

**CITY OF POINT PLEASANT**  
**Combined Waterworks and Sewerage System Revenue Bonds,**  
**Series 1989 A and Series 1989 B**

**Date of Closing: June 27, 1989**

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**CITY OF POINT PLEASANT**  
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**SERIES 1989 A AND SERIES 1989 B**  
**and**  
**INTERIM CONSTRUCTION FINANCING**

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CITY OF POINT PLEASANT

ORDINANCE

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS FOR THE SEWERAGE PORTION OF THE EXISTING COMBINED PUBLIC WATERWORKS AND SEWERAGE FACILITIES OF THE CITY OF POINT PLEASANT AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$2,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1989 A, NOT MORE THAN \$500,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1989 B, AND NOT MORE THAN \$6,000,000 INTERIM CONSTRUCTION FINANCING, CONSISTING OF BOND ANTICIPATION NOTES, GRANT ANTICIPATION NOTES OR A LINE OF CREDIT EVIDENCED BY NOTES OR ANY COMBINATION OF THE FOREGOING; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS AND NOTES; AUTHORIZING EXECUTION AND DELIVERY OF A TRUST INDENTURE SECURING THE NOTES; APPROVING AND RATIFYING A LOAN AGREEMENT AND SUPPLEMENTAL LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND NOTES AND ADOPTING OTHER PROVISIONS RELATING THERETO.

BE IT ORDAINED AND ENACTED BY THE COUNCIL OF THE CITY OF POINT PLEASANT:

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 adopted pursuant to the provisions of Chapter 8, Article 20 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 Point Pleasant (the "Issuer") is a municipal corporation and political subdivision of the State of West Virginia in Mason County of said State.

B. The Issuer presently owns and operates a public combined waterworks and sewerage system. However, it is deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer that there be constructed certain additions, betterments and improvements for the existing sewerage facilities portion of such system, consisting of acquisition and construction of a new wastewater treatment plant and upgrading of pumping stations, together with all appurtenant facilities and that there be performed certain engineering studies relating to such sewerage facilities (collectively, the "Project") which constitute properties for the collection and transportation of liquid or solid wastes, sewage or industrial wastes (the existing combined waterworks and sewerage facilities of the Issuer, the Project and any further additions thereto or extensions thereof is herein called the "System") at an estimated cost of \$4,330,683, 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 the costs of the operation and maintenance of said System, the principal of and interest on the Prior Bonds and the Bonds and all Sinking Funds, Reserve Accounts and other payments provided for herein and in the Prior Ordinance, all as such terms are hereinafter defined.

D. It is deemed necessary for the Issuer to issue its Combined Waterworks and Sewerage System Revenue Bonds in the total aggregate principal amount of not more than \$2,500,000 in two series, being the Series 1989 A Bonds in the aggregate principal amount of not more than \$2,000,000, and the Series 1989 B Bonds in the aggregate principal amount of not more than \$500,000 (collectively, the "Original Bonds"), and (at the option of the Issuer) to issue its sewerage system bond anticipation notes prior to issuance of the Original Bonds and contemporaneously therewith, or as soon as practicable thereafter, to issue its sewerage system grant anticipation notes, and/or a note or notes evidencing a line of credit, or any combination of the foregoing (collectively, the "Notes") in the aggregate principal amount of not more than \$6,000,000 to temporarily finance costs of construction and acquisition of the Project. Said costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor; interest upon the Notes during the term thereof and upon the Bonds prior to and during construction or acquisition and

for a period not exceeding 6 months after completion of construction of the Project; amounts which may be deposited in the Reserve Accounts; engineering and legal expenses; expenses for estimates of costs and revenues, expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense, commitment fees, fees of the Authority (as hereinafter defined), discount, initial fees for the services of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Bonds and Notes and such other expenses as may be necessary or incidental to the financing herein authorized, the construction or acquisition of the Project and the placing of same in operation, and the performance of the things herein required or permitted, in connection with any thereof, including, with respect to the Notes, any fees for the providing of a letter of credit, as hereinafter defined, and any costs of obtaining insurance thereon; provided, that reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Bonds or Notes or the repayment of indebtedness incurred by the 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 Original Bonds be sold to the Authority (as hereinafter defined) pursuant to the terms and provisions of a loan agreement and a supplemental loan agreement to be entered into between the Issuer and the Authority, in form satisfactory to the Issuer and the Authority, as shall be approved by supplemental resolution.

G. There is an outstanding obligation of the Issuer which will rank on a parity with the Series 1989 A Bonds and which will rank senior and prior to the Series 1989 B Bonds as to lien and source of and security for payment, being the Water and Sewer Revenue Bond, Series 1976, dated May 3, 1978, issued in the original aggregate principal amount of \$1,870,000, of which \$1,841,243 remains outstanding as of the date of enactment of this Ordinance (the "Prior Bonds").

The Series 1989 A Bonds shall be issued on a parity with the Prior Bonds with respect to lien, pledge and in all other respects. The Series 1989 B Bonds shall be issued junior and subordinate to the Prior Bonds and the Series 1989 A Bonds as set forth herein. The Grant Anticipation Notes, if issued, will not be payable from the Net Revenues, but shall be payable from Grant Receipts, Surplus Revenues and proceeds of a letter of credit, if any, all as shall be set forth in the Indenture or the Supplemental Resolution authorizing the Notes.

The Bond Anticipation Notes, if issued, will be payable from the proceeds of the Bonds and Net Revenues, if necessary, all as shall be set forth in the Indenture or the Supplemental Resolution authorizing the Notes.

H. The Issuer has complied with all requirements of West Virginia law relating to authorization of the construction, acquisition and operation of the Project and issuance of the Bonds and the Notes, or will have so complied prior to issuance of any thereof, including, among other things, the obtaining of a Certificate of Convenience and Necessity from the 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 Bonds or any of the Notes or such final order will not be subject to appeal.

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 System, 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)(C) 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 during the calendar year in which the Notes or the Bonds are to be issued.

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

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

"Act" means Chapter 8, Article 20 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 of the Original Bonds, or any other agency of the State of West Virginia that succeeds to the functions of the Authority.

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

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

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

"Bond Legislation," "Ordinance," "Bond and Notes Ordinance" or "Local Act" means this Bond and Notes 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.

"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.

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

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

"Code" means the Internal Revenue Code of 1986, as amended, and 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 engineer or firm of engineers that shall at any time hereafter be retained by the Issuer as Consulting Engineers for the System.

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

"Debt Service" means the scheduled amount of interest and amortization of principal payable on the Bonds during the period of computation, excluding amounts scheduled during such period which relate to principal which has been retired before the beginning of such period.

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

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

"Excess Investment Earnings" means an amount equal to the sum of:

(A) The excess of

(i) The aggregate amount earned from the Closing Date on all Nonpurpose Investments in which Gross Proceeds of the Series 1989 A Bonds are invested [other than amounts attributable to an excess described in this clause (A) of this definition of Excess Investment Earnings], over

(ii) The amount that would have been earned if the Yield on such Nonpurpose Investments [other than amounts attributable to an excess described in this clause (A) of this definition of Excess Investment Earnings] had been equal to the Yield on the Series 1989 A Bonds, plus

(B) Any income attributable to the excess described in clause (A) of this definition of Excess Investment Earnings.

"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 may 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 Agreement" means a written commitment for the payment of the EPA Grant or any of the Other Grants, specifying the amount of such Grant, the terms and conditions upon which such Grant is made and the date or dates or event or events upon which such Grant is to be paid to the Issuer; provided that, "EPA Grant Agreement" means only the Grant Agreement relating to the EPA Grant and "Other Grant Agreements" means only those Grant Agreements relating to the Other Grants.

"Grant Receipts" means all moneys received by the Issuer on account of any Grant after the date of issuance of any grant anticipation notes; provided that "EPA Grant Receipts" means only Grant Receipts on account of the EPA Grant, and "Other Grant Receipts" means only Grant Receipts on account of any or all of the Other Grants.

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

"Gross Proceeds," except as otherwise provided in the Regulations, means the sum of the following amounts:

(i) Original proceeds, namely, net amounts received by or for the Issuer as a result of the sale of the Series 1989 A Bonds, excluding original proceeds which become transferred proceeds (determined in accordance with applicable Regulations) of obligations issued to refund in whole or in part the Series 1989 A Bonds;

(ii) Investment proceeds, namely, amounts received at any time by or for the Issuer, such as interest and dividends, resulting from the investment of any original proceeds (as referenced in clause (i) above) or investment proceeds (as referenced in this clause (ii)) in Nonpurpose Investments, increased by any profits and decreased (if necessary, below zero) by any losses on such investments, excluding investment proceeds which become transferred proceeds (determined in accordance with applicable Regulations) of obligations issued to refund in whole or in part the Series 1989 A Bonds;

(iii) Transferred proceeds, namely, original proceeds of any prior obligations, and interest earnings and profits less losses resulting from investment of such original proceeds in Nonpurpose Investments, which are used to discharge the outstanding principal of any prior bonds and which are deemed to become proceeds of the Series 1989 A Bonds ratably as original proceeds of the Series 1989 A Bonds, and interest earnings and profits resulting from investment of such original proceeds in Nonpurpose Investments, which are used to discharge the outstanding principal of any such prior obligations, all on the date of such ratable discharge;

(iv) Sinking fund proceeds of the Series 1989 A Bonds, namely, amounts, other than original proceeds, investment proceeds or transferred proceeds (as referenced in clauses (i) through (iii) above) of the Series 1989 A Bonds, which are held in any fund to the extent that the Issuer reasonably expects to use such fund to pay Debt Service on the Series 1989 A Bonds;

(v) Amounts in the Reserve Accounts and in any other fund established as a reasonably required reserve or replacement fund with respect to the Series 1989 A Bonds;

(vi) Investment Property pledged as security for payment of Debt Service on the Series 1989 A Bonds by the Issuer;

(vii) Amounts, other than as specified in this definition, used to pay Debt Service on the Series 1989 A Bonds;

(viii) Amounts received as a result of investing amounts described in this definition; and

(ix) Such other amounts designated as Gross Proceeds under the Code and/or Regulations and not set forth hereinbefore in this definition of Gross Proceeds.

"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.

"Indenture" or "Trust Indenture" means the Trust Indenture which may, at the Issuer's option, be entered into between the Issuer and the Trustee relating to the Notes and all supplements or amendments thereto.

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

"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 Point Pleasant, in Mason County, West Virginia, and, unless the context clearly indicates otherwise, includes the Governing Body of the Issuer.

"Loan Agreement" shall mean, collectively, the Loan Agreement and the Supplemental Loan Agreement, to be entered into between the Authority and the Issuer providing for the purchase of the Original Bonds from the Issuer by the Authority, the forms 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 1989 A Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds deposited in the Series A 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 1989 A 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 of the Bonds and is not acquired in order to carry out the governmental purpose of the Bonds.

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

"Notes" means collectively, the not more than \$6,000,000 in aggregate principal amount of sewerage system bond anticipation notes, grant anticipation notes or notes evidencing a line of credit originally authorized hereby which may be issued by the Issuer, the terms of which shall be set forth in a Supplemental Resolution, and unless the context clearly indicates otherwise, the terms "Notes" includes any refunding Notes of the Issuer.

"Notes Construction Trust Fund" means the Notes Construction Trust Fund which may be established by the Indenture.

"Notes Debt Service Fund" means the Notes Debt Service Fund which may be established by the Indenture.

"Notes Registrar" means the bank to be designated as such in the Indenture or the Supplemental Resolution and its successors and assigns.

"Operating Expenses" means the reasonable, proper and necessary costs of repair, maintenance and operation of the System and includes, without limiting the generality of the foregoing, administrative, engineering, legal, auditing and insurance expenses, other than those capitalized as part of the Costs, fees and expenses of the Authority, fiscal agents, the Depository Bank, Registrar, Paying Agent and the Trustee (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 Bonds or Notes, charges for depreciation, losses from the sale or other disposition of, or from any decrease in the value of, capital assets, amortization of debt discount or such miscellaneous deductions as are applicable to prior accounting periods.

"Original Bonds" or "Bonds originally authorized hereby" or similar phrases mean, collectively, the not more than \$2,000,000 in aggregate principal amount of Series 1989 A Bonds and the not more than \$500,000 in aggregate principal amount of Series 1989 B Bonds, issued for the purpose of paying a portion of the Costs of the Project and for such other purposes permitted and authorized by this Bond Legislation.

"Original Notes Purchaser" means, in the event Notes are issued, the original purchaser of such Notes, as shall be named in the Supplemental Resolution, and, in the event a note or notes evidencing a line of credit are issued, such bank or banks as shall be named in a resolution supplemental hereto.

"Other Grants" means any other grant other than the EPA Grant hereafter received by the Issuer to aid in financing any Costs.

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

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

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

"Prior Bond" means the Water and Sewer Revenue Bond, Series 1976 of the Issuer, dated May 3, 1978, issued in the original principal amount of \$1,870,000, of which \$1,841,243 remains outstanding as of the date of enactment of this Ordinance.

"Prior Ordinance" means the ordinance of the Issuer enacted May 2, 1977, authorizing the Prior Bonds.

"Private Business Use" means use directly or indirectly in a trade or business carried on by a natural person, including all persons "related" to such person within the meaning of Section 144(a)(3) of the Code, or in any activity carried on by a person other than a natural person, including all persons "related" to such person within the meaning of Section 144(a)(3) of the Code, excluding, however, use by a state or local governmental unit and use as a member of the general public. All of the foregoing shall be determined in accordance with the Code, including, without limitation, giving due regard to "incidental use," if any, of the proceeds of the issue and/or proceeds used for "qualified improvements," if any.

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

"Project" means the acquisition and construction of certain additions, betterments and improvements for the existing sewerage facilities portion of the combined waterworks and sewerage system of the Issuer, consisting generally of a new wastewater treatment plant and upgrading of pumping stations, together with all appurtenant facilities, and the performance of certain engineering studies relating to such sewerage facilities.

"Purchase Price," for the purpose of computation of the Yield of the Series 1989 A Bonds, has the same meaning as the term "issue price" in Sections 1273(b) and 1274 of the Code, and, in general, means the initial offering price of the Series 1989 A Bonds to the public (not including bond houses and brokers, or similar persons or organizations acting in the capacity of underwriters or

wholesalers) at which price a substantial amount of the Series 1989 A Bonds of each maturity is sold or, if the Series 1989 A Bonds are privately placed, the price paid by the first buyer of the Series 1989 A Bonds or the acquisition cost of the first buyer. "Purchase Price," for purposes of computing Yield of Nonpurpose Investments, means the fair market value of the Nonpurpose Investments on the date of use of Gross Proceeds of the Series 1989 A Bonds for acquisition thereof, or if later, on the date that Investment Property constituting a Nonpurpose Investment becomes a Nonpurpose Investment of the Series 1989 A Bonds.

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

(a) Government Obligations;

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

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

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

(e) Time accounts (including accounts evidenced by time certificates of deposit, time deposits or other similar banking arrangements) which, to the extent not insured by the FDIC or Federal Savings and Loan Insurance Corporation,

shall be secured by a pledge of Government Obligations, provided, that said Government Obligations pledged either must mature as nearly as practicable coincident with the maturity of said time accounts or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said time accounts;

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

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

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

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

"Registrar" means as appropriate, either the Bond Registrar or the Notes Registrar or both.

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

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

"Series 1989 A Bonds" or "Series A Bonds" means the not more than \$2,000,000 in aggregate principal amount of Combined Waterworks and Sewerage System Revenue Bonds, Series 1989 A, of the Issuer.

"Series 1989 A Bonds Reserve Account" means the Series 1989 A Bonds Reserve Account established in the Series 1989 A Bonds Sinking Fund pursuant to Section 5.02 hereof.

"Series 1989 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 1989 A Bonds in the then current or any succeeding year.

"Series 1989 A Bonds Sinking Fund" means the Series 1989 A Bonds Sinking Fund established by Section 5.02 hereof.

"Series 1989 B Bonds" or "Series B Bonds" means the not more than \$500,000 in aggregate principal amount of Combined Waterworks and Sewerage System Revenue Bonds, Series 1989 B, of the Issuer.

"Series 1989 B Bonds Reserve Account" means the Series 1989 B Bonds Reserve Account established in the Series 1989 B Bonds Sinking Fund pursuant to Section 5.02 hereof.

"Series 1989 B Bonds Reserve Requirement" means, as of the date of calculation, the maximum amount of principal which will become due on the Series 1989 B Bonds in the then current or any succeeding year.

"Series 1989 B Bonds Sinking Fund" means the Series 1989 B Bonds Sinking Fund established by Section 5.02 hereof.

"State" means the State of West Virginia.

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

"Surplus Revenues" means the Net Revenues not required by the Bond Legislation to be set aside and held for the payment of or security for the Bonds, the Prior Bonds or any other obligations of the Issuer, including the Depreciation Account and the Reserve Accounts, the proceeds of which Bonds or other obligations are to be used to pay Costs of the Project.

"System" means the combined waterworks and sewerage system of the Issuer, the sewerage facilities portion of which constitute public service properties for the collection, treatment, purification or disposal of liquid or solid wastes, sewage or industrial wastes, and any improvements or extensions thereto hereafter constructed or acquired from any sources whatsoever, and includes the Project.

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

"Trustee" means the banking institution designated as trustee for the Noteholders under the Indenture, if any, its successors and assigns.

"Yield" means that yield which, when used in computing the present worth of all payments of principal and interest (or other payments in the case of Nonpurpose Investments which require payments in a form not characterized as principal and interest) on a Nonpurpose Investment or on the Series 1989 A Bonds produces an amount equal to the Purchase Price of such Nonpurpose Investment or the Bonds, all computed as prescribed in applicable Regulations.

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

ARTICLE II

AUTHORIZATION OF CONSTRUCTION  
AND ACQUISITION OF THE PROJECT

Section 2.01. Authorization of Construction and Acquisition of the Project. There is hereby authorized the construction and acquisition of the Project, at an estimated cost of \$4,330,683, 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 Notes and the Bonds hereby authorized shall be applied as provided in the Indenture, if any, and Article VI hereof, respectively.

### 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 1989 A Bonds, funding a reserve account for each series of Original Bonds, paying Costs of the Project not otherwise provided for and paying certain costs of issuance of the Original Bonds and related costs, or any of such purposes, as determined by the Supplemental Resolution, there shall be issued negotiable Original Bonds of the Issuer, in an aggregate principal amount of not more than \$2,500,000. Said Bonds shall be issued in two series, to be designated respectively, "Combined Waterworks and Sewerage System Revenue Bonds, Series 1989 A," in the aggregate principal amount of not more than \$2,000,000, and "Combined Waterworks and Sewerage System Revenue Bonds, Series 1989 B," in the aggregate principal amount of not more than \$500,000, and shall have such terms as set forth hereinafter and in the Supplemental Resolution. Such Bonds shall be issued contemporaneously with or prior to issuance of the Grant Anticipation Notes, if any. The proceeds of the 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 Bond Construction Trust Fund established by Section 5.01 hereof.

Section 3.02. Terms of Bonds. The Bonds shall bear interest at such rate or rates, not exceeding 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 mailed to the registered owner thereof at the address as it appears on the books of the Bond Registrar, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner thereof.

Unless otherwise provided by the Supplemental Resolution, the Original Bonds shall be issued in the form of a single bond for each series, fully registered to the Authority, with a debt service schedule attached, representing the aggregate principal amount of each series, and shall mature in principal installments, all as provided in the Supplemental Resolution. The Bonds of each series shall be exchangeable at the option and expense of the Holder for other fully

registered Bonds of the same series in aggregate principal amount equal to the amount of said Bonds then Outstanding and being exchanged, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of said Bonds; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

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

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

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

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

negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Holder shall further be conclusively deemed to have agreed that said Bonds shall be incontestable in the hands of a bona fide holder for value.

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

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

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

Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost.  
In case any Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue, and the Bond Registrar shall, if so advised by the Issuer, authenticate and deliver, a new Bond of the same series and of like tenor as the Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Holder's furnishing satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer and the Bond Registrar may incur. All Bonds so surrendered shall be cancelled by the Bond Registrar and held for the account of the Issuer. If any such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the Issuer may pay the same, upon being indemnified

as aforesaid, and if such Bond be lost, stolen or destroyed, without surrender thereof.

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

Section 3.08. Bonds Secured by Pledge of Net Revenues; Lien Positions with Respect to Prior Bonds. The payment of the debt service of all the Series 1989 A 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 Net Revenues in favor of the Holders of the Prior Bonds. The payment of the debt service of all the Series 1989 B Bonds shall also be secured forthwith equally and ratably with each other by a lien on the Net Revenues derived from the System, but junior and subordinate to the lien on such Net Revenues in favor of the Holders of the Prior Bonds and the Series 1989 A Bonds. Such Net Revenues in an amount sufficient to pay the principal of and interest on and other payments for the Bonds and to make the payments into the Sinking Funds, the Reserve Accounts therein and the Renewal and Replacement Fund, hereinafter established, are hereby irrevocably pledged to the payment of the principal of and interest on the Bonds as the same become due.

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

[Form of Series 1989 A Bond]

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
CITY OF POINT PLEASANT  
COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BOND,  
SERIES 1989 A

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

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

KNOW ALL MEN BY THESE PRESENTS: That the CITY OF POINT PLEASANT, a municipal corporation and political subdivision of the State of West Virginia in Mason 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 \_\_\_\_\_

( \$ \_\_\_\_\_ ), in installments on October 1 of each year (except for the final installment due April 1, 2029) as set forth on the "Schedule of Annual Debt Service" attached as Exhibit A hereto and incorporated herein by reference with interest on each installment at the rate per annum set forth on said Exhibit A.

The interest rate on each installment shall run from the original date of delivery of this Bond to the Authority and payment therefor, and until payment of such installment, and such interest shall be payable on April 1 and October 1 in each year, beginning October 1, 1989. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent"). The interest on this Bond is payable by check or draft of the Paying Agent mailed to the registered owner hereof at the address as it appears on the books of One Valley Bank, National Association, Charleston, West Virginia, as registrar (the "Registrar") on the 15th day of the month next preceding an interest payment date, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner hereof.

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

by, and otherwise in compliance with, the Loan Agreement between the Issuer and the Authority, dated \_\_\_\_\_, 1989.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain additions, betterments and improvements for the sewerage facilities portion of the existing combined waterworks and sewerage system of the Issuer (the "Project"); (ii) to fund a reserve account for the Bonds of this Series (the "Bonds"); and (iii) to pay certain costs of issuance hereof and related costs. The existing combined waterworks and sewerage system of the Issuer, the Project, and any further additions, betterments or improvements thereto is herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 8, Article 20 of the West Virginia Code of 1931, as amended (the "Act"), and an Ordinance duly enacted by the Issuer on \_\_\_\_\_, 1989 and a Supplemental Resolution duly adopted by the Issuer on \_\_\_\_\_, 1989 (collectively called the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

This Bond is issued concurrently with the Combined Waterworks and Sewerage System Revenue Bonds, Series 1989 B, of the Issuer (the "Series 1989 B Bonds"), issued in the aggregate principal amount of \$ \_\_\_\_\_, which Series 1989 B Bonds are junior and subordinate with respect to liens and sources of and security for payment to the Bonds.

THIS BOND IS ON A PARITY WITH RESPECT TO LIENS, PLEDGES AND SOURCES OF AND SECURITY FOR PAYMENT TO THE ISSUER'S WATER AND SEWER BOND, SERIES 1976, DATED MAY 3, 1978, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$1,870,000 (THE "PRIOR BONDS").

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on a parity with the Prior Bonds, moneys in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 1989 A Bonds Reserve Account"), and unexpended proceeds of the Bonds and the Series 1989 B Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning

of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest hereon except from said special fund provided from the Net Revenues, the moneys in the Series 1989 A Bonds Reserve Account and unexpended proceeds of the Bonds and the Series 1989 B 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 on the Bonds, the Series 1989 B Bonds, and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds or the Series 1989 B Bonds, including the Prior Bonds, provided however, that so long as there exists in the Series 1989 A Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for the Series 1989 B Bonds and any other obligations outstanding prior to or on a parity with the Bonds or the Series 1989 B Bonds, including the Prior Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

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

Subject to 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, shall be applied solely to the payment of the Costs of the Project 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 owner of this Bond.

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

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

IN WITNESS WHEREOF, the CITY OF POINT PLEASANT 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 \_\_\_\_\_, 1989.

[SEAL]

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Recorder

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 1989 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: \_\_\_\_\_

ONE VALLEY BANK, NATIONAL ASSOCIATION,  
as Registrar

By \_\_\_\_\_  
Its Authorized Officer

4

EXHIBIT A

SCHEDULE OF ANNUAL DEBT SERVICE

1

(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:

\_\_\_\_\_

[Form of Series 1989 B Bond]

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
CITY OF POINT PLEASANT  
COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BOND,  
SERIES 1989 B

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

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

KNOW ALL MEN BY THESE PRESENTS: That the CITY OF POINT PLEASANT, a municipal corporation and political subdivision of the State of West Virginia in Mason 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 \_\_\_\_\_

(\$\_\_\_\_\_), in annual installments on October 1 of each year (except for the final installment due April 1, 2029) as set forth on the "Schedule of Annual Debt Service" attached as Exhibit A hereto and incorporated herein by reference, without interest.

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").

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 Supplemental Loan Agreement between the Issuer and the Authority, dated \_\_\_\_\_, 1989.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain additions, betterments and improvements for the sewerage facilities portion of the existing combined waterworks and sewerage system of the Issuer (the "Project"); (ii) to fund a reserve account for the Bonds of this Series (the "Bonds"); and (iii) to pay certain costs of issuance hereof and related costs. The existing combined waterworks and sewerage system of the Issuer, the Project, and any further additions, betterments or improvements thereto is herein called the "System." This Bond is

issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 8, Article 20 of the West Virginia Code of 1931, as amended (the "Act"), and an Ordinance duly enacted by the Issuer on \_\_\_\_\_, 1989 and a Supplemental Resolution duly adopted by the Issuer on \_\_\_\_\_, 1989 (collectively called the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS JUNIOR AND SUBORDINATE WITH RESPECT TO LIENS, PLEDGES AND SOURCES OF AND SECURITY FOR PAYMENT TO CERTAIN OUTSTANDING COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS OF THE ISSUER AS FOLLOWS:

(i) WATER AND SEWER REVENUE BOND, SERIES 1976, DATED MAY 3, 1978, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$1,870,000 (THE "PRIOR BONDS"); AND

(ii) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1989 A, ISSUED CONCURRENTLY HERewith IN THE AGGREGATE PRINCIPAL AMOUNT OF \$ \_\_\_\_\_ AND DESCRIBED IN THE BOND LEGISLATION (THE "SERIES 1989 A 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 after there has first been paid from said Net Revenues all payments then due and owing on account of the Prior Bonds and the Series 1989 A Bonds, all moneys in the reserve account created under the Bond Legislation for the Bonds (the "Series 1989 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, except from said special fund provided from the Net Revenues, the moneys in the Series 1989 B Bonds Reserve Account and unexpended Bond proceeds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other

revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds, the Series 1989 A Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity therewith, including the Prior Bonds, provided however, that so long as there exists in the Series 1989 B Bonds Reserve Account and the reserve account established for the Series 1989 A Bonds, respectively, amounts at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds and the Series 1989 A Bonds in the then current or any succeeding year, and any reserve account for any such prior or parity obligations, including the Prior Bonds, is funded at least at 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 One Valley Bank, National Association, Charleston, West Virginia, as registrar (the "Registrar") by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond together with a written instrument of transfer satisfactory to the Bond Registrar duly executed by the registered owner or its attorney duly authorized in writing.

Subject to the registration requirements as 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, shall be applied solely to the payment of the Costs of the Project 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 owners of the Bonds, which lien is subordinate to the lien in favor of the registered owners of the Series 1989 A Bonds.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond have existed, have

happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of 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 POINT PLEASANT 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 \_\_\_\_\_, 1989.

[SEAL]

\_\_\_\_\_  
Mayor

ATTEST:

4  
\_\_\_\_\_  
Recorder

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 1989 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: \_\_\_\_\_

ONE VALLEY BANK, NATIONAL ASSOCIATION,  
as Registrar

By \_\_\_\_\_  
Its Authorized Officer

1

EXHIBIT A

SCHEDULE OF ANNUAL DEBT SERVICE

1

(Form of)

ASSIGNMENT

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

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

Dated: \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
In the presence of:

\_\_\_\_\_

Section 3.10. Sale of Original Bonds; Ratification of Execution of Loan Agreement with Authority. The Original Bonds shall be sold to the Authority, pursuant to the terms and conditions of the Loan Agreement. If not so authorized by previous 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, ratified and approved.

Section 3.11. "Amended Schedule A" Filing; Tender of Series 1989 B Bonds. 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. In the event such schedule reflects an excess of funding for the Project, or if the Authority is otherwise advised of an excess, the Authority may tender the Series 1989 B Bonds to the Issuer for payment in an amount equal to such excess. Notwithstanding the foregoing, if the Issuer has Notes outstanding upon completion of construction of the Project, it will advise the Authority of such fact and submit a second schedule to the Authority upon payment of such Notes, and the Authority will not tender its Series 1989 B Bonds for payment until the outstanding Notes have been paid.

## ARTICLE IV

### INTERIM CONSTRUCTION FINANCING

Section 4.01. Authorization and General Terms. In order to pay certain Costs of the Project pending receipt of the Grant Receipts or issuance of the Bonds, the Issuer may issue and sell its Notes in an aggregate principal amount not to exceed \$6,000,000. The Notes may be in the form of bond anticipation notes, grant anticipation notes or as evidence of a line of credit from a commercial bank or other lender, at the discretion of the Issuer, and as shall be set forth in a resolution supplemental hereto. The Notes shall bear interest from the date or dates, at such rate or rates, payable on such dates and shall mature on such date or dates and be subject to such prepayment or redemption, all as provided in the Indenture or supplemental resolution, as applicable.

Section 4.02. Terms of and Security for Notes; Trust Indenture. The Notes, if issued, shall be issued in fully registered form, in the denominations, with such terms and secured in the manner set forth in the Indenture, if applicable (which Indenture in the form to be executed and delivered by the Issuer shall be approved by a supplemental resolution), or supplemental resolution, if no Indenture is used.

Section 4.03. Notes are Special Obligations. The Notes shall be special obligations of the Issuer payable as to principal and interest solely from proceeds of the Bonds or the Net Revenues (if issued in the form of bond anticipation notes) or the Grant Receipts, the Surplus Revenues, the letter of credit proceeds and other sources described in the Indenture or supplemental resolution (if issued in the form of grant anticipation notes or a line of credit). The Notes do not and shall not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions. The general funds of the Issuer are not liable, and neither the full faith and credit nor the taxing power of the Issuer is pledged for the payment of the Notes. The Holders of the Notes shall never have the right to compel the forfeiture of any property of the Issuer. The Notes shall not be a debt of the Issuer, nor a legal or equitable pledge, charge, lien or encumbrance upon any property of the Issuer or upon any of its income, receipts or revenues except as set forth in the Indenture and the Supplemental Resolution.

Section 4.04. Letters of Credit. As additional security for any Notes, the Issuer may obtain a letter or letters of credit from a bank or banks, pursuant to which such bank or banks would agree to pay to the Trustee, upon presentation by the Trustee of certain

certificates, the sum or sums set forth therein but not to exceed \$1,500,000 in the aggregate. In the event of a draw under any such letter of credit, the Issuer shall issue its refunding notes to the bank issuing such letter of credit. Any such letter or letters of credit shall be authorized and shall have such terms as shall be set forth in a resolution supplemental hereto.

ARTICLE V

FUNDS AND ACCOUNTS; SYSTEM REVENUES AND APPLICATION THEREOF

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

- (1) Revenue Fund (established by the Prior Ordinance);
- (2) Operation and Maintenance Fund (established by the Prior Ordinance);
- (3) Prior Bonds Reserve Account (established by the Prior Ordinance);
- (4) Depreciation Account (established by the Prior Ordinance);
- (5) Renewal and Replacement Account; and
- (6) Bond Construction Trust Fund.

Section 5.02. Establishment of Funds and Accounts with Commission. The following special funds or accounts are hereby established with the Commission:

- (1) Series 1989 A Bonds Sinking Fund;
  - (a) Within the Series 1989 A Bonds Sinking Fund, the Series 1989 A Bonds Reserve Account.
- (2) Series 1989 B Bonds Sinking Fund;
  - (a) Within the Series 1989 B Bonds Sinking Fund, the Series 1989 B 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 herein provided.

(1) The Issuer shall first each month transfer from the Revenue Fund to the Operation and Maintenance Fund the amount necessary and sufficient to pay current Operating Expenses.

(2) The Issuer shall next, each month (i) transfer from the Revenue Fund and pay to the "National Finance Office" designated in the Prior Bonds the amount required to pay the interest on the Prior Bonds and to amortize the principal of the Prior Bonds over the life of such Bond issue, (ii) on the first day of each month, commencing 7 months prior to the first date of payment of interest on the Series 1989 A Bonds for which interest has not been capitalized, apportion and set apart out of the Revenue Fund and remit to the Commission, for deposit in the Series 1989 A Bonds Sinking Fund, a sum equal to 1/6th of the amount of interest which will become due on said Series 1989 A Bonds on the next ensuing semiannual interest payment date; provided, that, in the event the period to elapse between the date of such initial deposit in the Series 1989 A Bonds Sinking Fund and the next semiannual interest payment date is less than 7 months, then such monthly payments shall be increased proportionately to provide, one month prior to the next semiannual interest payment date, the required amount of interest coming due on such date, and (iii) on the first day of each month, commencing 13 months prior to the first date of payment of principal on the Series 1989 A Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1989 A Bonds Sinking Fund, a sum equal to 1/12th of the amount of principal which will mature and become due on said Series 1989 A Bonds on the next ensuing principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 1989 A Bonds Sinking Fund and the next annual principal payment date is less than 13 months then such monthly payments shall be increased proportionately to provide, one month prior to the next annual principal payment date, the required amount of principal coming due on such date.

(3) The Issuer shall next (i) by the 15th day of each month, transfer from the Revenue Fund to the Prior Bonds Reserve Account, 1/120 of the maximum amount of principal and interest becoming due on the Prior Bonds in any year until the amount in the Prior Bonds Reserve Account equals such maximum annual aggregate amount of principal and interest, (ii) on the first day of each month, commencing

13 months prior to the first date of payment of principal of the Series 1989 A Bonds, if not fully funded upon issuance of the Series 1989 A Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1989 A Bonds Reserve Account, an amount equal to 1/120 of the Series 1989 A Bonds Reserve Requirement; provided, that no further payments shall be made into the Series 1989 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 1989 A Bonds Reserve Requirement.

(4) The Issuer 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 Fund heretofore established by the Prior Ordinance until there has been accumulated therein the sum of \$115,000, and thereafter such sums as shall be required to maintain such amount therein. Moneys in the Depreciation Fund shall be used by the Issuer first to make up any deficiencies for the payment of principal of and interest on the Prior Bonds or the Series 1989 A Bonds as the same become due, and next to restore to the Prior Bonds Reserve Account or the Series 1989 A Bonds Reserve Account any sum or sums transferred therefrom to pay the principal or interest on the Prior Bonds or the Series 1989 A Bonds. Thereafter, and provided that payments of installments of the Prior Bonds and the Series 1989 A Bonds and into the Reserve Accounts therefor are current and in accordance with the foregoing provisions, moneys in the Depreciation Fund may be withdrawn by the Issuer and used for extensions, replacements and improvements for the System, or any part thereof.

(5) From the moneys remaining in the Revenue Fund, the Issuer shall next, on the first day of each month, transfer to 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 accordance with Article VIII hereof. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, emergency repairs, improvements or extensions to the System; provided, that any deficiencies in the Prior Bonds Reserve Account or the Series 1989 A Bonds Reserve Account [except to the extent such deficiency exists because the required payments into such account have not, as of the date of

determination of a deficiency, funded such account to the maximum extent required by Subsection 5.03(a)(3)] shall be promptly eliminated with moneys from the Renewal and Replacement Fund.

(6) The Issuer shall next, on the first day of each month, commencing 13 months prior to the first date of payment of principal on the Series 1989 B Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1989 B Bonds Sinking Fund, a sum equal to 1/12th of the amount of principal which will mature and become due on said Series 1989 B Bonds on the next ensuing principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 1989 B Bonds Sinking Fund and the next annual principal payment date is less than 13 months then such monthly payments shall be increased proportionately to provide, one month prior to the next annual principal payment date, the required amount of principal coming due on such date.

(7) The Issuer shall next, on the first day of each month, commencing 13 months prior to the first date of payment of principal of the Series 1989 B Bonds, if not fully funded upon issuance of the Series 1989 B Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1989 B Bonds Reserve Account, an amount equal to 1/120 of the Series 1989 B Bonds Reserve Requirement; provided, that no further payments shall be made into the Series 1989 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 1989 B Bonds Reserve Requirement.

Moneys in the Series 1989 A Bonds Sinking Fund and the Series 1989 B Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest, if any, on the respective series of Bonds as the same shall become due. Moneys in the Series 1989 A Bonds Reserve Account and the Series 1989 B Bonds Reserve Account shall be used only for the purpose of paying principal of and interest, if any, on the respective series of Bonds, as the same shall come due, when other moneys in the attendant Sinking Fund are insufficient therefor, and for no other purpose.

All investment earnings on moneys in the several Sinking Funds and Reserve Accounts shall be returned, not

less than once each year, by the Commission to the Issuer, and such amounts shall, during construction of the Project, be deposited in the Bond Construction Trust Fund, and following completion of construction of the Project, shall be deposited in the Revenue Fund and applied in full, first to the next ensuing interest payments, if any, due on the respective Series of Bonds, and then to the next ensuing principal payments due thereon.

Any withdrawals from the Series 1989 A Bonds Reserve Account which result in a reduction in the balance of the Series 1989 A Bonds Reserve Account to below the Series 1989 A Bonds Reserve Requirement shall be subsequently restored from the first Gross Revenues available after all required payments to the Prior Bonds Sinking Funds and the Series 1989 A Bonds Sinking Fund for payment of debt service on the Prior Bonds and the Series 1989 A Bonds have been made in full.

Any withdrawals from the Series 1989 B Bonds Reserve Account which result in a reduction in the balance of the Series 1989 B Bonds Reserve Account to below the Series 1989 B Bonds Reserve Requirement shall be subsequently restored from the first Gross Revenues available after all required payments to the Prior Bonds Sinking Funds, the Series 1989 A Bonds Sinking Fund, the Series 1989 A Bonds Reserve Account, the Depreciation Account and the Series 1989 B Bonds Sinking Fund have been made in full.

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

The Issuer shall not be required to make any further payments into the Series 1989 A Bonds Sinking Fund, or the Series 1989 B Bonds Sinking Fund or into the Reserve Accounts therein when the aggregate amount of funds in said respective Sinking Funds and Reserve Accounts are at least equal to the aggregate principal amount of the respective Bonds issued pursuant to this Bond Legislation then

Outstanding and all interest to accrue until the respective maturities thereof.

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

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

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

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

B. Whenever all of the required and provided transfers and payments from the Revenue Fund into the several special funds, as hereinbefore provided, are current and there remains in said Revenue Fund a balance in excess of the estimated amounts required to be so transferred and paid into the Sinking Funds, including the Reserve Accounts therein and the Sinking Funds established for the Prior Bonds, and the Depreciation Account 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, including, but not limited to, payment to the Trustee for deposit in the Notes Debt Service Fund.

C. The Issuer shall remit from the Revenue Fund to the Commission, the Registrar, the Paying Agent or the Depository Bank, on such dates as the Commission, the Registrar, the Paying Agent or the Depository Bank, as the case may be, shall require, such additional sums as shall be necessary to pay the Depository Bank's charges and the Paying Agent fees then due.

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

E. If on any monthly payment date the revenues are insufficient to place the required amount in any of the funds and accounts as hereinabove provided, the deficiency shall be made up in the subsequent payments in addition to the payments which would otherwise be required to be made into the funds and accounts on the subsequent payment dates; provided, however, that the priority of curing deficiencies in the funds and accounts herein shall be in the same order as payments are to be made pursuant to this Section 5.03 and the Net Revenues shall be applied to such deficiencies before being applied to any other payments hereunder; and provided further, that all payments to be made on a parity basis shall, in the event that revenues or other funds are insufficient therefor, be made pro-rata, in accordance with the Outstanding principal amounts of each respective issue of bonds.

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

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

H. All Tap Fees shall be deposited by the Issuer, as received, in the Bond Construction Trust Fund, and following completion of the Project, shall be deposited in the Revenue Fund and may be used for any lawful purpose of the System, provided that, in the event Notes are issued, Tap Fees may, with the written consent of the Authority be deposited otherwise.

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

A. From the proceeds of the Series 1989 A Bonds, there shall first be deposited with the Commission in the Series 1989 A Bonds Sinking Fund, the amount, if any, specified in the Supplemental Resolution as capitalized interest; provided, that such amount may not exceed the amount necessary to pay interest on the Series 1989 A Bonds for the period commencing on the date of issuance of the Bonds and ending 6 months after the estimated date of completion of construction of the Project.

B. Next, from the proceeds of the Series 1989 A Bonds, there shall be deposited with the Commission in the Series 1989 A Bonds Reserve Account and from the proceeds of the Series 1989 B Bonds, there shall be deposited with the Commission in the Series 1989 B Reserve Account the respective sums, if any, set forth in the Supplemental Resolution for funding of the Reserve Accounts.

C. Next, from the proceeds of the Series 1989 A Bonds, there shall first be credited to the Bond Construction Trust Fund and then paid, any and all borrowings by the Issuer made for the purpose of temporarily financing a portion of the Costs of the Project, 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 Bonds shall be deposited with the Depository Bank in the Bond Construction Trust Fund and applied solely to payment of Costs of the Project in the manner set forth in Section 6.02.

E. The Depository Bank shall act as a trustee and fiduciary for the Bondholder with respect to the Bond Construction Trust Fund and shall comply with all requirements with respect to the disposition of the Bond Construction Trust Fund set forth in the Bond Legislation. Moneys in the Bond Construction Trust Fund shall be used solely to pay Costs of the Project and until so expended, are hereby pledged as additional security for the Series 1989 A Bonds, and thereafter for the Series 1989 B Bonds. In the event that Notes are issued, the disposition of funds in the Bonds Construction Trust Fund

may be modified from that set forth herein, with the written consent of the Authority.

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

Except as provided in Section 6.01 hereof, disbursements from the Bond Construction Trust Fund (except for the costs of issuance of the Original 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 Bond Construction Trust Fund only the net amount remaining after deduction of any such portion. All payments made from the Bond Construction Trust Fund shall be presumed by the Depository Bank to be made for the purposes set forth in said certificate, and the Depository Bank shall not be required to monitor the application of disbursements from the Bond Construction Trust Fund. The Consulting Engineers shall from time to time file with the Depository Bank written statements advising the Depository Bank of its then authorized representative.

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

After completion of the Project, as certified by the Consulting Engineers, the Depository Bank shall transfer any moneys remaining in the Bond Construction Trust Fund to the Series 1989 A Bonds Reserve Account, and when fully funded to the Series 1989 B

Bonds Reserve Account, and when both Reserve Accounts are fully funded, shall return such remaining moneys 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, if any, due on the respective Series of Bonds and thereafter to the next ensuing principal payments due thereon. Notwithstanding the foregoing, if the Authority tenders any of its Series 1989 B Bonds to the Issuer pursuant to the provisions of the Supplemental Loan Agreement, such moneys shall be applied to the purchase of such Series 1989 B Bonds.

## ARTICLE VII

### ADDITIONAL COVENANTS OF THE ISSUER

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

Until the payment in full of the principal of and interest on the Notes when due, and to the extent they do not materially adversely affect Bondholders, the covenants, agreements and provisions contained in this Bond Legislation shall, where applicable, also inure to the benefit of the Holders of the Notes and the Trustee therefor and constitute valid and legally binding covenants of the Issuer, enforceable in any court of competent jurisdiction by the Trustee or any Holder or Holders of said Notes as prescribed in the Indenture; provided, that Section 7.09 shall not be applied to the Grant Anticipation Notes.

