar regulatory bodies as the Issuer advises it of and with generally accepted industry standards.

2. The Registrar agrees to furnish the Issuer with appropriate records of all transactions carried out by it as Registrar and to furnish the Issuer with the names and specimen signatures of the Registrar's authorized officers for the purposes of acting as the Registrar and with such other information and reports as the Issuer may from time to time reasonably require.

3. The Registrar shall have no responsibility or liability for any action taken by it at the specific direction of the Issuer.

4. As compensation for acting as Registrar pursuant to this Registrar's Agreement, the Issuer hereby agrees to pay to the Registrar the compensation for services rendered as provided in the annexed schedule.

5. It is intended that this Registrar's Agreement shall carry out and implement provisions of the Bond Legislation with respect to the Registrar. In the event of any conflict between the terms of this Registrar's Agreement and the Bond Legislation, the terms of the Bond Legislation shall govern.

6. The Issuer and the Registrar each warrants and represents that it is duly authorized and empowered to execute and enter into this Registrar's Agreement and that neither such execution nor the performance of its duties hereunder or under the Bond Legislation will violate any order, decree or agreement to which it is a party or by which it is bound.

7. This Registrar's Agreement may be terminated by either party upon 60 days' written notice sent by registered or certified mail to the other party, at the following respective addresses:

ISSUER:                   Town of Petersburg  
                              P.O. Box 669  
                              Petersburg, WV 26847  
                              Attention: Mayor

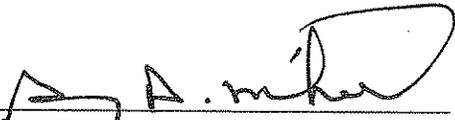
REGISTRAR:            The Huntington National Bank  
                              One Huntington Square  
                              Charleston, West Virginia 25301  
                              Attention: Corporate Trust Department

8. The Registrar shall not discriminate on the basis of race, color, national origin or sex in the performance of this Agreement. The registrar shall carry out applicable requirements of 40 CFR part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the Registrar to carry out these requirements is a material breach of this Agreement which may result in the termination of this Agreement or other legal available remedies.

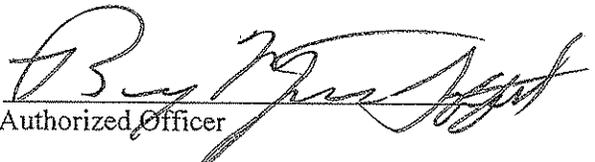
9. The Registrar is hereby requested and authorized to authenticate and deliver the Bonds in accordance with the Bond Legislation.

IN WITNESS WHEREOF, the parties hereto have respectively caused this Registrar's Agreement to be signed in their names and on their behalf, all as of the day and year first above-written.

TOWN OF PETERSBURG

By:   
Its: Mayor

THE HUNTINGTON NATIONAL BANK

By:   
Its: Authorized Officer

698490.00008

EXHIBIT A

Bond Legislation included in bond transcript

SCHEDULE OF COMPENSATION

(Please see attached)



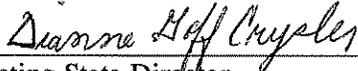
**United States Department of Agriculture  
Rural Development**  
West Virginia State Office

August 13, 2009

Town of Petersburg  
Water Revenue Bonds, Series 2009 B  
(West Virginia DWTRF/ARRA); and  
Water Revenue Bonds, Series 2009 C  
(West Virginia DWTRF Program)

TO WHOM IT MAY CONCERN:

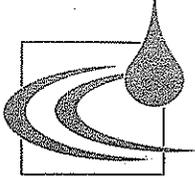
The undersigned duly authorized representative of the United States of America, acting through the Rural Utilities Service, United States Department of Agriculture, the present holder of the entire outstanding aggregate principal amount of the Prior Bonds, hereinafter defined and described, hereby (i) consents to the issuance of the Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA), in the original aggregate principal amount of \$2,915,000 and Water Revenue Bonds, Series 2009 C (West Virginia DWTRF Program), in the original aggregate principal amount of \$2,500,000 (collectively the "Bonds"), by the Town of Petersburg (the "Issuer"), under the terms of the bond ordinance authorizing the issuance of the Bonds (the "Ordinance"), on a parity, with respect to liens, pledge and source of and security for payment, with the Issuer's outstanding Water Revenue Bonds, Series 1975, dated November 10, 1976, issued in the original aggregate principal amount of \$474,000 (the "Prior Bonds"); and (ii) waives any requirements imposed by the Prior Bonds or the ordinance authorizing the Prior Bonds (the "Prior Ordinance"), regarding the issuance of parity bonds which are not met by the Bonds or the Ordinance.