Section 7.02. Bonds and Notes not to be Indebtedness of the Issuer. Neither the Bonds nor the Notes shall be or constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Bond Legislation. No Holder or Holders of any Bonds or Notes, shall ever have the right to compel the exercise of the taxing power of the Issuer to pay said Bonds or Notes or the interest thereon.

Section 7.03. Bonds Secured by Parity and Subordinate Pledge of Net Revenues; Lien Positions with Respect to Prior Bonds. The payment of the debt service of the Series 1989 A 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 in favor of the Holders of the Prior Bonds. Payment of the debt service of the Series 1989 B Bonds issued hereunder shall be secured forthwith equally and ratably by a lien on said Net Revenues, but such lien shall be junior and subordinate to the lien on said Net Revenues in favor of the Holders of the Prior Bonds and the Series 1989 A Bonds. The Revenues derived from the

System, in an amount sufficient to pay the principal of and interest on the Prior Bonds and the Bonds and to make the payments into the Sinking Funds, including the Reserve Accounts therein, and all other payments provided for in the Bond Legislation are hereby irrevocably pledged, in the manner provided herein, to the payment of the principal of and interest on the Bonds as the same become due, and for the other purposes provided in the Bond Legislation.

Section 7.04. Initial Schedule of Rates and Charges. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth in the ordinance of the Issuer enacted May 8, 1989.

Section 7.05. Sale of the System. Except as otherwise required by law, the System may not be sold, mortgaged, leased or otherwise disposed of except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to pay fully all the Bonds and Notes, if any, Outstanding, or to effectively defease this Bond Legislation in accordance with Section 10.01 hereof and, if entered into and not previously defeased, the Indenture in accordance with Section 8.01 thereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall, with respect to the Bonds, immediately be remitted to the Commission for deposit in the Sinking Funds, and, with the written permission of the Authority, or in the event the Authority is no longer a Bondholder, the Issuer shall direct the Commission to apply such proceeds to the payment of principal at maturity of and interest on the Bonds. Any balance remaining after the payment of all the Bonds and interest thereon shall be remitted to the Issuer by the Commission unless necessary for the payment of other obligations of the Issuer payable out of the revenues of the System. With respect to the Notes, such proceeds in an amount sufficient to pay the Notes in full shall be applied to the payment of the Notes, either at maturity or, if allowable under the Supplemental Resolution or Indenture, prior thereto.

The foregoing provision notwithstanding, the Issuer shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. Prior to any such sale, lease or other disposition of such property, if the amount to be received therefor, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, is not in excess of \$10,000, the Issuer shall, by resolution, determine that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then provide for the sale of such property. The

proceeds of any such sale shall be deposited in the Depreciation Account. If the amount to be received from such sale, lease or other disposition of said property, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, shall be in excess of \$10,000 but not in excess of \$50,000, the Issuer shall first, determine upon consultation with the Consulting Engineers that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then, if it be so advised, by resolution duly adopted, authorize such sale, lease or other disposition of such property upon public bidding. The proceeds derived from any such sale, lease or other disposition of such property, aggregating during such Fiscal Year in excess of \$10,000 and not in excess of \$50,000, shall with the written consent of the Authority, be remitted by the Issuer to the Commission for deposit in the Sinking Fund and shall be applied only to the purchase of Bonds of the last maturities then Outstanding at prices not greater than the par value thereof plus 3% of such par value or otherwise. Such payment of such proceeds into the Sinking Fund or the Depreciation Account 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 and the Consulting Engineers. The Issuer shall prepare the form of such approval and consent for execution by the then Holders of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 7.06. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. Except as provided in this Section 7.06 and in Section 7.07B, the Issuer shall not issue any obligations whatsoever with a lien on or otherwise payable from any source of payment pledged originally to the Notes issued under the Indenture or supplemental resolution prior to or on a parity with the lien on behalf of such Notes until such Notes have been defeased in accordance with the provisions of the Indenture and the Bond Legislation; and, so long as any of the Bonds are Outstanding, the Issuer shall not issue any other obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Bonds; provided, however, that additional Bonds on a parity with the Series 1989 B Bonds only may be issued as provided for in Section 7.07 hereof. All obligations issued by the

Issuer after the issuance of the Bonds and payable from the revenues of the System, except such additional parity Bonds, shall contain an express statement that such obligations are junior and subordinate, as to lien on and source of and security for payment from such revenues and in all other respects, to the Series 1989 A Bonds and the Series 1989 B Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into the Reserve Accounts and the Depreciation Account at the time of the issuance of such subordinate obligations have been made and are current.

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

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

All Parity Bonds issued hereunder shall be on a parity in all respects with the Series 1989 B Bonds. No Parity Bonds shall be issued which shall be payable out of the revenues of the System on a parity with the Series 1989 A Bonds, unless the Series 1989 B Bonds are no longer outstanding.

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

No Parity Bonds shall be issued at any time, however, unless there has been procured and filed with the Recorder a written statement by the Independent Certified Public Accountants, based upon the necessary investigation and certification by the Consulting Engineers, reciting the conclusion that the Net Revenues actually derived, subject to the adjustments hereinafter provided for, from the System during any 12 consecutive months, within the 18 months immediately preceding the date of the actual issuance of such Parity Bonds, plus the estimated average increased annual Net Revenues to be received in each of the 3 succeeding years after the completion of the improvements to be financed by such Parity Bonds, shall not be less than 115% of the largest aggregate amount that will mature and become

due in any succeeding Fiscal Year for principal of and interest on the following:

(1) The Prior Bonds and any other obligations with a lien on the Gross Revenues prior to that of the Bonds;

(2) The Bonds then Outstanding;

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

(4) 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 adopted 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.

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

All covenants and other provisions of this Bond Legislation (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the Holders of the Bonds and the Holders of any Parity Bonds subsequently issued from time to time within the limitations of and in compliance with

this section. 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.

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

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on the revenues of the System is subject to the prior and superior liens of the Series 1989 A Bonds and the Series 1989 B 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 1989 A Bonds or the Series 1989 B Bonds.

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

B. Notwithstanding the foregoing, or any provision of Section 7.06 to the contrary, additional Bonds 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 bonds on a parity with the Bonds.

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

parts thereof and all records, accounts and data of the Issuer relating thereto.

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

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

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

(B) A balance sheet statement showing all deposits in all the funds and accounts provided for in this Bond Legislation and the Indenture with respect to said Bonds or Notes, as the case may be, and the status of all said funds and accounts.

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

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be audited by Independent Certified Public Accountants and shall mail upon request, and make available generally, the report of said Independent Certified Public Accountants, or a summary thereof, to any Holder or Holders of Bonds or Notes, as the case may be, and shall submit said report to the Trustee and the Authority, or any other original purchaser of the Bonds. Such audit report submitted to the Authority shall include a statement that the Issuer is in compliance with the terms and provisions of the Loan Agreement and this Bond Legislation.

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 reasonable expenses of operation, repair and maintenance 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 on the Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds, including the Prior Bonds; provided that, in the event that amounts equal to or in excess of the Reserve Requirements are on deposit respectively in the Reserve Accounts and reserve accounts for obligations prior to or on a parity with the 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 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. 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 and Audit. The Issuer shall annually, at least 45 days preceding the beginning of each Fiscal Year, prepare and adopt by resolution a detailed, balanced budget of the estimated expenditures for operation and maintenance of the System during the succeeding Fiscal Year. No expenditures for the operation and maintenance of the System shall be made in any Fiscal Year in excess of the amounts provided therefor in such budget without a written finding and recommendation by the Consulting Engineers, which finding and recommendation shall state in detail the purpose of and necessity for such increased expenditures for the operation and maintenance of the System, and no such increased expenditures shall be made until the Issuer shall have approved such finding and recommendation by a resolution duly adopted. No increased expenditures in excess of 10% of the amount of such budget shall be made except upon the further certificate of the Consulting Engineers that such increased expenditures are necessary for the continued operation of the System. The Issuer shall mail copies of such annual

budget and all resolutions authorizing increased expenditures for operation and maintenance to the Trustee and the Authority and to any Holder of any Bonds or Notes, as the case may be, 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 Trustee and to any Holder of any Bonds or Notes, as the case may be, or anyone acting for and in behalf of such Holder of any Bonds or Notes, as the case may be.

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

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

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

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

of the System delinquent in payment of charges for the services of the System and will not restore such services of either system until all delinquent charges for the services of the System, plus reasonable interest and penalty charges for the restoration of service, have been fully paid and shall take all further actions to enforce collections to the maximum extent permitted by law.

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

Section 7.14. Insurance and Construction Bonds. A. The Issuer hereby covenants and agrees that so long as any of the Bonds or the Notes 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 said Renewal and Replacement Fund. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance (fire and extended coverage) to protect the interests of the Issuer, 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 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, to the extent available at reasonable cost to the Issuer.

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

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 7.15. Mandatory Connections. The mandatory use of the System is essential and necessary for the protection and preservation of the public health, comfort, safety, convenience and welfare of the inhabitants and residents of, and the economy of, the Issuer and in order to assure the rendering harmless of sewage and water-borne waste matter produced or arising within the territory served by the System. Accordingly, every owner, tenant or occupant of any house, dwelling or building located near the System, where sewage will flow by gravity or be transported by such other methods

approved by the State Department of Health from such house, dwelling or building into the System, to the extent permitted by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, shall connect with and use the System and shall cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from such house, dwelling or building where there is such gravity flow or transportation by such other method approved by the State Department of Health and such house, dwelling or building can be adequately served by the System, and every such owner, tenant or occupant shall, after a 30 day notice of the availability of the System, pay the rates and charges established therefor.

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

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

Section 7.17. Tax Covenants. The Issuer hereby further covenants and agrees as follows:

A. PRIVATE BUSINESS USE LIMITATION. The Issuer shall assure that (i) not in excess of 10% of the Net Proceeds of the Bonds are used for Private Business Use if, in addition, the payment of more than 10% of the principal or 10% of the interest due on the Bonds during the term thereof is, under the terms of the Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for a Private Business Use or in payments in respect of property used or to be used for a Private Business Use or is to be derived from payments, whether or not to the Issuer, in respect of property or borrowed money used or to be used for a Private Business Use; and (ii) and that, in the event that both (A) in excess of 5% of the Net Proceeds of the Bonds are used for a Private Business Use, and (B) an amount in excess of 5% of the principal or 5% of the interest due on the Bonds during the term thereof is, under the terms of the Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for said Private Business Use or in payments in respect of property used or to be used for said Private Business Use or is to be derived from payments, whether or not to the Issuer, in respect of property or borrowed money used or to be used

for said Private Business Use, then said excess over said 5% of Net Proceeds of the Bonds used for a Private Business Use shall be used for a Private Business Use related to the governmental use of the Project, or if the 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.

B. PRIVATE LOAN LIMITATION. The Issuer shall assure that not in excess of 5% of the Net Proceeds of the 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 Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Code and Regulations promulgated thereunder.

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

E. FURTHER ACTIONS. The Issuer will take any and all actions that may be required of it (including those deemed necessary by the Authority) so that the interest on the Bonds will be and remain excludable from gross income for federal income tax purposes, and will not take any actions, or fail to take any actions (including those determined by the Authority) which would adversely affect such exclusion.

Section 7.18. Statutory Mortgage Lien. For the further protection of the Holders of the Bonds, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding, shall take effect immediately upon delivery of the Bonds and shall be for the equal benefit of all Holders of each respective Series of Bonds, provided however, that the statutory mortgage lien in favor of the Holders of the Series 1989 A Bonds shall be on a parity with that of the Holders of the Prior Bonds and senior to the statutory mortgage lien in favor of the Holders of the Series 1989 B Bonds.

## 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 or the Indenture, other than the Revenue Fund, shall be invested and reinvested by the Commission, the Trustee, if any, 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, and the Indenture, if any, the need for such moneys for the purposes set forth herein and in the Indenture, if any, and the specific restrictions and provisions set forth in this Section 8.01 and in the Indenture.

Except as provided in the Indenture, if any, 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 Trustee, if any, 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 Trustee, if any, the Depository Bank, or such other bank or national banking association, as the case may be, may make any and all investments permitted by this section through its own bond department and shall not be responsible for any losses from such investments, other than for its own negligence or willful misconduct.

The Trustee, if any, and 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 Bonds are Outstanding.

Section 8.02. Arbitrage. The Issuer covenants that (i) it will restrict the use of the proceeds of the Bonds in such manner and to such extent as may be necessary, in view of the Issuer's reasonable expectations at the time of issuance of the Bonds, so that the Bonds will not constitute "arbitrage bonds" under Section 148 of the Code and Regulations, and (ii) it will take all actions that may be required of it (including, without implied limitation, the timely filing of a Federal information return with respect to the Bonds) so that the interest on the Bonds will be and remain excluded from gross income for Federal income tax purposes, and will not take any actions which would adversely affect such exclusion.

Section 8.03. Rebate of Excess Investment Earnings to the United States. In accordance with Section 148(f)(4)(C) of the Code, the Issuer covenants that it is a governmental unit with general taxing powers; that the Bonds are not private activity bonds as defined in Section 141 of the Code; that 95% or more of the Net Proceeds of the Bonds are to be used for local governmental activities of the Issuer (or of a governmental unit the jurisdiction of which is entirely within the jurisdiction of the Issuer); and that the aggregate face amount of all the tax-exempt obligations (other than private activity bonds as defined in Section 141 of the Code) issued by the Issuer during the calendar year in which the Bonds are issued will not exceed \$5,000,000, determined in accordance with Section 148(f)(4)(C) of the Code and the Regulations promulgated thereunder. For purposes of this Section 8.03 and for purposes of applying Section 148(f)(4)(C) 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 subordinate entity shall, for purposes of applying this Section 8.03 and Section 148(f)(4)(C) of the Code to any 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)(C) 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 shall take the following actions:

A. CREATION OF FUNDS. There are hereby created, to be held by the Depository Bank as separate funds distinct from all other funds and accounts held by the Depository Bank under this Bond Legislation, the Earnings Fund and the Rebate Fund. All interest earnings and profits on amounts in all funds and accounts established under this Bond Legislation, other than (i) interest earnings and profits on any

funds referenced in Subsection C(5) of this Section if such earnings in any Bond Year are less than \$500,000, provided that, if the Bonds are not private activity bonds (including any "qualified 501(c)(3) bond" as defined under Section 145 of the Code), if the average maturity of the issue of the Bonds (determined in accordance with Section 147(b)(2)(A) of the Code) is at least 5 years and if the rate of interest on the issue of the Bonds does not vary during the term of the issue, then this clause (i) of this Section 8.03A shall be applied without regard to such dollar limitation, (ii) interest earnings and profits on amounts in funds and accounts which do not constitute Gross Proceeds, (iii) interest earnings and profits on the Rebate Fund, and (iv) interest earnings and profits on amounts in funds and accounts otherwise excepted under the Regulations shall, upon receipt by the Depository Bank, be deposited in the Earnings Fund. In addition, all interest earnings and profits on Gross Proceeds in funds held by the Issuer shall, upon receipt, be paid to the Depository Bank for deposit in the Earnings Fund. Annually, before the 30th day following the end of each Bond Year or on the preceding business day in the event that such last day is not a business day, or such earlier date as may be required under the Code, the Depository Bank shall transfer from the Earnings Fund to the Rebate Fund for purposes of ultimate payment to the United States an amount equal to Excess Investment Earnings, all as more particularly described in this Section. Following the transfer referenced in the preceding sentence, the Depository Bank shall transfer all amounts remaining in the Earnings Fund to be used for the payment of Debt Service on the next interest payment date and for such purpose, Debt Service due from the Issuer on such date shall be credited by an amount equal to the amount so transferred.

B. DUTIES OF ISSUER IN GENERAL. The Issuer shall calculate Excess Investment Earnings in accordance with Subsection C and shall assure payment of an amount equal to Excess Investment Earnings to the United States in accordance with Subsections D and E.

C. CALCULATION OF EXCESS INVESTMENT EARNINGS. Within 15 days following the last day of the first Bond Year, or such earlier date as may be required under the Regulations, the Issuer shall calculate, and shall provide written notice to the Authority and Depository Bank of, the Excess Investment Earnings referenced in clause (A) of the definition of Excess Investment Earnings. Thereafter, within 15 days following the last day of each Bond Year and within 15 days following the date of the retirement of the Bond, or such earlier dates as may be required under the Regulations, the Issuer shall calculate, and shall provide written notice to the Authority and Depository Bank of, the amount of Excess Investment Earnings. Said calculations shall be made or caused to be made by the

Issuer in accordance with the following, or in accordance with such other requirements as may be applicable under the Regulations:

(1) Except as provided in (2), in determining the amount described in clause A(i) of the definition of Excess Investment Earnings, the aggregate amount earned on Nonpurpose Investments shall include (i) all income realized under federal income tax accounting principles (whether or not the person earning such income is subject to federal income tax) with respect to such Nonpurpose Investments and with respect to the reinvestment of investment receipts from such Nonpurpose Investments (without regard to the transaction costs incurred in acquiring, carrying, selling or redeeming such Nonpurpose Investments), including, but not limited to, gain or loss realized on the disposition of such Nonpurpose Investments (without regard to when such gains are taken into account under Section 453 of the Code relating to taxable year of inclusion of gross income), and income under Section 1272 of the Code (relating to original issue discount) and (ii) any unrealized gain or loss as of the date of retirement of the Bonds in the event that any Nonpurpose Investment is retained after such date.

(2) In determining the amount described in clause (A) of the definition of Excess Investment Earnings, Investment Property shall be treated as acquired for its fair market value at the time it becomes a Nonpurpose Investment, so that gain or loss on the disposition of such Investment Property shall be computed with reference to such fair market value as its adjusted basis.

(3) In determining the amount described in clause (A)(ii) of the definition of Excess Investment Earnings, the Yield on the Bonds shall be determined based on the actual Yield of the Bonds during the period between the Closing Date of the Bonds and the date the computation is made (with adjustments for original issue discount or premium).

(4) In determining the amount described in clause (B) of the definition of Excess Investment Earnings, all income attributable to the excess described in clause (A) of said definition must be taken into account, whether or not that income exceeds the Yield of the Bonds, and no amount may be treated as "negative arbitrage."

(5) In determining the amount of Excess Investment Earnings, there shall be excluded any amount

earned on any fund or account which is used primarily to achieve a proper matching of revenues and Debt Service within each Bond Year and which is depleted at least once a year except for a reasonable carryover amount not in excess of the greater of 1 year's earnings on such fund or account or 1/12th of annual Debt Service (which may include a portion of a fund or account, although not a separate and distinct fund or account) as well as amounts earned on said earnings if the gross earnings on such fund or account for the Bond Year is less than \$500,000, provided that, if the Bonds are not private activity bonds (including any "qualified 501(c)(3) bond" as defined under Section 145 of the Code), if the average maturity of the issue of the Bonds (determined in accordance with Section 147(b)(2)(A) of the Code) is at least 5 years and if the rate of interest on the issue of the Bonds does not vary during the term of the issue, then all amounts earned on such fund or account as well as amounts earned on said earnings shall be excluded in determining the amount of Excess Investment Earnings.

D. PAYMENT TO THE UNITED STATES. The Issuer shall direct the Depository Bank to pay from the Rebate Fund an amount equal to Excess Investment Earnings to the United States in installments with the first payment to be made not later than 30 days after the end of the 5th Bond Year and with subsequent payments to be made not later than 5 years after the preceding payment was due, except to the extent otherwise required under the Regulations. The Issuer shall assure that each such installment is in an amount equal to at least 90% of the Excess Investment Earnings with respect to the Gross Proceeds as of the close of the computation period or other period required under the Regulations. Not later than 60 days after the retirement of the Bonds, the Issuer shall direct the Depository Bank to pay from the Rebate Fund to the United States 100% of the theretofore unpaid Excess Investment Earnings in the Rebate Fund. In the event that there are any amounts remaining in the Rebate Fund following the payment required by the preceding sentence, the Depository Bank shall pay said amounts to the Issuer to be used for any lawful purpose of the System. The Issuer shall remit payments to the United States at the address prescribed by the Regulations as the same may be in time to time in effect with such reports and statements as may be prescribed by such Regulations. In the event that, for any reason, amounts in the Rebate Fund are insufficient to make the payments to the United States which are required by this Subsection D, the Issuer shall assure that such payments are made by the Issuer to the United States, on a timely basis, from any funds lawfully available therefor.

E. FURTHER OBLIGATIONS OF ISSUER. The Issuer shall assure that Excess Investment Earnings are not paid or disbursed except as

required in this Section. To that end the Issuer shall assure that investment transactions are on an arm's length basis and that Nonpurpose Investments are acquired at their fair market value. In the event that Nonpurpose Investments consist of certificates of deposit or investment contracts, investment in such Nonpurpose Investments shall be made in accordance with the procedures described in applicable Regulations as from time to time in effect. The Depository Bank shall keep the moneys in the Earnings Fund and Rebate Fund invested and reinvested to the fullest extent practicable in Government Obligations with maturities consonant with the required use thereof and investment profits and earnings shall be credited to the account of such fund on which earned.

F. MAINTENANCE OF RECORDS. The Issuer shall keep, and retain for a period of 6 years following the retirement of the Bonds, records of the determinations made pursuant to this Section 8.03.

G. INDEPENDENT CONSULTANTS. In order to provide for the administration of this Section 8.03, the Issuer and the Depository Bank (at the expense of the Issuer) may provide for the employment of independent attorneys, accountants or consultants compensated on such reasonable basis as the Issuer or the Depository Bank may deem appropriate.

H. FURTHER AGREEMENT. Notwithstanding the foregoing, the Issuer further covenants to comply with all Regulations from time to time in effect and applicable to the Bonds, as may be necessary in order to fully comply with Section 148(f) of the Code.

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

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, then the Issuer shall submit a certificate stating that it is exempt from the rebate provisions and that no event has occurred to its knowledge during the Bond Year which would make the Bonds subject to rebate.

ARTICLE IX

DEFAULT AND REMEDIES

Section 9.01. Events of Default. A. Each of the following events shall constitute an "Event of Default" with respect to the Notes:

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

(2) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part relating to the Notes set forth in this Bond Legislation, any supplemental resolution, the Indenture or in the Notes, 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 Trustee, any other bank or banking association holding any fund or account hereunder or a Holder of a Note; or

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

1 B. 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, Registrar or any other Paying Agent or a Holder of a Bond; or

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

Section 9.02. Remedies. Upon the happening and continuance of any Event of Default, any Registered Owner of a Note or Bond, as the case may be, 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 Notes or Bonds, as the case may be, (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 Notes or Bonds, as the case may be, and (v) by action or bill in equity enjoin any acts in violation of the Bond Legislation with respect to the Notes or Bonds, or the rights of such Registered Owners, provided however, that no remedy herein stated may be exercised by a Noteholder in a manner which adversely affects any remedy available to the Bondholders, and provided further, that all rights and remedies of the Holders of the Series 1989 B Bonds shall be subject to those of the Holders of the Series 1989 A Bonds.

Section 9.03. Appointment of Receiver. Any Registered Owner of a Bond or Bond Anticipation Note may, by proper legal action, compel the performance of the duties of the Issuer under the Bond Legislation and the Act, including, after commencement of operation of the System, the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any Event of Default with respect to such Bonds or Bond Anticipation Notes 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 possession, operation and maintenance of the System for the sole purpose of the protection of both the Issuer and Registered Owners of such Bonds and the curing and making good of any Event of Default with respect thereto under the provisions of this Bond Legislation, and the title to and ownership of said System shall remain in the Issuer, and no court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, assign, mortgage or otherwise dispose of any assets of the System.

ARTICLE X

DEFEASANCE

Section 10.01. Defeasance of Series 1989 A Bonds. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the respective Holders of all Series 1989 A Bonds, the principal of and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Bond Legislation, then with respect to the Series 1989 A Bonds only, the pledge of Gross Revenues and other moneys and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series 1989 A Bonds shall thereupon cease, terminate and become void and be discharged and satisfied.

Series 1989 A Bonds for the payment of which either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the Paying Agents at the same or earlier time, shall be sufficient, to pay as and when due either at maturity or at the next redemption date, the principal installments of and interest on such Series 1989 A 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 1989 A 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 1989 A 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 1989 A 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.

Section 10.02. Defeasance of Series 1989 B Bonds. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the respective Holders of all Series 1989 B Bonds, the principal due or to become due thereon, at the times and in the manner stipulated therein and in this Bond Legislation, then with respect to the Series 1989 B Bonds only, the pledge of Gross Revenues and other moneys and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series 1989 B Bonds shall thereupon cease, terminate and become void and be discharged and satisfied.

Series 1989 B Bonds for the payment of which either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the Paying Agents at the same or earlier time, shall be sufficient, to pay as and when due either at maturity or at the next redemption date the principal installments of such Series 1989 B 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 1989 B 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 said Series 1989 B 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 said Series 1989 B 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 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.

Section 10.03. Defeasance of Notes. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the respective Holders of any series of Notes, the principal of and interest due or to become due thereon, at the times and in the manner set forth in the Indenture, then with respect to such Notes only, this Bond Legislation, the Indenture, if any, and the pledges of Grant Receipts and other moneys and securities pledged thereby, and all covenants, agreements and other obligations of the Issuer to the Holders of the Notes shall thereupon cease, terminate and become void and be discharged and satisfied.

## ARTICLE XI

### MISCELLANEOUS

Section 11.01. Amendment or Modification of Bond Legislation. No material modification or amendment of this Bond Legislation, or of any resolution amendatory or supplemental hereto, that would materially and adversely affect the respective rights of Registered Owners of the Notes or Bonds shall be made without the consent in writing of the Registered Owners of 66-2/3% or more in principal amount of the Notes, the Series 1989 A Bonds or the Series 1989 B Bonds so affected and then Outstanding; provided, that no change shall be made in the maturity of any Bond or Bonds or any Note or Notes or the rate of interest thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest out of the funds herein respectively pledged therefor without the consent of the respective Registered Owner thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of Bonds or Notes respectively, 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 or Noteholder 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 Bonds and the Notes 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 Notes, 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, the Indenture, if any, the Bonds or the Notes, if any.

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.

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 enactment of this Ordinance do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Mayor, 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.

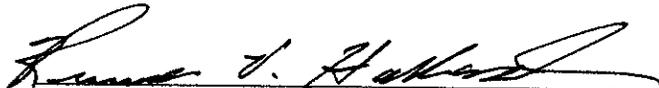
Section 11.08. Statutory Notice and Public Hearing. Upon adoption hereof, an abstract of this Bond Legislation determined by the Governing Body to contain sufficient information as to give notice of the contents hereof shall be published once a week for 2 successive weeks within a period of fourteen consecutive days, with at least 6 full days intervening between each publication, in the Point Pleasant Register, a qualified newspaper published and of general circulation in the City of Point Pleasant, together with a notice stating that this Bond Legislation has been adopted and that the Issuer contemplates the issuance of the Bonds and Notes, and that any person interested may appear before the City Council upon a date certain, not less than ten days subsequent to the date of the first publication of such abstract of this Bond Legislation and notice, and present protests, and that a certified copy of the Ordinance is on file with

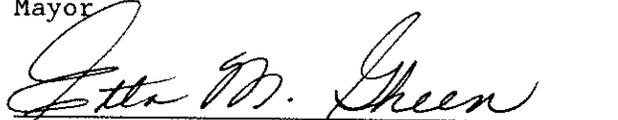
the Governing Body for review by interested persons during office hours of the Governing Body. At such hearing, all objections and suggestions shall be heard and the Governing Body shall take such action as it shall deem proper in the premises.

Passed on First Reading - May 8, 1989

Passed on Second Reading - May 22, 1989

Passed on Final Reading  
Following Public  
Hearing - June 12, 1989

  
\_\_\_\_\_  
Mayor

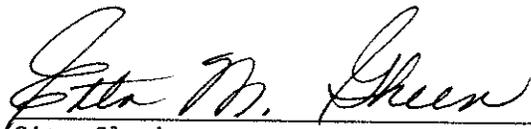
  
\_\_\_\_\_  
City Clerk

CERTIFICATION

Certified a true copy of an Ordinance duly enacted by the Council of the CITY OF POINT PLEASANT on the 12th day of June, 1989.

Dated: June 27, 1989

[SEAL]

  
\_\_\_\_\_  
City Clerk

06/22/89  
POINTS.A3  
71143/89001

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CITY OF POINT PLEASANT

Combined Waterworks and Sewerage System Revenue Bonds,  
Series 1989 A and Series 1989 B

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNTS, DATES, MATURITIES, INTEREST RATES, PRINCIPAL PAYMENT SCHEDULES, SALE PRICES AND OTHER TERMS OF THE COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1989 A AND SERIES 1989 B OF THE CITY OF POINT PLEASANT; AUTHORIZING AND APPROVING A LOAN AGREEMENT AND SUPPLEMENTAL LOAN AGREEMENT RELATING TO SUCH BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS

WHEREAS, the city council (the "Governing Body") of the City of Point Pleasant (the "Issuer"), has duly and officially enacted a bond and notes ordinance, effective June 12, 1989 (the "Bond Ordinance"), entitled:

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS FOR THE SEWERAGE PORTION OF THE EXISTING COMBINED PUBLIC WATERWORKS AND SEWERAGE FACILITIES OF THE CITY OF POINT PLEASANT AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$2,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1989 A, NOT MORE THAN \$500,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1989 B, AND NOT MORE THAN \$6,000,000 INTERIM CONSTRUCTION FINANCING, CONSISTING OF BOND ANTICIPATION NOTES, GRANT ANTICIPATION NOTES OR A LINE OF CREDIT EVIDENCED BY NOTES OR ANY COMBINATION OF THE FOREGOING; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS AND NOTES; AUTHORIZING EXECUTION AND DELIVERY OF

A TRUST INDENTURE SECURING THE NOTES; APPROVING AND RATIFYING A LOAN AGREEMENT AND SUPPLEMENTAL LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND NOTES AND ADOPTING OTHER PROVISIONS RELATING THERETO.

WHEREAS, the Bond Ordinance provides for the issuance of Combined Waterworks and Sewerage System Revenue Bonds of the Issuer (the "Bonds"), in an aggregate principal amount not to exceed \$2,500,000, to be issued in two series, the Series 1989 A Bonds to be in an aggregate principal amount of not more than \$2,000,000 (the "Series 1989 A Bonds") and the Series 1989 B Bonds to be in an aggregate principal amount of not more than \$500,000 (the "Series 1989 B Bonds"), and has preliminarily authorized the execution and delivery of a loan agreement relating to the Series 1989 A Bonds to be dated June 27, 1989, and a supplemental loan agreement relating to the Series 1989 B Bonds, also to be dated June 27, 1989 (sometimes collectively referred to herein as the "Loan Agreement"), by and between the Issuer and West Virginia Water Development Authority (the "Authority"), all in accordance with Chapter 8, Article 20 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 amounts, maturity dates, interest rates, interest and principal payment dates, sale prices and other terms of the Bonds should be established by a supplemental resolution pertaining to the Bonds; and that other matters relating to the Bonds be herein provided for;

WHEREAS, the 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 amounts, the prices, the maturity dates, the redemption provisions, the interest rates and the interest and principal payment dates of the Bonds be fixed hereby in the manner stated herein, and that other matters relating to the Bonds be herein provided for;

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

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:

(A) The Combined Waterworks and Sewerage System Revenue Bonds, Series 1989 A, of the Issuer, originally represented by a single Bond, numbered AR-1, in the principal amount of \$1,837,600. The Series 1989 A Bonds shall be dated the date of delivery thereof, shall finally mature April 1, 2029, shall bear interest at the rate of 8.4% per annum, payable semiannually on April 1 and October 1 of each year, first interest payable October 1, 1989, shall be subject to redemption upon the written consent of the Authority, and upon payment of the interest and redemption premium, if any, and otherwise in compliance with the Loan Agreement, as long as the Authority shall be the registered owner of the Series 1989 A Bonds, and shall be payable in installments of principal on October 1 of each of the years and in the amounts as set forth in "Schedule X," attached thereto and to the Loan Agreement and incorporated therein by reference.

(B) The Combined Waterworks and Sewerage System Revenue Bonds, Series 1989 B, of the Issuer, originally represented by a single Bond, numbered BR-1, in the principal amount of \$272,400. The Series 1989 B Bonds shall be dated the date of delivery thereof, shall finally mature April 1, 2029, shall be interest free, shall be subject to redemption upon the written consent of the Authority, and otherwise in compliance with the Loan Agreement, as long as the Authority shall be the registered owner of the Series 1989 B Bonds, and shall be payable in installments of principal on October 1 of each of the years and in the amounts as set forth in "Schedule X," attached thereto and to the Supplemental Loan Agreement and incorporated therein by reference.

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, copies of which are incorporated herein by reference, and the execution and delivery by the Mayor of the Loan

Agreement, and the performance of the obligations contained therein, on behalf of the Issuer are hereby authorized, 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 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 One Valley Bank, National Association, in substantially the form attached hereto, and the execution and delivery by the Mayor of the Registrar's Agreement, and the performance of the obligations contained therein, on behalf of the Issuer are hereby authorized, approved and directed.

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

Section 6. The Issuer does hereby appoint Citizens National Bank - a Division of The First Huntington National Bank, Point Pleasant, West Virginia, as Depository Bank under the Bond Ordinance.

Section 7. Series 1989 A Bonds proceeds in the amount of \$161,300 shall be deposited in the Series 1989 A Bonds Reserve Account and Series 1989 B Bonds proceeds in the amount of \$6,985 shall be deposited in the Series 1989 B Bonds Reserve Account.

Section 8. The remaining proceeds of the Bonds shall be deposited in the Bond Construction Trust Fund for payment of Costs of the Project, including costs of issuance of the Bonds.

Section 9. The Issuer hereby determines to pay, on the date of delivery of the Bonds and receipt of proceeds thereof, all borrowings of the Issuer heretofore incurred for the purpose of temporarily financing a portion of the Costs of the Project, including, but not limited to, all borrowings from West Virginia Water Development Authority.

Section 10. The Mayor and City Clerk are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Bonds hereby and by the Bond Ordinance approved and provided for, to the end that the Bonds may be delivered on or about June 27, 1989, to the Authority pursuant to the Loan Agreement.

Section 11. The financing of the Project 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 in time accounts secured by a pledge of Government Obligations with the Depository Bank, and therefore the Issuer hereby directs the Depository Bank and the Paying Agent to take such actions as may be necessary to cause such moneys to be invested in such time accounts, until further directed by the Issuer.

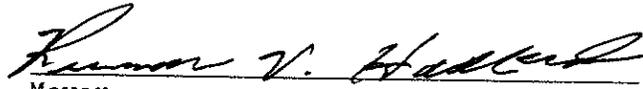
Section 13. The Issuer shall not permit at any time or times any of the proceeds of the Bonds or any other funds of the Issuer to be used directly or indirectly in a manner which would result in the exclusion of the Bonds from the treatment afforded by Section 103(a) of the Internal Revenue Code of 1986, as amended, and any regulations promulgated thereunder (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 has general taxing powers to finance operations of or facilities of the nature of the System, and the Issuer and all subordinate entities reasonably expect to issue less than \$5,000,000 aggregate principal amount of tax-exempt obligations during the calendar year 1989, being the calendar year in which the Bonds are to be issued.

Section 15. This Supplemental Resolution shall be effective immediately following adoption hereof.

Adopted this 12th day of June, 1989.

CITY OF POINT PLEASANT

  
Mayor

06/22/89  
POINTJ.D3  
71143/89001



RECEIVED

APR 28 1989

WATER DEVELOPMENT AUTHORITY

LOAN AGREEMENT

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

CITY OF POINT PLEASANT

(Name of Governmental Agency)

W I T N E S S E T H:

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

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

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

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

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

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

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

## ARTICLE I

### Definitions

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

1.2 "Consulting Engineers" means the consulting engineer designated in the Application and any successor thereto.

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

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

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

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

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

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

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

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

## ARTICLE II

### The Project and the System

2.1 The Project shall generally consist of the construction and acquisition of the facilities described in the Application, to be, being or having been constructed in accordance with plans, specifications and designs prepared for the Governmental Agency by the Consulting Engineers, the Authority having found, to the extent applicable, that the Project is consistent with the applicable comprehensive plan of water management approved by the Director of the West Virginia Department of Natural Resources (or in the process of preparation by such Director), has been approved by the West Virginia Department of Health and is consistent with the standards set by the West Virginia Water Resources Board for the waters of the State affected thereby.

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

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

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

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

2.6 The Governmental Agency agrees that it will permit the Authority and its agents to have access to the records of the Governmental Agency pertaining to the operation and maintenance of the System at any reasonable time following completion of construction of the Project and commencement of operation thereof.

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

2.8 The Governmental Agency shall require that each of its contractors and all subcontractors maintain, during the life of the construction contract, workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Authority. Until the Project facilities are completed

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

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

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

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

## ARTICLE III

### Conditions to Loan; Issuance of Local Bonds

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

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

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

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

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

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

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

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

(h) Such rates and charges for the System shall be sufficient to comply with the provisions of Subsection 4.1(b)(ii) hereof, and the Authority shall have received a certificate of the accountants for the Governmental Agency, or such other person or firm experienced in the finances of governmental agencies and satisfactory to the Authority, to such effect; and

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

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

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

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

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

#### ARTICLE IV

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

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

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

(b) Covenants substantially as follows:

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

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

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

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

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

of the maximum debt service in any succeeding year on all Local Bonds and parity bonds theretofore and then being issued and on any obligations secured by a lien on or payable from the revenues of the System prior to the Local Bonds; provided, however, that additional parity bonds may be issued to complete the Project, as described in the Application as of the date hereof, without regard to the foregoing;

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

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

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

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

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

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

(xii) That the Governmental Agency shall annually adopt a detailed budget of the estimated expenditures for operation and maintenance of the System during the succeeding fiscal year;

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

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

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

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

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

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

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

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

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

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

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

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

## ARTICLE V

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

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

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

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

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

## ARTICLE VI

### Other Agreements of the Governmental Agency

6.1 The Governmental Agency hereby acknowledges to the Authority its understanding of the provisions of the Act, vesting in the Authority certain powers, rights and privileges with respect to water development projects in the event of default by governmental agencies in the terms and covenants of

loan agreements, and the Governmental Agency hereby covenants and agrees that, if the Authority should hereafter have recourse to said rights and powers, the Governmental Agency shall take no action of any nature whatsoever calculated to inhibit, nullify, void, delay or render nugatory such actions of the Authority in the due and prompt implementation of this Loan Agreement.

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

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

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

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

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

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

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

## ARTICLE VII

### Miscellaneous

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

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

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

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

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

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

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

7.8 This Loan Agreement shall terminate upon the earlier of:

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

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

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

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

CITY OF POINT PLEASANT

[Proper Name of Governmental Agency]

(SEAL)

By *Russell V. Hall*  
Its Mayor

Attest:

Date: April 20, 1989

*John M. Green*  
Its City Clerk

WEST VIRGINIA WATER  
DEVELOPMENT AUTHORITY

(SEAL)

By Daniel B. Yonker  
Director

Attest:

Barbara B. Meadows  
Secretary-Treasurer

Date: June 27, 1989

WDA-5X  
(March 1988)

SCHEDULE X  
DESCRIPTION OF LOCAL BONDS

Principal Amount of Local Bonds \$ 1,837,600.00  
Purchase Price of Local Bonds \$ 1,837,600.00

Interest on the Local Bonds is payable on April 1 and October 1 in each year, beginning with the first semiannual interest payment date after delivery of the Local Bonds to the Authority, until the Local Bonds are paid in full, at the rate of 8.4 % per annum. Principal of the Local Bonds is payable on October 1 in each year as set forth on Exhibit 1 attached hereto and incorporated herein by reference.

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

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

City of Point Pleasant  
 Debt Service Schedule  
 Analysis of Borrowing from Series 1989 Pool  
 39 Principal Payments  
 Closing Date: 27-Jun-89

Date	Coupon	Principal	Interest	Debt Service 8.40% Bonds
01-Oct-89			40,304.69	40,304.69
01-Oct-90			154,358.40	154,358.40
01-Oct-91	8.40%	6,942.15	154,358.40	161,300.55
01-Oct-92	8.40%	7,525.29	153,775.26	161,300.55
01-Oct-93	8.40%	8,157.41	153,143.14	161,300.55
01-Oct-94	8.40%	8,842.63	152,457.91	161,300.55
01-Oct-95	8.40%	9,585.42	151,715.13	161,300.55
01-Oct-96	8.40%	10,390.59	150,909.96	161,300.55
01-Oct-97	8.40%	11,263.40	150,037.15	161,300.55
01-Oct-98	8.40%	12,209.53	149,091.02	161,300.55
01-Oct-99	8.40%	13,235.13	148,065.42	161,300.55
01-Oct-2000	8.40%	14,346.88	146,953.67	161,300.55
01-Oct-2001	8.40%	15,552.01	145,748.53	161,300.55
01-Oct-2002	8.40%	16,858.38	144,442.16	161,300.55
01-Oct-2003	8.40%	18,274.49	143,026.06	161,300.55
01-Oct-2004	8.40%	19,809.55	141,491.00	161,300.55
01-Oct-2005	8.40%	21,473.55	139,827.00	161,300.55
01-Oct-2006	8.40%	23,277.32	138,023.22	161,300.55
01-Oct-2007	8.40%	25,232.62	136,067.93	161,300.55
01-Oct-2008	8.40%	27,352.16	133,948.39	161,300.55
01-Oct-2009	8.40%	29,649.74	131,650.81	161,300.55
01-Oct-2010	8.40%	32,140.32	129,160.23	161,300.55
01-Oct-2011	8.40%	34,840.11	126,460.44	161,300.55
01-Oct-2012	8.40%	37,766.68	123,533.87	161,300.55
01-Oct-2013	8.40%	40,939.08	120,361.47	161,300.55
01-Oct-2014	8.40%	44,377.96	116,922.59	161,300.55
01-Oct-2015	8.40%	48,105.71	113,194.84	161,300.55
01-Oct-2016	8.40%	52,146.59	109,153.96	161,300.55
01-Oct-2017	8.40%	56,526.90	104,773.65	161,300.55
01-Oct-2018	8.40%	61,275.16	100,025.39	161,300.55
01-Oct-2019	8.40%	66,422.27	94,878.27	161,300.55
01-Oct-2020	8.40%	72,001.74	89,298.80	161,300.55
01-Oct-2021	8.40%	78,049.89	83,250.66	161,300.55
01-Oct-2022	8.40%	84,606.08	76,694.47	161,300.55
01-Oct-2023	8.40%	91,712.99	69,587.55	161,300.55
01-Oct-2024	8.40%	99,416.88	61,883.66	161,300.55
01-Oct-2025	8.40%	107,767.90	53,532.64	161,300.55
01-Oct-2026	8.40%	116,820.41	44,480.14	161,300.55
01-Oct-2027	8.40%	126,633.32	34,667.23	161,300.55
01-Oct-2028	8.40%	137,270.52	24,030.03	161,300.55
01-Apr-2029	8.40%	148,801.24	6,249.65	155,050.90

1,837,600.00    6,641,534.79    6,479,134.79

WDA-5Y-Municipal Sewer  
(March 1988)

SCHEDULE Y  
REVENUES

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

(i) to pay Operating Expenses of the System;

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

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

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

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

WDA-5Z-Municipal Sewer (EPA)  
(March 1988)

## SCHEDULE Z

### Additional and Supplemental Definitions

1. "EPA" means the United States Environmental Protection Agency and any successors to the functions thereof.
2. "Local Statute" means Chapter 16, Article 13, of the Code of West Virginia, 1931, as amended.
3. "System" means a sewage collection system and/or treatment plant or plants, intercepting sewers, outfall sewers, force mains, pumping stations, ejector stations and all appurtenances necessary or useful and convenient for the collection and/or a treatment, purification and disposal, in a sanitary manner, of liquid and solid waste, sewage, night soil and industrial wastes, in its entirety or any integral part thereof, owned by the Governmental Agency and under the supervision and control of a sanitary board, and any extensions, improvements or betterments thereto hereafter constructed or acquired from any sources whatsoever and includes the Project.

### Additional Conditions and Covenants

1. The Governmental Agency agrees that it will at all times provide operation and maintenance of the System to comply with, among other State and federal standards, the water quality standards established by the West Virginia Department of Natural Resources and EPA.
2. The Governmental Agency agrees that it will permit the EPA to have access to the records of the Governmental Agency pertaining to the operation and maintenance of the System at any reasonable time following completion of construction of the Project and commencement of operation thereof.
3. As a condition precedent to the Authority's making the Loan, the Governmental Agency shall have obtained, among other permits required, permits from the EPA and the West Virginia Department of Natural Resources and approval of the "Part B" supplement to its EPA grant agreement.

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

That the Governmental Agency will, to the full extent permitted by applicable law and the rules and regulations of the PSC, discontinue and shut off the services and facilities of the System and, in the event the Governmental Agency owns a water facility (the "Water System"), the Water System to all users of services of the System delinquent in payment of charges for the services of the System and will not restore the services of either system until all delinquent charges for the services of the System have been fully paid.

5. To the extent required by law, the Governmental Agency hereby covenants and agrees to secure approval of the Authority and all other State agencies having jurisdiction before applying for federal financial assistance for pollution abatement in order to maximize the amounts of such federal financial assistance received or to be received for all water development projects in the State.

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

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

- (a) The Governmental Agency expects to enter into a contract within six months of the date thereof for the construction of the Project, and the amount to be expended pursuant to such contract exceeds the lesser of 2-1/2 percent of the estimated total Project cost financed with proceeds from the sale of the Local Bonds or \$100,000;
- (b) Work with respect to the construction of the Project will proceed with due diligence to completion. Construction is expected to be completed within three years from the date of issuance of the Authority's water development revenue bonds;
- (c) All of the proceeds from the sale of the Local Bonds which will be used for payment of costs of the Project will be expended for

such purpose within three years from the date of issuance of the Authority's water development revenue bonds; and

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

RECEIVED

APR 28 1989

WATER DEVELOPMENT AUTHORITY

WDA-Supp. 5  
(March 1988)

SUPPLEMENTAL LOAN AGREEMENT

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

CITY OF POINT PLEASANT

(Name of Governmental Agency)

W I T N E S S E T H:

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

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

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

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

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

WHEREAS, on or prior to the date hereof, the Governmental Agency and the Authority entered a loan agreement with respect to the purchase by the Authority of certain Local Bonds of the Governmental Agency, all as more specifically described in Exhibit A attached hereto and incorporated herein by reference (the "Loan Agreement"); and

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

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

## ARTICLE I

### Definitions; Loan Agreement

1.1 Capitalized terms used and not otherwise defined herein shall have the meanings respectively given them by the Loan Agreement.

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

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

1.4 "Supplemental Bonds" means the revenue bonds to be issued by the Governmental Agency pursuant to the provisions of the Local Statute, to evidence the Supplemental Loan, as hereinafter defined, and to be purchased by the Authority with certain available funds (other than the proceeds of its water development revenue bonds), the lien of which on the revenues

of the System is junior, subordinate and inferior to that of the Local Bonds, all in accordance with the provisions of this Supplemental Loan Agreement.

1.5 "Supplemental Loan" means the loan to be made by the Authority to the Governmental Agency through the purchase of Supplemental Bonds pursuant to this Supplemental Loan Agreement.

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

1.7 This Supplemental Loan Agreement is supplemental to the Loan Agreement, the terms of which are incorporated herein by reference.

## ARTICLE II

### The Project and the System

2.1 The Project shall generally consist of the construction and acquisition of the facilities described in the Application, to be, being or having been constructed in accordance with plans, specifications and designs prepared for the Governmental Agency by the Consulting Engineers, the Authority having found, to the extent applicable, that the Project is consistent with the applicable comprehensive plan of water management approved by the Director of the West Virginia Department of Natural Resources (or in the process of preparation by such Director), has been approved by the West Virginia Department of Health and is consistent with the standards set by the West Virginia Water Resources Board for the waters of the State affected thereby.

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

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

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

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

2.6 The Governmental Agency agrees that it will permit the Authority and its agents to have access to the records of the Governmental Agency pertaining to the operation and maintenance of the System at any reasonable time following completion of construction of the Project and commencement of operation thereof.

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

2.8 The Governmental Agency shall require that each of its contractors and all subcontractors maintain, during the life of the construction contract, workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Authority. Until the Project facilities are completed and accepted by the Governmental Agency, the Governmental Agency or (at the option of the Governmental Agency) the contractor shall maintain builder's risk insurance (fire and extended coverage) on a one hundred percent (100%) basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Governmental Agency, the prime contractor and

all subcontractors, as their interests may appear. If facilities of the System which are detrimentally affected by flooding are or will be located in designated special flood or mudslide-prone areas and if flood insurance is available at a reasonable cost, a flood insurance policy must be obtained by the Governmental Agency on or before the Date of Loan Closing and maintained so long as any of the Supplemental Bonds is outstanding. Prior to commencing operation of the Project, the Governmental Agency must also obtain, and maintain so long as any of the Supplemental Bonds is outstanding, business interruption insurance if available at a reasonable cost.

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

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

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

### ARTICLE III

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

3.1 The agreement of the Authority to make the Supplemental Loan is subject to the Governmental Agency's fulfillment, to the satisfaction of the Authority, of each and all of those certain conditions precedent on or before the delivery date for the Supplemental Bonds, which shall be the

date established pursuant to Section 3.4 of the Loan Agreement for delivery of the Local Bonds. Said conditions precedent are as follows:

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

(b) The Governmental Agency shall have authorized the issuance of and delivered to the Authority for purchase the Supplemental Bonds described in this Article III and in Article IV hereof and shall have delivered to the Authority for purchase the Local Bonds in accordance with the Loan Agreement;

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

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

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

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

(g) The Governmental Agency shall have obtained any and all approvals of rates and charges required by State law and shall have taken any other action required to establish and impose such rates and charges (imposition of such

rates and charges is not, however, required to be effective until completion of construction of the Project), and the Authority shall have received an opinion of counsel to the Governmental Agency, which may be local counsel to the Governmental Agency, bond counsel or special PSC counsel but must be satisfactory to the Authority, to such effect;

(h) Such rates and charges for the System shall be sufficient to comply with the provisions of Subsection 4.1(b)(ii) hereof, and the Authority shall have received a certificate of the accountants for the Governmental Agency, or such other person or firm experienced in the finances of governmental agencies and satisfactory to the Authority, to such effect; and

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

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

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

3.4 The Supplemental Loan will be made only in conjunction with the Loan. The Supplemental Bond shall be delivered to the Authority, at the offices of the Authority,

simultaneously with the delivery of the Local Bond to the Authority.

3.5 The Governmental Agency understands and acknowledges that it is one of several governmental agencies which have applied to the Authority for loans to finance water development projects and that the obligation of the Authority to make any such loan is subject to the Governmental Agency's fulfilling all of the terms and conditions of this Supplemental Loan Agreement and the Loan Agreement on or prior to the Date of Loan Closing and to the right of the Authority to make such loans to other governmental agencies under the conditions and in the manner described in the Loan Agreement. The Governmental Agency further understands and acknowledges that the Authority's obligation to make the Supplemental Loan is subject to the availability on the Date of Loan Closing of funds legally available therefor.

3.6 Anything in this Loan Agreement notwithstanding, if the Authority is unable to pay the proceeds of the Supplemental Bonds to the Governmental Agency on the Date of Loan Closing due to the time required for processing the purchase order or requisition for such moneys with the State, the Authority may pay such proceeds as soon as received after the Date of Loan Closing; provided, that the Supplemental Bonds shall not evidence any debt to be repaid to the Authority until the proceeds thereof are received by the Governmental Agency.

#### ARTICLE IV

Supplemental Bonds; Security for Supplemental Loan;  
Repayment of Supplemental Loan; No Interest on  
Supplemental Loan; Fees and Charges

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

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

(b) Covenants substantially as follows:

(i) That the Supplemental Bonds shall be secured by the gross or net revenues from the System, as more fully set forth in Schedules X and Y attached hereto, subject to the prior and senior security therefrom granted to the Local Bonds;

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

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

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

(v) That the Governmental Agency shall not issue any other obligations payable from the revenues of the System which rank prior to, or equally, as to lien and security with the Supplemental Bonds, except the Local Bonds and bonds on a parity with the Supplemental Bonds, which parity bonds shall only be issued if net revenues of

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

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

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

(viii) That any Supplemental Bond owner may, by proper legal action, compel the performance of the duties of the Governmental Agency under the Local Act, including the making and collection of sufficient rates or charges for services rendered by the System, and shall also have, in the event of a default in payment of principal or interest on the Supplemental 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, subject to the prior and senior rights of the owner or owners of the Local Bonds;

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

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

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

(xii) That the Governmental Agency shall annually adopt a detailed budget of the estimated expenditures for operation and maintenance of the System during the succeeding fiscal year;

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

(xiv) That the proceeds of the Supplemental Bonds, except any proceeds deposited in the Reserve Account or the Supplemental Reserve Account, must be deposited in a construction fund on which the owners of the Supplemental Bonds shall have a lien until such proceeds are applied to the construction of the Project (including the repayment of any incidental interim financing for non-construction costs); provided, that said construction fund may be the one established for the Local Bonds, which shall have a prior and senior lien thereon, but shall otherwise be kept separate and apart from all other funds of the Governmental Agency; and

(xv) That, as long as the Authority is the owner of any of the Supplemental Bonds, the Governmental Agency shall not authorize redemption of any Supplemental Bonds by it without the written consent of the Authority.

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

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

4.3 The principal of the Supplemental Loan shall be repaid by the Governmental Agency annually on the day and in the years provided in Schedule X hereto.

4.4 The Supplemental Loan shall not bear interest.

4.5 The Supplemental Bonds shall be delivered to the Authority in fully registered form, transferable and exchangeable as provided in the Local Act at the expense of the Governmental Agency.

4.6 The Governmental Agency agrees to pay from time to time, as required by the Authority, the Governmental Agency's allocable share of the reasonable administrative expenses of the Authority relating to the Supplemental Program, which administrative expenses shall be as determined by the Authority and shall include, but not be limited to, legal fees paid by the Authority.

4.7 If the schedule furnished to the Authority pursuant to Section 6.5 reflects an excess of funding for the Project, or if the Authority is otherwise advised of an excess of funding for the Project, the Authority may tender to the Governmental Agency its Supplemental Bonds for payment in an amount equal to such excess. Notwithstanding the foregoing, if the Governmental Agency has grant anticipation notes or some other interim financing outstanding upon completion of construction of the Project, it shall advise the Authority of such fact and submit a second schedule to the Authority upon payment of the interim financing, and the Authority shall not tender its Supplemental Bonds for payment until the outstanding interim financing has been paid.

#### ARTICLE V

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

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

5.2 In the event, for any reason, the schedule of rates, fees and charges initially established for the System in connection with the Local Bonds and the Supplemental Bonds shall prove to be insufficient to produce the minimum sums set

forth in the Local Act, the Governmental Agency hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates, fees and charges so as to provide funds sufficient to produce the minimum sums set forth in the Local Act and as required by this Supplemental Loan Agreement.

5.3 In the event the Governmental Agency defaults in the payment of any fees due to the Authority pursuant to Section 4.6 hereof, the amount of such default shall bear interest at the rate of five percent (5%) per annum, from the date of the default until the date of the payment thereof.

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

#### ARTICLE VI

##### Other Agreements of the Governmental Agency

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

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

the Authority by the Governmental Agency in connection with the Loan or the Supplemental Loan shall be incorrect or incomplete in any material respect or (b) the Governmental Agency has violated any commitment made by it in its Application or in any supporting documentation or has violated any of the terms of the Loan Agreement or this Supplemental Loan Agreement.

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

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

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

## ARTICLE VII

### Miscellaneous

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

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

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

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

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

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

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

7.8 This Supplemental Loan Agreement shall terminate upon the earlier of:

(i) termination by the Authority of the Loan Agreement pursuant to Subsections 7.8(i) or (ii) thereof;

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

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

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

CITY OF POINT PLEASANT  
[Proper Name of Governmental Agency]

(SEAL)

By *Russell V. Holland*  
Its Mayor

Attest:

Date: April 20, 1989

*Etta M. Green*  
Its City Clerk

WEST VIRGINIA WATER DEVELOPMENT  
AUTHORITY

(SEAL)

By *Daniel B. Yenkosky*  
Director

Attest:

Date: June 27, 1989

*Barbara B Meadows*  
Secretary-Treasurer

WDA-Supp. 5X  
(March 1988)

SCHEDULE X  
DESCRIPTION OF SUPPLEMENTAL BONDS

Principal Amount of Supplemental Bonds	\$ <u>272,400.00</u>
Purchase Price of Supplemental Bonds	\$ <u>272,400.00</u>

Principal of the Supplemental Bonds is payable on October 1 in each year as set forth on Exhibit 1 attached hereto and incorporated herein by reference. The Supplemental Bonds bear no interest.

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

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

City of Point Pleasant  
 Debt Service Schedule  
 Analysis of Borrowing from Series 1989 Pool  
 39 Principal Payments  
 Closing Date: 27-Jun-89

Date	Interest Free Loan
01-Oct-89	
01-Oct-90	
01-Oct-91	6,984.62
01-Oct-92	6,984.62
01-Oct-93	6,984.62
01 Oct 94	6,984.62
01-Oct-95	6,984.62
01-Oct-96	6,984.62
01-Oct-97	6,984.62
01-Oct-98	6,984.62
01-Oct-99	6,984.62
01-Oct-2000	6,984.62
01-Oct-2001	6,984.62
01-Oct-2002	6,984.62
01-Oct-2003	6,984.62
01-Oct-2004	6,984.62
01-Oct-2005	6,984.62
01-Oct-2006	6,984.62
01-Oct-2007	6,984.62
01-Oct-2008	6,984.62
01-Oct-2009	6,984.62
01-Oct-2010	6,984.62
01-Oct-2011	6,984.62
01-Oct-2012	6,984.62
01-Oct-2013	6,984.62
01-Oct-2014	6,984.62
01-Oct-2015	6,984.62
01-Oct-2016	6,984.62
01-Oct-2017	6,984.62
01-Oct-2018	6,984.62
01-Oct-2019	6,984.62
01-Oct-2020	6,984.62
01-Oct-2021	6,984.62
01-Oct-2022	6,984.62
01-Oct-2023	6,984.62
01-Oct-2024	6,984.62
01-Oct-2025	6,984.62
01-Oct-2026	6,984.62
01-Oct-2027	6,984.62
01-Oct-2028	6,984.62
01-Apr-2029	6,984.62

272,400.00

SCHEDULE Y  
REVENUES

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

(i) as prescribed by the Loan Agreement, to pay Operating Expenses of the System;

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

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

(iv) beginning thirteen (13) months prior to the first date of payment of principal of the Supplemental Bonds, to provide debt service on the Supplemental Bonds by

depositing in a sinking fund one-twelfth (1/12) of the principal payment next coming due on the Supplemental Bonds and, if the Supplemental Reserve Account was not funded concurrently with the issuance thereof in an amount equal to the Supplemental Reserve Requirement, by depositing in the Supplemental Reserve Account an amount not less than one-twelfth (1/12) of one-tenth (1/10) (or such other amount as shall be acceptable to the Authority and as shall fund the Reserve Account over not more than 10 years) of the Supplemental Reserve Requirement or, if the Supplemental Reserve Account has been so funded (whether by Supplemental Bond proceeds, monthly deposits or otherwise), any amount necessary to maintain the Supplemental Reserve Account at the Supplemental Reserve Requirement;

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

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

SCHEDULE Z

Additional and Supplemental Definitions

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

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

3. "System" means a sewage collection system and/or a treatment plant or plants, intercepting sewers, outfall sewers, force mains, pumping stations, ejector stations and all appurtenances necessary or useful and convenient for the collection and/or treatment, purification and disposal, in a sanitary manner, of liquid and solid waste, sewage, night soil and industrial wastes, in its entirety or any integral part thereof, owned by the Governmental Agency and under the supervision and control of a sanitary board, and any extensions, improvements or betterments thereto hereafter constructed or acquired from any sources whatsoever and includes the Project.

Additional Conditions and Covenants

1. The Governmental Agency agrees that it will at all times provide operation and maintenance of the System to comply with, among other State and federal standards, the water quality standards established by the West Virginia Department of Natural Resources and EPA.

2. The Governmental Agency agrees that it will permit the EPA to have access to the records of the Governmental Agency pertaining to the operation and maintenance of the System at any reasonable time following completion of construction of the Project and commencement of operation thereof.

3. As a condition precedent to the Authority's making the Supplemental Loan, the Governmental Agency shall have obtained, among other permits required, permits from the EPA and the West Virginia Department of Natural Resources and approval of the "Part B" supplement to its EPA grant agreement.

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

That the Governmental Agency will, to the full extent permitted by applicable law and the rules and regulations of the PSC, discontinue and shut off the services and facilities of the System and, in the event the Governmental Agency owns a water facility (the "Water System"), the Water System to all users of services of the System delinquent in payment of charges for the services of the System and will not restore the services of either system until all delinquent charges for the services of the System have been fully paid.

5. To the extent required by law, the Governmental Agency hereby covenants and agrees to secure approval of the Authority and all other State agencies having jurisdiction before applying for federal financial assistance for pollution abatement in order to maximize the amounts of such federal financial assistance received or to be received for all water development projects in the State.

6. Subject to any prior or parity obligations described in Schedules X and Y attached to the Supplemental Loan Agreement, and to the prior lien of the Local Bonds, the net revenues derived from the operation of the System are pledged to the payment of the principal of the Supplemental Bonds.



Public Service Commission  
Of West Virginia

201 Brooks Street, P. O. Box 812  
Charleston, West Virginia 25323



Phone: (304) 340-3000  
FAX: (304) 340-1225

June 23, 1989

Ms. Etta M. Gheen, City Clerk/Treasurer  
City of Point Pleasant  
400 Viand Street  
Point Pleasant, West Virginia 25550

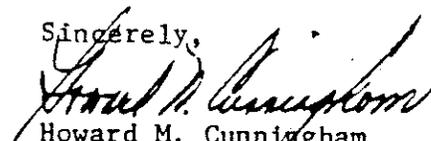
Re: Case No. 89-205-S-CN

Dear Ms. Gheen:

We are enclosing herewith two (2) copies of the final order entered by the Commission today which grants the City of Point Pleasant a certificate of convenience and necessity to construct a regional secondary treatment plant, etc.

This order also approves the financing incidental to the project in question, and waives public hearing thereon.

Sincerely,

  
Howard M. Cunningham  
Executive Secretary

HMC/s  
Encl.

cc: Mr. Mark A. Sankoff, P.E., Project Engineer  
Dunn Engineers, Inc.  
701 Virginia Street, West  
Charleston, West Virginia 25302

PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON

Entered: June 23, 1989

CASE NO. 89-205-S-CN

CITY OF POINT PLEASANT, a  
municipal corporation, Mason County.

Application for a certificate of convenience and necessity to construct a regional secondary treatment plant; to upgrade existing pump station at Henderson; and install force main under Kanawha River to City of Point Pleasant wastewater treatment plant, Mason County.

FINAL ORDER

On March 31, 1989, the City of Point Pleasant (City), a municipal corporation, Mason County, filed an application, duly verified, for a certificate of convenience and necessity to construct a regional secondary treatment plant of 700,000 gpd capacity to treat wastewater generated in both the City of Point Pleasant and the Town of Henderson; to upgrade the existing pump station in Henderson; and to install a force main under the Kanawha River to the City of Point Pleasant's wastewater treatment plant in Mason County. The City estimated that construction would cost approximately \$5,628,323 and would be financed through an Environmental Protection Agency (EPA) grant in the amount of \$2,890,403, a Water Development Authority (WDA) loan in the amount of \$2,587,920, and funds from the City of Point Pleasant's Sewer Fund in the amount of \$150,000. Also attached to the application was the City's proposed rate schedule for providing service as a result of the project and a Rule 42 Exhibit detailing the City's operation and maintenance expenses and revenues, along with other financial information, for the 12 months ended June 30, 1988.

On March 31, 1989, the Public Service Commission entered an Order in the above-styled and numbered proceeding directing the City of Point Pleasant to give notice of the filing of its application by publishing a copy of the Commission's Order once in a newspaper, duly qualified by the Secretary of State, published and of general circulation in Point Pleasant, Mason County, making due return to the Commission of proper certification of publication immediately thereafter. The Order provided that any objections to the application were to be in writing and were to be filed within thirty (30) days after the date of publication of the notice. The Order further provided that, if no protests were received within the 30-day period, the Commission could waive formal hearing and grant the City's application based upon the information submitted with the application and the Commission's review thereof.

On April 19, 1989, the City of Point Pleasant submitted an Affidavit of Publication from The Register, a newspaper published and of general circulation in Point Pleasant, Mason County, indicating that the Commission's Notice of Filing Order entered on March 31, 1989, was published as directed therein on April 4, 1989. The 30-day period in which to submit written protest to the City's application for a certificate of convenience and necessity expired on May 4, 1989, with no protests having been filed in response thereto, either within that 30-day period or as of the date of this Order.

On May 11, 1989, the City submitted a copy of a Municipal Ordinance passed by the Common Council of the City of Point Pleasant, increasing and setting rates for sewer service provided by the City. The Ordinance was approved on first reading on April 10, 1989, on second reading, on April 18, 1989, and on third and final reading on May 8, 1989, and stated an effective date of July 1, 1989. Pursuant to the provisions of West Virginia Code §24-2-4b, any petitions in opposition to that Ordinance were to be submitted to the Public Service Commission within 30 days after the date of adoption of the Ordinance. That 30-day period expired with no legitimate petitions or protests to that rate increase being filed with the Public Service Commission. Along with a copy of the Municipal Ordinance, the City submitted a copy of the newspaper publication indicating that proper publication of the consideration of the final vote on the sewer rate municipal ordinance was published once a week for two (2) consecutive weeks in The Register, in Point Pleasant.

On May 18, 1989, the City's project engineer submitted a copy of a Facility Plan Amendment approved by the West Virginia Department of Natural Resources (DNR), a copy of the grant letter from the EPA for the grant award to construct the City's project, and a copy of the letter of approval from the West Virginia Department of Natural Resources of the plans and specifications and the permission to bid. On June 9, 1989, the City submitted a copy of the DNR-issued NPDES Water Pollution Control Permit, stating an effective date of July 10, 1989, and an expiration date of June 9, 1994. The permit number is WV002039.

On June 16, 1989, Staff Attorney David C. Glover submitted the Joint Staff Memorandum in this proceeding. Attached to Mr. Glover's Joint Staff Memorandum is an Internal Memorandum from Ingrid Gerlach Ferrell, Staff Engineer, and Gerry Bakker, Utilities Analyst, both with the Water and Sewer Section of the Commission's Utilities Division, which Internal Memorandum is incorporated in the Joint Staff Memorandum. According to the Joint Staff Memorandum, the upgrading of the wastewater treatment plant from primary treatment to secondary treatment proposed by the City of Point Pleasant is necessary in order to bring the City into compliance with the requirements of the Federal Clean Water Act. Additionally, Staff represents that the force main from the Town of Henderson to the City of Point Pleasant needs to be replaced, since the flow from Henderson is being discharged into the Kanawha River due to breaks in the existing force main. Further, Staff pointed out that the DNR has issued a permit approving the project. Therefore, considering all of the above information, Commission Staff is of the opinion that public convenience and necessity require the proposed project. With regard to the financing, Staff is of the opinion that the increased rates for sewer service set

forth in the Municipal Ordinance passed by the City on May 8, 1989, are sufficient to cover the proposed debt and projected expenses for the project. The Staff Cash Flow Analysis indicates that, after implementation of the increased rates and charges, the City should have a remaining cash surplus of \$91,297, after payment of all debt service requirements, and a debt service coverage of 169%. Staff also pointed out that, due to favorable bids, the loan for construction was decreased by over \$400,000. The WDA loan states an interest rate of 7-1/2%.

Upon consideration of all of the above, the Administrative Law Judge (ALJ) is of the opinion that the requested certificate of convenience and necessity should be granted to the City of Point Pleasant for the construction set forth in the application filed in this proceeding on March 31, 1989. The public convenience and necessity require that the certificate be issued, in order to bring the City of Point Pleasant into compliance with the requirements of the Federal Clean Water Act and in order to eliminate the discharges of sewage flows from the Town of Henderson into the Kanawha River. The project is economically feasible, since it is fully funded and adequately supported by rates and charges which will cover all operation and maintenance expenses and debt service requirements of the City of Point Pleasant. Further, the project appears to be technically feasible since the State Department of Natural Resources has issued a permit for the project. Finally, notice of the project and of the City of Point Pleasant's Municipal Ordinance increasing sewer rates and charges was provided to the public by the required publications and no protests have been filed with the Public Service Commission with regard to either the rates or the certificate project, itself.

#### FINDINGS OF FACT

1. The City of Point Pleasant must upgrade its wastewater treatment plant from primary treatment to secondary treatment in order to comply with the requirements of the Federal Clean Water Act. (Joint Staff Memorandum filed June 16, 1989).
2. Currently, sewage flows from the Town of Henderson to the City of Point Pleasant's treatment plant are being discharged into the Kanawha River due to breaks in the existing force main. (Joint Staff Memorandum filed June 16, 1989).
3. The proposed project for which the City of Point Pleasant has requested a certificate of convenience and necessity from the Public Service Commission has been reviewed and approved by the West Virginia Department of Natural Resources, through the issuance of NPDES Permit No. WV0022039, effective July 10, 1989. (Permit filed June 9, 1989).
4. The City of Point Pleasant enacted a municipal ordinance increasing sewer rates and charges designed to offset any increased operation and maintenance expenses and debt service requirements associated with its proposed project, which increased rates and charges have become final by operation of law pursuant to the provisions of West Virginia Code §24-2-4b, since no legitimate petitions in response thereto were filed with the Public Service Commission. (Municipal Ordinance and

Affidavit of Publication filed May 11, 1989; Joint Staff Memorandum filed June 16, 1989).

5. The proposed project of the City of Point Pleasant is projected to cost \$5,150,433 and is to be financed through an EPA grant in the amount of \$2,890,433, a WDA loan at 7-1/2% in the amount of \$2,110,000, and sewer funds on hand in the amount of \$150,000, with both the EPA grant and the WDA loan being fully committed to the City of Point Pleasant. (Joint Staff Memorandum filed June 16, 1989; EPA grant letter filed May 18, 1989).

6. The proposed project for the City of Point Pleasant is fully supported by adequate rates and charges, since the Staff Cash Flow Analysis, including the increased sewer revenues as a result of the Municipal Ordinance, indicates that, after payment of all cash requirements and all debt service requirements, the City should have remaining cash of \$91,297 and debt service coverage of 169%.

7. The public has been given adequate notice of the project, and the Municipal Ordinance increasing rates and charges as a result of the project, and no protests have been filed with the Public Service Commission in response thereto. (Affidavit of Publication filed April 19, 1989; Affidavit of Publication filed May 11, 1989).

#### CONCLUSIONS OF LAW

1. The project for which the City of Point Pleasant has requested a certificate of convenience and necessity is technically feasible, since it has been reviewed and approved by the West Virginia Department of Natural Resources.

2. The project for which the City of Point Pleasant has requested a certificate of convenience and necessity is economically feasible, since it is fully funded through a combination of grant funds, loan funds and cash on hand, all of which have been fully committed to the project, and through adequate rates and charges enacted by the City of Point Pleasant via the Municipal Ordinance passed on May 8, 1989.

3. The public convenience and necessity require the project for which the City of Point Pleasant has requested a certificate of convenience and necessity.

4. A certificate of convenience and necessity should be issued to the City of Point Pleasant for the project set forth in its application filed in this proceeding on March 31, 1989.

#### ORDER

IT IS, THEREFORE, ORDERED that a certificate of convenience and necessity be, and it hereby is, granted to the City of Point Pleasant to construct a regional secondary treatment plant of 700,000 gpd capacity to treat wastewater generated in both the City of Point Pleasant and the Town of Henderson; to upgrade the existing pump station in Henderson; and to install a force main under the Kanawha River to the City of Point

Pleasant's wastewater treatment plant from the Town of Henderson, all in Mason County, and all as set forth in the application filed herein on March 31, 1989.

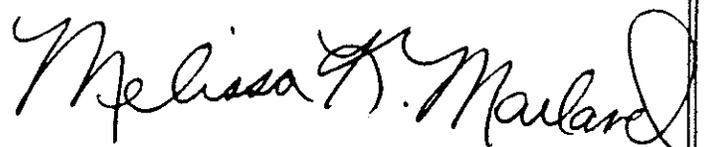
IT IS FURTHER ORDERED that the proposed funding for the project, consisting of a grant from the Environmental Protection Agency in the amount of \$2,890,433, sewer funds on hand in the amount of \$150,000, and a WDA loan at an interest rate of 7-1/2% in the amount of \$2,110,000, be, and it hereby is, approved. If any revision is required in the City's funding, the City shall apply to the Public Service Commission for approval of those revised funding requirements.

IT IS FURTHER ORDERED that hearing on this matter be waived, since there has been no protest to the application or to the rates and charges, and since Commission Staff has fully reviewed the project and has concluded that no hearing is necessary.

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

This order is issued pursuant to General Order No. 212, dated December 16, 1982, which order designates the Division of Administrative Law Judges as the initial decision making body in the Public Service Commission and authorizes the Public Service Commission Administrative Law Judges to issue orders on behalf of the Commission in all proceedings filed pursuant to Chapter 24 of the West Virginia Code, which proceedings are not set for hearing and which orders shall have the full force and effect of Commission orders, without the provision for the filing of exceptions thereto.

Leave is hereby granted to the parties to file a petition for further hearing, reopening, or rehearing pursuant to Rule 19 of the Commission's Rules of Practice and Procedure with the Executive Secretary of the Commission within ten (10) days after the date this order is mailed.



Melissa K. Marland  
Chief Administrative Law Judge

MKM:cjf

Public Service Commission  
Of West Virginia

201 Brooks Street, P. O. Box 812  
Charleston, West Virginia 25323



Phone: (304) 340-0300  
FAX: (304) 340-0325

June 23, 1989

Mark A. Sankoff, P.E.  
Dunn Engineers, Inc.  
701 Virginia Street, West  
Charleston, WV 25302

Re: CASE NO. 89-205-S-CN  
CITY OF POINT PLEASANT

Dear Mr. Sankoff:

Please be advised that the Staff of the Public Service Commission has reviewed the Final Order as entered on the 23rd day of June, 1989, by Melissa K. Marland, Chief Administrative Law Judge, and takes no exception to that Order. You may be advised that the Staff has determined that no exceptions will be filed to that Order, and no appeals will be taken from the decision as entered by the Order of June 23, 1989.

Since no other parties appeared in protest or as intervenors to said proceeding, unless the City intends to file an appeal of this Final Order, no appeals will be taken from this decision.

Sincerely,

*David C. Glover*

David C. Glover.  
Staff Attorney

DCG/cbd

cc: Vincent A. Collins, Esquire



CITY OF POINT PLEASANT

Combined Waterworks and Sewerage System Revenue Bonds,  
Series 1989 A and Series 1989 B

CROSS-RECEIPT FOR BONDS AND BOND PROCEEDS

The undersigned, BARBARA B. MEADOWS, Secretary-Treasurer of West Virginia Water Development Authority, for and on behalf of West Virginia Water Development Authority (the "Authority") and RUSSELL V. HOLLAND, Mayor of the City of Point Pleasant (the "Issuer"), hereby certify as follows:

1. On the 27th day of June, 1989, the Authority received the entire original issue of \$2,110,000 in aggregate principal amount of Combined Waterworks and Sewerage System Revenue Bonds, Series 1989 A and Series 1989 B, of the Issuer (collectively, the "Bonds"), issued as a single, fully registered Bond of each Series, numbered AR-1 and BR-1, respectively, both dated June 27, 1989, the Series 1989 A Bond being in the principal amount of \$1,837,600 and the Series 1989 B Bond being in the principal amount of \$272,400.

2. At the time of such receipt of the Bonds upon original issuance, all of the Bonds had been executed by Russell V. Holland, as Mayor of the Issuer, by his manual signature, and by Etta M. Gheen, as City Clerk of the Issuer, by her manual signature, and the official seal of the Issuer had been affixed upon the Bonds.

3. The Issuer has received and hereby acknowledges receipt from the Authority, as the original purchaser of the Bonds, of the proceeds of the Series 1989 A Bonds in the aggregate principal amount of \$1,837,600 and proceeds of the Series 1989 B Bonds in the aggregate principal amount of \$272,400 (100% of par value), there being no interest accrued on either series.

IN WITNESS WHEREOF, Barbara B. Meadows duly signed and delivered this receipt on behalf of WEST VIRGINIA WATER DEVELOPMENT AUTHORITY and the CITY OF POINT PLEASANT has caused this receipt to be duly executed and delivered by its Mayor, as of this 27th day of June, 1989.

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

By Barbara B Meadows  
Secretary-Treasurer

CITY OF POINT PLEASANT

By Raymond V. Hester  
Mayor

06/22/89  
POINTJ.E2  
71143/89001



CITY OF POINT PLEASANT

Combined Waterworks and Sewerage System Revenue Bonds,  
Series 1989 A and Series 1989 B

DIRECTION TO AUTHENTICATE AND DELIVER BONDS

One Valley Bank, National Association  
Charleston,  
West Virginia

Ladies and Gentlemen:

There are delivered to you herewith:

(1) Bond No. AR-1, constituting the entire original issue of the City of Point Pleasant Combined Waterworks and Sewerage System Revenue Bonds, Series 1989 A, in the principal amount of \$1,837,600 and Bond No. BR-1, constituting the entire original issue of the City of Point Pleasant Combined Waterworks and Sewerage System Revenue Bonds, Series 1989 B, in the principal amount of \$272,400 both dated June 27, 1989 (collectively, the "Bonds"), executed by the Mayor and City Clerk of the City of Point Pleasant (the "Issuer") and bearing the official seal of the Issuer, authorized to be issued under and pursuant to a Bond Ordinance and Supplemental Resolution duly enacted and adopted by the Issuer (collectively, the "Local Act");

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

(3) Executed counterparts of the loan agreement and the supplemental loan agreement, both dated June 27, 1989, by and between the West Virginia Water Development Authority (the "Authority") and the Issuer (collectively, the "Loan Agreement");

(4) Signed opinions of nationally recognized bond counsel regarding the validity of the Loan Agreement and the Bonds.

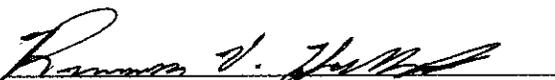
You are hereby requested and authorized to deliver the Bonds to the Authority upon payment to the account of the Issuer of the sum of \$2,110,000, representing the agreed aggregate purchase price of the Bonds, there being no accrued interest thereon. Prior to such delivery of the Bonds, you will please cause the Bonds to be

6

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

Dated this 27th day of June, 1989.

CITY OF POINT PLEASANT

By   
Mayor

06/22/89  
POINTJ.F2  
71143/89001



(SPECIMEN SERIES 1989 A BOND)

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
CITY OF POINT PLEASANT  
COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BOND,  
SERIES 1989 A

No. AR-1

\$1,837,600

KNOW ALL MEN BY THESE PRESENTS: That the CITY OF POINT PLEASANT, a municipal corporation and political subdivision of the State of West Virginia in Mason 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 ONE MILLION EIGHT HUNDRED THIRTY-SEVEN THOUSAND SIX HUNDRED DOLLARS (\$1,837,600), in installments on October 1 of each year (except for the final installment due April 1, 2029) as set forth on the "Schedule of Annual Debt Service" attached as Exhibit A hereto and incorporated herein by reference with interest on each installment at the rate per annum set forth on said Exhibit A.

The interest rate on each installment shall run from the original date of delivery of this Bond to the Authority and payment therefor, and until payment of such installment, and such interest shall be payable on April 1 and October 1 in each year, beginning October 1, 1989. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent"). The interest on this Bond is payable by check or draft of the Paying Agent mailed to the registered owner hereof at the address as it appears on the books of One Valley Bank, National Association, Charleston, West Virginia, as registrar (the "Registrar") on the 15th day of the month next preceding an interest payment date, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner hereof.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority, and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement between the Issuer and the Authority, dated June 27, 1989.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain additions, betterments and improvements for the sewerage facilities portion of the existing combined waterworks and sewerage system of the Issuer (the "Project"); (ii) to fund a reserve account for the Bonds of this Series (the "Bonds"); and (iii) to pay certain costs of issuance hereof and related costs. The existing combined waterworks and sewerage system of the Issuer, the Project, and any further additions, betterments or improvements thereto is herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 8, Article 20 of the West Virginia Code of 1931, as amended (the "Act"), and an Ordinance duly enacted by the Issuer on June 12, 1989 and a Supplemental Resolution duly adopted by the Issuer on June 12, 1989 (collectively called the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

This Bond is issued concurrently with the Combined Waterworks and Sewerage System Revenue Bonds, Series 1989 B, of the Issuer (the "Series 1989 B Bonds"), issued in the aggregate principal amount of \$272,400, which Series 1989 B Bonds are junior and subordinate with respect to liens and sources of and security for payment to the Bonds.

THIS BOND IS ON A PARITY WITH RESPECT TO LIENS, PLEDGES AND SOURCES OF AND SECURITY FOR PAYMENT TO THE ISSUER'S WATER AND SEWER BOND, SERIES 1976, DATED MAY 3, 1978, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$1,870,000 (THE "PRIOR BONDS").

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on a parity with the Prior Bonds, moneys in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 1989 A Bonds Reserve Account"), and unexpended proceeds of the Bonds and the Series 1989 B Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest hereon except from said special fund provided from the Net Revenues,

the moneys in the Series 1989 A Bonds Reserve Account and unexpended proceeds of the Bonds and the Series 1989 B 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 on the Bonds, the Series 1989 B Bonds, and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds or the Series 1989 B Bonds, including the Prior Bonds, provided however, that so long as there exists in the Series 1989 A Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for the Series 1989 B Bonds and any other obligations outstanding prior to or on a parity with the Bonds or the Series 1989 B Bonds, including the Prior Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

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

Subject to 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, shall be applied solely to the payment of the Costs of the Project 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 owner of this Bond.

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

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

IN WITNESS WHEREOF, the CITY OF POINT PLEASANT has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed and attested by its City Clerk, and has caused this Bond to be dated June 27, 1989.

{SEAL}

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 1989 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: \_\_\_\_\_

ONE VALLEY BANK, NATIONAL ASSOCIATION,  
as Registrar

By \_\_\_\_\_  
Its Authorized Officer

EXHIBIT A

SCHEDULE OF ANNUAL DEBT SERVICE

City of Point Pleasant  
 Debt Service Schedule  
 Analysis of Borrowing from Series 1989 Pool  
 39 Principal Payments  
 Closing Date: 27-Jun-89

Date	Coupon	Principal	Interest	Debt Service 8.40% Bonds
01-Oct-89			60,304.69	60,304.69
01-Oct-90			154,358.40	154,358.40
01-Oct-91	8.40%	6,942.15	154,358.40	161,300.55
01-Oct-92	8.40%	7,525.29	153,775.26	161,300.55
01-Oct-93	8.40%	8,157.41	153,143.14	161,300.55
01-Oct-94	8.40%	8,842.63	152,457.91	161,300.55
01-Oct-95	8.40%	9,585.42	151,715.13	161,300.55
01-Oct-96	8.40%	10,390.59	150,909.96	161,300.55
01-Oct-97	8.40%	11,263.40	150,037.15	161,300.55
01-Oct-98	8.40%	12,209.53	149,091.02	161,300.55
01-Oct-99	8.40%	13,235.13	148,065.42	161,300.55
01-Oct-2000	8.40%	14,346.88	146,953.67	161,300.55
01-Oct-2001	8.40%	15,552.01	145,748.53	161,300.55
01-Oct-2002	8.40%	16,858.38	144,442.16	161,300.55
01-Oct-2003	8.40%	18,274.49	143,026.06	161,300.55
01-Oct-2004	8.40%	19,809.55	141,491.00	161,300.55
01-Oct-2005	8.40%	21,473.55	139,827.00	161,300.55
01-Oct-2006	8.40%	23,277.32	138,023.22	161,300.55
01-Oct-2007	8.40%	25,232.62	136,067.93	161,300.55
01-Oct-2008	8.40%	27,352.16	133,948.39	161,300.55
01-Oct-2009	8.40%	29,649.74	131,650.81	161,300.55
01-Oct-2010	8.40%	32,140.32	129,160.23	161,300.55
01-Oct-2011	8.40%	34,840.11	126,460.44	161,300.55
01-Oct-2012	8.40%	37,766.68	123,533.87	161,300.55
01-Oct-2013	8.40%	40,939.08	120,361.47	161,300.55
01-Oct-2014	8.40%	44,377.96	116,922.59	161,300.55
01-Oct-2015	8.40%	48,105.71	113,194.84	161,300.55
01-Oct-2016	8.40%	52,146.59	109,153.96	161,300.55
01-Oct-2017	8.40%	56,526.90	104,773.65	161,300.55
01-Oct-2018	8.40%	61,275.16	100,025.39	161,300.55
01-Oct-2019	8.40%	66,422.27	94,878.27	161,300.55
01-Oct-2020	8.40%	72,001.74	89,298.80	161,300.55
01-Oct-2021	8.40%	78,049.89	83,250.66	161,300.55
01-Oct-2022	8.40%	84,606.98	76,694.47	161,300.55
01-Oct-2023	8.40%	91,712.99	69,587.53	161,300.55
01-Oct-2024	8.40%	99,416.88	61,883.66	161,300.55
01-Oct-2025	8.40%	107,767.90	53,532.64	161,300.55
01-Oct-2026	8.40%	116,820.41	44,480.14	161,300.55
01-Oct-2027	8.40%	126,633.32	34,667.23	161,300.55
01-Oct-2028	8.40%	137,270.52	24,030.03	161,300.55
01-Apr-2029	8.40%	148,801.24	6,249.65	155,050.90

1,837,600.00      6,661,534.79      6,479,134.79

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:

\_\_\_\_\_

06/23/89  
POINTS.X2  
71143/89001



(SPECIMEN SERIES 1989 B BOND)

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
CITY OF POINT PLEASANT  
COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BOND,  
SERIES 1989 B

No. BR-1

\$272,400

KNOW ALL MEN BY THESE PRESENTS: That the CITY OF POINT PLEASANT, a municipal corporation and political subdivision of the State of West Virginia in Mason 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 HUNDRED SEVENTY-TWO THOUSAND FOUR HUNDRED DOLLARS (\$272,400), in annual installments on October 1 of each year (except for the final installment due April 1, 2029) as set forth on the "Schedule of Annual Debt Service" attached as Exhibit A hereto and incorporated herein by reference, without interest.

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").