  
Acting State Director

Federal Building • 75 High Street • Suite 320 • Morgantown, WV 26505-7500  
Phone: (304) 284-4860 OR 1-800-295-8228 • Fax: (304) 284-4893 • TDD: (304) 284-4836  
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Washington, DC 20250-9410 or call (800)795-3272 (voice) or (202) 720-6382 (TDD).



WEST VIRGINIA  
**Water Development Authority**  
Celebrating 34 Years of Service 1974 - 2008

August 13, 2009

**TOWN OF PETERSBURG**

**Water Revenue Bonds, Series 2009 B  
(West Virginia DWTRF/ARRA); and  
Water Revenue Bonds, Series 2009 C  
(West Virginia DWTRF Program)**

**TO WHOM IT MAY CONCERN:**

In reliance upon the certificate of Griffith and Associates, the independent certified public accountant and an opinion of Steptoe & Johnson PLLC, bond counsel, that the coverage and parity tests have been met, the undersigned duly authorized representative of the West Virginia Water Development Authority (the "Authority"), the registered owner of the entire outstanding aggregate principal amount of the Series 1996 Bonds and the Series 2009 A Bonds, hereinafter defined and described, hereby consents to the issuance of the Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA) (the "Series 2009 B Bonds"), in the original aggregate principal amount of \$2,915,000, and the Water Revenue Bonds, Series 2009 C (West Virginia DWTRF Program) (the "Series 2009 C Bonds") in the original aggregate principal amount of \$2,500,000 (collectively, the "Bonds" or the "Series 2009 Bonds"), by the Town of Petersburg (the "Issuer"), under the terms of the ordinance authorizing the Bonds, on a parity, with respect to liens, pledge and source of and security for payment, with the Issuer's Water Revenue Bonds, Series 1996 (West Virginia Water Development Authority), dated August 29, 1996, issued in the original aggregate principal amount of \$492,590 (the "Series 1996 Bonds") and Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program), dated April 16, 2009, issued in the original aggregate principal amount of \$2,700,000 (the "Series 2009 A Bonds").

**WEST VIRGINIA WATER DEVELOPMENT  
AUTHORITY**

By: Carol A. Cummings  
Its: Authorized Representative

698490.00008



STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
BUREAU FOR PUBLIC HEALTH  
OFFICE OF ENVIRONMENTAL HEALTH SERVICES

Joe Manchin III  
Governor

Martha Yeager Walker  
Secretary

**WEST VIRGINIA BUREAU FOR PUBLIC HEALTH**  
Drinking Water Treatment Revolving Fund  
Binding Commitment (Revised)  
**SCHEDULE A (Revised 7-31-09)**

July 31, 2009

**A. Project:**

City of Petersburg  
Water Treatment Plant Upgrade/Tank Replacement Project  
Grant County  
IJDC No.: 2005W-882  
DWTRF No.: 05DWTRFA009

**B. Drinking Water Treatment Revolving Fund:**

Loan A (Approximate Amount):	\$2,700,000
Terms:	2% + 1% administrative fee
Maturity Date:	20 years
Special Conditions (if any):	\$2,398,418 of DWTRF will be match to STAG grant through repayments
Loan B (DWTRF ARRA)	\$2,915,000
Terms:	0%
Maturity Date:	10 years
Special Conditions:	No annual debt service payment (Principal Forgiveness for this loan)
Loan C (DWTRF Base Program):	\$2,500,000
Terms:	0%
Maturity Date:	30 years
Special Conditions:	Annual debt service payment is estimated to be \$83,333 plus reserve requirement.

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Capitol and Washington Streets  
1 Davis Square, Suite 200  
Charleston, West Virginia 25301-1798  
Telephone: 304-558-2981

**NOTE 1:** Final loan amount will be determined upon receipt of contract bids.

**NOTE 2:** There will not be an administration fee for loans B and C.

**C. Other Funding Sources:**

STAG (SAP) - \$2,931,400

**D. Total Project Cost:** - \$11,054,815

**E. Proposed User Rates:**

Petersburg Average: \$ 22.40 per 4,000 gallons

Grant County PSD Resale Rate: \$2.40 per 1,000 gallons