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 Supplemental Loan Agreement between the Issuer and the Authority, dated June 27, 1989.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain additions, betterments and improvements for the sewerage facilities portion of the existing combined waterworks and sewerage system of the Issuer (the "Project"); (ii) to fund a reserve account for the Bonds of this Series (the "Bonds"); and (iii) to pay certain costs of issuance hereof and related costs. The existing combined waterworks and sewerage system of the Issuer, the Project, and any further additions, betterments or improvements thereto is herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 8, Article 20 of the West Virginia Code of 1931,

as amended (the "Act"), and an Ordinance duly enacted by the Issuer on June 12, 1989 and a Supplemental Resolution duly adopted by the Issuer on June 12, 1989 (collectively called the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS JUNIOR AND SUBORDINATE WITH RESPECT TO LIENS, PLEDGES AND SOURCES OF AND SECURITY FOR PAYMENT TO CERTAIN OUTSTANDING COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS OF THE ISSUER AS FOLLOWS:

(i) WATER AND SEWER REVENUE BOND, SERIES 1976, DATED MAY 3, 1978, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$1,870,000 (THE "PRIOR BONDS"); AND

(ii) COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1989 A, ISSUED CONCURRENTLY HERewith IN THE AGGREGATE PRINCIPAL AMOUNT OF \$1,837,600 AND DESCRIBED IN THE BOND LEGISLATION (THE "SERIES 1989 A 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 after there has first been paid from said Net Revenues all payments then due and owing on account of the Prior Bonds and the Series 1989 A Bonds, all moneys in the reserve account created under the Bond Legislation for the Bonds (the "Series 1989 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, except from said special fund provided from the Net Revenues, the moneys in the Series 1989 B Bonds Reserve Account and unexpended Bond proceeds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable

in any year for principal of and interest, if any, on the Bonds, the Series 1989 A Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity therewith, including the Prior Bonds, provided however, that so long as there exists in the Series 1989 B Bonds Reserve Account and the reserve account established for the Series 1989 A Bonds, respectively, amounts at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds and the Series 1989 A Bonds in the then current or any succeeding year, and any reserve account for any such prior or parity obligations, including the Prior Bonds, is funded at least at 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 One Valley Bank, National Association, Charleston, West Virginia, as registrar (the "Registrar") by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond together with a written instrument of transfer satisfactory to the Bond Registrar duly executed by the registered owner or its attorney duly authorized in writing.

Subject to the registration requirements as 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, shall be applied solely to the payment of the Costs of the Project 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 owners of the Bonds, which lien is subordinate to the lien in favor of the registered owners of the Series 1989 A Bonds.

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

by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of 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 POINT PLEASANT has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed and attested by its City Clerk, and has caused this Bond to be dated June 27, 1989.

[SEAL]

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 1989 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: \_\_\_\_\_

ONE VALLEY BANK, NATIONAL ASSOCIATION,  
as Registrar

By \_\_\_\_\_  
Its Authorized Officer

EXHIBIT A

SCHEDULE OF ANNUAL DEBT SERVICE

City of Point Pleasant  
 Debt Service Schedule  
 Analysis of Borrowing from Series 1989 Pool  
 39 Principal Payments  
 Closing Date: 27-Jun-89

Date	Interest Free Loan
01-Oct-89	
01-Oct-90	
01-Oct-91	6,984.44
01-Oct-92	6,984.62
01-Oct-93	6,984.62
01-Oct-94	6,984.62
01-Oct-95	6,984.62
01-Oct-96	6,984.62
01-Oct-97	6,984.62
01-Oct-98	6,984.62
01-Oct-99	6,984.62
01-Oct-2000	6,984.62
01-Oct-2001	6,984.62
01-Oct-2002	6,984.62
01-Oct-2003	6,984.62
01-Oct-2004	6,984.62
01-Oct-2005	6,984.62
01-Oct-2006	6,984.62
01-Oct-2007	6,984.62
01-Oct-2008	6,984.62
01-Oct-2009	6,984.62
01-Oct-2010	6,984.62
01-Oct-2011	6,984.62
01-Oct-2012	6,984.62
01-Oct-2013	6,984.62
01-Oct-2014	6,984.62
01-Oct-2015	6,984.62
01-Oct-2016	6,984.62
01-Oct-2017	6,984.62
01-Oct-2018	6,984.62
01-Oct-2019	6,984.62
01-Oct-2020	6,984.62
01-Oct-2021	6,984.62
01-Oct-2022	6,984.62
01-Oct-2023	6,984.62
01-Oct-2024	6,984.62
01-Oct-2025	6,984.62
01-Oct-2026	6,984.62
01-Oct-2027	6,984.62
01-Oct-2028	6,984.62
01-Apr-2029	6,984.62

272,400.00

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:

\_\_\_\_\_  
06/23/89  
POINTS.Y2  
71143/89001

# STEPTOE & JOHNSON

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MARILYN ANN VROOM

OF COUNSEL  
RALPH BOHANNON

WRITER'S DIRECT DIAL NUMBER

June 27, 1989

City of Point Pleasant  
Combined Waterworks and Sewerage System Revenue Bonds, Series 1989 A

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

Ladies and Gentlemen:

We have acted as bond counsel in connection with the issuance by the City of Point Pleasant (the "Issuer"), a municipal corporation and political subdivision organized and existing under the laws of the State of West Virginia, of \$1,837,600 Combined Waterworks and Sewerage System Revenue Bonds, Series 1989 A, dated the date hereof (the "Local Bonds").

We have examined the law and certified copies of proceedings and other papers relating to the authorization of a loan agreement, dated June 27, 1989, including all schedules and exhibits attached thereto (the "Loan Agreement"), between the Issuer and the West Virginia Water Development Authority (the "Authority") and the Local Bonds, which are to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Local Bonds are originally issued in the form of one bond, registered as to principal and interest to the Authority, with interest payable April 1 and October 1 of each year, commencing October 1, 1989, at the rate of 8.4% per annum, and with principal installments payable on October 1 in each of the years 1991 through 2028, inclusive, and on April 1, 2029, all as set forth in "Schedule X," attached to the Loan Agreement and incorporated in and made a part of the Local Bonds.

The Local Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly, Chapter 8, Article 20 of the West Virginia Code of 1931, as amended (the "Local Statute"), for the purposes of (i) paying a portion of the costs of acquisition and construction of additions, betterments and improvements for the existing sewerage facilities portion of the combined municipal waterworks and sewerage system of the Issuer (the "Project"); (ii) funding a reserve account for the Local Bonds; and (iii) paying certain issuance and other costs in connection therewith.

We have also examined the applicable provisions of the Local Statute, the bond ordinance duly enacted by the Issuer on June 12, 1989, as supplemented by a supplemental resolution adopted June 12, 1989 (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 that has been undertaken. The Local Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Local Act and the Loan Agreement.

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

1. The Issuer is a duly organized and validly existing municipal corporation and political subdivision of the State of West Virginia, with full power and authority to construct and acquire the Project, to operate and maintain the System referred to in the Loan Agreement and to issue and sell the Local Bonds, all under the Local Statute and other applicable provisions of law.
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 cannot be amended so as to affect adversely the rights of the Authority or diminish the obligations of the Issuer without the written consent of the Authority.
3. The Local Act and all other necessary ordinances and resolutions have been duly and effectively enacted and adopted by the Issuer and constitute valid and binding obligations of the Issuer enforceable upon the Issuer. The Local Act contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.
4. The Local Bonds have been duly authorized, issued, executed and delivered by the Issuer to the Authority and are valid, legally enforceable and binding special obligations of the Issuer, payable from the Net Revenues of the System referred to in the Local Act and secured by a first lien on and pledge of the Net Revenues of said System, on parity, however, with respect to lien and sources of and security for payment with the Issuer's outstanding Water and Sewer Revenue Bond, Series 1976, dated May 3, 1978, issued in the original aggregate

principal amount of \$1,870,000 (the "Prior Bonds"), all in accordance with the terms of the Local Bonds and the Local Act.

5. The interest on the Local Bonds is excludable from gross income for federal income tax purposes and is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations; however, it should be noted that with respect to corporations (as defined for federal income tax purposes), such interest is taken into account in determining adjusted net book income (adjusted current earnings for taxable years beginning after December 31, 1989) for the purpose of computing the alternative minimum tax imposed on such corporations. The opinions set forth in the preceding sentence are subject to the condition that the Issuer comply with all requirements of the Internal Revenue Code of 1986, as amended, that must be satisfied subsequent to the issuance of the Local Bonds in order that interest thereon be (or continue to be) excludable from gross income for federal income tax purposes. Failure to comply with such requirements could cause the interest on the Local Bonds to be included in gross income retroactive to the date of issuance of the Local Bonds. The Issuer has covenanted to comply with all such requirements. We express no opinion regarding other federal tax consequences arising with respect to the Local Bonds.

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

7. The time for appeal of the Final Order of the Public Service Commission of West Virginia entered June 23, 1989 (Case No. 89-205-S-CN), granting to the Issuer a Certificate of Convenience and Necessity is not subject to appeal to the Supreme Court of Appeals of West Virginia by any customer, protestant or other person who has not been made a party to the original application.

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

West Virginia Water Development Authority  
Page 4

We have examined the executed and authenticated Local 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

06/22/89  
POINTJ.G2  
71143/89001



# STEPTOE & JOHNSON

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MARILYN ANN VROOM

OF COUNSEL  
RALPH BOHANNON

WRITER'S DIRECT DIAL NUMBER

June 27, 1989

City of Point Pleasant

Combined Waterworks and Sewerage System Revenue Bonds, Series 1989 B

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

Ladies and Gentlemen:

We have acted as bond counsel in connection with the issuance by the City of Point Pleasant (the "Issuer"), a municipal corporation and political subdivision organized and existing under the laws of the State of West Virginia of \$272,400 Combined Waterworks and Sewerage System Revenue Bonds, Series 1989 B, dated the date hereof (the "Supplemental Bonds").

We have examined the law and certified copies of proceedings and other papers relating to the authorization of a supplemental loan agreement, dated June 27, 1989, including all schedules and exhibits attached thereto (the "Supplemental Loan Agreement"), between the Issuer and the West Virginia Water Development Authority (the "Authority") and the Supplemental Bonds, which are to be purchased by the Authority in accordance with the provisions of the Supplemental Loan Agreement. The Supplemental Bonds are originally issued in the form of one bond registered as to principal to the Authority, without interest thereon, with principal payable in installments on October 1 in each of the years 1991 through 2028, inclusive, and on April 1, 2029, all as set forth in "Schedule X," attached to the Supplemental Loan Agreement and incorporated in and made part of the Supplemental Bonds.

The Supplemental 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 20 of the Code of West Virginia, 1931, as amended (the "Local Statute"), for the purposes of (i) permanently financing a portion of the costs of acquisition and construction of additions, betterments and improvements for the existing sewerage facilities portion of the combined waterworks and sewerage system of the Issuer (the "Project"); (ii) funding a reserve account for the Supplemental Bonds; and (iii) paying certain issuance and other costs in connection therewith.

The Supplemental Loan Agreement is supplemental to a loan agreement also dated June 27, 1989, between the Issuer and the Authority (the "Loan Agreement"). The Supplemental Bonds are junior, subordinate and inferior as to lien and source of and security for payment to the bonds issued pursuant to the Loan Agreement and designated "Combined Waterworks and Sewerage System Revenue Bonds, Series 1989 A" (the "Local Bonds"), which Local Bonds are issued simultaneously herewith, and to the Issuer's outstanding Water and Sewer Revenue Bond, Series 1976, dated May 3, 1978, issued in the original aggregate principal amount of \$1,870,000 (the "Prior Bonds").

We have also examined the applicable provisions of the Local Statute, the bond and notes ordinance duly enacted by the Issuer on June 12, 1989, as supplemented by a supplemental resolution adopted June 12, 1989 (collectively, the "Local Act"), pursuant to and under which Local Statute and Local Act the Supplemental Bonds are authorized and issued and the Supplemental Loan Agreement that has been undertaken. The Supplemental Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Local Act and the Supplemental Loan Agreement.

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

1. The Issuer is a duly organized and validly existing municipal corporation and political subdivision of the State of West Virginia, with full power and authority to construct and acquire the Project, to operate and maintain the System referred to in the Supplemental Loan Agreement and to issue and sell the Supplemental Bonds, all under the Local Statute and other applicable provisions of law. The Local Act contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Supplemental Loan Agreement.

2. The Supplemental 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 cannot be amended so as to affect adversely the rights of the Authority or diminish the obligations of the Issuer without the written consent of the Authority.

3. The Local Act and all other necessary ordinances and resolutions have been duly and effectively enacted and adopted by the Issuer and constitute valid and binding obligations of the Issuer enforceable upon the Issuer.

4. The Supplemental Bonds have been duly authorized, issued, executed and delivered by the Issuer to the Authority and are valid, legally enforceable and binding special obligations of the Issuer, payable from the Net Revenues of the System referred to in the Local Act and secured by a lien on and pledge of the Net Revenues of said System, junior and subordinate only to the Local Bonds and the Prior Bonds, all in accordance with the terms of the Supplemental Bonds and the Local Act.

5. The Issuer has reserved the right to issue additional bonds ranking on a parity with the Supplemental Bonds, as provided in the Local Act.

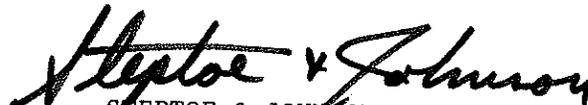
6. The Supplemental Bonds are, under the Local Statute, exempt from direct taxation by the State of West Virginia or any county, municipality, political subdivision or agency thereof.

7. The time for appeal of the Final Order of the Public Service Commission of West Virginia entered June 23, 1989 (Case No. 89-205-S-CN) granting to the Issuer a Certificate of Convenience and Necessity is not subject to appeal to the Supreme Court of Appeals of West Virginia by any customer, protestant or other person who has not been made a party to the original application.

It is to be understood that the rights of the holders of the Supplemental Bonds and the enforceability of the Supplemental Bonds, the Supplemental Loan Agreement and the Local Act may be subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted to the extent constitutionally applicable and that their enforcement may also be subject to the exercise of judicial discretion in appropriate cases.

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

Very truly yours,

  
STEPTOE & JOHNSON

06/22/89  
POINTJ.H2  
71143/89001



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June 27, 1989

City of Point Pleasant  
Combined Waterworks and Sewerage System Revenue Bonds, Series 1989 A

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

Gentlemen:

We have examined a transcript of proceedings relating to the issuance of \$1,837,600 aggregate principal amount of Combined Waterworks and Sewerage System Revenue Bonds, Series 1989 A (the "Local Bonds"), of the City of Point Pleasant (the "Issuer"), and a Certificate as to Arbitrage executed by the Mayor of the Issuer on this date.

Based upon such Certificate as to Arbitrage, we are of the opinion that the facts, estimates and circumstances set forth in the Certificate as to Arbitrage are sufficient to satisfy the requirements of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"), to support the conclusion that the Local Bonds are not "arbitrage bonds" as therein defined. While we have undertaken no independent verification or investigation of the certifications, statements, expectations or representations set forth in such Certificate as to Arbitrage, no matters have come to our attention which make unreasonable or incorrect such certifications, statements, expectations or representations.

Accordingly, it is our opinion that, under existing statutes, regulations, rulings and court decisions, the Local Bonds are not "arbitrage bonds" as so defined. It is our further opinion, based upon such Certificate as to Arbitrage and under existing statutes, regulations, rulings and court

11

West Virginia Water Development Authority  
Page 2

decisions, that proceeds of the Local Bonds are not subject to the arbitrage rebate requirements set forth in Section 148(f) of the Code.

The opinions set forth above are subject to the condition that the Issuer comply with all requirements of the Code relating to arbitrage that must be satisfied subsequent to the issuance of the Local Bonds in order that interest thereon be (or continue to be) excludable from gross income for federal income tax purposes. Failure to comply with such requirements could cause the interest on the Local Bonds to be so included in gross income retroactive to the date of issuance of the Local Bonds. The Issuer has covenanted to comply with all such requirements.

Very truly yours,

  
STEPTOE & JOHNSON

06/22/89  
POINTJ.12  
71143/89001



*William Daniel Roll*

ATTORNEY AT LAW

*610½ Main Street - Point Pleasant, West Virginia 25550*

304-675-6990

June 27, 1989

City of Point Pleasant  
Combined Waterworks and Sewage System Revenue Bonds,  
Series 1989 A and Series 1989 B

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

Steptoe & Johnson  
Post Office Box 2190  
Clarksburg, West Virginia 26301

Gentlemen:

I am counsel to the City of Point Pleasant, in Mason County, West Virginia (the "Issuer"). As such counsel, I have examined copies of the approving opinions of Steptoe & Johnson, as bond counsel, a loan agreement and supplemental loan agreement, both dated June 27, 1989, by and between the West Virginia Water Development Authority (the "Authority") and the Issuer (collectively, the "Loan Agreement"), the Local Act (as defined therein) and other documents relating to the above-captioned Bonds of the Issuer. Terms used in said opinions, Local Act and Loan Agreement and not otherwise defined herein have the same meanings herein.

I am of the opinion that:

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

2. The Mayor, City Clerk and members of the council of the Issuer have been duly and properly elected or appointed, have taken the requisite oaths, and are authorized to act on behalf of the Issuer.

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

West Virginia Water Development Authority, et al.  
June 27, 1989  
Page Two

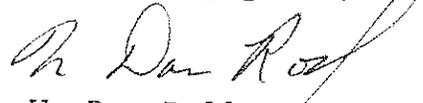
4. The execution and delivery of the Bonds and the Loan Agreement and the consummation of the transactions contemplated by the Loan Agreement, and the carrying out of the terms thereof, do not and will not in any material respect conflict with or constitute on the part of the Issuer a breach of or default under any 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 and upon information provided by Dunn Engineers, Inc., the Issuer has received all permits, licenses, approvals and authorizations necessary for the issuance of the Bonds, construction of the Project, operation of the System and imposition of rates and charges, including, without limitation, the receipt of all requisite orders and approvals from the Public Service Commission of West Virginia, and has taken any other action required for the imposition of such rates and charges, including, without limitation, the enactment of an ordinance prescribing such rates and charges. The time for appeal of such rate ordinance has expired prior to the date hereof without any appeal. The time for appeal of the Final Order of the Public Service Commission of West Virginia entered June 23, 1989 (Case No. 89-205-S-CN) granting to the Issuer a Certificate of Convenience and Necessity with respect to the Project has not expired prior to the date hereof. However, the Public Service Commission staff has stated in a letter dated June 23, 1989, that it does not intend to appeal such Order and there are no intervenors or other parties of record in the case other than the Issuer.

6. To the best of my knowledge and upon information provided by the City of Point Pleasant, there is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body, pending or threatened, wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by the Loan Agreement, construction of the Project, operation of the System or 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,



W. Dan Roll



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CITY OF POINT PLEASANT

Combined Waterworks and Sewerage System Revenue Bonds,  
Series 1989 A and Series 1989 B

GENERAL CERTIFICATE OF ISSUER AND ATTORNEY ON:

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

We, the undersigned MAYOR and CITY CLERK of the City of Point Pleasant, in Mason County, West Virginia (the "Issuer"), and the undersigned ATTORNEY for the Issuer, hereby certify in connection with the \$2,110,000 aggregate principal amount of the City of Point Pleasant Combined Waterworks and Sewerage System Revenue Bonds, Series 1989 A and Series 1989 B (collectively, the "Bonds"), as follows:

1. TERMS: All capitalized words and terms used in this General Certificate and not otherwise defined shall have the same meaning as in the Bond Ordinance of the Issuer enacted June 12, 1989, and a Supplemental Resolution adopted June 27, 1989 (collectively, the "Local Act").

2. NO LITIGATION: No controversy or litigation of any nature is now pending or threatened, restraining, enjoining or affecting in any manner the issuance, sale or delivery of the Bonds, construction of the Project, operation of the System, receipt of the Net Revenues, or in any way contesting or affecting the validity of the Bonds or any proceedings of the Issuer taken with respect to the

issuance or sale of the Bonds, the pledge or application of the Net Revenues or any other moneys or security provided for the payment of the Bonds or the existence or the powers of the Issuer insofar as they relate to the authorization, sale and issuance of the Bonds, construction of the Project, operation of the System, or such pledge or application of moneys and security or the collection of the Net Revenues or pledge thereof.

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

4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS: There has been no adverse change in the financial condition of the Issuer since the approval and execution and delivery by the Issuer of the Loan Agreement, and the Issuer has met all conditions prescribed in the Loan Agreement entered into between the Issuer and the Authority. Except for the Prior Bonds, there are no outstanding debt obligations of the Issuer, or obligations for which full and irrevocable provision for payment has not been made, which are secured by revenues or assets of the System. All amounts required to be paid or deposited pursuant to the Prior Ordinance authorizing issuance of the Prior Bonds are, as of the date hereof, current and fully paid.

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

Charter of the City of Point Pleasant.

Oaths of Office of Councilmembers

Bond Ordinance.

Prior Bond Ordinance.

Supplemental Resolution.

Rate Ordinance.

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

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

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

Loan Agreement.

Public Service Commission Order entered June 23, 1989.

6. INCUMBENCY AND OFFICIAL NAME: The proper name of the Issuer is "City of Point Pleasant." The Issuer is a municipal corporation in Mason County and 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 10 councilmembers whose names and dates of commencement and termination of current terms of office are as follows:

<u>Name</u>	<u>Date of Commencement of Office</u>	<u>Date of Termination of Office</u>
Russell V. Holland - Mayor	July 1, 1987	June 30, 1991
Timothy L. Scarberry - Councilmember	July 1, 1987	June 30, 1991
Rick Handley - Councilmember	July 1, 1987	June 30, 1991
David Reynolds - Councilmember	July 1, 1987	June 30, 1991
Ronald White - Councilmember	July 1, 1987	June 30, 1991
Leonard F. Riffle - Councilmember	July 1, 1987	June 30, 1991
Sadie Bailes - Councilmember	July 1, 1987	June 30, 1991
Charles W. Garland - Councilmember	July 1, 1987	June 30, 1991
Stephen Lovell - Councilmember	July 1, 1987	June 30, 1991
Carol Jones - Councilmember	July 1, 1987	June 30, 1991
(Vacancy) - Councilmember	July 1, 1987	June 30, 1991

The duly elected and acting City Clerk is Etta M. Gheen. The duly appointed and acting counsel to Issuer is William Daniel Roll, Jr., Point Pleasant, West Virginia.

7. LAND AND RIGHTS-OF-WAY: All land in fee simple and all rights-of-way and easements necessary for the construction of the Project and operation and maintenance of the System have been acquired or can and will be acquired by purchase, or, if necessary, by condemnation by the 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 construction, acquisition, operation and financing of the Project or the System were authorized or adopted at regular or special meetings of the Governing Body of the Issuer duly and regularly called and held pursuant to the Rules of Procedure of the Governing Body and all applicable statutes, including Chapter 6, Article 9A, of the Official West Virginia Code of 1931, as amended, and a quorum of duly elected, qualified and acting members of the Governing Body was present and acting at all times during all such meetings.

9. CONTRACTORS' INSURANCE, ETC.: All contractors have been required to maintain Worker's Compensation, public liability and property damage insurance, and builder's risk insurance where applicable, in accordance with the Local Act. All insurance for the System required by the Ordinance is in full force and effect. The System is not presently covered by policies of flood or business interruption insurance, but will be if such coverages are available at reasonable cost.

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

11. RATES: The Issuer has duly enacted a rate ordinance on May 8, 1989, setting rates and charges for the services of the System. The period for appeal of such rate ordinance has expired and there has been no appeal thereof, and such rate ordinance will be effective on July 1, 1989.

12. SIGNATURES AND DELIVERY: On the date hereof, the undersigned Mayor did officially sign all of the Bonds of the aforesaid issue, all dated June 27, 1989, by his manual signature, and the undersigned City Clerk did officially cause the official seal of the Issuer to be affixed upon each of said Bonds and to be attested by her manual signature, and the Registrar did officially authenticate and deliver the Bonds to a representative of the Authority as the original purchaser of the Bonds under the Loan Agreement. Said official seal is also impressed above the signatures appearing on this certificate.

13. BOND PROCEEDS: On the date hereof the Issuer received from the Authority the agreed purchase price of the Bonds, being \$2,110,000 (100% of par value), there being no interest accrued thereon.

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 a newspaper published and of general circulation in the City of Point Pleasant, 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 Ordinance, stating that any person interested may appear before the Council at the public hearing held at a public meeting of Council on the 12th day of June, at 7:30 p.m., in the Council Chambers of the City Hall of the City of Point Pleasant and present protests, and stating that a certified copy of the Ordinance was on file at the office of the City Clerk of the Issuer for review by interested parties during the office hours of the City Clerk. 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 a Final Order of the Public Service Commission of West Virginia entered June 23, 1989 (Case No. 89-205-S-CN) granting to the Issuer a Certificate of Convenience and Necessity with respect to the Project. The time for appeal of such Order has not expired prior to the date hereof. However, the Public Service Commission of West Virginia staff has stated in a letter dated June 23, 1989, that it does not intend to appeal such Order and there are no other intervenors or other parties of record in the case, other than than the Issuer. The Issuer does not intend to appeal such Order.

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

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

18. IRS INFORMATION RETURN: On the date hereof, the undersigned Mayor did officially sign a properly completed IRS Form 8038-G and will cause such executed Form 8038-G to be filed in a timely manner with the Internal Revenue Service Center, Philadelphia, Pennsylvania.

19. SPECIMEN BONDS: Delivered concurrently herewith are true and accurate specimens of the Bonds.

WITNESS our signatures and the official seal of the CITY OF POINT PLEASANT on this 27th day of June, 1989.

[CORPORATE SEAL]

SIGNATURE

OFFICIAL TITLE

*Russell V. Hulland*  
*John M. Green*  
*A. Da. Roof*

Mayor

City Clerk

Counsel to Issuer

06/22/89  
POINTJ.K2  
71143/89001



CITY OF POINT PLEASANT

Combined Waterworks and Sewerage System Revenue Bonds,  
Series 1989 A

CERTIFICATE AS TO ARBITRAGE

I, RUSSEL V. HOLLAND, Mayor of the City of Point Pleasant, in Mason County, West Virginia (the "Issuer"), being one of the officials of the Issuer duly charged with the responsibility for the issuance of \$2,110,000 aggregate principal amount of Combined Waterworks and Sewerage System Revenue Bonds, Series 1989 A, of the Issuer, dated June 27, 1989 (the "Local Bonds"), hereby certify as follows:

1. This certificate is being executed and delivered pursuant to Section 148 of the Internal Revenue Code of 1986 and applicable regulations (the "Code"). I am one of the officers of the Issuer charged with the responsibility of issuing the Local Bonds. I am familiar with the facts, circumstances, and estimates herein certified and am duly authorized to execute and deliver this certificate on behalf of the Issuer.
2. This certificate may be relied upon as the certificate of the Issuer.
3. The Issuer has not been notified by the Internal Revenue Service of any listing or proposed listing of it as an issuer the certification of which may not be relied upon by holders of obligations of the Issuer or that there is any disqualification of the Issuer by the Internal Revenue Service because a certification made by the Issuer contains a material misrepresentation.
4. This certificate is based upon facts, circumstances, estimates and expectations of the Issuer in existence on June 27, 1989, the date on which the Local Bonds are to be physically delivered in exchange for the issue price thereof, and to the best of my knowledge and belief, the expectations of the Issuer set forth herein are reasonable.
5. In the ordinance pursuant to which the Local Bonds are issued, the Issuer has covenanted to make no use of the proceeds of the Local Bonds which would cause the Local Bonds to be "arbitrage bonds" within the meaning of the Code.
6. The Local Bonds and the Series 1989 B Bonds (the "Supplemental Bonds"), which bear no interest, were sold on June 27, 1989, to the West Virginia Water Development Authority (the

"Authority") for an aggregate purchase price of \$2,110,000 (100% of par).

7. The Local Bonds are being delivered simultaneously with the delivery of this certificate and are issued for the purposes of (i) paying a portion of the costs of acquisition and construction of certain additions, betterments and improvements for the existing sewerage facilities portion of the combined municipal waterworks and sewerage system of the Issuer (the "Project"); (ii) funding a reserve account for the Local Bonds; and (iii) paying costs of issuance of the Local Bonds.

8. The Issuer shall, within 30 days following delivery of the Local Bonds, enter into agreements which require the Issuer to expend in excess of \$100,000 on the Project constituting a substantial binding commitment or has already done so. Acquisition, construction and equipping of the Project will proceed with due diligence to completion, and, with the exception of proceeds constituting capitalized interest and proceeds deposited in a reserve account for the Local Bonds, all of the proceeds from the sale of the Local Bonds, together with any investment earnings thereon, will be expended for payment of Costs of the Project on or before November, 1990. Construction of the Project is expected to be completed by October, 1990.

9. The total cost of the Project (including all costs of issuance of the Bonds) is estimated at \$4,470,735. Sources and uses of funds for the Project are as follows:

SOURCES

Gross Proceeds of Local Bonds	\$1,837,600
Gross Proceeds of Supplemental Bonds	272,400
EPA Grant	2,252,152
Issuer Funds	<u>108,583</u>
Total Net Proceeds	<u>\$4,470,735</u>

USES

Design, Acquisition and Construction of Project	\$4,290,450
Funded Reserve for Series 1989 A Bonds	161,300
Funded Reserve for Series 1989 B Bonds	6,985
Costs of Issuance of Bonds	<u>12,000</u>
Total Uses	<u>\$4,470,735</u>

The amount of Project costs not expected to be reimbursed or paid from Supplemental Bond proceeds and funds of the Issuer lawfully available therefor is estimated to be at least equal to the gross proceeds of the Local Bonds. Except for the proceeds of the Local Bonds, the Supplemental Bonds, the EPA Grant, such funds of the Issuer and interest earnings during construction, no other funds of the Issuer will be available to meet costs of the Project, and no balances are available to meet such costs in any account which may, without legislative or judicial action, be invaded to pay such expenditures without a legislative, judicial or contractual requirement that such account be reimbursed.

10. Pursuant to Article V of the Local Act, the following special funds or accounts have been created or continued from prior ordinances:

- (1) Revenue Fund;
- (2) Operation and Maintenance Fund;
- (3) Prior Bonds Reserve Account;
- (4) Depreciation Account;
- (5) Renewal and Replacement Account;
- (6) Bond Construction Trust Fund;

(7) Series 1989 A Bonds Sinking Fund, and within the Series 1989 A Bonds Sinking Fund the Series 1989 A Bonds Reserve Account; and

(8) Series 1989 B Bonds Sinking Fund, and within the Series 1989 B Bonds Sinking Fund the Series 1989 B Bonds Reserve Account.

11. Pursuant to Article VI of the Local Act the proceeds of the Local Bonds (and the Supplemental Bonds ) will be deposited as follows:

(1) Local Bonds proceeds in the amount of \$161,300 and Supplemental Bonds proceeds in the amount of \$6,985 will be deposited in the Series 1989 A Bonds Reserve Account and the Series 1989 B Bonds Reserve Account, respectively.

(2) The balance of the proceeds of the Local Bonds and the Supplemental Bonds will be deposited in the Bond Construction Trust Fund and applied solely to payment of Costs of the Project, including costs of issuance of the Bonds and related costs.

12. Moneys held in the Series 1989 A Bonds Sinking Fund will be used solely to pay principal of and interest on the Local Bonds and will not be available to meet costs of construction of the Project. All investment earnings on moneys in the Series 1989 A Bonds Sinking Fund and Series 1989 A Bonds Reserve Account will be withdrawn therefrom and deposited into the Bond Construction Trust Fund until completion of the Project, and thereafter will be deposited, not less than once each year, in the Revenue Fund, and such amounts will be applied in full, first to the next ensuing interest payment, if any, due on the Series 1989 A Bonds, and then to the next ensuing principal payment due thereon.

13. Except for the Series 1989 A Bonds Sinking Fund, there are no other funds or accounts established or held by the Issuer which are reasonably expected to be used to pay debt service on the Local Bonds or which are pledged as collateral for the Local Bonds and for which there is a reasonable assurance that amounts therein will be available to pay debt service on the Local Bonds, if the Issuer encounters financial difficulties. The Issuer does not expect that moneys in the Renewal and Replacement Fund will be used or needed for payments upon the Local Bonds. Except as provided herein, no funds which have been or will be used to acquire directly or indirectly securities, obligations, annuity contracts or other investment-type

property producing a yield in excess of the yield on the Local Bonds have been or will be pledged to payment of the Local Bonds. None of the moneys received from the sale of the Local Bonds will be deposited in the Series 1989 A Reserve Account or any other reserve or replacement fund. The amounts deposited in the Series 1989 A Reserve Account from time to time by the Issuer will not exceed the maximum annual principal and interest on the Local Bonds and will not exceed 125% of average annual principal and interest on the Local Bonds. Amounts in the Series 1989 A Reserve Account, not to exceed 10% of the proceeds of the Local Bonds, if invested, will be invested without yield limitation. The establishment of the Series 1989 A Reserve Account is required by the Authority, is vital to its purchase of the Local Bonds and is reasonably required to assure payments of debt service on the Local Bonds.

14. The Issuer expects to enter into a contract within 6 months of the date hereof or has already entered into such a contract for the construction of the Project, and the amount to be expended pursuant to such contract exceeds the lesser of 2 1/2% of the estimated total Project cost financed with proceeds from the sale of the Bonds or \$100,000.

15. Work with respect to the construction of the Project will proceed with due diligence to completion. Construction is expected to be completed within 15 months.

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

17. With the exception of the amount deposited in the Series 1989 A Bonds Sinking Fund for payment of interest on the Local Bonds and amounts deposited in the Series 1989 A Reserve Account, if any, all of the proceeds of the Local Bonds will be expended on the Project within 16 months from the date of issuance thereof.

18. Any money deposited in the Series 1989 A Bonds Sinking Fund for payment of the principal of or interest on the Local Bonds (other than the Series 1989 A Bonds Reserve Account therein) will be spent within a 13-month period beginning on the date of receipt.

19. All the proceeds of the Local Bonds which were used for the payment of costs of the Project will be expended for such purposes within three years of March 16, 1989.

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

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

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

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

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

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

26. The Issuer shall not permit at any time or times any of the proceeds of the Local 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 Local Bonds from treatment afforded by Section 103(a) of the Code by reason of classification of the Local Bonds as "private activity bonds" within the meaning of the Code. The Issuer will take all actions and refrain from taking such actions as shall be necessary to comply with the Code in order to ensure the interest on the Local Bonds is excludable from gross income for federal income tax purposes.

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

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

29. The Issuer has retained the right to amend or supplement its authorizing documents if such amendment or supplement

is necessary to preserve the exclusion from gross income for federal income tax purposes of the Local Bonds.

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

31. The Issuer has either (a) funded the Series 1989 A Bond Reserve Account at the maximum amount of principal and interest which will mature and become due on the Local Bonds in the then current or any succeeding year with the proceeds of the Local Bonds, or (b) created the Series 1989 A Bond Reserve Account which will be funded with equal payments made on a monthly basis over a 10 year period until such Series 1989 A Bond Reserve Account holds an amount equal to the maximum amount of principal and interest which will mature and become due on the Local Bonds in the then current or any succeeding year. Moneys in the Series 1989 A Bond Reserve Account and the local sinking fund (established for the annual payment of principal and interest) will be used solely to pay principal of and interest on the Local Bonds and will not be available to pay costs of the Project.

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

33. The Issuer expects that no part of the Project financed by the Local Bonds will be sold or otherwise disposed of prior to the last maturity date of the Local Bonds.

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

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

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

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

IN WITNESS WHEREOF, I have set my hand this 27th day of  
June, 1989.

CITY OF POINT PLEASANT

By *Russell T. Holland*  
Mayor

06/22/89  
POINTJ.L2  
71143/89001



CITY OF POINT PLEASANT

Combined Waterworks and Sewerage System Revenue Bonds,  
Series 1989 A and Series 1989 B

ENGINEER'S CERTIFICATE

I, Mark A. Sankoff, Registered Professional Engineer, West Virginia License No. 10615, of Dunn Engineers, Inc., consulting engineers, of Charleston, West Virginia, hereby certify as follows:

1. My firm is engineer for the construction and acquisition of certain additions, betterments and improvements (the "Project") for the sewerage portion of the existing combined waterworks and sewerage system of the City Point Pleasant in Mason County, West Virginia (the "Issuer"). Certain costs of such construction and acquisition are being financed by proceeds of the above-captioned bonds (the "Bonds) anticipated to be purchased by the West Virginia Water Development Authority (the "Authority") and funds of the Issuer.
2. The undersigned certifies that (i) the Project will be constructed in accordance with the approved plans, specifications and designs prepared by my firm, or amendments thereto and as described in the Application submitted to the Authority and approved by all necessary governmental bodies and is situate wholly or chiefly within the boundaries of the City of Point Pleasant; (ii) the Project is adequate for the purpose for which it was designed and all necessary governmental approvals for the construction thereof have been obtained; (iii) My firm has examined and reviewed all plans, specifications, bid documents and construction contracts relating to the Project and all bids for construction of the Project have been received in an amount and are otherwise compatible with the plan of financing described in said Application and my firm will ascertain that all contractors have made required provisions for all insurance and payment and performance bonds and such insurance policies or binders and such bonds will be verified for accuracy and completeness prior to commencement of construction of the Project; (iv) the Issuer has obtained all permits required by the laws of the State of West Virginia and the United States of America necessary for construction of the Project; (v) the construction and funding for the Project should proceed to a successful conclusion within the time schedules proposed; (vi) the useful life of the facilities constituting the Project is not less than 40 years; (vii) the rates and charges for the sewerage portion of the combined waterworks and

DATE: 6/26/89

AMENDED SCHEDULE A  
 NAME OF GOVERNMENTAL AGENCY: Point Pleasant  
 TOTAL COST OF PROJECT AND SOURCES OF FUNDS

A. Cost of Project

1. Construction	\$ 3,469,000	
2. Technical Services	\$ 601,920	
3. Legal and Fiscal	\$ 5,000	
4. Administrative	\$ 34,767	
5. Site and Other Lands	\$ 0	
6. Step I and/or Step II Design or Other Loan Repayment (Specify Type: <u>WDA Step I</u> )	\$ 6,313*	
7. Interim Financing Costs	\$ 0*	
8. Contingency	\$ 173,450	
9. Total of Lines 1 through 8		<u>\$4,290,450</u>

B. Sources of Funds

10. Federal Grants: <sup>1</sup> (Specify Source) <u>EPA</u>	\$ 2,252,152**	
11. State Grants: <sup>1</sup> (Specify Source)	\$	
	\$	
	\$	
	\$	
	\$	
12. Other Grants: <sup>1</sup> (Specify Source)	\$	
	\$	
13. Any Other Source <sup>2</sup> (Specify) <u>Point Pleasant</u>	\$ 108,583	
	\$	
14. Total of Lines 10 through 13		<u>\$ 2,360,735</u>
15. Proceeds Required from Bond Issue (Line 9 less Line 14)		<u>\$ 1,929,715</u>

C. Cost of Financing

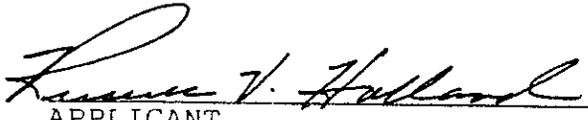
16. Capitalized Interest (construction period plus six months)	\$ 0*	
17. Funded Reserve Account <sup>3</sup>	\$ 168,285	
18. Other Costs <sup>4</sup>	\$ 12,000	
	\$	
19. Total Cost of Financing		<u>\$ 180,285</u>
20. Size of Bond Issue (Line 15 plus Total from Line 19)		<u>\$ 2,110,000</u>

\*Funded by the City, will not be included in the loan.

\*\*\$2,252,152 of \$2,500,190 EPA Grant is applicable to the Project;  
 the remainder is for work not included in the WDA financing.

- 1 Attach supporting documentation not previously submitted. If not yet
  - 2 available, state such and expectations as to availability.
  - 3 For example, interest earnings during construction, if applicable.
  - 4 Include the proceeds of any parity or subordinate bond issue to be used for such purpose and attach supporting documentation if available (if not yet available, state such and expectations as to availability).
- Consult with bond counsel and the Authority before assuming a funded reserve.
- For example, fees of bond counsel for the Governmental Agency.

Additional or explanatory material may be provided on additional sheets attached to Amended Schedule A.



APPLICANT  
Russell V. Holland  
Mayor



CONSULTING ENGINEER  
Mark A. Sankoff  
Dunn Engineers, Inc.



*Kenneth E. Plants*

PUBLIC ACCOUNTANT  
801 OAKBRIDGE DRIVE  
HURRICANE, WV 25526

304/757-7110

June 27, 1989

City of Point Pleasant  
Combined Waterworks and Sewerage System Revenue Bonds,  
Series 1989 A and Series 1989 B

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

Gentlemen:

Based upon the rates and charges as set forth in the ordinance of the City of Point Pleasant enacted May 8, 1989 (the "Ordinance"), and projected operation and maintenance expenses and anticipated customer usage as furnished to us by Dunn Engineers, Inc., consulting engineers, it is our opinion that such rates and charges will be sufficient to provide revenues which, together with other revenues of the combined waterworks and sewerage system of the City of Point Pleasant, will pay all repair, operation and maintenance expenses and leave a balance each year equal to at least 110% of the maximum amount required in any year for debt service on the Combined Waterworks and Sewerage System Revenue Bonds, Series 1989 A and Series 1989 B, to be issued to West Virginia Water Development Authority and all other obligations secured or payable from the revenues of the System prior to or on a parity with such Bonds including the Prior Bonds, as defined in the Ordinance.

Very truly yours,  
*Kenneth E. Plants P.A.*  
Kenneth E. Plants, P.A.



CITY OF POINT PLEASANT

CHAPTER 19  
(Senate Bill No. 311)

AN ACT creating "The City of Point Pleasant", in the county of Mason, granting a charter thereto and annulling the charters of "The Town of Point Pleasant" and "The Town of North Point Pleasant".

(Passed February 16, 1915. In effect from passage. Approved by the Governor February 25, 1915.)

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Be it enacted by the Legislature of West Virginia:

City and Corporate Law

Section 1. The inhabitants of Mingo County, in the State of West Virginia, now and hereafter residing within the boundaries prescribed in section two of this act do, and they do hereby, constitute a body politic and corporate, by and under the name of "The City of Point Pleasant", and as such, and in that name, shall have perpetual succession and a common seal, and may sue and be sued, contract and be contracted with, purchase, lease and otherwise acquire, and hold and use real and personal property necessary for corporate purposes; and generally shall have all of the rights, powers and franchises belonging or in any wise appertaining to municipal corporations in this state.

Boundaries

Section 2. The boundaries of said city shall be as follows: Beginning at a point on the Kanawha river where a stake is called for, being a corner of the lands formerly owned by C. C. Miller, who is now deceased, and the lands of the Kanawha & Michigan Railway Company, thence with the division line between said Miller lands and the Railway Company lands, north 29 degrees 45 minutes, east 204 poles and 22 links to a stake; thence by same course 55 poles and 4 links to a corner of the said Miller lands, the lands of the Kanawha & Michigan Railway Company and the lands formerly owned by J. D. McCulloch; thence north 58 degrees, west 297 poles to a stake on the south side of the Clarksburg road; thence crossing the lands formerly belonging to H. J. Fisher, north 70 degrees west, 90 poles and 12 links to a stake on the south side of a road; thence north 37 degrees 30 minutes west, 37 poles to a large cedar tree on a hillside; thence north 20 degrees 15 minutes, 121 poles to a chestnut oak on a hillside; thence north 28 degrees 30 minutes, east 134 poles and 11 links to a small black oak on the top of a ridge on the lands of P. C. Eastham; thence north 73 degrees 30 minutes west, to the west bank of Crooked Creek; thence along the west bank of said Crooked

creek with its meanderings and linkings; thence north 35  
east, 4 poles; north 71 degrees 30 minutes, east 16 poles;  
north 23 degrees west 20 poles; north 22 degrees east, 18 poles;  
north 67 degrees 45 minutes east 12 poles; south 84 degrees 15  
minutes east 17 poles; north 42 degrees 30 minutes east 10 poles;  
north 2 degrees east 8 poles to the division line between  
P. C. Eastham and James Capchart; thence across lands of James  
Capchart north 25 degrees west 10 poles; north 5 degrees east  
4 poles; north 44 degrees 30 minutes east 10 poles; north 24  
degrees 30 minutes west 9 poles; north 33 degrees 30 minutes east  
25 poles; north 56 degrees 30 minutes east 32 poles; north 6 de-  
grees east 16 poles; north 38 degrees 30 minutes east 22 poles to  
a point on south side of Jericho road, same belonging to lands of  
E. J. Mossman; thence with the line of said E. J. Mossman  
south 37 degrees west 10 poles to a stake in center of road;  
north 81 degrees 30 minutes west 4 poles 10 1-2 links to a point  
in the center of Jericho road; thence leaving said Jericho road  
north 8 degrees east 32 poles 19 links to a post set in the ground  
on the fifteenth day of July, one thousand nine hundred and forty;  
thence south 82 degrees east 25 poles to stake on the top of  
creek bank; thence along the top of creek bank north 27 degrees  
15 minutes east 4 poles 16 links; thence north 9 degrees east  
5 poles 16 links; north 12 degrees west 2 poles 3 links; north  
13 degrees 15 minutes east 20 poles to a stake; thence north 35  
degrees east 10 poles 10 links to a stake in bend of the fence;  
thence north 14 degrees 30 minutes east 38 poles 10 links to a  
stake in outline of 36 acre tract known as Lot No. One in Point  
Pleasant Development Company's survey; thence with line of said  
Lot No. One, north 82 degrees west 9 poles 15 links to a stake;  
thence north 41 degrees west 11 poles 8 links to a stake at the  
northeast corner of Fair Ground; thence along the north line of  
said Fair Ground north 82 degrees west 9 poles to a stake; thence  
north 6 degrees east 61 poles 11 links to a stake; thence south  
30 degrees east 7 1-2 poles 11 links to a stake; thence south  
30 degrees east 7 1-2 poles to a fence post in southeast corner  
of cemetery lot; thence along the south line of cemetery lot

North 75 degrees 15 minutes west 48 poles to the east line of Jackson Avenue laid out by the Point Pleasant Development Company; thence along the east line of Jackson Avenue north 9 degrees east 12 links to a stake in the outline of the Point Pleasant Development Company's land and with said outline and with the east end of Mrs. Ham Parr north 76 degrees west 171 poles to a stake in the south bank of Old Town Creek, thence along the south bank of said Old Town creek with its meanders and windings thence south 35 degrees west 16 poles 4 links; north 47 degrees 15 minutes west 6 poles; north 28 degrees, 45 minutes west 8 poles; north 75 degrees west 3 1-2 poles; south 3 degrees 30 minutes east 3 poles 4 links; south 28 degrees east 6 poles 20 links; south 20 degrees east 5 poles; south 12 degrees west 8 poles and 9 links; south 8 degrees west 7 poles 7 links; north 81 degrees 30 minutes west 4 poles and 22 links; south 44 degrees 45 minutes west 13 poles and 23 links to the top of the Ohio river bank; thence north 73 degrees 30 minutes west to the Ohio and West Virginia state line; thence with said state line to the Ohio river to a point opposite the center of the Kanawha river; thence crossing the Ohio river and in a line with the center of the Kanawha river and continuing said course up the center of said Kanawha river 503 poles to a point opposite the beginning corner; thence north 29 degrees and 45 minutes, east 325 feet to the place of beginning.

#### Wards

Sec. 3. The territory of said city is hereby divided into four wards, as follows; That part thereof lying south of Second Street, and the same produced and extended as a line from the intersection thereof with Walnut street to the east corporation line by the shortest distance, shall constitute the first ward; that part thereof lying north of the north line of the first ward hereinbefore described, and south of Eighth street, produced and extended as a line from the east end thereof to the east corporation line, shall constitute the second ward; that

part thereof lying north of Eighth Street extended as aforesaid as a line and the south side of Twenty-first street produced and extended east and west, as a line, to the Ohio river and to the east corporation line, respectively, shall constitute the Third ward; and all that part lying north of the south side of Twenty-first street produced and extended as aforesaid shall constitute the Fourth ward.

#### Redistricting and Increasing Number of Wards

Sec. 4. After two years from the passage of this act, the council of said city may change the boundaries and increase the number of wards; and in either case regard shall be had to equality of population.

#### Officers

Sec. 5. The officers of said city shall be a mayor, and two councilmen from each ward, who shall be freeholders of said city; a clerk, assessor, treasurer, marshal, health officer, street commissioner, city solicitor, and such other officers as the council shall by ordinance provide. The mayor, clerk and assessor shall be elected by the qualified voters of said city, and the councilmen from each ward by the qualified voters thereof; the other officers named, and such other officers as may be provided for by ordinances of the council, shall be appointed by the council. No person shall be eligible to any city office unless he is a taxpayer of the city and a qualified voter; nor unless he has resided therein for at least six months next preceding his election or appointment.

#### Elections

Section 6. The first election hereunder shall be held on the third Saturday in May, one thousand nine hundred and fifteen, and on the same day in each second year thereafter. Every person who shall have been a bona fide resident of the city for three months next preceding any election, and entitled to vote under the constitution and laws of the state, shall be entitled to vote at such election, but only in the ward of his residence. Elections

shall be held and conducted and the results ascertained and declared under the general laws governing municipal elections. The voting places shall be designated by the council. Contested elections shall be heard and decided by the council, and the proceedings therein shall conform as nearly as may be to similar proceedings in the case of county and district officers. The council shall be the judge of the election, return and qualifications of its own members.

#### Terms of Office

Sec. 7. The term of office of the mayor, clerk, assessor and councilmen shall be two years, beginning on the first day of July next succeeding their election, and continuing until their successors are elected and qualified. The term of office of the treasurer, marshal, health officer, street commissioner, city solicitor and such other officers as may be provided for by ordinances of the council, shall be prescribed by the council but shall not exceed two years, and they shall be subject to removal at the pleasure of the council.

#### Oath of Office

Sec. 8. Every person elected or appointed to any office in said city shall, before entering upon the discharge of the duties thereof, take, subscribe and file with the clerk the oath prescribed by law for officers generally; and the same may be administered by the mayor, clerk, or other officer or person competent to administer oaths.

#### Duties, Bonds and Compensation of Appointed Officers

Sect. 9. The council shall prescribe the powers and define the duties of all officers by it appointed, except so far as the same are by this act prescribed and defined. It shall fix their compensation, and may require and take from them respectively bonds payable to the city in its corporate name, with such sureties and in such penalties as may be deemed proper, conditioned for the faithful performance of their duties.

General Powers of the Council

Sec. 10. The council of said city shall have power to lay off, vacate, close, open, alter, grade and keep in good repair the roads, streets, cross-streets, alleys, pavements, sidewalks, cross-walks, drains and gutters therein, for the use of the citizens, or of the public, and to improve and light the same, and to keep them free from obstructions of every kind; to regulate the width of the pavements and sidewalks on the streets and alleys, and to order the pavements, sidewalks, footways, drains and gutters to be kept in good order, free and clean, by the owners or occupants of the real property adjacent thereto; to establish and regulate markets, prescribe the times of holding the same, provide suitable and convenient buildings therefor, and prevent the forestalling or regrating of such markets; to prevent injury or annoyance to the public or to individuals from anything dangerous, offensive or unwholesome; to prohibit or regulate slaughter-houses, tan-houses and soap factories within the city limits; or the exercise of any unhealthy or offensive business, trade or employment; to abate all nuisances within the city limits, or to require and compel the abatement or removal thereof by or at the expense of the person causing the same, or by or at the expense of the owner or occupant of the ground on which they are placed or found; to cause to be filled up, raised or drained, by or at the expense of the owner, any city lot or tract of land covered or subject to be covered by stagnant water; to prevent horses, hogs, cattle, sheep or other animals, and fowls of all kinds, from going or being at large in such city, and as one means of prevention, to provide for impounding and confining such animals and fowls, and upon failure to reclaim, for the sale thereof; to protect places of divine worship, and preserve order in and about the premises where and when such worship is held; to regulate the keeping of gunpowder and other inflammable or dangerous substances; to provide for the regular building of houses or other structures, and for the making and maintaining of division fences by the

owners of adjoining premises, and for the proper drainage of city lots or other parcels of land by or at the expense of the owner or occupant thereof; to provide against danger or damage by fire; to punish for assaults and batteries; to prohibit loitering in or visiting houses of ill fame, or loitering in saloons, or upon the streets; to prevent lewd or lascivious conduct, the sale or exhibition of indecent pictures or other representations; the desecration of the Sabbath day; profane swearing; the illegal sales of all intoxicating liquors, drinks, mixtures and preparations; to protect the persons of those residing or being within said city; to appoint when necessary or advisable a police force, permanent or temporary, to assist the marshal in the discharge of his duties; to build or purchase, or lease and use, a suitable place of imprisonment within or near the said city for the safe keeping or punishment of persons charged with or convicted of the violation of ordinances; to erect, or authorize or prohibit the erection and operation of gas, water works, electric light and power works and other public utilities within the city limits; to prevent injury to such works, or the pollution of any gas or water used or intended to be used by the public or by individuals; to provide for and regulate the weighing or measuring of hay, coal, lumber and other articles sold or kept for sale, within said city; to establish, construct, alter, remove and repair landings, wharves and docks, and to establish and correct rates and charges for the use thereof; to regulate the running and speed of engines, cars, automobiles and other vehicles within the said city, to create by ordinances such committees and boards, and delegate such authority thereto, as may be deemed necessary or advisable; to provide for the annual assessments of the taxable property therein, and for a revenue for the city for municipal purposes, and to appropriate such revenue to its expenses, and generally, to take such measures as may be deemed necessary or advisable to protect the property, public and private, within the city; to preserve and

maintain peace, quiet and good order therein and to preserve and promote the health, safety, comfort and well being of the inhabitants thereof. The council shall have authority to pass all ordinances (not repugnant to the constitution and laws of the United States, and of this State), which shall be necessary or proper to carry into full effect and power, authority, capacity or jurisdiction which is or shall be granted to or vested in the said city, or in the council, or any officer or body of officers of said city, and to enforce any or all of their ordinances by reasonable fines and penalties, and by imprisoning the offender or offenders; and upon failure to pay any fine or penalty imposed, by compelling them to labor without compensation, at any of the public works or improvements, undertaken or to be undertaken by said city, or to labor at any work which the city may lawfully employ labor upon, at such a rate per diem as the council may fix, but not at a less rate than is fixed by said council for like labor from other employes of said city, until any fine or fines and costs imposed upon any such offender or offenders by said city, shall have been fully paid and discharged, after deducting charges of support while in the custody of the officers of said city. Provided, however, that no fine shall be imposed exceeding twenty dollars, and that no person shall be imprisoned or compelled to labor, as aforesaid, more than thirty days for any one offense. And in all cases where a fine is imposed for an amount exceeding ten dollars, or a person be imprisoned or compelled to labor as aforesaid, for a term greater than ten days, an appeal may be taken from any such decision upon the same terms and conditions that appeals are taken from the judgment of a justice of this state. Such fines and penalties shall be imposed and recovered, and such imprisonment inflicted and enforced, by and under the judgment of the mayor of said city, or in case of his absence or inability to act, by the clerk of the said city, or, if he is unable to act, then by a member of the council to be appointed by the council for that purpose. And the jurisdiction of said city, for police and criminal purposes, shall extend to

ordinary high water mark on the southerly bank of the Gr  
Kanawha river, and to all bridges crossing said river with  
the boundary of said city.

Removals, Vacancies, Etc.

Sec. 11. The council shall have the authority to remove  
any elected officer of the city for misconduct or neglect of  
duty, by an affirmative vote of three-fourths of the members  
of the council; but only after reasonable notice to such officer,  
and a hearing of the charge or charges preferred; and all offi-  
cers appointed may be removed from office at the pleasure of  
the council; and unless their terms of office be otherwise  
fixed by ordinance, they shall be considered as holding their  
respective offices at the pleasure of the council; and any  
vacancy in office, however occasioned, may be filled by the  
council for the unexpired term.

Meetings of Council; Transaction of Business

Sec. 12. The said council shall fix the place and times  
of holding regular meetings; may provide for special and ad-  
journed meetings; and may prescribe rules and regulations,  
not inconsistent herewith, for the transaction of business and  
for its own guidance and government. The mayor shall be a  
member of the council, and shall preside at its meetings; but  
in case of his absence the clerk, or one of the councilmen  
present selected for the purpose by the majority of the members  
present, shall act temporarily as such presiding officer. A  
majority of the council shall be necessary to constitute a  
quorum. No member of the council shall vote upon, or take part  
in the consideration of any proposition in which he is or may  
be interested otherwise than as a resident of said city; and  
the mayor other presiding officer shall have no vote upon  
any question before the council except in case of a tie, when  
he shall give the casting vote.

In case any ordinance, resolution or measure, shall receive  
a majority of the votes of the members of the council present,

the mayor or any two of the councilmen may insist upon the further consideration thereof; and thereupon it shall not be deemed passed, but shall be postponed until the next regular meeting of the council, when, if it shall again receive a majority of the votes of the members present, it shall stand and be declared adopted, and not otherwise.

#### The Minutes; Yeas and Nays

Sec. 13. At each meeting of the council, the proceedings of the last meeting shall be read, and if erroneous, corrected and signed by the presiding officer for the time being. Upon the call of any member, the yeas and nays on any question shall be taken and recorded in the minute book.

#### The Mayor

Sec. 14. The mayor shall be the chief executive officer of the city. He shall take care that the laws, ordinances, acts and resolutions of the council are faithfully executed. He shall be ex-officio, a conservator and justice of the peace, within the city, and shall within the same exercise all powers and duties vested in a justice of the peace for the county, except that he shall have no jurisdiction in civil causes; nor shall he be a member of the county court. He shall have control of the police of the city, and may appoint any civil police officers when he deems it necessary. It shall be his duty, especially to see that peace and good order are preserved, and that persons and property are protected in the city. He shall from time to time recommend to the council such measures as he may deem needful for the welfare of the city. He shall before entering upon the duties of his office as such mayor, execute a bond, with sureties satisfactory to the council, in the penalty of one thousand dollars, conditioned for the faithful performance of the duties of his office and for the accounting for and paying over all money that may come into his hands by virtue of his said office.

The mayor shall receive a salary of not less than three hundred dollars nor more than five hundred dollars per annum, to be

fixed by the council, but such salary shall not be increased or diminished for the term for which he shall be elected. Such salary shall be in lieu of the fees, which would otherwise accrue to him in proceedings for the enforcement of ordinances, but all such fees shall be collected, when practicable, and accounted for to the city.

#### The Clerk

Sec. 15. The clerk shall keep in a well bound book, to be called the "minute book", an accurate record of all of the proceedings, ordinances, acts, orders and resolutions of the council, and in another book, to be called the "ordinance book", shall keep all general ordinances adopted by the council; both of which books shall be fully indexed and open to the inspection of any one required to pay taxes to the city, or who may be otherwise interested. All oaths and bonds of officers of the city, and all papers of the council, shall be endorsed, filed and securely kept by the clerk. He shall record the bonds of all officers in a well bound book, to be called the "record of bonds". He shall also perform all such other duties as may by ordinance of the council be prescribed. All printed copies of such ordinances purporting to be published under authority of the council, and all transcripts of such ordinances, acts, orders and resolutions, certified by the clerk, under the seal of the city, shall be deemed prima facie correct, when sought to be used in any court, or before any justice.

The Clerk shall receive a salary of not less than three hundred dollars nor more than five hundred dollars per annum, to be fixed by the council, but such salary shall not be increased or diminished for the term for which he shall be elected.

#### The Assessor

Sec. 16. It shall be the duty of the assessor to ascertain the tithables and property within said city subject to taxation, and make return thereof to the council, at such time as may be prescribed, substantially in manner and form as in the case of assessments by county assessors; and to this end he shall have

access to the most recent books and records of the county of  
Mason upon payment of reasonable fees and charges, to be  
arranged and provided for by the council. The latest accessible  
assessment for state and county purposes, including value,  
shall be used and adopted by him; but as to property not in-  
cluded in such assessment, he shall ascertain the same, fix  
the value thereof, and include the same in his assessment; but  
the council may correct any error on his part in this regard,  
upon the application of any person aggrieved. In the discharge  
of his duties he shall have the same powers as are conferred by  
law upon county assessors. He shall receive a salary to be fixed  
by the council of not less than two hundred dollars nor more than  
three hundred dollars per annum, which shall not be increased or  
diminished for the term for which he shall be elected.

#### Tax Duplicate

Sec. 17. The council upon the return of the assessor shall  
cause the said assessor's book to be correctly copied by the  
clerk into two well bound books to be provided for the purpose,  
and the taxes extended, and the amount thereof shown, in each  
book, one of which shall be delivered to the treasurer, taking  
his receipt therefor, as well as for the taxes therein contained.

#### The Treasurer

Sec. 18. It shall be the duty of the treasurer when the  
said extended copies are completed, to receive one copy thereof,  
receiving to the council for the same and for the taxes therein  
extended, and to receive from the parties the entire amount of  
the taxes with which they are therein severally charged, from  
and after the first day of October, until and including the  
thirty-first day of October, of each year; and he shall in said  
book write the word "paid" opposite the name of the person so  
paying, and shall also receipt to such taxpayer for the tax so  
paid. He shall, as to all the taxes charged on said books for  
any year and not paid before the first day of November, make out  
tax tickets therefor in the name of the city, signed by him as

treasurer, against all persons in arrears, for the amount severally due from them, adding the ten per cent penalty hereinafter provided, and at once report the aggregate thereof to the council, and the council shall thereupon order him to deliver said tickets to the marshal for collection, which he shall forthwith proceed to do, taking the marshal's receipt therefor. The treasurer shall receive all money collected by the marshal and receipt to him therefor. He shall receive all taxes upon licenses, and receipt to the party paying the same, by endorsement upon the permit granted by order of the council, which permit shall be furnished him by the clerk, and charge himself with the amount so received, and report to the council at its next regular meeting thereafter the amount so received by him. He shall also receive such other moneys of the city as he is authorized by this chapter to receive, and all moneys ordered paid him by the council, giving receipts therefor to the parties paying same, and shall keep an accurate account thereof; and his books shall at all times be open for inspection to any taxpayer of the city, and he shall produce said books to said council for inspection at any meeting thereof upon the order of the council. The treasurer shall be chargeable with all the city taxes, levies and assessments and money of the city that may come into his hands, and shall account therefor. He shall pay out the moneys in his hands upon the orders of the council signed by the mayor and clerk or by one or more members of the council as the council may prescribe. He shall on or before the tenth day of January of each year present to the council a full, complete and detailed statement of all the moneys with which he is chargeable, or that have been received by him up to the first day of January of that year, and shall at the same time in like manner furnish a statement of all disbursements made by him during such previous year, with vouchers evidencing the same. He shall upon the order of the council at any time submit a statement of the amount with which he is chargeable, and his disbursements.

The treasurer shall, upon all moneys coming into his hands as such treasurer, and duly paid out or turned over by him upon orders of the council, receive as compensation therefor a sum to be fixed by the council not exceeding five per cent on the amount collected.

He shall before entering upon the duties of his office, execute a bond with good security payable to the said city of Point Pleasant, in the penalty of not less than ten thousand dollars, conditioned for the faithful performance of the duties of his office, and for the accounting for and paying over as required by law of all money which may come into his hands by virtue of his office. He shall, upon the expiration of his term of office, turn over to the council all moneys, books and other property in his possession belonging to said city.

#### The Marshal

Sec. 19. The marshal shall be chargeable with such city taxes, levies and ten per cent penalties for non-payment of taxes, as may come into his hands; and it shall be his duty to collect and account for the same, and he may distrain therefor in case they are not paid on demand after they are placed in his hands; and as to such distraint and any sale thereunder, as well as in other respects, he shall have the same power and authority as is possessed by the officer charged with the collection of state taxes. He shall also be chargeable with and collect and account for all assessments made by the council, and all fines, costs and rates due the city, which may come into his hands, and at or before the regular meeting of the council in each month shall pay to the treasurer the money so collected by him, except as provided in section twenty-six of this act, less his commissions, and take a receipt therefor.

The marshal, before entering upon the discharge of his duties, shall execute a bond in the penalty of not less than five thousand dollars, payable to the city of Point Pleasant, with sureties satisfactory to the council, and conditioned faithfully to per-

perform the duties of his office, and to account for and pay, as required by law, all money which may come into his hands by virtue of his office.

#### Marshal's Settlement and Compensation

Sec. 20. The marshal shall, at each regular meeting of the council, during his continuance in office, make a report to the council of the money collected by him from all sources and paid over to the treasurer, designating specifically the items of his said collections; and shall also at the regular meetings of the council in September, December, March and June, of each year, make a detailed statement of the taxes, fines, penalties, assessments and other claims in his hands for collection. He shall receive for his services in the collection of taxes, the penalties collected by him as aforesaid; and for his collection of other claims due to the city a compensation to be fixed by the council not exceeding five per centum on the amount duly collected and accounted for, except that an additional per centum may be allowed in case of fines.

At or before the regular meeting of the council in the month of June of each year, the marshal, with the assistance of the clerk, shall make up for the current fiscal year, the three lists of persons and property delinquent for non-payment of taxes and real estate improperly placed on the tax duplicate or not ascertainable, required by section twenty-one of chapter thirty of the code as to state, county and district taxes, and all of the provisions of said chapter, pertaining to persons and property delinquent for non-payment of taxes and real estate improperly charged with taxes, so far as they are applicable, are hereby adopted and made part of this act. The duties prescribed in said chapter for the sheriff, respecting such lists, shall be performed by the marshal, with the assistance of the clerk, and the duties therein prescribed for the county court shall be performed by the council. The provisions of the general law, authorizing the collection of state, county and district taxes returned delinquent, are hereby adopted and made available for the collection of all delinquent taxes.

The marshal shall also return, at the same meeting, a list of such fines, penalties, assessments and other claims in his hands for collection as he shall not have been able to collect by reason of insolvency, removal or other cause, to which shall be appended an affidavit that he has used due diligence to collect the same, but has been unable to do so; and, if the council shall be satisfied of the correctness of said list, it shall allow him credit therefor, but may thereafter take such lawful measures to collect such claims as shall be by it prescribed.

#### Remedy Against the Marshal

Sec. 21. If the marshal shall fail to collect, account for and pay over all or any of the moneys with which he may be chargeable, belonging to the city, according to the conditions of his bond and the orders of the council, it shall be lawful for the council to recover the same by action, or motion, upon ten days' notice, in the corporate name of the city, in the circuit court of Mason County, against him and his sureties, or any or either of them, or his or their executors or administrators. If the sum claimed does not exceed three hundred dollars, such recovery may be had before any justice of the said county.

#### Finances and Expenditures

Sec. 22. The council shall annually make an estimate in manner and form as is required by chapter nine of the acts of the legislature of West Virginia of the year one thousand nine hundred and eight, and shall make a levy of so much as will in its judgment be necessary to pay the same; provided, that such levy shall not exceed fifty cents on each one hundred dollars of the assessed valuation of the property of the city according to the last assessment thereof. And except as to the amount of said levy as aforesaid, all of the provisions of this act, so far as applicable, are hereby adopted and made part hereof, including the power to make additional levies as therein provided.

#### Penalty for the Non-Payment of Taxes

Sec. 23. Upon all taxes and assessments due said city and remaining unpaid on the first day of November of each year there shall be added thereto a penalty of ten per cent, which penalty, together with the taxes in arrears, shall be collected by the marshal of the city.

#### Lien for Taxes, Fines, Etc.

Sec. 24. There shall be a lien on real estate within said city, for the city taxes assessed thereon, and for all assessments, fines and penalties assessed against, or imposed upon, the owners thereof, by the authorities of such city, and interest thereon, as in the case of state and county taxes, from the time the same are so assessed or imposed, which shall have priority over all other liens, except the lien for taxes due the state, county and district, and which may be enforced by the council in the same manner provided by law for the enforcement of the lien for state or county taxes. If any real estate within said city be returned delinquent for the non-payment of taxes due thereon, a copy of such delinquent list shall be certified by the council to the auditor, and a like copy recorded in the office of the clerk of the county court of Mason County, in a book kept in said office for that purpose, and to be furnished by the city. Said real estate may be sold for the city taxes, interest and commissions thereon, in the same manner, at the same time, and by the same officer, as real estate is sold for the non-payment of state taxes, and the laws governing the sale and redemption of delinquent lands, in so far as they are applicable, are hereby adopted and made parts of this act,

#### Enforcement of Ordinances

Sec. 25. The process in proceedings to enforce any ordinance prescribing a fine or imprisonment, or a fine and imprisonment, for the violation thereof, shall be a summons, in the name of the city of Point Pleasant, as plaintiff, directed to the marshal, police officer of the city, or any constable of

any district within said county, requiring him to summon the person accused of such violation, and who may thereafter be designated as defendant, to appear before the mayor at any time and place therein named, to make answer to such accusation and to be dealt with according to law. Such summons shall contain such statement of the facts alleged as will inform such person of the general nature of the offense against the city with which he may stand charged; and, except in cases of arrest upon view, shall be issued only upon complaint on oath. The mayor shall have, possess and may exercise the power and authority of a justice under sections two hundred and twenty-four and two hundred and twenty-five of chapter fifty of the code of West Virginia, in summoning and enforcing the attendance and examination of witnesses; in punishing for contempts; in granting continuances, and in securing and enforcing the further attendance of the accused, with a view to a trial or hearing. If any recognizance taken for such further attendance be forfeited, the mayor may record the default, and an action may be maintained in the name of the city, before any justice having jurisdiction, against the accused and his sureties, if any, to recover the penalty thereof.

#### Enforcement of Judgments

Sec. 26. The mayor shall have power to issue an execution for any fine and costs assessed or imposed by him for the violation of any ordinance, and place the same in the hands of the marshal, or he may at the time of rendering judgment therefor, or at any time thereafter, and before satisfaction of such judgment, by his order in writing, require the immediate payment thereof, and in default of such payment, he may commit the person so in default to the prison of said city, or in his discretion to the jail of Mason County until the fine and costs are fully paid; but such imprisonment shall not exceed thirty days. He shall receive all moneys made upon said judgments, whether by execution or otherwise, and after paying the costs

to the parties entitled thereto, shall turn over the same to the treasurer on the first Monday in the month after receiving the same, taking his receipt therefor.

#### Duty of Jailer; Jail Expenses

Sec. 27. The jailer of Mason County shall take and receive into his custody any person sentenced to imprisonment in the jail of said county, or committed thereto for the non-payment of a fine and costs, or for the failure to enter into a recognizance, by the judgment or order of the mayor, in proceedings for the violation of an ordinance; and the expenses of maintaining such person while so in confinement, shall be paid by the city.

#### Docket

Sec. 28. A book, well bound and indexed, to be denominated the "docket", shall be kept in the office of the mayor, in which shall be noted each case brought before or tried by him, together with the proceedings thereon, including a statement of the complaint, the summons, the return, the fact of appearance or non-appearance for the defense, the hearing, the judgment, the costs, and in case the judgment be one of conviction, the action taken to enforce the same. The record of such case shall be signed by the mayor, and the original papers thereof, if no appeal be taken, shall be kept together and preserved in his office.

#### Appeals from Judgments in City Cases

Sec. 29. In any case of the violation of an ordinance of the said city, in which there is a judgment by the mayor of imprisonment for more than ten days, or for a fine of more than ten dollars, an appeal shall lie, at the instance of the person against whom such judgment is rendered, to the circuit court of Mason County. Such appeal shall not be granted by the mayor unless within ten days from the date of the judgment, such person shall enter into a recognizance, with security deemed sufficient, to appear before the said court on the first day of the next term thereof, to answer for the offense

against the city with which he stands charged, and not that he depart without leave of said court. The provisions of chapter one hundred and sixty-two of the code of West Virginia, relating to recognizances in criminal cases, shall be applicable to the recognizances contemplated by this section; but any moneys recovered thereon, or by virtue thereof, shall inure to the benefit of the city.

#### Trial in Court

Sec. 30. If such appeal be taken, the mayor shall forthwith deliver to the clerk of the said court the complaint in writing, if any, the summons, a transcript of the record, including the judgment, the recognizance and any other papers belonging to the case; and such clerk shall receive and file the same, and place the case upon the appeal docket of the next succeeding term of said court; and said court shall proceed to try the same in its order, as appeals from justices of the peace are tried.

#### Judgment in Court

Sec. 31. If the appellant be found guilty of a violation of the ordinance in question, whether upon the verdict of a jury or otherwise, the court shall ascertain by its judgment the fine or imprisonment or the fine and imprisonment, to be paid or suffered by such defendant, having regard to the punishment prescribed by such ordinance, and shall include in any such judgment the costs incurred by the said city, as well in the proceedings before the mayor as those in court, including a fee to the attorney for the city of five dollars, and the fees, if any, of the jailer or keeper of the city prison; and the proceedings to enforce the collection of any such fine and costs, may be as provided in sections ten, eleven and twelve of chapter thirty-six of the code of West Virginia, except that the writ mentioned in the tenth section, may be issued by the clerk upon the order of the mayor of the city, and the notice contemplated by the eleventh section shall be given to such officer. If the judgment be for the defendant he shall recover his costs against the city.

appeals in other cases

judgments by the mayor in cases of  
ordinances, appeals shall be allowed  
justices.

#### Chief of Police

Sec. 33. The marshal shall be the chief of police and shall perform active and constant police service, for which he shall receive a salary of not more than fifty dollars per month. He may, with the consent of the council, entered of record, but not otherwise, appoint a deputy or deputies, who may perform the duties, or any of them, with which he is charged; but the marshal shall in all cases be responsible for the acts or omissions of the deputy or deputies so appointed. Such deputy or deputies shall be paid by the city.

#### Arrests, Service of Process, Etc.

Sec. 34. In case a violation of any ordinance of said city is committed in the presence, or within view of the marshal or other police officer, the offender may be forthwith apprehended and taken before the mayor, and a complaint, under oath, against such violation, there lodged and filed; and, thereupon, such offender may be tried and dealt with according to law, without summons. The marshal shall execute within the county of Mason any proper process issued by the mayor, or other proper officer, in proceedings for the enforcement of ordinances; and shall collect, by levy of execution or otherwise, and duly accounted for, all fines assessed and costs imposed in such proceedings. He shall also have all the rights and powers within said city in regard to the arrest of persons, the collection of claims and the execution and return of process, that are or may be lawfully exercised by a constable of a district within the same, and shall be entitled to the compensation therefor; and he and his sureties shall be liable to all the fines, penalties and forfeitures that a constable is liable to for any dereliction of duty in office, to be recovered in the same

manner, and in the same courts, that such fines, penalties and forfeitures are recovered against constables.

#### Licenses

Sec. 35. The council shall prescribe by ordinance the manner in which licenses of all kinds, including licenses for the keeping of dogs, shall be applied for and granted, and shall require the payment of the tax thereon before delivery to the person applying therefor; but the council shall not have power to grant any license to sell at wholesale or retail spirituous liquors, wine, porter, ale, beer or drinks of like nature.

And the council may make and enforce all reasonable ordinances respecting licenses; provided, only, that such ordinances shall not be in conflict with the constitution and laws of this state.

#### Condemnation Proceedings

Sec. 36. The council, in the name of the city, may take or damage private property, in the manner prescribed by chapter forty-two of the code of West Virginia, for streets, alleys, drains, market grounds, landings, wharves, city prison, sewers, parks, cemeteries, or other work or purpose of public utility, and the expenses of condemnation proceedings shall be born by the city.

#### Paving Streets

Sec. 37. The council, by a lawful majority thereof, may order any street, cross-street, alley or road, or any portion thereof, to be paved in a permanent manner, with cobble-stone, brick, Belgian blocks, asphaltum or any other suitable material. One-third of the total cost of such paving shall be borne by the city, and the remaining two-thirds of such total cost shall be paid by the owners of the land abutting on said street, cross street, alley, road or portion thereof, on the following basis, that is to say, payment is to be made by each land owner in such proportion of two-thirds of the cost of such paving as the frontage in feet of his land so abutting, bears to the

total frontage of all land so abutting upon such street, or street, alley or road, or portion thereof so paved. Such assessments, however, shall not include the grading of such street, cross-street, alley, road or portion thereof, nor the curbing, which in all cases shall be done by the city.

Before commencing such paving the council shall cause a copy of the order requiring the same to be published for four successive weeks in one or more newspapers published in the city. After the completion of such work, the council shall apportion two-thirds of the cost thereof to the abutting land owners, on the basis aforesaid, and assess the same severally against said abutting land owners. Such apportionment shall be entered upon the records of the council and published for four successive weeks in one or more newspapers published in the city, and any person feeling himself aggrieved by such assessment may, on or before the completion of such publication, apply to the council for correction thereof.

Said assessments shall constitute liens upon said abutting lands from the commencement of the work, and bear interest from the date of the apportionment of the cost as aforesaid; which liens may be enforced by suits in equity in the name of the city in the circuit court of Mason County, or the amount thereof recovered by the city in actions against said abutting land owners in said court, or before any justice having jurisdiction.

#### Paving sidewalks

Sec. 38. After having caused proper curbstones to be set and placed on the outer line of any sidewalk or footway on any of the streets, cross-streets or alleys of said city, and the surface of the ground inside of said curbstones to be properly graded and otherwise prepared for the purpose, the council may require that such sidewalk or footway be paved with brick, stone, concrete or other suitable material, under the direction of the street commissioner, by the owners respectively of the lots, or of the fractional parts of lots, facing or abutting on such

sidewalks or footways; and in case the owner of any lot or fractional part of such lot, within reasonable time after service upon him of a written or printed notice of such requirement, signed by the clerk or street commissioner, fails, or refuses to comply therewith, the council may direct that the paving contemplated by such notice be done at the expense of the city, and when so done such expense may be assessed to such owner, and the same shall constitute a lien on such property, which may be enforced by a suit in equity, in the name of the city, in the circuit court of Mason County, or in the amount thereof recovered by the city in an action against such owner in said court, or before any justice having jurisdiction. In case the owner is a non-resident of the state, notice aforesaid may be given by publication for four successive weeks, in a newspaper published in said city. The provisions of this section shall also be applicable to needed repairs to any of the pavements of the city, and to the substitution of new pavements for any which may have been heretofore, or which may be hereafter, laid and completed, and which may be deemed insufficient.

#### Rights and Liabilities of the City

Sec. 39. The City of Point Pleasant shall succeed to all the rights, powers and privileges of "The Town of Point Pleasant in Virginia", "The Town of Point Pleasant", and "The Town of North Point Pleasant", and all of the property and assets of the said towns shall be vested in and become the property and assets of the "City of Point Pleasant", and it shall be liable for all the debts and obligations of the said several towns, and subject to all the duties and responsibilities thereof.

And all the officers of "The Town of Point Pleasant" and "The Town of North Point Pleasant" acting as such at the time this act takes effect shall continue in office until the first day of July, one thousand nine hundred and fifteen, perform the duties and receive the compensation heretofore conferred, prescribed and allowed by their former charters or by general law

or by the ordinances of said towns; such ordinances of the town of Point Pleasant as are in force on the thirtieth day of June, one thousand nine hundred and fifteen, shall continue and be in force as ordinances of the city of Point Pleasant, so far as they are not inconsistent with this act, until amended or repealed by the council of the city of Point Pleasant.

#### Providing Voting Places

Sec. 40. For the purposes of the first election of officers under this act the council and officers of the town of Point Pleasant, so far as may be necessary, are hereby created the council and officers of the city of Point Pleasant, and authorized and empowered to designate the places of voting in the several wards of said city as herein established, and to hold and conduct said election, and in the conduct thereof, and the ascertainment and declaration of the result thereof, they shall be governed by the law applicable to municipal elections.

#### Repealing Inconsistent Acts, Etc.

Sec. 41. All acts and parts of acts inconsistent with this act are hereby repealed; but this act shall not be construed to repeal, change or modify any previous act not inconsistent with this act, authorizing said town of Point Pleasant to contract debts or to borrow money, nor to take away any of the powers conferred upon said town, or upon the mayor or council or any of the officers thereof by general law, except so far as the same may be inconsistent with the powers hereby conferred.



# The City of Point Pleasant

400 VIAND STREET  
POINT PLEASANT, WEST VIRGINIA 25550  
304-675-2360

State of West Virginia  
County of Mason, to-wit;

I  
We, the undersigned, do solemnly swear that we will support the  
Constitution of the United States and the Constitution of the  
State of West Virginia; and that we will faithfully discharge  
the duties of the Office of Councilman and Councilwoman of the  
City of Point Pleasant, Mason County, West Virginia, for the  
term of said office commencing at 12:01 A.M. on the 1st day of  
July, 1987, to the best of <sup>my</sup> skill and judgement.  
So help <sup>me</sup> God.

Charles W. Garland

\_\_\_\_\_

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\_\_\_\_\_

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\_\_\_\_\_

\_\_\_\_\_

Subscribed and sworn to before the undersigned this the 10<sup>th</sup> day  
of July, 1987.

Janice S. Sauer  
January 17, 1995

MY COMMISSION EXPIRES

# The City of Point Pleasant

400 VIAND STREET  
POINT PLEASANT, WEST VIRGINIA 25550  
304-675-2360

State of West Virginia  
County of Mason, to-wit;

We, the undersigned, do solemnly swear that we will support the Constitution of the United States and the Constitution of the State of West Virginia; and that we will faithfully discharge the duties of the Office of Councilman and Councilwoman of the City of Point Pleasant, Mason County, West Virginia, for the term of said office commencing at 12:01 A.M. on the 1st day of July, 1987, to the best of our skill and judgement.

So help us God.

Stephen A. Leonard Leonard E. Apple  
Robert L. Jones Ronald White  
Hadie Bailes \_\_\_\_\_  
David J. Reynolds \_\_\_\_\_

Subscribed and sworn to before the undersigned this the 30<sup>th</sup> day of JUNE, 1987

MY COMMISSION EXPIRES

Feb 23<sup>rd</sup>, 1994

# The City of Point Pleasant

400 VIAND STREET  
POINT PLEASANT, WEST VIRGINIA 25550  
304-675-2360

State of West Virginia  
County of Mason, to-wit;

I MICHAEL P. DUNLAP,  
~~I~~, the ~~undersigned~~, do solemnly swear that ~~I~~ will support the  
Constitution of the United States and the Constitution of the  
State of West Virginia; and that ~~I~~ will faithfully discharge  
the duties of the Office of Councilman ~~and Councilor~~ of the  
City of Point Pleasant, Mason County, West Virginia, for the  
term of said office commencing at 12:01 A.M. on the 1st day of  
July, 1987, to the best of ~~my~~ <sup>my</sup> skill and judgement.

So help ~~me~~ <sup>me</sup> God.

*Michael P. Dunlap*

MICHAEL P. DUNLAP

~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~

~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~

Subscribed and sworn to before the undersigned this the 1st day  
of July, 1987.

*[Signature]*  
MASON COUNTY PROSECUTING ATTORNEY  
NOTARY PUBLIC

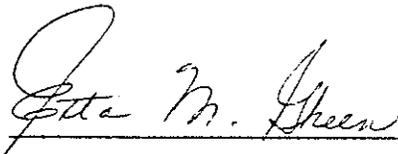
MY COMMISSION EXPIRES JUNE 26, 1989,

# The City of Point Pleasant

400 VIAND STREET  
POINT PLEASANT, WEST VIRGINIA 25550  
304-675-2360

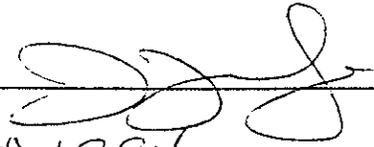
State of West Virginia  
County of Mason, to-wit;

I, Etta M. Gheen, do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of West Virginia; and that I will faithfully discharge the duties of the Office of City Clerk of the City of Point Pleasant, Mason County, West Virginia, for the term of said office commencing at 12:01 A.M. on 1st day of July, 1987, to the best of my skill and judgement.  
So help me God.

  
Etta M. Gheen

Subscribed and sworn to before the undersigned this the 30<sup>th</sup>  
day of JUNE, 19 87

My Commission expires

  
Feb 23<sup>rd</sup>, 1994

# The City of Point Pleasant

400 VIAND STREET  
POINT PLEASANT, WEST VIRGINIA 25550  
304-675-2360

State of West Virginia  
County of Mason, to-wit;

I, Etta M. Gheen, do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of West Virginia; and that I will faithfully discharge the duties of the Office of City Clerk of the City of Point Pleasant, Mason County, West Virginia, for the term of said office commencing at 12:01 A.M. on 1st day of July, 1987, to the best of my skill and judgement.  
So help me God.

Etta M. Gheen 8:15 a.m.  
Etta M. Gheen

Subscribed and sworn to before the undersigned this the 1st  
day of July, 1987.

Joanne S. Sauer  
My Commission expires January 17, 1995

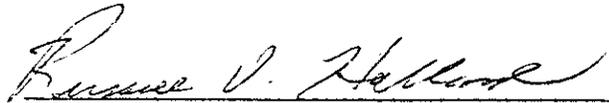
OFFICIAL SEAL  
STATE OF WEST VIRGINIA  
NOTARY PUBLIC  
My Commission Expires Jan. 17, 1995  
JOANNE S. SAUER  
POINT PLEASANT, WV 25550

# The City of Point Pleasant

400 VIAND STREET  
POINT PLEASANT, WEST VIRGINIA 25550  
304-675-2360

State of West Virginia  
County of Mason, to-wit;

I, Russell V. Holland, do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of West Virginia; and that I will faithfully discharge the duties of the Office of the Mayor of the City of Point Pleasant, Mason County, West Virginia for the term of said office commencing at 12:01 A.M. on the 1st day of July, 1987 to the best of my skill and judgement. So help me God.



Russell V. Holland

Subscribed and sworn to before the undersigned this 30<sup>th</sup> day of JUNE 1987.



Notary Public, Prosecuting Attorney of  
Mason County and the son of a former  
Mayor, D. B. Morgan

My Commission expires JUNE 26, 1989.



# Affidavit of Publication

Point Pleasant, W. Va.

STATE OF WEST VIRGINIA,

MASON COUNTY, To-wit:

Personally appeared before the undersigned authority in and for the said County of Mason, this 31st day of May, 1989, Clay Loring, who being first duly sworn, did depose and say that he is an employee of The Register, a daily newspaper of general circulation, printed, published and circulated in said County; that the Public Hearing

**CITY OF POINT PLEASANT NOTICE OF PUBLIC HEARING ON COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BOND AND NOTES ORDINANCE**

A public hearing will be held on the following-entitled Ordinance at a regular meeting of the Council of the City of Point Pleasant to be held on June 12, 1989, at 7:30 p.m. in the Council chambers at the Point Pleasant City Hall, 400 Viand Street, and at such hearing all objections and suggestions shall be heard by the Council and it shall then take such action as it shall deem proper in the premises upon an Ordinance entitled:

**ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS FOR THE SEWERAGE PORTION OF THE EXISTING COMBINED PUBLIC WATERWORKS AND SEWERAGE FACILITIES OF THE CITY OF POINT PLEASANT AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$2,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1989 A, NOT MORE THAN \$500,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1989 B, AND NOT MORE THAN \$6,000,000 INTERIM CONSTRUCTION FINANCING, CONSISTING OF BOND ANTICIPATION NOTES, GRANT ANTICIPATION NOTES OR A LINE OF CREDIT EVIDENCED BY NOTES OR ANY COMBINATION OF THE FOREGOING; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS AND NOTES; AUTHORIZING EXECUTION AND DELIVERY OF A**

**TRUST INDENTURE SECURING THE NOTES; APPROVING AND RATIFYING A LOAN AGREEMENT AND SUPPLEMENTAL LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND NOTES AND ADOPTING OTHER PROVISIONS RELATING THERETO.**

The above-entitled Ordinance was adopted by the Council of the City of Point Pleasant on May 22, 1989.

The above quoted title of the Ordinance describes generally the contents thereof and the purposes of the Bond and Note issues contemplated thereby. The proceeds of the Bonds will be used to provide permanent financing of a portion of the costs of acquisition and construction of additions, betterments and improvements for the existing public sewerage facilities of the City of Point Pleasant (the "Project"). The proceeds of the Notes will be used to provide temporary financing of a portion of such costs. The Bonds are payable solely from revenues to be derived from the ownership and operation of the combined waterworks and sewerage system of the City. The Notes are payable primarily from bond proceeds of Grant Receipts. No taxes may at any time be levied for the payment of the Bonds or the Notes or the interest thereon.

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

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

Dated: May 24, 1989.

s/s Etta M. Gheen  
City Clerk

5/24,31-2t

hereto annexed, was published in said newspaper for 2 consecutive weeks, the first publication thereof having been made as aforesaid in the issue of 24th day of May, 1989 and the last issue of the 31st day of May, 1989

Clay Loring

Taken, subscribed and sworn to before me in my said County, this 31st day of May, 1989.

Notary Public.

My commission expires Phyllis R. Beach May 25 1993

Publication fee, \$ 82.00



AN ORDINANCE AMENDING PART 9, CHAPTER 3, ARTICLE 935.01  
OF THE CODIFIED ORDINANCES OF THE CITY OF POINT PLEASANT,  
WEST VIRGINIA, INCREASING AND SETTING RATES FOR SEWER  
SERVICE PROVIDED BY THE CITY OF POINT PLEASANT, WEST VIRGINIA

WHEREAS, THE COMMON COUNCIL OF THE CITY OF POINT PLEASANT, WEST VIRGINIA, RECOGNIZES THAT THE MUNICIPAL SEWER SYSTEM OF THE CITY OF POINT PLEASANT HAS BEEN ORDERED TO COMPLY WITH THE WEST VIRGINIA STATE WATER POLLUTION CONTROL ACT, WEST VIRGINIA STATE CODE §20-5A-1 ET SEQ., AND THE FEDERAL CLEAN WATER ACT, 33 U. S. C. SECTION 406 ET SEQ. AND

WHEREAS, IT IS THE INTENTION, DUTY, AND DESIRE OF THE COUNCIL TO COMPLY WITH SAID ACTS, AND

WHEREAS, SUCH COMPLIANCE WILL INVOLVE DESIGN ENGINEERING FEES AND CONSTRUCTION COSTS WHICH CAN ONLY BE PAID FROM BORROWED FUNDS, AND

WHEREAS, IN ORDER TO OBTAIN SAID LOAN TO PAY SUCH FEES IT IS NECESSARY TO DEMONSTRATE THE CAPABILITY OF THE CITY TO REPAY SAID LOAN:

NOW, THEREFORE BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF POINT PLEASANT, WEST VIRGINIA, THAT PART 9, CHAPTER 3, ARTICLE 935.01 OF THE CODIFIED ORDINANCES OF THE CITY OF POINT PLEASANT, WEST VIRGINIA, BE AMENDED AS FOLLOWS:

BY DELETING ALL OF PART 9, CHAPTER 3, ARTICLE 935.01 AND INSERTING A NEW PART 9, CHAPTER 3, ARTICLE 935.01 TO READ AS FOLLOWS:

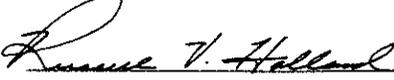
- (A) THE FIRST 3,000 GALLONS USED PER MONTH - AT THE RATE OF \$3.50 PER 1,000 GALLONS.
- (B) THE NEXT 22,000 GALLONS USED PER MONTH - AT THE RATE OF \$2.75 PER 1,000 GALLONS.
- (C) ALL OVER 25,000 GALLONS USED PER MONTH - AT THE RATE OF \$2.00 PER 1,000 GALLONS.
- (D) MINIMUM CHARGE - \$10.50 FOR 3,000 GALLONS OR LESS PER MONTH.

FIRST READING: UNANIMOUSLY APPROVED, APRIL 10, 1989.

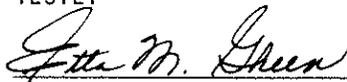
SECOND READING: UNANIMOUSLY APPROVED, APRIL 18, 1989.

THIRD AND FINAL READING: UNANIMOUSLY APPROVED, MAY 8, 1989.

EFFECTIVE DATE: JULY 1, 1989.

  
RUSSELL V. HOLLAND, MAYOR

TESTE:

  
ETTA M. GHEEN, CITY CLERK



# Affidavit of Publication

Interested parties are hereby notified of the proposed final vote on the following ordinance: increasing and setting rates for sewer service provided by the City of Point Pleasant at the regularly scheduled meeting of the Common Council of the City of Point Pleasant, West Virginia, on Monday, May 8, 1989 at 7:30 P.M. in the Council Chambers, 400 Vland Street, Point Pleasant, West Virginia.

**AN ORDINANCE AMENDING PART 9, CHAPTER 3, ARTICLE 935.01 OF THE CODIFIED ORDINANCES OF THE CITY OF POINT PLEASANT, WEST VIRGINIA, INCREASING AND SETTING RATES FOR SEWER SERVICE PROVIDED BY THE CITY OF POINT PLEASANT, WEST VIRGINIA**

WHEREAS, the Common Council of the City of Point Pleasant, West Virginia

recognizes that the Municipal Sewer System of the City of Point Pleasant has been ordered to comply with the West Virginia State Water Pollution Control Act, WV State Code §20-5A-1 et seq., and the Federal Clean Water Act, 33 U.S.C. Section 406 et seq. and

WHEREAS, it is the intention, duty, and desire of the Council to comply with said acts, and

WHEREAS, such compliance will involve design engineering fees and construction costs which can only be paid from borrowed funds, and

WHEREAS, in order to obtain said loan to pay such fees it is necessary to demonstrate the capability of the City to repay said loan:

NOW, THEREFORE BE IT ORDAINED BY THE COMMON COUNCIL of the City of Point Pleasant, West Virginia that Part 9, Chapter 3, Article 935.01 of the Codified Ordinances of the City of Point Pleasant, West Virginia be amended as follows:

By deleting all of part 9, Chapter 3, Article 935.01 and inserting a new Part 9, Chapter 3, Article 935.01 to read as follows:

(a) The first 3,000 gallons used per month - at the rate of \$3.00 per 1,000 gallons.

(b) The next 22,000 gallons used per month - at the rate of \$2.75 per 1,000 gallons.

(c) All over 25,000 gallons used per month - at the rate of \$2.00 per 1,000 gallons.

(d) Minimum Charge - \$10.50 for 3,000 gallons or less per month.

Interested parties may appear at this meeting and be heard with respect to the proposed ordinance.

Russell V. Holland, Mayor  
Etta M. Gheen, City Clerk  
City of Point Pleasant, WV

STATE OF WEST VIRGINIA.

MASON COUNTY, To-wit:

Personally appeared before the undersigned authority in and for the said County of Mason, this 4th day of May 1989, Clay Living, who being be me first duly sworn, did depose and say that he is an employee of The Register, a daily newspaper of general circulation, printed, published and circulated in said County; that the return signed James

hereto annexed, was published in said newspaper for 2 consecutive weeks, the first publication thereof having been made as aforesaid in the issue of 24th day of April, 1989 and the last issue of the 1st day of May, 1989

Clay Living

Taken, subscribed and sworn to before me in my said County, this 4th day of May, 1989

Notary Public.

My commission expires May 22, 1993

Publication fee, \$ 63.79



REGULAR MEETING  
CITY COUNCIL  
CITY OF POINT PLEASANT

April 10, 1989

The Common Council of the City of Point Pleasant, a municipal corporation in Mason County, West Virginia, met in regular session at the City Building, 400 Viand Street at 7:30 P. M. on Monday, April 10, 1989.

The following were found present:

Russell V. Holland - Mayor  
Etta M. Gheen - City Clerk  
Joanne Sauer - Administrative Assistant  
Carroll Casto - City Attorney

and the following members of City Council:

Rick Handley	Ronald White	Sadie Bailes
Timothy Scarberry	Leonard Riffle	Charles W. Garland
David Reynolds	Michael Dunlap	Stephen Lovell

Absent was Council member Carol Jones.

The meeting was called to order by Mayor Russell V. Holland and Rick Handley led Council in prayer.

Mayor Holland introduced and welcomed L. Frank Frye, pastor of Saint Paul United Methodist Church.

Harry "Moke" Simpkins appeared before Council to express his opinion concerning the leasing of riverfront property to barge lines. He advised that he works on the river and is depressed about the river banks in Point Pleasant. He would prefer to see recreational development behind the floodwall. He stated there are five things that will happen if barges go in: (1) The banks will never be developed; (2) Barges cause bank erosion; (3) There will be an unsightly, old barge for landing; (4) Drift trash piles up from the currents; and (5) The companies leave the landings unattended. He recommends the City look long and hard before leasing to these barge companies. Ronald White reported that there are areas where the floodwall is very close to the edge of the river bank and the bank drops straight down, so he is concerned about increased erosion damaging the floodwall.

Mr. Simpkins also pointed out that occasionally these barges sink and can't be raised. In addition, there are public address systems on the boats, so there will be loud noises disturbing residents. The boats also use searchlights, which will shine into people's homes. Mr. Simpkins stressed that the river companies are jockeying for position with the new locks coming in and the key to the river business is getting property.

Al Alderfer, new Main Street Project Manager, was introduced to Council. Mr. Alderfer is a retired Air Force Colonel, having served 28 years. He has his Master's Degree in Public Relations and was the director of the Broomfield, Colorado, Chamber of Commerce. He expressed his goal of working in a community where he can make a difference and accomplish benefits for the community. He sees his job in Point Pleasant as an exciting opportunity and hopes to help coordinate activities between Council, the Chamber of Commerce, the Development

Authority, and the Main Street program.

Joe Dunn and Mark Sankoff, Dunn Engineers, Inc., presented the results of the Sewer Treatment Plant construction bids to Council and advised that the low bidder is a very qualified contractor with 20-25 years experience. They advised there had been a considerable savings on the estimated construction costs and Design Engineering fees so the average monthly sewer rates should be around \$12.63, down from the estimated \$16.25. Mr. Dunn recommended that the sewer rate increase be put into effect as soon as possible; by increasing rates earlier, the City will lower future indebtedness. The higher rates could possibly be used for other projects, i.e., storm drainage study in the north end of town.

Mr. Dunn advised that the City still has to get the Certificate of Convenience and Necessity from the Public Service Commission, file application for the loan from the Water Development Authority, and numerous other items before we go to construction, hopefully by the first of July.

Mr. Dunn reported that engineering work has begun on the Henderson sewer pump station and force main, and on the water transmission line. A meeting is scheduled for Tuesday, April 11, to work out an Intermunicipal Agreement with Henderson town officials. Henderson's average monthly sewer rate is projected to be \$25.14.

HAYSLETT  
CONSTRUCTION -  
SEWER TREATMENT  
PLANT - BID  
AWARDED

Upon the advice of Mr. Dunn, who highly recommended Hayslett Construction Company, Timothy Scarberry moved to accept Hayslett's bid of \$3,469,000.00 for construction of the Sewer Treatment Plant, subject to the approval of the Department of Natural Resources. Stephen Lovell seconded and the motion was unanimously approved.

RULE 42 -  
WDA LOAN  
APPLICATION -  
PART B  
APPLICATION -  
DNR

Timothy Scarberry moved to (1) authorize the accountant to revise the Rule 42 submittal to the Public Service Commission; (2) authorize the engineer to prepare the Water Development Authority loan application and the Part B application to the Department of Natural Resources; (3) authorize Bond Counselor Vince Collins to prepare Bond Issuance notes; and (4) authorize Mayor Holland to execute the loan application to the Water Development Authority. Rick Handley seconded and the motion was unanimously approved.

PPVFD REQUEST  
FOR FUND  
ASSISTANCE

Mike Taylor, representing the Point Pleasant Volunteer Fire Department, appeared before Council to ask for assistance in paying a \$2,146.93 repair invoice on the Class A 1983 Chevrolet pumper. Leonard Riffle moved to refer this request to the Finance Committee for their study and recommendation. Michael Dunlap seconded and the motion was unanimously approved.

WATER DEPARTMENT  
BIDS

Dee Rodgers, Water Superintendent, presented Council with recaps and recommendations on the bids received for Water Department

items to be purchased from the balance of Farmers Home Administration Loan funds.

David Reynolds moved to accept the bid of \$4,234.00 from Point Pleasant Hardware for the pipe threading machine and 3" water pump. Michael Dunlap seconded and the motion was unanimously approved.

WATER  
DEPARTMENT  
BIDS

Stephen Lovell moved to accept the bid of \$4,633.40 from West Virginia Water and Waste for the radio frequency line tracer, pipe and cable locator, and leak location instrument. The motion was unanimously approved after second by Sadie Bailes.

WATER  
DEPARTMENT  
BIDS

Stephen Lovell moved to accept the bid of \$37,456.10 from West Virginia Water and Waste for water meters and accessories. Michael Dunlap seconded and the motion was unanimously approved.

WATER  
DEPARTMENT  
BIDS

Leonard Riffle moved to accept the bid of \$39,683.00 from Southeastern Equipment for the backhoe, air compressor, paving breaker, and backfill tamper. The motion was unanimously approved after second by Ronald White.

WATER  
DEPARTMENT  
BIDS

Stephen Lovell advised Mr. Rodgers that he has received a complaint from Morgan Bragg, 1606 Jefferson Boulevard, concerning the sewer backup problems that he is experiencing even though he has replaced his entire sewer line. Mr. Rodgers reported that his department has dug out the line to the highway and they can't find the problem. Mr. Dunn advised that Underwater Services, Inc. have the capability to place a small camera in the drain to see if it can locate the problem. Mr. Rodgers will check into this and report back to the next special meeting.

The minutes of the regular Council meeting of March 13, 1989 were presented to each Council member and unanimously approved on motion by Timothy Scarberry, second by Stephen Lovell.

The minutes of the special meeting of April 3, 1989 were presented to each Council member and unanimously approved on motion by David Reynolds, second by Timothy Scarberry.

Copies of the General Fund Financial Statement of March 31, 1989 were presented to each Council member and were unanimously approved on motion by Timothy Scarberry, second by Sadie Bailes.

Copies of the Water and Sewer Financial Statement of March 31, 1989 were presented to each Council member and were unanimously approved on motion by Stephen Lovell, second by Timothy Scarberry.

Copies of the Coal Severance Financial Statement of March 31, 1989 were presented to each Council member and were unanimously approved on motion by Ronald White, second by David Reynolds.

Copies of the Treasurer's Report of March 31, 1989 were presented to each Council member and were unanimously approved on motion by Sadie Bailes, second by Timothy Scarberry.

4/10/89

Timothy Scarberry moved to pay the outstanding bills for March, 1989, Sadie Bailes seconded, and the motion was unanimously approved.

SEWER  
PROJECT  
INVOICE

Timothy Scarberry moved to pay Invoice #19, \$41,342.71, to Dunn Engineers, Inc. on the Sewer Construction Project. Rick Handley seconded and the motion was unanimously approved.

SEWER PROJECT  
INVOICE -  
RULE 42

Stephen Lovell moved to pay \$3,500.00 to Kenneth Plants for work done on Rule 42 submitted to the Public Service Commission. Sadie Bailes seconded and the motion was unanimously approved.

SEWER RATE  
INCREASE  
ORDINANCE

"AN ORDINANCE AMENDING PART 9, CHAPTER 3, ARTICLE 935.01 OF THE CODIFIED ORDINANCES OF THE CITY OF POINT PLEASANT, WEST VIRGINIA, INCREASING AND SETTING RATES FOR SEWER SERVICE PROVIDED BY THE CITY OF POINT PLEASANT, WEST VIRGINIA" was unanimously adopted on first reading, with right to amend, on motion by Leonard Riffle, second by Stephen Lovell.

TABLE  
NEGOTIATIONS  
WITH  
BARGE LINES

Mayor Holland reported that he has met with representatives from G & C Towing and they are interested in leasing riverfront property for a barge landing. Hoagland and Midland Marine are also still interested. After some discussion Stephen Lovell moved to put these negotiations on hold, Michael Dunlap seconded, and the motion was unanimously approved.

REQUEST  
HARTLEY  
MARINE  
MOVE UPRIVER

Stephen Lovell moved to have the City Attorney talk with Hartley Marine about moving their operation up river to north of 7th Street, in a spirit of cooperation towards beautifying and utilizing the riverfront from 6th Street down to Tu-Endie-Wei Park. The motion passed with Ronald White opposed.

Mayor Holland advised Council that Shelly Company has given the City an estimate of \$19,915.00 for the repair and repaving of 26th Street. This has been forwarded to the Department of Defense and we are waiting for their response.

Council was presented with a copy of the 1967 legal, closing the alley in Bellemead and Council agreed to leave the alley as it is. A copy of said legal is herewith attached.

Mayor Holland reported that he has contacted Mason County Board of Education Maintenance Director Bill Barker concerning the trash at Ordnance School. Mr. Barker advised he will send people to Ordnance two or three times a week to clean up and he will also see about installing one or two dusk to dawn lights in the parking lot.

Mayor Holland advised that the Department of Human Services building and the Point Clinic building were both heavily damaged by last week's fire. The Department of Human Services has temporarily relocated to Main Street in the Lowe Hotel and Point Clinic has temporarily installed a trailer at the back of their present location. Rick Handley commended Patrolman Dave Downing for his alertness in

4/10/89

spotting and reporting the fire.

Rick Handley moved to appoint Leonard Riffle to the Sewer Committee, Mike Dunlap seconded, and the motion was unanimously approved.

RIFFLE -  
SEWER  
COMMITTEE

Mayor Holland advised Council that Krodel Campground will open on Saturday, April 15, 1989.

David Reynolds moved to request 16 summer youth workers and two supervisors for the 1989 Governor's Summer Youth Program. Michael Dunlap seconded and the motion was unanimously approved.

GSYP  
APPROVED

Council was reminded of a special Council meeting to set the Levy, award the roofing bids, and several other items.

Council was also reminded of the Sewer Committee meeting with Henderson officials to discuss the Intermunicipal Agreement, set for Tuesday evening, April 11, 1989 at 6 P.M.

Mayor Holland appointed a committee, consisting of Timothy Scarberry, Stephen Lovell, and Ronald White, to meet with members of the Mason County Development Authority, the Chamber of Commerce, and Main Street Point Pleasant to develop floorplans for the building at 305 Main Street.

Rick Handley asked that the City check the broken concrete near the manhole on Marquette Avenue close to the Haer residence.

Mr. Handley received Council's permission to write a letter on their behalf to Senator Byrd asking his support of the American Heritage Trust Act, which appropriates money for recreational activities.

Al Alderfer, new Main Street Director, volunteered to chair the entertainment section for the Fourth of July program at Krodel Park.

Timothy Scarberry reported that the Police had traveled 7,400 miles on patrol and made 54 arrests during March.

Mr. Scarberry's request for a streetlight at 134 English Road was referred to the Streetlight Committee. He also asked the Street Department to check out the drainage problems at the bend in the road at that address to see if repairs can be made.

City Attorney Casto reported that the Hartley Marine lease had been completed, recorded, and \$14,000 has been collected and deposited.

Mr. Casto reported that depositions in the Chandler suit will be taken Friday, April 14, and he is finishing up interrogatories on the Rice suit.

Mr. Casto advised that a letter has been written to Wayne Kulig of the Department of Defense advising him it will require \$19,500 to repair 26th Street and future maintenance will be around \$2,500 each year.

4/10/89

Mr. Casto reported that Henderson officials have been invited to a meeting Tuesday, April 11, 1989 to work out some questions that have arisen on the Intermunicipal Agreement.

Mr. Casto received a request from Council member Carol Jones to check out a crack in the basketball court at Ordinance.

Stephen Lovell asked that the Board of Education be contacted regarding the clean-up of trash in front of the Vocational School.

Charles Garland asked if there will be a Spring clean-up this year and the question was referred to the Sanitation committee. Mr. Garland was advised that Appalachian Power is responsible for the lights on the Shadle Bridge.

Sadie Bailes requested that the City consider repairing the storm sewer on Madison Avenue with the savings on construction costs for the Sewer Treatment Plant. She also commended the Police Department on their prompt and efficient response to a call at her place of employment recently.

PAYMENT OF  
INVOICE -  
MRS. HARPER

Michael Dunlap moved that the City pay a \$38.00 sewer repair invoice for Mrs. Harper on McCollough Road since the problem coincided with a water problem in the area. Charles Garland seconded and the motion passed unanimously.

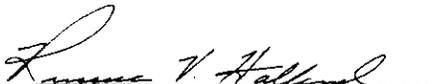
Leonard Riffle asked that Danny Rodgers check the old water reservoir to see what repairs are needed.

David Reynolds asked that the street sweeper be used in his ward and requested the Street Department patch the streets as soon as asphalt is available.

Upon motion by Timothy Scarberry, second by David Reynolds, the meeting was adjourned at 9:35 P.M.



Etta M. Gheen, City Clerk



Russell V. Holland, Mayor

SPECIAL COUNCIL MEETING  
CITY COUNCIL  
CITY OF POINT PLEASANT

April 18, 1989

The Common Council of the City of Point Pleasant, a municipal corporation in Mason County, West Virginia, met in Special Session at the City Building, 400 Viand Street, at 7:00 P.M. on Tuesday, April 18, 1989.

The following were found present:

- Russell V. Holland - Mayor
- Etta M. Gheen - City Clerk
- Joanne Sauer - Administrative Assistant

and the following members of City Council:

- |                   |                    |                |
|-------------------|--------------------|----------------|
| Rick Handley      | David Reynolds     | Stephen Lovell |
| Timothy Scarberry | Michael Dunlap     |                |
| Ronald White      | Charles W. Garland |                |

Absent were City Attorney Casto and Council members Leonard Riffle and Carol Jones.

Mayor Russell V. Holland opened the meeting and read the Waiver of Notice, which is attached to this set of minutes. The purpose of the meeting was to discuss and take any necessary action on (1) Roofing bids for 305 Main Street; (2) Sewer Rate Increase Ordinance; (3) Purchase of Motorola Monitors for PPVFD; (4) Free trash pick-up; (5) Purchase of new Police cruiser; (6) Sewer problem at 1606 Jefferson Boulevard; and (7) Laying of Levy for fiscal year 1989-90.

Danny Rodgers was present to advise Council that the sewer problem at 1606 Jefferson Boulevard still can't be found. A quote was secured from Underwater Services of \$1,000 to run a camera through the line. The Sewer Department will smoke test the line as soon as possible. Stephen Lovell moved to smoke test the line and then if the problem can't be located to contact Underwater Services to see if the camera can be used several places, and what the cost will be. Rick Handley seconded and the motion was unanimously approved.

Mayor Holland opened the only bid received for roofing 305 Main Street. Timothy Scarberry moved to award the \$6,800 bid to Blevins Roofing of Huntington if the Mayor and Street Commissioner determine that all specifications have been met. Sadie Bailes seconded and the motion was approved unanimously. A copy of the bid is hereto attached.

Rick Handley moved to adopt on second reading, with right to amend "AN ORDINANCE AMENDING PART 9, CHAPTER 3, ARTICLE 935.01 OF THE CODIFIED ORDINANCES OF THE CITY OF POINT PLEASANT, WEST VIRGINIA, INCREASING AND SETTING RATES FOR SEWER SERVICE PROVIDED BY THE CITY OF POINT PLEASANT, WEST VIRGINIA." Ronald White seconded and the motion was unanimously approved and the Ordinance was moved to third and final reading.

Timothy Scarberry moved to pay \$2,500.00 to Motorola, Inc. for the purchase of monitors for the Point Pleasant Volunteer Fire Department. David Reynolds seconded and the motion was unanimously approved.

Timothy Scarberry moved to purchase a new Police cruiser for \$13,523.23

22B

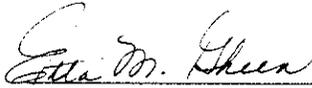
4/18/89

as per the State of West Virginia bid from C&O Motors of St. Albans. David Reynolds seconded and the motion was unanimously approved.

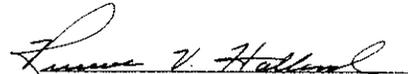
Michael Dunlap reported that the Sanitation Committee will meet with Street Commissioner Jim Hall to set up plans for a free trash pick up in the City.

Timothy Scarberry moved to adopt the Levy Rates as presented in the proposed 1989-90 Budget. Ronald White seconded and the motion was unanimously approved.

Upon motion by Timothy Scarberry, second by David Reynolds, the meeting was adjourned at 7:35 P.M.



Etta M. Gheen, City Clerk



Russell V. Holland, Mayor

REGULAR MEETING  
CITY COUNCIL  
CITY OF POINT PLEASANT

May 8, 1989

The Common Council of the City of Point Pleasant, a municipal corporation in Mason County, West Virginia, met in regular session at the City Building, 400 Viand Street at 7:30 P.M. on Monday, May 8, 1989.

The following were found present:

Russell V. Holland - Mayor  
Etta M. Gheen - City Clerk  
Carroll Casto - City Attorney

and the following members of City Council:

Rick Handley	Michael Dunlap	Stephen Lovell
Timothy Scarberry	Sadie Bailes	Carol Jones
Ronald White	Charles Garland	

Absent were Council members David Reynolds and Leonard Riffle.

The meeting was called to order by Mayor Russell V. Holland and Timothy Scarberry led Council in prayer.

Mayor Holland introduced and welcomed Reverend Nancy Hamm, representing the Mason County Ministerial Association, and Danny Davis, Sonya Reynolds, and Tammy Hart, representing Point Pleasant High School Economics Class.

Donald R. Duncan, 2306 Madison Avenue, appeared before Council expressing his great concern with the main sewer trunk line which runs between Madison and Monroe Avenues. He advised Council that there have been problems with this sewer for a number of years. The sewer leaks and pours out raw sewage and something needs to be done about it. Timothy Scarberry stated he has walked through this area numerous times and feels that Council should begin the steps to correct this problem. Although Danny Rodgers has made repairs a number of times the actual solution is a bigger sewer; since it is a combined storm and sewer system, the whole line is outdated. Carol Jones informed Council that it is unbelievable what comes out of there, it is unhealthy and breeds sewer rats and mosquitoes. Ronald White expressed concern that it is also a menace to the schools in the area.

Joe Dunn, Dunn Engineers, Inc. related that his firm has submitted a proposal to do an engineering study of the entire area from Southern States to 28th Street. The whole area has a combined sanitary and storm sewer system, so that all the rain that falls ends up in the same system. Storm water has never been separated in the north end of Point Pleasant, and in addition there is a low swale, or very flat piece of land, some two miles in length so there is no where for the water to go. There is a definite need to separate the storm sewer from the sanitary flow. Mr. Dunn advised that the cost of the engineering study is subject to negotiation and he would like to meet with the Sewer Committee for this purpose. He suggested the project can be handled in numerous phases over a period of years. Mayor Holland appointed a committee composed of Timothy Scarberry, Rick Handley, Stephen Lovell, Sadie Bailes, and Donald Duncan to meet with the engineer on this project.

*L2C*

DUNN ENGINEERS Timothy Scarberry moved to have the appointed committee  
 PROPOSAL TO negotiate the cost of the study with Dunn Engineers, Inc. and  
 STUDY DRAINAGE report back to Council for action. Sadie Bailes seconded and  
 PROBLEMS the motion was unanimously approved.

Collin and Gail Randolph appeared before Council to ask that something be done about the old house behind 707 Main Street. Mr. Randolph reported that the roof is about to cave in, there is no dry-wall, and nothing but a sub-floor. They have seen rats and snakes in the area. Mayor Holland stated he will meet with City Inspector Harry Rhodes and get back with Mr. and Mrs. Randolph on what the City can do.

HAYSLETT  
 AGREEMENT  
 TO START  
 CONSTRUCTION  
 SEWER  
 PROJECT

Mark Sankoff, Dunn Engineers, Inc., apprised Council that the Water Development Authority loan application has been filed and the Part B application has been submitted to the Department of Natural Resources. The only thing left is Public Service Commission approval. Mr. Sankoff reported that Hayslett Construction would like to begin work June 1, although they are aware that the loan closing will probably not be until June 15, 1989, and the City will not be obligated. Stephen Lovell moved to authorize W. Dan Roll, project attorney, to write up an agreement that Hayslett may begin construction on June 1, 1989, if he so desires, and the City will be held harmless, and Hayslett will not be funded until the City receives their money. Timothy Scarberry seconded and the motion was unanimously approved.

SEWER RATE  
 INCREASE  
 ORDINANCE

"AN ORDINANCE AMENDING PART 9, CHAPTER 3, ARTICLE 935.01 OF THE CODIFIED ORDINANCES OF THE CITY OF POINT PLEASANT, WEST VIRGINIA, INCREASING AND SETTING RATES FOR SEWER SERVICE PROVIDED BY THE CITY OF POINT PLEASANT, WEST VIRGINIA" was unanimously adopted on third and final reading with an effective date of July 1, 1989 if approved by the Public Service Commission, on motion by Stephen Lovell, second by Ronald White.

The minutes of the regular Council meeting of April 10, 1989 were presented to each Council member and unanimously approved on motion by Timothy Scarberry, second by Sadie Bailes.

The minutes of the Special meeting of April 18, 1989 were presented to each Council member and were unanimously approved on motion by Timothy Scarberry, second by Sadie Bailes.

Copies of the General Fund Financial Statement of April 30, 1989 were presented to each Council member and were unanimously approved on motion by Ronald White, second by Carol Jones.

Copies of the Water and Sewer Financial Statement of April 30, 1989 were presented to each Council member and were unanimously approved on motion by Sadie Bailes, second by Timothy Scarberry.

Copies of the Coal Severance Financial Statement of April 30, 1989 were presented to each Council member and were unanimously approved on motion by Timothy Scarberry, second by Sadie Bailes.

Copies of the Treasurer's Report of April 30, 1989 were presented to each Council member and were unanimously approved on motion by Timothy Scarberry, second by Carol Jones.

Sadie Bailes moved to pay the outstanding bills for April, 1989, Timothy Scarberry seconded, and the motion was unanimously approved.

Ronald White moved to pay the following Sewer Project invoices:

Dunn Engineers, Inc.	Invoice #19	\$7,844.47	SEWER
W. Dan Roll	Legal Services	\$ 260.00	PROJECT
Point Pleasant Register	Legal Advertising	\$ 35.10	INVOICES

Timothy Scarberry seconded and the motion was unanimously approved.

Timothy Scarberry moved to pay the following invoices from Water Construction loan funds, subject to Farmers Home Administration approval:

FMHA  
WATER  
INVOICES

Point Pleasant Hardware	\$ 4,234.00
Southeastern Equipment	\$29,495.00
Southeastern Equipment	\$10,188.00
WV Water & Waste	\$ 4,634.00

Ronald White seconded and the motion was unanimously approved.

An "ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS FOR THE SEWERAGE PORTION OF THE EXISTING COMBINED PUBLIC WATERWORKS AND SEWERAGE FACILITIES OF THE CITY OF POINT PLEASANT AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$2,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1989 A, NOT MORE THAN \$500,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1989 B, AND NOT MORE THAN \$6,000,000 INTERIM CONSTRUCTION FINANCING, CONSISTING OF BOND ANTICIPATION NOTES, GRANT ANTICIPATION NOTES OR A LINE OF CREDIT EVIDENCED BY NOTES OR ANY COMBINATION OF THE FOREGOING; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS AND NOTES; AUTHORIZING EXECUTION AND DELIVERY OF A TRUST INDENTURE SECURING THE NOTES; APPROVING AND RATIFYING A LOAN AGREEMENT AND SUPPLEMENTAL LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND NOTES AND ADOPTING OTHER PROVISIONS RELATING THERETO" was unanimously adopted on first reading, with right to amend, on motion by Timothy Scarberry, second by Carol Jones. Second reading will be May 22, 1989 at a Special Council meeting.

1989  
SEWERAGE  
BOND  
ORDINANCE

Timothy Scarberry moved to update last year's streetscaping Small Cities Block Grant application and resubmit it this year. Carol Jones seconded and the motion was unanimously approved.

SMALL CITIES  
BLOCK GRANT  
APPLICATION

Council was presented with copies of a schedule for free trash pick up and unanimously approved it upon motion by Timothy Scarberry, second by Rick Handley. A copy of said schedule is

FREE TRASH  
PICKUP

herewith attached.

Mayor Holland informed Council that he attended the meeting with Congressmen Wise, McEwen, and Miller pertaining to a four lane highway and they have pledged their support.

PURCHASE OF  
PICKENS LOT  
MASON PLACE

Timothy Scarberry moved to purchase for \$6,000.00 a 35' x 70' part of Lot #12, Block 1 of the City of Point Pleasant, (adjoining the Thabet lot recently purchased) from Phillip Pickens. Carol Jones seconded and the motion was unanimously approved. Council was advised that the Franklin property, 25' frontage on Viand Street, may be for sale for \$20,000.

Mayor Holland advised Council that he will try increased policing of First Street to discourage speeders before considering placing a speed bump there.

Council was presented with copies of a letter from J. Wayne Kulig, Department of Defense, concerning the paving of 26th Street. A letter has been written to Mr. Kulig requesting immediate talks concerning this matter.

Rick Handley asked if the City has a lease agreement with the Board of Education and requested it be researched and updated. He asked Council to continue sponsoring Donnie Jones' basketball camp at Point Pleasant High School Gymnasium this year. Mr. Handley informed Council that the City has encountered problems with City sponsored activities when a fee is charged. Mr. Handley has talked with the Superintendent of Schools, but they won't budge. The Board of Education is charging Peggy Gillispie \$50 for each time Central Gym is used and plans to charge Mr. Jones \$250 for the week of basketball camp.

STREETLIGHT  
134 ENGLISH

Timothy Scarberry moved to have a streetlight installed at 134 English Road. The motion was unanimously approved after second by Carol Jones. Mr. Scarberry also asked that the Street Committee check on the pavement in this area.

Mr. Scarberry reported that the police Department traveled 6,249 miles and made 33 arrests, including 2 DUI's and 5 Public Intoxications, during April.

City Attorney Carroll Casto reported that Midland Enterprises is still interested in leasing additional riverfront property from the City and they have offered to pay \$5,000 per year. A copy of their offer is herewith attached.

Carol Jones asked that something be done about mowing the yard at Dr. Burns' former residence on Meadowbrook Drive.

Joe Dunn reported he is still investigating the water back up problem at Morgan Bragg's residence on Jefferson Boulevard. He advised that the water in Mr. Bragg's basement included buds off trees leading him to believe this is a storm water problem. He has discovered that the sewer lateral across the street runs right through the storm sewer. He will continue his research and

make a report to Council

Council was informed that rip-rapping on the riverbank at Tu-Endie-Wei Park will continue as soon as the water level goes down.

Sadie Bailes reported her continued concern with traffic leaving Citizens National's uptown facility. The problem was referred to the Street Committee.

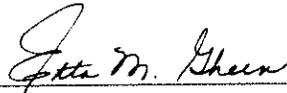
Michael Dunlap commended Howard Killingsworth, Jr. for the good job he's doing keeping Harmon Park mowed.

Ronald White asked that three lawns on Main Street between 10th and 11th be mowed and also reported a large tree limb fell behind the floodwall and needs picked up.

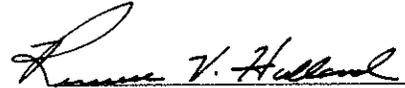
Dick Wallace asked if the City will mow the area between Madison and Lincoln as soon as the weather permits.

Rick Handley asked that we approach the Mason County Commission about repairing the basketball courts at Ordnance. He advised that the two new tennis courts at Harmon will be constructed as soon as the weather permits.

Upon motion by Timothy Scarberry, second by Rick Handley, the meeting adjourned at 8:58 P.M.



Etta M. Gheen, City Clerk



Russell V. Holland, Mayor



SPECIAL COUNCIL MEETING  
CITY COUNCIL  
CITY OF POINT PLEASANT

May 22, 1989

The Common Council of the City of Point Pleasant, a municipal corporation in Mason County, West Virginia, met in Special Session at the City Building, 400 Viand Street, at 7:00 P.M. on Monday, May 22, 1989.

The following were found present:

Russell V. Holland - Mayor  
Etta M. Gheen - City Clerk  
Joanne Sauer - Administrative Assistant  
Carroll Casto - City Attorney  
W. Dan Roll - Sewer Project Attorney

and the following members of City Council:

Rick Handley	Ronald White	Charles Garland
Timothy Scarberry	Leonard Riffle	Carol Jones
David Reynolds	Sadie Bailes	

Absent were Michael Dunlap and Stephen Lovell.

Also present were Vincent Collins, Bond Counselor, Steptoe & Johnson, and Joe Dunn and Mark Sankoff, Dunn Engineers, Inc.

Mayor Russell V. Holland opened the meeting and read the Waiver of Notice, which is attached to this set of minutes. The purpose of the meeting was (1) Second reading of an "Ordinance authorizing the acquisition and construction of additions, betterments and improvements....." Combined Waterworks and Sewerage System Revenue Bonds, Series 1989A and 1989B, and (2) Discuss and take any necessary action on a proposal from Dunn Engineers, Inc. to study drainage problems in North Point Pleasant.

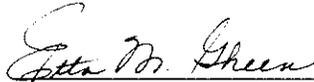
Following explanation by Vincent Collins an "ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS FOR THE SEWERAGE PORTION OF THE EXISTING COMBINED PUBLIC WATERWORKS AND SEWERAGE FACILITIES OF THE CITY OF POINT PLEASANT AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$2,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1989A, NOT MORE THAN \$500,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1989B, AND NOT MORE THAN \$6,000,000 INTERIM CONSTRUCTION FINANCING, CONSISTING OF BOND ANTICIPATION NOTES, GRANT ANTICIPATION NOTES OR A LINE OF CREDIT EVIDENCED BY NOTES OR ANY COMBINATION OF THE FOREGOING; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS AND NOTES; AUTHORIZING EXECUTION AND DELIVERY OF A TRUST INDENTURE SECURING THE NOTES; APPROVING AND RATIFYING A LOAN AGREEMENT AND SUPPLEMENTAL LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND NOTES AND ADOPTING OTHER PROVISIONS RELATING THERETO" was unanimously adopted on second reading, with right to amend, on motion by Leonard Riffle, second by David Reynolds. Public Hearing and third and final reading will be held on June 12, 1989.

22D

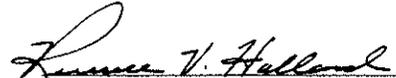
5/22/89

Timothy Scarberry advised Council that the appointed committee had met with Joe Dunn of Dunn Engineers, Inc. regarding the proposed study of drainage problems in North Point Pleasant and are recommending that Council proceed with this study. After some discussion Timothy Scarberry moved to authorize Dunn Engineers, Inc. to do the study of drainage problems in North Point Pleasant, provided that the above Bond Ordinance passes through final reading and provided further that the cost is not to exceed \$117,500.00. Sadie Bailes seconded and the motion was unanimously approved.

Upon motion by Timothy Scarberry, second by Ronald White, the meeting was adjourned by 7:31 P.M.



Etta M. Gheen, City Clerk



Russell V. Holland, Mayor

REGULAR MEETING  
CITY COUNCIL  
CITY OF POINT PLEASANT

June 12, 1989

The Common Council of the City of Point Pleasant, a municipal corporation in Mason County, West Virginia, met in regular session at the City Building, 400 Viand Street at 7:30 P.M. on Monday, June 12, 1989.

The following were found present:

Russell V. Holland - Mayor  
Etta M. Gheen - City Clerk  
Carroll Casto - City Attorney

and the following members of City Council:

Rick Handley	Leonard Riffle	Charles W. Garland
David Reynolds	Michael Dunlap	Carol Jones
Ronald White	Sadie Bailes	

Absent were Council members Timothy Scarberry and Stephen Lovell.

The meeting was called to order by Mayor Russell V. Holland and Rick Handley led Council in prayer.

A public hearing was held on the Combined Waterworks and Sewerage System Revenue Bond and Notes Ordinance and Mayor Holland asked if there was anyone present to speak regarding this ordinance. There being no response the hearing was closed.

An "ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS FOR THE SEWERAGE PORTION OF THE EXISTING COMBINED PUBLIC WATERWORKS AND SEWERAGE FACILITIES OF THE CITY OF POINT PLEASANT AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$2,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1989 A, NOT MORE THAN \$500,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1989 B, AND NOT MORE THAN \$6,000,000 INTERIM CONSTRUCTION FINANCING, CONSISTING OF BOND ANTICIPATION NOTES, GRANT ANTICIPATION NOTES OR A LINE OF CREDIT EVIDENCED BY NOTES OR ANY COMBINATION OF THE FOREGOING; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS AND NOTES; AUTHORIZING EXECUTION AND DELIVERY OF A TRUST INDENTURE SECURING THE NOTES; APPROVING AND RATIFYING A LOAN AGREEMENT AND SUPPLEMENTAL LOAN AGREEMENT RELATING TO SUCH BONDS, AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND NOTES AND ADOPTING OTHER PROVISIONS RELATING THERETO" was unanimously adopted on third and final reading on motion by Sadie Bailes, second by Carol Jones.

1989  
SEWERAGE  
BOND  
ORDINANCE

Kellie Thomas, first place winner in Girls' Shot Put at the WV State Track Meet, May 26, 1989; Billy Cottrill, third place winner in the Boys' Shot Put at the WV State Track meet, May 27, 1989; Dede Grady, fifth place winner in the Girls' High Jump at the WV State

22E

Track meet, May 27, 1989; Chip Wood, High Point Honors in all six Junior High Track Meets in 1989 were recognized by City Council and presented with Certificates of Appreciation for their achievements in track this spring.

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Darlene Haer, representing the Main Street Design Committee, appeared before Council to ask their support in requiring property owners to clean up their properties that are in violation of City ordinances. She advised that the Design Committee plans to first send letters asking the cooperation of these owners, then have the City Inspector follow up by sending letters citing ordinance violations, with deadlines for compliance, to those who do not respond. Mrs. Haer then asked what the next step would be for those who do not respond to the City Inspector. City Attorney Casto responded that any citizen of Point Pleasant can sign a warrant for violation of a City ordinance, even Design Committee members, and violators would then be brought for trial to Mayor's Court. It would be up to the person who signed the warrant to appear in court against the violator.

SENATE  
BILL  
#222

Leonard Riffle moved to have City Attorney Casto research new Senate Bill #222 to see if this will give the City more powers and the authority to put a lien on the property in violation of ordinances. David Reynolds seconded and the motion was unanimously approved.

OLD  
PARKING  
METERS  
DONATED

Etta Gheen, representing the Main Street Design Committee, advised Council that the committee would like to raise funds for the purpose of buying signs for Krodel, Harmon, and Tu-Endie-Wei, as well as street signs and banners for the City. She asked Council to consider donating the old parking meters to the committee for them to sell at various functions of the Main Street group. Funds thus raised would be used to purchase these items for beautification of the City. Michael Dunlap moved that Council donate these meters to the Main Street group for this purpose. Sadie Bailes seconded and the motion was unanimously approved.

SEWER  
PROJECT

Mark Sankoff, Dunn Engineers, Inc., reported that the Water Development Authority Bond closing is scheduled for June 26, 1989 in Dunbar and the contract signing and pre-construction conference is scheduled for June 27 in Point Pleasant. The National Pollution Discharge Elimination Survey (NPDES) Permit was issued on June 10 and has been delivered to the Public Service Commission. Construction should begin on the Sewer Plant as soon as the contracts are

signed. The drainage study for North Point Pleasant has begun and the contract is being worked on.

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Copies of the Treasurer's Report of May 31, 1989 were presented to each Council member and were unanimously approved on motion by Ronald White, second by Carol Jones.

Sadie Bailes moved to pay the outstanding bills for May, 1989, Ronald White seconded, and the motion was unanimously approved.

Rick Handley moved to pay the following Sewer Project Invoices:

Dunn Engineers, Inc.	Invoice #21	\$4,401.60
W. Dan Roll	Legal Services	550.00
Point Pleasant Register	Legal Ads	187.66
		<hr/>
		\$5,139.26

SEWER  
PROJECT  
INVOICES

Carol Jones seconded and the motion was unanimously approved.

Rick Handley moved to pay \$37,456.10 to WV Water and Waste for water meters and accessories, subject to Farmers Home Administration approval. David Reynolds seconded and the motion was unanimously approved.

WATER  
INVOICES  
FMHA

A "SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNTS, DATES, MATURITIES, INTEREST RATES, PRINCIPAL PAYMENT SCHEDULES, SALE PRICES AND OTHER TERMS OF THE COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1989 A AND SERIES 1989 B OF THE CITY OF POINT PLEASANT; AUTHORIZING AND APPROVING A LOAN AGREEMENT AND SUPPLEMENTAL LOAN AGREEMENT RELATING TO SUCH BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS" was unanimously adopted on motion by Rick Handley, second by Carol Jones.

SUPPLEMENTAL  
RESOLUTION  
SEWER  
PROJECT  
REVENUE  
BONDS

City Clerk Gheen advised Council of the following hospitalization rates for fiscal year 1989-1990:

	XXPL	ADVACARE
Single	\$ 96.00	\$124.51 + \$3.38
Family:	\$230.00	\$312.73 + \$3.38

For those employees choosing Advacare the employee share per month for Singles will be \$40.30 and for Family \$96.06.

Council was presented with copies of the final budget revisions for Fiscal Year 1988-1989, which were unanimously approved on motion by Leonard Riffle, second by Sadie Bailes.

FARMERS  
MARKET

Copies of a Proposal for a Farmers Market were presented to Council for approval. Following some discussion regarding problems caused by blocking a portion of Fourth Street, Leonard Riffle moved to approve the Farmers Market providing it is held on the City-owned parking lot on Fifth and Viand Streets. David Reynolds seconded and the motion passed with Michael Dunlap opposed.

AUXILIARY  
POLICE

Ronald White moved to approve the appointment of Homer Rutherford and John Kearns to the Auxiliary Police Department. The motion was unanimously approved after second by Sadie Bailes.

MAIN STREET  
BUILDING  
LEASE

Council was presented with a rough draft of a proposed lease for the Main Street Building for the Chamber of Commerce and the Development Authority. Leonard Riffle moved to have the City Attorney draw up the lease with an insurance clause and other protections for the City. Sadie Bailes seconded the motion, Michael Dunlap moved to amend the termination clause of the lease allowing sixty (60) days rather than fifteen (15) days. Rick Handley seconded and the amended motion was unanimously approved.

PICKENS  
PROPERTY  
PURCHASE

Rick Handley moved to authorize Mayor Holland to proceed with payment of \$6,000.00 for the Pickens property, part of Lot #12, Block 1 of the City of Point Pleasant (on Mason Place). Carol Jones seconded and the motion was unanimously approved.

DENNY  
LEASE

Leonard Riffle moved to approve a \$1.00 per year lease for Charles and Carolyn Denny on City-owned property near Crooked Creek in Kingtown, provided the Dennys maintain the acreage and provide their own septic system. Ronald White seconded and the motion was unanimously approved.

\$350.00  
BABE RUTH  
LEAGUE

Michael Dunlap moved to contribute not over \$350.00 for umpires for the Babe Ruth League. Leonard Riffle seconded and the motion was unanimously approved.

"NO TRESPASSING"  
CEMETERIES

David Reynolds moved to place "No Trespassing After Dark" signs at the cemeteries. Ronald White seconded and the motion was unanimously approved.

Mayor Holland announced that the Dedication of new lighting at Harmon Park will be held June 15, 1989 at 6 P.M. at the Park.

Council was presented with copies of a proposed Point Pleasant Police Department Firearms Policy and Procedure. The policy will be reviewed by Council and recommendations will be made at the next

Council meeting.

Rick Handley moved to contribute \$391.00 to the Summer League Basketball program at the discretion of Recreation Director Georgianna Tillis. Michael Dunlap seconded and the motion was approved with Charles Garland and David Reynolds opposed.

\$391.00  
SUMMER LEAGUE  
BASKETBALL

Ronald White moved to accept and approve Citizens National Depository bonds to guarantee the City's deposits. Carol Jones seconded and the motion was unanimously approved.

CITIZENS  
DEPOSITORY  
BONDS

Leonard Riffle moved to refer the new State Building Code to the Planning Commission for their study and recommendation. The motion was unanimously approved after second by Sadie Bailes.

STATE  
BUILDING  
CODE

David Reynolds moved that an invoice from BCM Engineers in the amount of \$18,624.37 be referred to Dunn Engineers, Inc. for study and recommendation back to Council. Leonard Riffle seconded and the motion was unanimously approved.

BCM INVOICE

Mayor Holland advised Council that the City is in dire need of a new garbage truck and he will check into possible financing through the West Virginia Municipal League.

Michael Dunlap moved to advertise for bids to purchase a new trencher for the Water and Sewer departments. Charles Garland seconded and the motion was unanimously approved.

BIDS FOR  
TRENCHER

Mayor Holland passed the monthly Police Report to Council for their study.

Leonard Riffle moved to accept and authorize Mayor Holland to execute the Intermunicipal agreement with the Town of Henderson. The motion was unanimously approved after second by David Reynolds.

INTERMUNICIPAL  
AGREEMENT -  
HENDERSON

Council was presented with a copy of a sample ordinance on Government ethics as prepared by the West Virginia Municipal League. The Ordinance was referred to the Police and Fire Committee for study and recommendation.

City Attorney Casto reported that Senate Bill #222 applies only to County Courts and County Health Inspectors, and not to municipalities.

City Attorney Casto advised that the Rice suit against the City (child allegedly struck by garbage truck) is set for trial July 10, 1989 and depositions were completed this past Friday. The Chandler suit (boy struck by bicycle at Krodel 4th of July activities last year) is scheduled for trial August 28, 1989.

Carol Jones stated that the weeds need cut at the corner of Pine Street and Sand Hill Road in the Meadowbrook area.

Rick Handley reported that there is a house on Highland Avenue that needs to be condemned. He requested that improvements be made to the restrooms at Krodel and recommended that some of the street signs on Garfield and Mossman Circle be

repainted or replaced.

Mr. Handley asked about selling staple foods such as bread at Krodel and was advised that the City would have to get into charging sales tax and would then be in competition with local stores. He plans to conduct a survey to see what people want added to Krodel. Mr. Handley also advised that Ameer Foster will be in charge of the Summer Basketball League this year.

Charles Garland requested that a traffic survey be done between 22nd and 30th Streets, possibly in the South Park Drive area, in hopes of getting another traffic signal light.

Sadie Bailes advised she has had a request for a streetlight at 2208 North Main Street. She and the Mayor will individually check this area.

Ronald White reported that Jeff Snyder has also called with a complaint about the condition of the property on Highland Avenue.

Leonard Riffle requested street signs for Poplar and Madison Avenues.

REPAVE  
WALNUT

Leonard Riffle moved that funds be appropriated to repave Walnut Street. David Reynolds seconded and the motion was unanimously approved.

David Reynolds asked that the hole dug in Decatur Street be repaired, and that the weeds be removed from the basketball court there. Mr. Reynolds stated that he has had several complaints about the gravel the Department of Highways has spread on Sand Hill Road in the area of the Nursing Care Unit. He asked Mayor Holland to contact the local office to ask them to correct this hazard.

Mayor Holland reported that the Department of Natural Resources had brought in a team of ten people to check for illegal dumps in Mason County and the City is in good shape.

Michael Dunlap reminded Council that this is his last Council meeting since he will be moving to Texas on June 15. He stated that he has been real pleased to have been elected to serve the citizens of Point Pleasant and is saddened that he won't be able to serve his full term. Mr. Dunlap feels this is a good Council, off to a good start, with good cooperation. He thinks Council has done some good things, some big things and some small projects, although the work's not finished. He thanked each and everyone for giving him the opportunity to serve and expressed his pride in serving. He stated it was a worthwhile experience and he has learned a lot from it. He left Council with a challenge: "If you're going to do anything, do it right. Don't just do things halfway or just to placate somebody, let's do it right so that we don't leave problems for twenty years from now."

Mr. Dunlap asked Council to accept his resignation effective June 15, 1989 and recommended that his replacement be Dr. Bill Park. He also advised that Julia McComb Myers has expressed her interest in replacing him on Council. Mayor Holland recommended that a Special meeting be held before July 10 to appoint Mr. Dunlap's replacement.

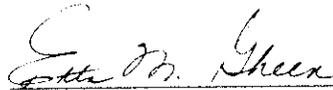
Leonard Riffle moved to accept Mr. Dunlap's resignation as of June 15, 1989. Sadie Bailes seconded and the motion was unanimously approved. City Attorney Casto advised that Council must appoint a replacement within 30 days of June 15 according to the City Charter.

RESIGNATION  
MICHAEL P.  
DUNLAP  
4TH WARD

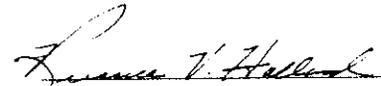
Mayor Holland presented Mr. Dunlap with a Certificate of Appreciation for his dedicated service and also gave him the "Key to the City."

City Clerk Gheen advised Council that she and the Mayor have received a request from a local business owner for special dispensation from paying the B & O Tax, which he feels is too harsh. After some discussion the question was referred to the Finance Committee for study and recommendation to the next meeting.

Upon motion by Michael Dunlap, second by David Reynolds, the meeting was adjourned at 10:00 P.M.



Etta M. Gheen, City Clerk



Russell V. Holland, Mayor



REGULAR MEETING  
CITY COUNCIL  
CITY OF POINT PLEASANT

June 12, 1989

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The following were found present:

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Etta M. Gheen - City Clerk  
Carroll Casto - City Attorney

and the following members of City Council:

Rick Handley	Leonard Riffle	Charles W. Garland
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The meeting was called to order by Mayor Russell V. Holland and Rick Handley led Council in prayer.

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1989  
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BOND  
ORDINANCE

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SENATE  
BILL  
#222

Leonard Riffle moved to have City Attorney Casto research new Senate Bill #222 to see if this will give the City more powers and the authority to put a lien on the property in violation of ordinances. David Reynolds seconded and the motion was unanimously approved.

OLD  
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DONATED

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INVOICES

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WATER  
INVOICES  
FMHA

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SUPPLEMENTAL  
RESOLUTION  
SEWER  
PROJECT  
REVENUE  
BONDS

City Clerk Gheen advised Council of the following hospitalization rates for fiscal year 1989-1990:

6/12/89

	<u>WVPE</u>	<u>ADVACARE</u>
Single	\$ 96.00	\$124.51 + \$3.38
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Council was presented with a rough draft of a proposed lease for the Main Street Building for the Chamber of Commerce and the Development Authority. Leonard Riffle moved to have the City Attorney draw up the lease with an insurance clause and other protections for the City. Sadie Bailes seconded the motion, Michael Dunlap moved to amend the termination clause of the lease allowing sixty (60) days rather than fifteen (15) days. Rick Handley seconded and the amended motion was unanimously approved.

PICKENS PROPERTY PURCHASE

Rick Handley moved to authorize Mayor Holland to proceed with payment of \$6,000.00 for the Pickens property, part of Lot #12, Block 1 of the City of Point Pleasant (on Mason Place). Carol Jones seconded and the motion was unanimously approved.

DENNY LEASE

Leonard Riffle moved to approve a \$1.00 per year lease for Charles and Carolyn Denny on City-owned property near Crooked Creek in Kingtown, provided the Dennys maintain the acreage and provide their own septic system. Ronald White seconded and the motion was unanimously approved.

\$350.00 BABE RUTH LEAGUE

Michael Dunlap moved to contribute not over \$350.00 for umpires for the Babe Ruth League. Leonard Riffle seconded and the motion was unanimously approved.

"NO TRESPASSING" CEMETERIES

David Reynolds moved to place "No Trespassing After Dark" signs at the cemeteries. Ronald White seconded and the motion was unanimously approved.

Mayor Holland announced that the Dedication of new lighting at Harmon Park will be held June 15, 1989 at 6 P.M. at the Park.

Council was presented with copies of a proposed Point Pleasant Police Department Firearms Policy and Procedure. The policy will be reviewed by Council and recommendations will be made at the next

Council meeting.

Rick Handley moved to contribute \$391.00 to the Summer League Basketball program at the discretion of Recreation Director Georgianna Tillis. Michael Dunlap seconded and the motion was approved with Charles Garland and David Reynolds opposed.

\$391.00  
SUMMER LEAGUE  
BASKETBALL

Ronald White moved to accept and approve Citizens National Depository bonds to guarantee the City's deposits. Carol Jones seconded and the motion was unanimously approved.

CITIZENS  
DEPOSITORY  
BONDS

Leonard Riffle moved to refer the new State Building Code to the Planning Commission for their study and recommendation. The motion was unanimously approved after second by Sadie Bailes.

STATE  
BUILDING  
CODE

David Reynolds moved that an invoice from BCM Engineers in the amount of \$18,624.37 be referred to Dunn Engineers, Inc. for study and recommendation back to Council. Leonard Riffle seconded and the motion was unanimously approved.

BCM INVOICE

Mayor Holland advised Council that the City is in dire need of a new garbage truck and he will check into possible financing through the West Virginia Municipal League.

Michael Dunlap moved to advertise for bids to purchase a new trencher for the Water and Sewer departments. Charles Garland seconded and the motion was unanimously approved.

BIDS FOR  
TRENCHER

Mayor Holland passed the monthly Police Report to Council for their study.

Leonard Riffle moved to accept and authorize Mayor Holland to execute the Intermunicipal agreement with the Town of Henderson. The motion was unanimously approved after second by David Reynolds.

INTERMUNICIPAL  
AGREEMENT -  
HENDERSON

Council was presented with a copy of a sample ordinance on Government ethics as prepared by the West Virginia Municipal League. The Ordinance was referred to the Police and Fire Committee for study and recommendation.

City Attorney Casto reported that Senate Bill #222 applies only to County Courts and County Health Inspectors, and not to municipalities.

City Attorney Casto advised that the Rice suit against the City (child allegedly struck by garbage truck) is set for trial July 10, 1989 and depositions were completed this past Friday. The Chandler suit (boy struck by bicycle at Krodel 4th of July activities last year) is scheduled for trial August 28, 1989.

Carol Jones stated that the weeds need cut at the corner of Pine Street and Sand Hill Road in the Meadowbrook area.

Rick Handley reported that there is a house on Highland Avenue that needs to be condemned. He requested that improvements be made to the restrooms at Krodel and recommended that some of the street signs on Garfield and Mossman Circle be

repainted or replaced.

Mr. Handley asked about selling staple foods such as bread at Krodel and was advised that the City would have to get into charging sales tax and would then be in competition with local stores. He plans to conduct a survey to see what people want added to Krodel. Mr. Handley also advised that Anee Foster will be in charge of the Summer Basketball League this year.

Charles Garland requested that a traffic survey be done between 22nd and 30th Streets, possibly in the South Park Drive area, in hopes of getting another traffic signal light.

Sadie Bailes advised she has had a request for a streetlight at 2208 North Main Street. She and the Mayor will individually check this area.

Ronald White reported that Jeff Snyder has also called with a complaint about the condition of the property on Highland Avenue.

Leonard Riffle requested street signs for Poplar and Madison Avenues.

Leonard Riffle moved that funds be appropriated to repave Walnut Street. David Reynolds seconded and the motion was unanimously approved.

David Reynolds asked that the hole dug in Decatur Street be repaired, and that the weeds be removed from the basketball court there. Mr. Reynolds stated that he has had several complaints about the gravel the Department of Highways has spread on Sand Hill Road in the area of the Nursing Care Unit. He asked Mayor Holland to contact the local office to ask them to correct this hazard.

Mayor Holland reported that the Department of Natural Resources had brought in a team of ten people to check for illegal dumps in Mason County and the City is in good shape.

Michael Dunlap reminded Council that this is his last Council meeting since he will be moving to Texas on June 15. He stated that he has been real pleased to have been elected to serve the citizens of Point Pleasant and is saddened that he won't be able to serve his full term. Mr. Dunlap feels this is a good Council, off to a good start, with good cooperation. He thinks Council has done some good things, some big things and some small projects, although the work's not finished. He thanked each and everyone for giving him the opportunity to serve and expressed his pride in serving. He stated it was a worthwhile experience and he has learned a lot from it. He left Council with a challenge: "If you're going to do anything, do it right. Don't just do things halfway or just to placate somebody, let's do it right so that we don't leave problems for twenty years from now."

REPAVE  
WALNUT

Mr. Dunlap asked Council to make his resignation effective June 15, 1989 and recommended that his replacement be Dr. Bill Park. He also advised that Julia McComb Myers has expressed her interest in replacing him on Council. Mayor Holland recommended that a Special meeting be held before July 10 to appoint Mr. Dunlap's replacement.

Leonard Riffle moved to accept Mr. Dunlap's resignation as of June 15, 1989. Sadie Bailes seconded and the motion was unanimously approved. City Attorney Casto advised that Council must appoint a replacement within 30 days of June 15 according to the City Charter.

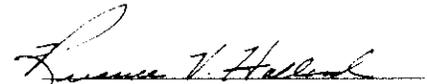
RESIGNATION  
MICHAEL P.  
DUNLAP  
4TH WARD

Mayor Holland presented Mr. Dunlap with a Certificate of Appreciation for his dedicated service and also gave him the "Key to the City."

City Clerk Gheen advised Council that she and the Mayor have received a request from a local business owner for special dispensation from paying the B & O Tax, which he feels is too harsh. After some discussion the question was referred to the Finance Committee for study and recommendation to the next meeting.

Upon motion by Michael Dunlap, second by David Reynolds, the meeting was adjourned at 10:00 P.M.

  
Etta M. Gheen, City Clerk

  
Russell V. Holland, Mayor



# STEPTOE & JOHNSON

ATTORNEYS AT LAW

SIXTH FLOOR

UNION NATIONAL CENTER EAST

P. O. BOX 2190

CLARKSBURG, W. VA. 26302-2190

(304) 624-8000

TELECOPIER (304) 624-8183

CHARLES W. YEAGER  
CARL F. STUCKY, JR.  
HERBERT G. UNDERWOOD  
JACKSON L. ANDERSON  
OTIS L. O'CONNOR  
ROBERT G. STEELE  
JAMES M. WILSON  
PATRICK D. DEEM  
ROBERT M. STEPTOE, JR.  
ANNE R. WILLIAMS  
JAMES R. WATSON  
JAMES D. GRAY  
VINCENT A. COLLINS  
JAMES A. RUSSELL  
WILLIAM T. BELCHER  
MICHAEL L. BRAY  
DAVID C. CLOVIS  
DANIEL R. SCHUDA  
J. GREG GOODYKOONTZ  
IRENE M. KEELEY  
EVANS L. KING, JR.  
WALTER L. WILLIAMS  
SUSAN S. BREWER  
SPRAGUE W. HAZARD  
HERSCHEL H. ROSE III  
RONALD H. HANLAN  
C. DAVID MORRISON  
HARRY P. WADDELL  
CLEMENT D. CARTER III  
W. HENRY LAWRENCE IV  
J. ROBERT GWYNNE  
WILLIAM E. GALEOTA  
CHRISTOPHER P. BASTIEN  
GORDON H. COPLAND

CHARLESTON OFFICE  
715 CHARLESTON NATIONAL PLAZA  
P. O. BOX 1588  
CHARLESTON, W. VA. 25326  
(304) 342-2191  
TELECOPIER (304) 342-0726

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

RANDALL C. LIGHT  
STEVEN P. MCGOWAN  
RICHARD M. YURKO, JR.  
GARY W. NICKERSON  
W. RANDOLPH FIFE  
MARTIN R. SMITH, JR.  
LOUIS E. ENDERLE, JR.  
ROBERT J. SCHIAVONI  
JOSEPH R. FERRETTI  
MARK E. KINLEY  
MARCIA J. POLLARD  
BRYAN R. COKELEY  
PATRICK D. KELLY  
FRANCESCA TAN  
CHRISTINE S. VAGLIENTI  
DAVID M. HAMMER  
WILLIAM F. ROHRBAUGH  
CAROLINE J. STAFFORD  
MARILYN ANN VROOM

OF COUNSEL  
RALPH BOHANNON

WRITER'S DIRECT DIAL NUMBER

June 28, 1989

City of Point Pleasant  
Combined Waterworks and Sewerage System Revenue Bonds, Series 1989 A

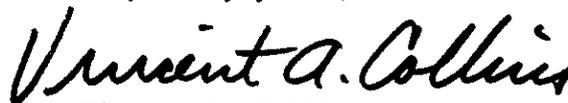
CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Internal Revenue Service  
Internal Revenue Service Center  
Philadelphia, Pennsylvania 19255

Gentlemen:

Enclosed herewith is a completed and executed Internal Revenue Service Form 8038-G and a file copy thereof with regard to the above-captioned bond issue. Please file the original form in the appropriate Internal Revenue Service records and return the copy marked in red as the "File Copy" to me (after acknowledging receipt of the same) in the enclosed self-addressed, stamped envelope. Thank you for your attention to this matter.

Very truly yours,



Vincent A. Collins

Enclosure

Copies of letter with enclosure to:

Samme L. Gee, Esquire

William Daniel Roll, Jr., Esquire

06/23/89

POINTJ.02

71143/89001

Form **8038-G**  
(December 1986)

Department of the Treasury  
Internal Revenue Service

# Information Return for Tax-Exempt Governmental Bond Issues

Under Section 149(e)

(Use Form 8038-GC if issue price is under \$100,000.)

OMB No. 1545-0720  
Expires 12-31-89

## Part I Reporting Authority

1 Issuer's name Check box if Amended Return   
CITY OF POINT PLEASANT

2 Issuer's employer identification number  
55-6000236

3 Number and street  
400 Viand Street

4 Report number  
G198 9 - 1

5 City or town, state, and ZIP code  
Point Pleasant, West Virginia 25550

6 Date of issue  
June 27, 1989

## Part II Type of Issue (check box(es) that applies)

7 Check box if bonds are tax or other revenue anticipation bonds

8 Check box if bonds are in the form of a lease or installment sale

9  Education

10  Health and hospital

11  Transportation

12  Public safety

13  Environment (including sewage bonds) Sewer Revenue Bonds, Series 1989 A

14  Housing

15  Utilities

16  Other. Describe (see instructions)

	Issue Price
	\$1,837,600

## Part III Description of Bonds

	(a) Maturity date	(b) Interest rate	(c) Issue price	(d) Stated redemption price at maturity	(e) Weighted average maturity	(f) Yield	(g) Net interest cost
17 Final maturity	4/1/29	8.4%	148,801	148,801			
18 Entire issue			1,837,600	1,837,600	* 29.7 years	8.4%	8.4%

## Part IV Uses of Original Proceeds of Issue (including underwriters' discount)

19 Proceeds used for accrued interest	19	-0-
20 Proceeds used for bond issuance costs (including underwriters' discount)	20	12,000
21 Proceeds used for credit enhancement	21	-0-
22 Proceeds allocated to reasonably required reserve or replacement fund	22	168,285
23 Proceeds used to refund prior issues	23	-0-
24 Nonrefunding proceeds of the issue (subtract lines 20, 21, 22, and 23 from line 18, column (c))	24	1,657,315

## Part V Description of Refunded Bonds (complete this part only for refunding bonds)

25 Enter the remaining weighted average maturity of the bonds to be refunded  years

26 Enter the last date on which the refunded bonds will be called

27 Enter the date(s) the refunded bonds were issued

## Part VI Miscellaneous

28 Enter the amount (if any) of the state volume cap allocated to this issue

29 Arbitrage rebate:

a Check box if the small governmental unit exception to the arbitrage rebate requirement applies

b Check box if the 6-month temporary investment exception to the arbitrage rebate requirement is expected to apply

c Check box if you expect to earn and rebate arbitrage profits to the U.S.

30 Enter the amount of the bonds designated by the issuer under section 265(b)(3)(B)(ii)

31 Pooled financings:

a Check box if any of the proceeds of this issue are to be used to make loans to other governmental units  and enter the amount

b Check box if this issue is a loan made from the proceeds of another tax-exempt issue  and enter the name of the issuer W. Va. Water Development Authority and the date of the issue March 16, 1989

Please Sign Here

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete.

Kevin T. Hallock 6/27/89  
Signature of officer Date

Mayor  
Title

For Paperwork Reduction Act Notice, see page 1 of the instructions.

Form 8038-G (12-86)

\*Equal amortized payments for 40 years, first two years interest only



WV MUNICIPAL BOND COMMISSION  
 Suite 337 Building 3  
 1800 Washington St. E  
 State Capitol Complex  
 Charleston, WV 25305  
 (304) 348-3971

SERIES 1989 A

NEW ISSUE REPORT FORM

Date of Report: June 27, 1989

(See Reverse for Instructions)

ISSUE: <u>City of Point Pleasant Combined Waterworks &amp; Sewerage System Rev. Bonds, Ser. 1989 A</u>	
ADDRESS: <u>400 Viand Street, Point Pleasant, WV 25550</u>	COUNTY: <u>Mason</u>
PURPOSE: <u>New Money</u> <input checked="" type="checkbox"/>	
OF ISSUE: <u>Refunding</u> <input type="checkbox"/> Refunds issue(s) dated: _____	
ISSUE DATE: <u>June 27, 1989</u>	CLOSING DATE: <u>June 27, 1989</u>
ISSUE AMOUNT: \$ <u>1,837,600</u>	RATE: <u>8.4%</u>
1st DEBT SERVICE DUE: <u>October 1, 1989</u>	1st PRINCIPAL DUE: <u>October 1, 1991</u>
1st DEBT SERVICE AMOUNT: <u>40,304.69</u>	PAYING AGENT: <u>One Valley Bank</u>
ISSUERS BOND COUNSEL: <u>Steptoe &amp; Johnson</u>	UNDERWRITERS BOND COUNSEL: <u>Jackson &amp; Kelly</u>
Contact Person: <u>Vincent A. Collins, Esq.</u> Phone: <u>(304)624-8161</u>	Contact Person: <u>Samme L. Gee, Esquire</u> Phone: <u>(304)340-1318</u>
CLOSING BANK: <u>City National Bank, Pt. Pleasant</u>	ESCROW TRUSTEE: _____
Contact Person: <u>Charles C. Lanham</u> Phone: <u>(304)675-4480</u>	Contact Person: _____ Phone: _____
KNOWLEDGEABLE ISSUER CONTACT	OTHER: _____
Contact Person: <u>Etta M. Gheen</u> Position: <u>City Clerk</u> Phone: <u>675-2360</u>	Contact Person: _____ Function: _____ Phone: _____
DEPOSITS TO MBC AT CLOSE:	Accrued Interest: \$ _____
By <input type="checkbox"/> Wire	Capitalized Interest: \$ _____
<input checked="" type="checkbox"/> Check	Reserve Account: \$ <u>161,300</u>
	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. Fund: \$ _____
	To Other: \$ _____
NOTES: _____ _____ _____	
FOR MUNICIPAL BOND COMMISSION USE ONLY:	
DOCUMENTS	
REQUIRED: _____	
TRANSFERS	
REQUIRED: _____	

WV MUNICIPAL BOND COMMISSION  
 Suite 337 Building 3  
 1800 Washington St. E  
 State Capitol Complex  
 Charleston, WV 25305  
 (304) 348-3971

NEW ISSUE REPORT FORM

Date of Report: June 27, 1989

(See Reverse for Instructions)

ISSUE: City of Point Pleasant Combined Waterworks & Sewerage System Rev. Bonds, Ser. 1989 B

ADDRESS: 400 Viand Street, Point Pleasant, WV 25550 COUNTY: Mason

PURPOSE: New Money  Refunding   
 OF ISSUE: Refunding Refunds issue(s) dated: \_\_\_\_\_

ISSUE DATE: June 27, 1989 CLOSING DATE: June 27, 1989

ISSUE AMOUNT: \$ 272,400 RATE: 0%

1st DEBT SERVICE DUE: October 1, 1990 1st PRINCIPAL DUE: October 1, 1990

1st DEBT SERVICE AMOUNT: 6,984.44 PAYING AGENT: One Valley Bank

ISSUERS

BOND COUNSEL: Steptoe & Johnson

Contact Person: Vincent A. Collins, Esq.  
 Phone: (304)624-8161

UNDERWRITERS

BOND COUNSEL: Jackson & Kelly

Contact Person: Samme L. Gee, Esquire  
 Phone: (304)340-1318

CLOSING BANK: City National Bank, Pt. Pleasant ESCROW TRUSTEE: \_\_\_\_\_

Contact Person: Charles C. Lanham  
 Phone: (304)675-4480

Contact Person: \_\_\_\_\_  
 Phone: \_\_\_\_\_

KNOWLEDGEABLE ISSUER CONTACT

Contact Person: Etta M. Gheen  
 Position: City Clerk  
 Phone: 675-2360

OTHER:

Contact Person: \_\_\_\_\_  
 Function: \_\_\_\_\_  
 Phone: \_\_\_\_\_

DEPOSITS TO MBC AT CLOSE:

By  Wire  
 Check

Accrued Interest:	\$	_____
Capitalized Interest:	\$	_____
Reserve Account:	\$	<u>6,985</u>
Other:	\$	_____

REFUNDS & TRANSFERS BY MBC AT CLOSE:

By  Wire  
 Check  
 IGT

To Escrow Trustee:	\$	_____
To Issuer:	\$	_____
To Cons. Invest. Fund:	\$	_____
To Other:	\$	_____

NOTES:

FOR MUNICIPAL BOND COMMISSION USE ONLY:

DOCUMENTS  
 REQUIRED: \_\_\_\_\_  
 TRANSFERS  
 REQUIRED: \_\_\_\_\_



CITY OF POINT PLEASANT

Combined Waterworks and Sewerage System Revenue Bonds,  
Series 1989 A and Series 1989 B

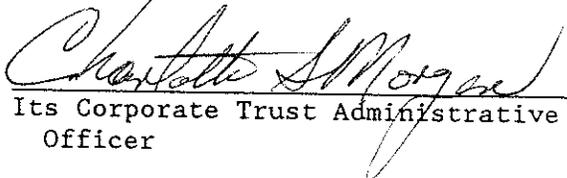
ACCEPTANCE OF DUTIES OF REGISTRAR

ONE VALLEY BANK, NATIONAL ASSOCIATION, a national banking association with its principal office in the City of Charleston, West Virginia, hereby accepts appointment as Registrar in connection with the City of Point Pleasant Combined Waterworks and Sewerage System Revenue Bonds, Series 1989 A and Series 1989 B, all dated June 27, 1989, in the aggregate principal amount of \$2,110,000 and agrees to perform all duties of Registrar in connection with such Bonds, all as set forth in the Local Act authorizing issuance of the Bonds.

Dated this 27th day of June, 1989.

ONE VALLEY BANK, NATIONAL ASSOCIATION

By

  
Its Corporate Trust Administrative  
Officer

06/22/89  
POINTJ.P2  
71143/89001



CITY OF POINT PLEASANT

Combined Waterworks and Sewerage System Revenue Bonds,  
Series 1989 A and Series 1989 B

RECEIVED JUL 1 1989

ACCEPTANCE OF DUTIES OF DEPOSITORY BANK

CITIZENS NATIONAL BANK - A DIVISION OF THE FIRST HUNTINGTON NATIONAL BANK, a national banking association, with principal office in the City of Point Pleasant, West Virginia, hereby accepts appointment as Depository Bank in connection with a Bond Ordinance of the City of Point Pleasant, enacted June 12, 1989, authorizing issuance of the City's Combined Waterworks and Sewerage System Revenue Bonds, Series 1989 A and Series 1989 B, both dated June 27, 1989, in the aggregate principal amount of \$2,110,000 (collectively, the "Bonds") and agrees to perform all duties of Depository Bank in connection with such Bonds, all as set forth in said Ordinance.

Dated this 27th day of June, 1989.

CITIZENS NATIONAL BANK - A DIVISION OF  
THE FIRST HUNTINGTON NATIONAL BANK

By Charles E. Lashum  
Its PRESIDENT

06/22/89  
POINTJ.Q2  
71143/89001



CITY OF POINT PLEASANT

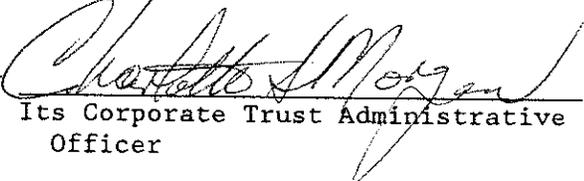
Combined Waterworks and Sewerage System Revenue Bonds,  
Series 1989 A and Series 1989 B

CERTIFICATE OF REGISTRATION OF BONDS

I, CHARLOTTE S. MORGAN, Corporate Trust Administrative Officer of ONE VALLEY BANK, NATIONAL ASSOCIATION, as Registrar under the Local Act and Registrar's Agreement providing for the \$2,110,000 aggregate principal amount of Combined Waterworks and Sewerage System Revenue Bonds, Series 1989 A and Series 1989 B, of the City of Point Pleasant (the "Issuer"), hereby certify that on the 27th day of June, 1989, the single fully registered Series 1989 A Bond of the Issuer in the principal amount of \$1,837,600 designated "Combined Waterworks and Sewerage System Revenue Bond, Series 1989 A," numbered AR-1, and the single fully registered Series 1989 B Bond of the Issuer in the principal amount of \$272,400 designated "Combined Waterworks and Sewerage System Revenue Bond, Series 1989 B," numbered BR-1, were registered as to principal and interest (the Series 1989 B Bond being registered as to principal only) in the name of "West Virginia Water Development Authority" in the books of the Issuer kept for that purpose at our office, by a duly authorized officer on behalf of One Valley Bank, National Association, as Registrar.

WITNESS my signature as of this 27th day of June, 1989.

ONE VALLEY BANK, NATIONAL ASSOCIATION

By   
Its Corporate Trust Administrative  
Officer

06/22/89  
POINTJ.R2  
71143/89001



REGISTRAR'S AGREEMENT

THIS REGISTRAR'S AGREEMENT, dated as of the 27th day of June, 1989, by and between the CITY OF POINT PLEASANT, a municipal corporation and political subdivision of the State of West Virginia (the "Issuer"), and ONE VALLEY BANK, NATIONAL ASSOCIATION, a national banking association (the "Registrar").

WHEREAS, the Issuer has, contemporaneously with the execution hereof, issued and sold its \$2,110,000 aggregate principal amount of Combined Waterworks and Sewerage System Revenue Bonds, Series 1989 A and Series 1989 B, in fully registered form (collectively, the "Bonds"), pursuant to a Bond Ordinance enacted June 12, 1989, and a Supplemental Resolution adopted June 12, 1989 (collectively, the "Local Act");

WHEREAS, capitalized words and terms used in this Registrar's Agreement and not otherwise defined herein shall have the respective meanings given them in the Local Act, a copy of which is attached as Exhibit A hereto and incorporated herein by reference;

WHEREAS, the Local Act provides for an appointment by the Issuer of a Registrar for the Bonds; and

WHEREAS, the Issuer desires to appoint, and by the Local Act and this Registrar's Agreement does appoint, the Registrar to act as Registrar under the Local Act and to take certain other actions hereinafter set forth;

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

1. Upon the execution of this Registrar's Agreement by the Issuer and the Registrar and during the term hereof, the Registrar does accept and shall have and carry out the powers and duties of Registrar for the Bonds, all as set forth in the Local Act, such duties including, among other things, the duties to authenticate, register and deliver Bonds upon original issuance and when properly presented for exchange or transfer, and shall do so with the intention of maintaining the exemption of interest on the Bonds from federal income taxation, in accordance with any rules and regulations promulgated by the United States Treasury Department or by the Municipal Securities Rulemaking Board or similar regulatory bodies as

the Issuer advises it of and with generally accepted industry standards.

2. The Registrar agrees to furnish the Issuer with appropriate records of all transactions carried out by it as Registrar and to furnish the Issuer with the names and specimen signatures of the Registrar's authorized officers for the purposes of acting as the Registrar and with such other information and reports as the Issuer may from time to time reasonably require.

3. The Registrar shall have no responsibility or liability for any action taken by it at the specific direction of the Issuer.

4. As compensation for acting as Registrar pursuant to this Registrar's Agreement, the Issuer hereby agrees to pay to the Registrar, from time to time, the compensation for services rendered as provided in the annexed schedule and reimbursement for reasonable expenses incurred in connection therewith.

5. It is intended that this Registrar's Agreement shall carry out and implement provisions of the Local Act with respect to the Registrar. In the event of any conflict between the terms of this Registrar's Agreement and the Local Act, the terms of the Local Act shall govern.

6. The Issuer and the Registrar each warrants and represents that it is duly authorized and empowered to execute and enter into this Registrar's Agreement and that neither such execution nor the performance of its duties hereunder or under the Local Act will violate any order, decree or agreement to which it is a party or by which it is bound.

7. This Registrar's Agreement may be terminated by either party upon 60 days' written notice sent by registered or certified mail to the other party, at the following respective addresses:

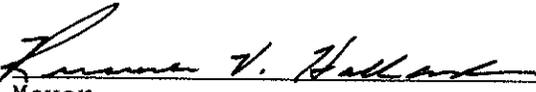
ISSUER:           City of Point Pleasant  
                  400 Viand Street  
                  Point Pleasant, West Virginia 25550  
                  Attention: Mayor

REGISTRAR:       One Valley Bank, National Association  
                  Post Office Box 1793  
                  One Valley Square  
                  Charleston, West Virginia 25326  
                  Attention: Corporate Trust Department

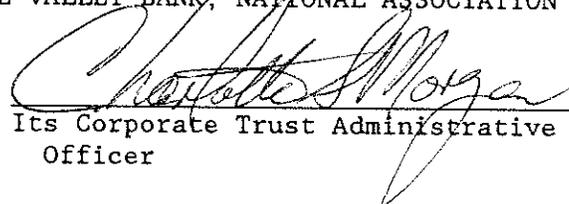
8. The Registrar is hereby requested and authorized to authenticate and deliver the Bonds in accordance with the Local Act.

IN WITNESS WHEREOF, the CITY OF POINT PLEASANT and ONE VALLEY BANK, NATIONAL ASSOCIATION have respectively caused this Registrar's Agreement to be signed in their names and on their behalf, all as of the day and year first above-written.

CITY OF POINT PLEASANT

By   
Mayor

ONE VALLEY BANK, NATIONAL ASSOCIATION

By   
Its Corporate Trust Administrative  
Officer

06/22/89  
POINTJ.S2  
71143/89001

EXHIBIT A

[Included in transcript as Document No. 1]

# Invoice

ONE VALLEY  
BANK

CITY OF POINT PLEASANT

DATE JUNE 27, 1989

UNITS	ITEM DESCRIPTION	TOTAL
	CITY OF POINT PLEASANT COMBINED WATERWORKS AND SEWAGE SYSTEM REVENUE BONDS, 1989 SERIES \$1,837,600 SERIES A AND \$272,400 SERIES B  ONE TIME FEE AS REGISTRAR AND AUTHENTICATING AGENT	\$500.00

SEND REMITTANCE TO: One Valley Bank  
One Financial Place - 6th Floor  
One Valley Square  
P.O. Box 1793  
Charleston, WV 25326  
ATT: CHARLOTTE S MORGAN



ASSIGNMENT SEPARATE FROM BOND

FOR VALUE RECEIVED, the West Virginia Water Development Authority hereby sells, assigns and transfers unto One Valley Bank, National Association, Charleston, West Virginia, the Combined Waterworks and Sewerage System Revenue Bond, Series 1989 A, of the City of Point Pleasant in the principal amount of \$1,837,600, numbered AR-1, standing in the name of West Virginia Water Development Authority on the books of said Issuer.

Dated: June 27, 1989.

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

Daniel B. Yankovsky  
Authorized Representative

06/22/89  
POINTJ.T2  
71143/89001



THE CITY OF POINT PLEASANT

\$1,870,000 Water and Sewer Revenue Bond, Series 1976  
and Bond Anticipation Notes

BOND ORDINANCE

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THE CITY OF POINT PLEASANT

ORDINANCE AUTHORIZING THE ISSUANCE OF \$1,870,000 WATER AND SEWER REVENUE BOND, SERIES 1976, AND BOND ANTICIPATION NOTES OF THE CITY TO FINANCE THE COSTS OF ACQUISITION AND CONSTRUCTION OF IMPROVEMENTS FOR THE 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 COUNCIL OF THE CITY OF POINT PLEASANT:

ARTICLE I

STATUTORY AUTHORITY, FINDINGS  
AND DEFINITIONS

Section 1.01. Authority for this Ordinance. This Ordinance is enacted pursuant to the provisions of Article 20, Chapter 8 of the West Virginia Code (the "Act") 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 Point Pleasant (herein called the "City"), in the County of Mason, State of West Virginia, is now served by a municipal waterworks, but the existing waterworks is not adequate and is not capable of providing needed water to the City and adjacent areas. The inhabitants of the City and surrounding area to be served by the System (hereinafter defined) urgently require that the Project (hereinafter defined) be constructed and acquired as herein provided in order that adequate provision may be made for supplying sufficient quantities of potable water to the inhabitants of the City and surrounding area. The City has heretofore combined its waterworks and its sewerage system into a combined waterworks and sewerage system pursuant to the Act.

(B) It is deemed essential, convenient and desirable for the health, welfare, safety, advantage and convenience of the said inhabitants, and, accordingly, it is hereby ordered that the City cause the Project to be

constructed and acquired. The Project shall consist of\*

with all necessary appurtenant facilities, particularly described in the  
\*The Project shall consist of a new 2100 GPM Water treatment-  
including four new wells, new pressure filters, a clear well,  
two 750,000 gallon storage tanks and new transmission lines.  
a public purpose of the City for the City to issue its revenue bond in the  
principal amount of \$1,870,000 to finance the costs of acquisition and con-  
struction of the Project in the manner hereinafter provided. Such financing  
will promote the health, welfare and safety of the residents of the City.

(D) The estimated maximum cost of the acquisition and construction  
of the Project is \$3,813,000 of which \$1,870,000 will be obtained from the  
proceeds of sale of the Bond herein authorized and \$1,943,000 will be obtained  
from a grant by Economic Development Administration of the United States De-  
partment of Commerce.

(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 properties and facilities constituting the Project; interest  
on the 1976 Bond and the Notes during and for six months after the estimated  
completion of such construction, or not to exceed three years from the issuance  
of the Bond, whichever occurs first, to the extent that revenues of the System  
are not sufficient therefor; engineering and legal expenses; expenses for es-  
timates 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, and pay-  
ment of outstanding unbonded indebtedness of the System.

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

(G) There are outstanding the Water and Sewer Revenue Refunding  
Bonds of the City dated January 1, 1955, originally issued in the principal  
amount of \$930,000, the last maturity of which is January 1, 1990 (the "1955

Bonds"). The Bond will be junior and subordinate to the 1955 Bonds as to liens, pledges and source of and security for payment and in all other respects.

Section 1.03. Ordinance to Constitute Contract. In consideration of the acceptance of the Bond authorized to be issued hereunder by the Holder from time to time, this Ordinance shall be deemed to be and shall constitute a contract between the City and such Bondholder, and the covenants and agreements herein set forth to be performed by the City 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 20, Chapter 8 of the West Virginia Code.

"Bond" means the \$1,870,000 Water and Sewer Revenue Bond, Series 1976, originally authorized to be issued pursuant to this Ordinance; and also includes any additional bonds hereafter issued on a parity with the 1976 Bond within the terms, restrictions and conditions contained in this Ordinance and shall mean and include the Notes unless the context clearly would exclude the Notes.

"1955 Bonds" means the Bonds described in Section 1.02 (G) hereof.

"1976 Bond" means the Bond hereby authorized to be issued initially, and includes the Notes unless the context clearly would exclude the Notes.

"City" means The City of Point Pleasant, in Mason County, West Virginia, and where appropriate, also means the Common Council thereof and any other department, board, agency or instrumentality thereof at any time in control of the management and operation of the System.

"Clerk" means the City Clerk of the City.

"Consulting Engineer" means J. H. Milam, Inc., Dunbar, West Virginia, or any qualified engineer or firm of engineers which shall at any time hereafter be retained by the City as Consulting Engineer for the System.

"Fiscal Year" means each year beginning on July 1 and ending on the succeeding June 30.

"Government" means United States of America, acting by and through the United States Department of Agriculture, Farmers Home Administration.

"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 or, unless the context clearly would exclude the Notes, the Notes.

"Mayor" means the Mayor of the City.

"Net Revenues" means the balance of the gross revenues, as defined below, remaining after deduction only of operation expenses, as defined below.

"Notes" means the Bond Anticipation Notes in the amount of \$1,870,000 authorized pursuant to Article IA hereof, and also means any refunding notes hereafter authorized.

"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 City 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 and accounting practices, and all payments not included above required in connection with the 1955 Bonds.

"1955 Ordinance" means the Ordinance of the City authorizing issuance of the 1955 Bonds and adopted February 7, 1955.

"Original Purchaser" means the purchaser, directly from the City, 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).

"Reserve Requirement" means the maximum annual aggregate amount of interest and principal which will fall due on the Bonds outstanding,

"Revenues" or "gross revenues" means all rates, rents, fees, charges or other income received by the City, or accrued to the City, 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 combined waterworks and sewerage system of the City 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 combined waterworks and sewerage system; and shall also include any and all additions, extensions, improvements, properties, or other facilities at any time acquired or constructed for the System 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.

5

ARTICLE I A  
BOND ANTICIPATION NOTES

Section 1.01 A. Authorization and General. In order to pay certain costs of the construction of the Project pending the purchase by the Government of the Bond, negotiable Notes of the City shall be issued and sold in the amount of \$1,870,000.

Each Note shall be designated "Bond Anticipation Note", shall be dated May 4, 1977, shall be in denominations which are integral multiples of \$5,000, shall be in bearer form, shall be dated as of the date of delivery, shall bear interest from the date of delivery at the rate of 3 1/2% per annum payable at maturity which shall be on May 4, 1978, shall be numbered from one upward, shall be payable at Chase Manhattan Bank, N.A., New York, New York, and Citizens National Bank of Point Pleasant, West Virginia, as Paying Agents, and shall contain the provisions shown in the form of Notes set forth in Section 1.1 A below.

The Notes shall be executed for the City by its Mayor, and the seal of the City shall be affixed or imprinted thereon and attested by the signature of the City Clerk of the City.

The Notes shall be sold to Lehman Brothers Incorporated (acting on behalf of itself and for Lehman Special Securities Incorporated) and Horner Barksdale & Co., as Underwriters, pursuant to a Purchase Agreement to be entered into between the City and said Underwriters, to be substantially in the form of the draft purchase agreement submitted to the City Council, and shall be sold at 99.4 per cent of the par value thereof.

Section 1.02 A. Deposit of Note Proceeds. \$1,793,330 of the proceeds received from the sale of the Notes shall be deposited on receipt by the City in Citizens National Bank of Point Pleasant, West Virginia (the "Trustee"), a member of the Federal Deposit Insurance Corporation (herein called "FDIC"), in the Project Construction Account established by Section 3.01 hereof.

The balance of the proceeds from the sale of the Notes shall be directly deposited on receipt by the City with the Trustee in a special segregated account designated as "City of Point Pleasant Note Repayment Account", as more particularly described and upon the further terms and conditions of Section 1.06 A hereof.

Section 1.03 A. Security for the Notes. The Notes shall be secured by the pledge by the City of and by a first lien on (i) the obligation of the Government to make the loan to the City in the amount of \$1,870,000 (the "Loan") by purchasing the 1976 Bond, (ii) the proceeds of the sale of the 1976 Bond when received from the Government, (iii) all moneys and securities in the Note Repayment Account, and (iv) the proceeds from the sale of the Notes until expended as herein authorized, and said pledge by the City for the benefit of the holders of the Notes to the extent of the aggregate principal amount of the Notes and the interest thereon, is hereby made and granted. The City will execute such financing statements, security agreements and other documents that may be required to perfect such pledge and lien. The Trustee shall act as agent for the holders of the Notes in connection with the execution of all Financing Statements and other instruments necessary under applicable laws in order to fully perfect the interests of the holders of the Notes in the assets pledged hereby, and to receive all notices and respond to all inquiries in connection therewith. The Notes shall also be secured by a statutory mortgage lien on the System as provided in the Act, which statutory mortgage lien shall be on a parity in all respects with the statutory mortgage lien in favor of the Bond but junior and subordinate to such lien in favor of the 1955 Bonds.

Section 1.04 A. Payment of Notes. The City will immediately deposit with the Trustee all proceeds from the sale of the 1976 Bond to the Government, to be placed by the Trustee directly into the Note Repayment Account held by the Trustee. Upon maturity of the Notes, the Trustee will pay to the Paying Agents all principal and interest owing on the Notes, with the balance of moneys in the Note Repayment Account remaining after payment of all such principal and interest on the Notes to be refunded to the City.

Section 1.05A. Notes are Limited Obligations. The Notes shall

be limited obligations of the City, the interest of which is payable solely from certain of the proceeds from the sale of the Notes, the principal of which is payable from the sources described in Section 1.03 A above, or, the principal of and interest on which is payable from the net revenues of the City arising from ownership and operation of System in the event that the Government shall not purchase the 1976 Bond in accordance with its agreement to do so, subject to the prior lien and pledge in favor of the 1955 Bonds.

Section 1.06 A. Trustee; Note Repayment Account. The Trustee shall segregate all funds and securities in the Note Repayment Account separate and apart from other deposits and funds of the Trustee and other deposits and funds of the City, including the Project Construction Account. All moneys in the Note Repayment Account, until payment in full of all principal and interest owing on the Notes at their maturity, shall be held by the Trustee for the holders of the Notes and the City shall have no rights with respect thereto. All moneys in the Note Repayment Account in excess of the amount insured by FDIC shall be continuously secured by, or invested by the Trustee in direct obligations of, or obligations the principal of and interest on which are guaranteed by, the United States of America, which obligations shall mature at least 1 day prior to the maturity of the Notes. At or prior to the maturity of the Notes, the Trustee shall transfer to the Paying Agents in immediately available funds the total principal of and interest owing on the Notes to their maturity. Upon such transfer the Trustee may refund to the City any excess amounts remaining in the Note Repayment Account. The Trustee is hereby authorized, upon such payment of all principal and interest owing on the Notes, to execute UCC termination statements indicating the termination of the security interest of the holders of the Notes in the assets referred to in Section 1.03 A hereof.

The City shall pay to the Trustee from time to time reasonable compensation for all services rendered by the Trustee under this Ordinance and all reasonable expenses, charges, counsel fees and other disbursements incurred by the Trustee in connection with its performance of its functions

hereunder. The City shall from time to time have the right to appoint a successor Trustee provided that such successor Trustee be a bank or trust company or national banking association insured by the FDIC. The Trustee shall signify its acceptance of the duties and obligations imposed by this Ordinance by executing and delivering to the City a written acceptance thereof.

Section 1.07 A. Paying Agents. Each Paying Agent shall signify its acceptance of the duties and obligations imposed upon it pursuant to this Ordinance by executing and delivering to the City a written acceptance thereof. The City may appoint as successor Paying Agent any bank, trust company or national banking association. The Underwriters shall pay to each Paying Agent from time to time reasonable compensation for all services rendered under this Ordinance and all reasonable expenses, charges, counsel fees, and other disbursements incurred in connection with the performance of its obligations hereunder.

Section 1.08 A. Covenants. The City agrees that prior to the occurrence of any event of Default (as hereinafter defined) and until payment in full of the principal and interest owing on the Notes at maturity, the following covenants contained in Article IV for the benefit of the Bondholder shall also inure to the benefit of the holders of the Notes: Sections 4.03, 4.04, 4.05, 4.06, 4.08, 4.10, 4.11, 4.12, 4.13, 4.15 and 4.16. Upon the occurrence of an event of Default, the holders of the Notes shall be entitled to the benefit of all covenants contained in Article IV as if the holders of the Notes were the Bondholder.

In addition, the City covenants to issue and sell the 1976 Bond to the Government not later than May 3, 1978, and to take all actions necessary to cause the Government to purchase the Bond.

Section 1.09 A. Events of Default and Enforcement. Each of the following events is hereby declared an "Event of Default": (a) failure to make timely payment of all principal and interest owing on the Notes at maturity; and (b) failure duly and punctually to observe or perform any of

the covenants, conditions and agreements on the part of the City for the benefit of the holders of the Notes as hereinabove provided.

On the happening of any Event of Default, then, and in each such case, each Noteholder shall be entitled to proceed against all assets pledged and shall have and is hereby given all further rights and remedies as are granted by this Ordinance to the Bondholder and each holder of the Notes shall be deemed to be a Bondholder upon such default.

In the event that any Note is not paid when due, the interest rate on such Note until payment thereof in full, shall be 6% per annum and the City will pay the holder of every Note not paid when due the principal amount of such Note, together with interest at the rate of 3.5% per annum from the date of such Note until the due date thereof, and at the rate of 6% per annum from the due date of such Note until payment thereof in full.

Section 1.10 A. Defeasance of Notes. Upon deposit by the City with the Trustee into the Note Repayment Account of the \$1,870,000 proceeds of sale of the 1976 Bond, the Notes shall be considered to have been paid in full insofar as this Ordinance is concerned; and the holders of the Notes shall have no further lien on or pledge of any properties or assets whatever of the System or any part of the System or upon any of the revenues of the System; and the holders of the Notes shall, upon such deposit, be entitled to payment of the Notes and the interest thereon solely from the moneys then on deposit in the Note Repayment Account.

Section 1.11 A. Form of Notes. The Notes shall be in the following form, subject to such changes, insertions and deletions as the Mayor of the City shall agree to by execution of the Notes:

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
THE CITY OF POINT PLEASANT  
WATER SYSTEM BOND ANTICIPATION NOTE

No.

§

THE CITY OF POINT PLEASANT, a municipal corporation of the State of West Virginia in Mason County of said State (the "City"), for value received, hereby promises to pay to bearer upon presentation and surrender hereof the sum of \_\_\_\_\_, without option of prior redemption, on May 4, 1978, with interest at the rate of three and one-half per cent (3 1/2%) per year payable on said date of maturity. Both principal and interest are payable in lawful money of the United States of America at the principal office of Citizens National Bank of Point Pleasant, West Virginia, or at the option of the holder, at Chase Manhattan Bank, N.A., in New York, New York.

This Note is one of a series of \$1,870,000 of Notes duly authorized by the City and issued in anticipation of the issuance of the Water and Sewer Revenue Bond, Series 1976 (the "Bond"), of the City in the principal sum of \$1,870,000 for aiding in the construction of additions, extensions and improvements (the "Project") of the existing waterworks portion of the combined waterworks and sewerage system (the "System") of the City.

Farmers Home Administration of the United States Department of Agriculture has agreed to purchase the Bond on May 3, 1978.

The principal of this Note and of the Series of Notes of which this Note is one is payable solely, equally, ratably, and only from the proceeds of sale of the Bond and, if Farmers Home Administration should not purchase the Bond as agreed, from the net revenues of the System defined in the Ordinance mentioned below. The proceeds of sale of the Bond have been pledged to the Noteholders to secure payment of the principal of the Notes.

Moneys from the proceeds of sale of the Notes to pay the interest on the Notes have been deposited with Citizens National Bank of Point Pleasant, West Virginia, as Trustee.

The Notes of the issue of which this Note is one are limited and special obligations of the City, and do not and shall not constitute an indebtedness of the City within the meaning of any constitutional or statutory limitations or provisions, and the City shall not be obligated to pay this Note and the Notes of the issue of which this Note is one or the interest thereon except from the proceeds of sale of the said Bond received by the City and the proceeds of the Notes for the interest on the Notes and any other sources which may be provided by the ordinance authorizing issuance of the Notes and the Bond.

The Notes of the issue of which this Note is one have been duly authorized by an Ordinance of the City and pursuant to West Virginia Code, Chapter 8, Article 20.

Every requirement of law relating to the issuance hereof has been duly complied with.

IN WITNESS WHEREOF, THE CITY OF POINT PLEASANT has caused this Note to be signed by its Mayor and its seal to be hereto affixed and attested by its City Clerk, all as of the date above written.

Dated May 4, 1977.

[SEAL]

THE CITY OF POINT PLEASANT

By \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

ARTICLE II

AUTHORIZATION, TERMS, EXECUTION,  
REGISTRATION AND ISSUE OF BOND

Section 2.01. Authorization of 1976 Bond. Subject and pursuant to the provisions hereof, a Bond of the City to be known as "Water and Sewer Revenue Bond, Series 1976" is hereby authorized to be issued in the aggregate principal amount of not exceeding One Million Eight Hundred Seventy Thousand Dollars (\$1,870,000) for the purpose of financing the costs of the construction and acquisition of the Project.

Section 2.02. Description of 1976 Bond. The 1976 Bond shall be issued in negotiable form, without coupons, and shall be dated on the date of delivery thereof, which shall be no later than May 3, 1978. The 1976 Bond shall bear interest from date at the rate of five per centum (5%) per annum. The minimum price for the 1976 Bond shall be the par value thereof.

Prepayments of principal of the 1976 Bond may be made at any time without penalty.

The 1976 Bond shall be payable in amounts and at the place or places as provided in the form therefor hereinafter set forth.

Section 2.03. Execution of 1976 Bond. The 1976 Bond shall be executed in the name of the City by the Mayor and the corporate seal of the City shall be affixed thereto and attested by the Clerk. The 1976 Bond may be signed and sealed on behalf of the City by such person as at the actual time of the execution thereof shall hold the proper office in the City, 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. Negotiability. The 1976 Bond shall be and have all the qualities and incidents of a negotiable instrument under the laws of the State of West Virginia.

Section 2.05. Bond Mutilated, Destroyed, Stolen or Lost. In case the 1976 Bond shall become mutilated or be destroyed, stolen or lost,

the City 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 City proof of his ownership thereof and complying with such other reasonable regulations and conditions as the City may require. If any such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the City may pay the same and, if such Bond be destroyed, stolen or lost, without surrender thereof.

Section 2.06. Bond Secured by Pledge of Revenues. The payment of the debt service of the 1976 Bond shall be secured forthwith by a 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 as hereinafter provided, are hereby irrevocably pledged to the payment of the principal of and interest on the 1976 Bond as the same becomes due as herein provided. The lien and pledge referred to in this section are junior and subordinate to such lien and pledge in favor of the 1955 Bonds.

Section 2.07. Form of 1976 Bond. Subject to the provisions hereof, the text of the 1976 Bond 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)

WATER AND SEWER REVENUE BOND

SERIES 1976

THE CITY OF POINT PLEASANT

\$1,870,000

Date: \_\_\_\_\_

FOR VALUE RECEIVED, THE CITY OF POINT PLEASANT (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 One Million Eight Hundred Seventy Thousand Dollars (\$1,870,000), plus interest on the unpaid principal balance at the rate of five per cent (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 twenty-four months after the date hereof and \$9,182, 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 act, 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 for the waterworks of the Borrower, is payable solely from the revenues to be derived from the operation of such 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 with an Ordinance of the City duly enacted.

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 Farm and Rural Development Act. This Bond shall be subject to the present regulations of the Farmers Home Administration and to its future regulations not in-

consistent with the express provisions hereof.

This Bond is junior and subordinate to the Water and Sewer Revenue Refunding Bonds of the City dated January 1, 1955, as to lien and source of and security for payment, and in all other respects.

[CORPORATE SEAL]

THE CITY OF POINT PLEASANT  
(Name of Borrower)

\_\_\_\_\_  
(Signature of Executive Official)

ATTEST:

Mayor  
(Title of Executive Official)

\_\_\_\_\_  
(Signature of Attesting  
Official)

Municipal Building  
(Post Office Box No. or Street  
Address)

City Clerk  
(Title of Attesting  
Official)

Point Pleasant, West Virginia 25550  
(City, State and Zip Code)

ACCOUNT	DATE	AMOUNT	TYPE
(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

NOTE PROCEEDS; REVENUES AND  
APPLICATION THEREOF

Section 3.01. Note Proceeds; Project Construction Account.

~~\$1,793,330~~  
1,793,330 received from the sale of the Notes shall be deposited on receipt by the City in Citizens National Bank of Point Pleasant, West Virginia, a member of Federal Deposit Insurance Corporation (FDIC), in a special account hereby now established and designated as "City of Point Pleasant 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 purposes provided herein.

Until completion of construction of the Project, the City will pay from the Project Construction Account such sums as shall be from time to time required to pay the interest becoming due on the 1976 Bond.

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 promptly used in accordance with the regulations of the Government.

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 therein hereinafter established, a sum sufficient to pay the entire principal of the Bond remaining unpaid together with interest accrued thereon, the City further covenants with the holder of the Bond issued pursuant hereto as follows:

(A) Waterworks and Sewerage System Revenue. The entire gross revenues derived from the operation of the System, and all parts thereof, and all tap fees received, shall be deposited as collected by the City in a special fund known as the "Waterworks and Sewerage System Revenue Fund" (the "Revenue Fund") heretofore established by the 1955 Ordinance and now on deposit with 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, from the moneys in the Revenue Fund, transfer and pay to the State Sinking Fund Commission of West Virginia the monthly amounts required by the 1955 Ordinance to be paid into the Water and Sewer Revenue Refunding Bonds Sinking Fund ("1955 Sinking Fund") for debt service on the 1955 Bonds and for the reserve in the 1955 Sinking Fund.

(2) The City shall next, each month, from the moneys in the Revenue Fund, transfer to the Operation and Maintenance Fund established by the 1955 Ordinance and now on deposit with said Bank an amount considered necessary and sufficient to pay the reasonable expenses of operating and maintaining the System for the current month,

(3) The City shall next, before the end of each month, pay from

the Revenue Fund to the Bondholder, as provided in the 1976 Bond, the installment payment required by the terms of the 1976 Bond.

(4) The City shall next, each month, transfer from the Revenue Fund and deposit into the Reserve Account, hereby established with said Bank, one-twelfth of one-tenth of the maximum annual aggregate amount of interest and principal which will fall due on the 1976 Bond until the amount in the Reserve Account equals such maximum annual aggregate amount of interest and principal (such account being called the "Reserve Requirement"). After the Reserve Requirement has been accumulated in the Reserve Account, the City shall monthly pay into the Reserve Account such part of the moneys remaining in the Water Fund, after such provision for payment of maturing principal of and interest on the 1976 Bond, as shall be required to maintain the Reserve Requirement. Moneys in the Reserve Account shall be used solely to make up any deficiency of revenues for payment of the principal of and interest on the 1976 Bond as the same shall mature or for mandatory prepayment of the principal of the 1976 Bond as hereinafter provided and for no other purpose.

(5) 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 Fund heretofore established by the 1955 Ordinance and now on deposit with the said Bank until there has been accumulated therein the sum of \$115,000, and thereafter such sums as shall be required to maintain such amount therein. Moneys in the Depreciation Fund shall be used by the City first to make up any deficiencies for the payment of principal of and interest on the 1955 Bonds and next on the 1976 Bond as the same become due, and next to restore to the Reserve Account any sum or sums transferred therefrom to pay the principal or interest on the 1976 Bond. Thereafter, and provided that payments of installments of the 1976 Bond and into the Reserve Account are current and in accordance with the foregoing provisions, moneys in the Depreciation Fund may be withdrawn by the City and used for extensions, replacements and improvements of the System, or any part thereof.

(6) After all the foregoing provisions for use of moneys in the Revenue Fund, as the case may be, have been fully complied with, any moneys remaining therein may be used to prepay the principal of the 1976 Bond or for any lawful purpose in connection with the System.

Whenever the moneys in the Reserve Account shall be sufficient to pay or prepay the 1976 Bond, it shall be the mandatory duty of the City, anything to the contrary in this Ordinance notwithstanding, to pay or prepay, at the earliest practical date and in accordance with applicable provisions hereof, the 1976 Bond and accrued interest thereon to such prepayment date.

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 Bondholder shall have a lien thereon for further securing payment of the Bond and the interest thereon, subject to the lien in favor of the holders of the 1955 Bonds. The moneys in excess of the sum insured by FDIC in the Revenue Fund, the Reserve Account and the Depreciation Fund 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 Fund 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.

(C) The bank in which the funds provided for in this Section are on deposit shall not be the trustee of any of such funds, but merely the depository thereof, insofar as the 1976 Bond is concerned.

GENERAL COVENANTS

Section 4.01. General Statement. So long as any portion of the principal of the 1976 Bond shall be outstanding and unpaid, the covenants and agreements contained herein shall be and constitute valid and legally binding covenants between the City and the Bondholder.

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 the 1976 Bond and to make the payments required herein to be made for payment of the 1955 Bonds and the 1976 Bond and the interest thereon and into 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 may not be sold, mortgaged, leased or otherwise disposed of without the prior written consent of the Government. Such consent will specify the use of the proceeds of any such disposition.

Section 4.04. Covenant Against Encumbrances. The City will not issue any obligations whatsoever payable from the revenues of the System without the prior written consent of the Government.

Section 4.05. Issuance of Additional Parity Bonds. No additional parity Bonds payable out of the revenues of the System shall be issued after the issuance of the 1976 Bond pursuant hereto, except upon prior written consent of the Government.

Section 4.06. Insurance and Bonds. The City hereby covenants and agrees that so long as the 1976 Bond remains outstanding, it will, as an expense of operation and maintenance of the System, procure, carry and

ing the following and in the following amount:

(a) Fire, Lightning, Vandalism, Hail, Tearing, Holes, Punctures 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 and subcontractor 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 \$500,000 for one or more persons injured or killed in one accident to protect the City from claims for bodily injury and/or death and not less than \$200,000 from claims for damages 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 \$500,000 for one or more persons injured or killed in one accident to protect the City from claims for bodily injury and/or death, and not less than \$200,000 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 City 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 33, Article 2, Section 39.

(e) Fidelity Bonds will be provided as to every officer and employee of the City 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 \$30,000 upon the Clerk, provided, however, that no bond shall be required insofar as custody of the Project Construction Account is concerned.

(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 the 1976 Bond, the City 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 any installment of the principal or interest due on the 1976 Bond on the date specified for the payment thereof;

(B) Failure duly and punctually to observe or perform any of the covenants, conditions and agreements on the part of the City in the 1976 Bond 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. Fiscal Year; Budget. While the 1976 Bond is 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.

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 a Annual Budget be for a reason beyond the control of the City. Each such Budget of Current Expenses shall be delivered and mailed immediately as in the case of the Annual Budget.

Section 4.10. 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 Clerk on the date of enactment hereof, subject to changes to which the Government has agreed in writing.

Section 4.11. 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 customer receiving services from the System, or anyone acting for and in behalf of such Bondholder or customer. The Government, so long as it holds the 1976 Bond, 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 4.12. 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 the Bond is outstanding.

Section 4.13. 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 4.14. Initial Connections. The Bond will not be issued until there are not less than 2474 bona fide water customers connected with the System.

Section 4.15. Arbitrage Covenant. The City will not permit at any time or times any of the proceeds of the 1976 Bond or any other funds of the City to be used directly or indirectly to acquire any securities or obligations the acquisition of which would cause the 1976 Bond to be an "arbitrage bond" as defined in Section 103(c)(2) of the Internal Revenue Code, and the Mayor of the City shall deliver his certificate, based upon this covenant, with regard thereto to the original purchaser of the 1976 Bond directly from the City.

Section 4.16. Statutory Mortgage Lien. The Act provides a statutory mortgage lien upon the System as further security for the Bondholder, and the City recognizes that such statutory mortgage lien applies as further security for payment of the 1976 Bond and the interest thereon, subject and subordinate to the statutory mortgage lien in favor of the 1955 Bonds.

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:

RATES

Water charges will be based upon monthly consumption per 1000 gallons as follows:

SCHEDULE NO. 1

Applicable to entire territory served.

AVAILABILITY OF SERVICE

Available for general domestic, commercial and industrial service.

RATE

First	2,000 gallons	\$ 1.85
Next	23,000 gallons	1.47
Next	75,000 gallons	1.38
Next	100,000 gallons	1.29
All over	200,000 gallons	1.25

MINIMUM RATE

5/8 inch or 5/8 inch x 3/4 inch meter	\$ 3.70 per month
3/4 inch meter	5.35 per month
1 inch meter	9.45 per month
1-1/2 inch meter	21.30 per month
2 inch meter	37.90 per month
3 inch meter	85.25 per month
4 inch meter	151.55 per month
6 inch meter	341.00 per month

DELAYED PAYMENT PENALTY

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

MULTIPLE OCCUPANCY

Where multiple service is rendered through one water meter, the monthly water bill shall not be less than \$3.60 multiplied by the number of families, apartments, residences, stores, offices, mobile homes not on bona fide mobile home courts, or other units receiving water service from such meter. Motels and hotels would pay on the basis of water used.

MOBILE HOME COURTS

When a Master Meter (s) is used for mobile home courts, no monthly bill shall be rendered for less than \$3.60 multiplied by the number of units

situated on the courtsite at the time the meter is read, or actual charge for water used, whichever is greater. Modular homes brought to the site in two or more sections are not considered mobile homes as contemplated in this paragraph. The 'multiple occupancy' paragraph would pertain in such cases.

RECONNECT FEE

If any bill is not paid within thirty days after date, water service to the customer will be discontinued, but no discontinuance shall be effected until after at least twenty-four hours written notice to the customer. Water service will not be restored until all past due water bills have been paid in full and all accrued penalties, plus a reconnect fee of \$5.00 have been paid.

SCHEDULE NO. 2

Applicable to users of raw (untreated) water.

AVAILABILITY OF SERVICE

Available for primarily industrial use by customers adjacent to the proposed raw water pipeline.

RATE

Forty-Five Cents (\$0.45) per thousand gallons.

DELAYED PAYMENT PENALTY

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

SCHEDULE NO. 3

Applicable to service area within the limits of the City of Point Pleasant.

AVAILABILITY OF SERVICE

Available for public fire protection service.

RATE

\$1,200.00 per annum - Fire Hydrant Rental.

PROMPT PAYMENT DISCOUNT OR DELAYED PAYMENT PENALTY

None

SCHEDULE NO. 4

Applicable to entire territory served.

AVAILABILITY OF SERVICE

Available to J-2-Y-35 Water Association, Inc., and Gallipolis Ferry Water Association.

RATE

Ninety-Nine Cents (\$0.99) per thousand gallons.

DELAYED PAYMENT PENALTY

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

SCHEDULE NO. 5

Applicable to Schedule No. 1.

SERVICE CONNECTION (TAP) FEE

For furnishing and installing one tap with service line, meter, meter yoke, meter tile and lid, lesser of cost or \$150.00.

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 City.

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 the 1976 Bond and the required payments on the 1955 Bonds.

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 Government.

Section 6.03. Award of 1976 Bond. The 1976 Bond is hereby awarded to the Government, unless, prior to delivery of the 1976 Bond the Government requires public sale thereof.

Section 6.04. 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 6.05. 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, except that the 1955 Ordinance shall not be affected by this Section.

Section 6.06. 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.

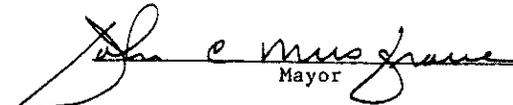
Section 6.07. Effective Time. This Ordinance shall take effect following public hearing hereon in accordance with the Act.

Section 6.08. Statutory Notice and Public Hearing. Upon enactment hereof, an abstract of this Ordinance determined by the Council to contain sufficient information 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 Point Pleasant Register, a newspaper published and of general circulation in the City, 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 Clerk for review by interested persons during office hours of the Clerk, and that the City contemplates the issuance of the 1976 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 Ordinance and notice, and present protests. At such hearing, all objections and suggestions shall be heard and the Council shall take such action as it shall deem proper in the premises.

Passed on First Reading April 14, 1977

Passed on Second and Final  
Reading May 2, 1977

Effective following public hearing held on the date of  
Second and Final Reading stated above.

  
\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk





STATE OF WEST VIRGINIA  
DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF WATER RESOURCES  
CHARLESTON 25305

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

WATER POLLUTION CONTROL PERMIT

Permit No. WV0022039

Issue Date: June 10, 1989

Subject: Sewage Facilities

Effective Date: July 10, 1989

Expiration Date: June 9, 1994

Supersedes: WV/NPDES Permit No. WV0022039

Issue Date September 11, 1984

Location: Point Pleasant  
(City)

Mason  
(County)

Kanawha  
(Drainage Basin)

Outlet Latitude: 38° 50' 15" N  
Sites: Longitude: 82° 08' 11" W

To whom it may concern:

This is to certify that

City of Point Pleasant  
400 Viand Street  
Point Pleasant, WV 25550

is hereby granted a NPDES Water Pollution Control Permit to operate and maintain an existing wastewater collection system comprised of approximately 500 linear feet of six(6) inch diameter, 26,400 linear feet of eight(8) inch diameter, 21,120 linear feet of 10 inch diameter, 26,400 linear feet of 12 inch diameter, 15,840 linear feet of 15 inch diameter, 560 linear feet of 18 inch diameter and 5,280 linear feet of 24 inch diameter gravity sewer lines, 300 manholes, 50 cleanouts, seven(7) lift stations, 510 linear feet of two(2) inch diameter, 1,000 linear feet of four(4) inch diameter, 800 linear feet of eight(8) inch diameter, and 1,750 linear feet of 12 inch diameter force mains and all necessary appurtenances.

To construct, install, operate and maintain a 0.70 MGD wastewater treatment plant comprised of a mechanically cleaned bar screen, a grit removal system, two(2) 0.35 MGD aeration basins, two(2) 35 feet diameter by 12 feet sidewater depth clarifiers, an ultraviolet disinfection system, an 80,262 gallons aerated sludge holding tank, a 500 pound per day sludge dewatering belt press, an odor control system, a nonpotable wash water system, an emergency power generation system, renovation and refurbishment of lift stations numbers 1 and 2, requisite demolition of existing structures and all necessary appurtenances.

Facilities are designed to serve a population equivalent of approximately 5,833 persons in the Town of Henderson and the City of Point Pleasant and discharge the treated wastewater to the Kanawha River (river milepoint 0.3).

**A. DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS**

During the period beginning with plant start-up and lasting through midnight, the permittee is authorized to discharge from outlet number(s) 001-Discharge from sewage treatment facilities

Such discharges shall be limited and monitored by the permittee as specified below:

Effluent Characteristic	Quantity (lbs/day)		Discharge Limitations		Other Units (Specify)		Monitoring Requirements	
	Avg. Monthly	Max. Daily	Avg. Monthly	Max. Daily	Avg. Monthly	Max. Daily	Measurement Frequency	Sample Type
Flow			0.70 MGD				Continuous	Measured
Biochemical Oxygen Demand (5-Day)	175.1	350.3	30.0 mg/l	60.0 mg/l	30.0 mg/l	60.0 mg/l	1/Month	8 hr. composite
Total Suspended Solids	175.1	350.3	30.0 mg/l	60.0 mg/l	30.0 mg/l	60.0 mg/l	1/Month	8 hr. composite
Total Kjeldahl Nitrogen (TKN)	105.1	210.2	18.0 mg/l	36.0 mg/l	18.0 mg/l	36.0 mg/l	1/Month	8 hr. composite
Fecal Coliform			200 $\frac{\text{counts}}{100 \text{ ml}}$	400 $\frac{\text{counts}}{100 \text{ ml}}$			1/Month	Grab

The pH shall not be less than 6.0 standard units and not greater than 9.0 standard units and shall be monitored monthly by grab sampling.

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s): Effluent BOD<sub>5</sub> samples shall be collected at a location immediately preceding disinfection. Other effluent samples shall be collected at or as near as possible to the point of discharge.

This discharge shall not cause violation of Series I, Section 3 of the West Virginia Legislative Rules issued pursuant to Chapter 20, Article 5A.

A. Sewer System Overflows

Outlet numbers 002 and 003 (listed below) serve as combined sewer relief points necessitated by stormwater entering the sewer system and exceeding the hydraulic capacity of the sewer and/or the treatment plant and are permitted to discharge only for such reason. There are at this time no specified effluent limitations on these discharges. Each overflow event shall be monitored for cause, frequency, duration, quality and quantity of flow. This data shall be reported monthly to the Division of Water Resources as an attachment to the Discharge Monitoring Report form. The Division of Water Resources shall require a plan of action to correct such occurrences if degradation of the receiving streams results.

<u>Outlet Number</u>	<u>Location</u>	<u>Receiving Stream</u>
002	Lift Station No. 1, 1500 Block of Kanawha Street, Southern States	Ohio River
003	7th Street Overflow Manhole	Crooked Creek of Ohio River

**B. SCHEDULE OF COMPLIANCE**

1. The permittee shall achieve compliance with the provisions for waste treatment and the discharge limitations specified in this permit in accordance with the following schedule:

Effective date of permit.

2. Reports of compliance or noncompliance with, and progress reports on the interim and final requirements contained in the above compliance schedule, shall be submitted no later than 14 days following each schedule date.

N/A

C. MANAGEMENT CONDITIONS

1. Duty to Comply

- a) The permittee must comply with all conditions of this permit. Permit noncompliance constitutes a violation of the CWA and State Act and is grounds for enforcement action; for permit modification, revocation and reissuance, suspension or revocation; or for denial of a permit renewal application.
- b) The permittee shall comply with all effluent standards or prohibitions established under Section 307(a) of the CWA for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

2. Duty to Reapply

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for a new permit at least 180 days prior to expiration of the permit.

3. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit, which has a reasonable likelihood of adversely affecting human health or the environment.

4. Permit Actions

This permit may be modified, revoked and reissued, suspended, or revoked for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance or revocation or a notification of planned changes or anticipated non-compliance, does not stay any permit condition.

5. Property Rights

This permit does not convey any property rights of any sort or any exclusive privilege.

6. Signatory Requirements

All applications, reports, or information submitted to the Chief shall be signed and certified as required in Series II, Section 4.6 of the West Virginia Legislative Rules of the State Water Resources Board.

7. Transfers

This permit is not transferable to any person, except after notice to the Chief. The Chief may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary.

8. Duty to Provide Information

The permittee shall furnish to the Chief, within a specified time, any information which the Chief may request to determine whether cause exists for modifying, revoking and reissuing, suspending, or revoking this permit, or to determine compliance with this permit. The permittee shall also furnish to the Chief, upon request, copies of records required to be kept by this permit.

9. Other Information

Where the permittee becomes aware that it failed to submit any relevant facts in a permit application or submitted incorrect information in a permit application or in any report to the Chief, it shall promptly submit such facts or information.

10. Inspection and Entry

The permittee shall allow the Chief, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

- a) Enter upon the permittee's premises in which an effluent source or activity is located, or where records must be kept under the conditions of this permit;
- b) Have access to any copy at reasonable times, any records that must be kept under the conditions of this permit;
- c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- d) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the State Act, any substances or parameters at any locations.

11. Permit Modification

This permit may be modified, suspended, or revoked in whole or in part during its terms in accordance with the provisions of Chapter 20-5A-8 of the Code of West Virginia.

An application for a modification of this permit must be submitted to this agency at least ninety (90) days prior to the proposed modification.

12. Water Quality

The effluent or effluents covered by this permit are to be of such quality so as not to cause violation of applicable water quality standards adopted by the State Water Resources Board.

13. Outlet Markers

A permanent marker at the establishment shall be posted in accordance with Series III, Section 9 of the West Virginia Legislative Rules promulgated pursuant to Chapter 20, Article 5A.

14. Liabilities

- a) Any person who violates a permit condition implementing sections 301, 302, 306, 307, 308, 318 or 405 of the Clean Water Act is subject to a civil penalty not to exceed \$10,000 per day of such violation. Any person who willfully or negligently violates permit conditions implementing sections 301, 302, 306, 307, or 308 of the Clean Water Act is subject to a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment for not more than 1 year, or both.
- b) Any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.
- c) Any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

d) Nothing in C. 14. a), b) and c) shall be construed to limit or prohibit any other authority the Chief may have under the

D. OPERATION AND MAINTENANCE

1. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. Unless otherwise required by Federal or State law, this provision requires the operation of back-up auxiliary facilities or similar systems which are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of the permit. For domestic waste treatment facilities, waste treatment operators as classified by State Health Department Regulations authorized under Chapter 16, Article I, Public Health Laws, Code of West Virginia, will be required except that in circumstances where the domestic waste treatment facility is receiving any type of industrial waste, the Chief may require a more highly skilled operator.

2. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

3. Bypass

a) Definitions

- (1) "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility; and
- (2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

b) Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of D.3.c) and D.3. d) of this permit.

- c) (1) If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten (10) days before the date of the bypass;
- (2) If the permittee does not know in advance of the need for a bypass, notice shall be submitted as required in F.2.b) of this permit.

d) Prohibition of bypass

- (1) Bypass is permitted only under the following conditions, and the Chief may take enforcement action against a permittee for bypass, unless:
  - (A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
  - (B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and
  - (C) The permittee submitted notices as required under D.3. c) of this permit.
- (2) The Chief may approve an anticipated bypass, after considering its adverse effects, if the Chief determines that it will meet the three conditions listed in D.3. d) (1) of this permit.

4. Upset

a) Definition. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

b) Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of D.4. c) are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

c) Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

- (1) An upset occurred and that the permittee can identify the cause(s) of the upset;
- (2) The permitted facility was at the time being properly operated;
- (3) The permittee submitted notice of the upset as required in F.2. b) of this permit.
- (4) The permittee complied with any remedial measures required under C.3. of this permit.

d) Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

5. Removed Substances

Where removed substances are not otherwise covered by the terms and conditions of this permit or other existing permit by the Chief, any solids, sludges, filter backwash or other pollutants (removed in the course of treatment or control of wastewater) and which are intended for disposal within the State, shall be disposed of only in a manner and at a site subject to the approval by the Chief. If such substances are intended for disposal outside the State or for reuse, i.e., as a material used for making another product, which in turn has another use, the permittee shall notify the Chief in writing of the proposed disposal or use of such substances, the identity of the prospective disposer or users, and the intended nature of disposal or use, as appropriate.

E. MONITORING AND REPORTING

Page 6 of 9  
Permit No. WV0022039

1. Representative Sampling

Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

2. Reporting

- a) Permittee shall submit each month, quarter, or year, according to the enclosed format, a Discharge Monitoring Report (DMR) indicating in terms of concentration, and/or quantities, the values of the constituents listed in Part A analytically determined to be in the plant effluent(s).
- b) The required DMRs should be received no later than 20 days following the end of the reporting period and be addressed to:  
Chief  
Division of Water Resources  
1201 Greenbrier Street  
Charleston, WV 25311  
Attention: Municipal Waste Section
- c) Enter reported average and maximum values under "Quantity" and "Concentration" in the units specified for each parameter, as appropriate.
- d) Specify the number of analyzed samples that exceed the allowable permit conditions in the columns labeled "N.E." (i.e., number exceeding).
- e) Specify frequency of analysis for each parameter as no. analyses/specified period (e.g. "3/month is equivalent to 3 analyses performed every calendar month). If continuous, enter "Cont.". The frequency listed on format is the minimum required.

3. Test Procedures

Samples shall be taken, preserved and analyzed in accordance with 40 CFR Part 136, as in effect July 1, 1985 unless other test procedures have been specified elsewhere in this permit.

4. Recording of Results

For each measurement or sample taken pursuant to the requirements of this permit, the permittee shall record the following information:

- a) The date, exact place, and time of sampling or measurement;
- b) The date(s) analyses were performed;
- c) The individual(s) who performed the sampling or measurement;
- d) The individual(s) who performed the analyses; if a commercial laboratory is used, the name and address of the laboratory;
- e) The analytical techniques or methods used, and
- f) The results of such analyses.

This information is not to be submitted to this agency, but is to be retained as required in E.6.

5. Additional Monitoring by Permittee

If the permittee monitors any pollutant at any monitoring point specified in this permit more frequently than required by this permit, using approved test procedures or others as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the Discharge Monitoring Report Form. Such increased frequency shall also be indicated.

Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in the permit.

6. Records Retention

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report or application. This period may be extended by request of the Chief at any time.

7. Definitions

- a) "Daily discharge" means the discharge of a pollutant measured during a calendar day or within any specified period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the day.
- b) "Average monthly discharge limitation" means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.
- c) "Maximum daily discharge limitation" means the highest allowable daily discharge.
- d) "Composite Sample" is a combination of individual samples obtained at regular intervals over a time period. Either the volume of each individual sample is proportional to discharge flow rates or the sampling interval (for constant volume samples) is proportional to the flow rates over the time period used to produce the composite. The maximum time period between individual samples shall be two hours.
- e) "Grab Sample" is an individual sample collected in less than 15 minutes.
- f) "i-s" = immersion stabilization - a calibrated device is immersed in the effluent stream until the reading is stabilized.
- g) The "daily average temperature" means the arithmetic average of temperature measurements made on an hourly basis, or the mean value plot of the record of a continuous automated temperature recording instrument, either during a calendar month, or during the operating month if flows are of shorter duration.
- h) The "daily maximum temperature" means the highest arithmetic average of the temperatures observed for any two (2) consecutive hours during a 24-hour day, or during the operating day if flows are of shorter duration.
- i) The "daily average fecal coliform" bacteria is the geometric average of all samples collected during the month.
- j) "Measured Flow" means any method of liquid volume measurement, the accuracy of which has been previously demonstrated in engineering practice, or for which a relationship to absolute volume has been obtained.
- k) "Estimate" means to be based on a technical evaluation of the sources contributing to the discharge including, but not limited to pump capabilities, water meters and batch discharge volumes.
- l) "Non contact cooling water" means the water that is contained in a leak-free system, i.e. no contact with any gas, liquid, or solid other than the container for transport; the water shall have no net poundage addition of any pollutant over intake water levels, exclusive of approved anti-fouling agents.

## 1. Reporting Spills and Accidental Discharges

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to Series III, Section 2 of the West Virginia Legislative Rules promulgated pursuant to Chapter 20, Article 5A.

Attached is a copy of the West Virginia Spill Alert System for use in complying with Series III, Section 2 of the rules as they pertain to the reporting of spills and accidental discharges.

## 2. Immediate Reporting

- a) The permittee shall report any noncompliance which may endanger health or the environment immediately after becoming aware of the circumstances by using the Division's designated spill alert telephone number. A written submission shall be provided within five (5) days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- b) The following shall also be reported immediately:
  - (1) Any unanticipated bypass which exceeds any effluent limitation in the permit;
  - (2) Any upset which exceeds any effluent limitation in the permit; and
  - (3) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Chief in the permit to be reported immediately. This list shall include any toxic pollutant or hazardous substance, or any pollutant specifically identified as the method to control a toxic pollutant or hazardous waste.
- c) The Chief may waive the written report on a case-by-case basis if the oral report has been received in accordance with the above.
- d) Compliance with the requirements of F.2. of this section, shall not relieve a person of compliance with Series III, Section 2 of the Board's rules.

## 3. Reporting Requirements

- a) Planned changes. The permittee shall give notice to the Chief as soon as possible of any planned physical alterations or additions to the permitted facility which may affect the nature or quantity of the discharge and of any planned changes in the method of operating the facility which may affect the nature or quantity of the discharge. Notice is required when:
  - (1) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in Section 13.7.b of Series II of the Board's rules; or
  - (2) This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under F.2. of this section.
- b) Anticipated noncompliance. The permittee shall give advance notice to the Chief of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- c) In addition to the above reporting requirements, all existing manufacturing, commercial, and silvicultural discharges must notify the Chief in writing as soon as they know or have reason to believe:
  - (1) That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
    - (A) One hundred micrograms per liter (100 ug/l);
    - (B) Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2, 4-dinitrophenol and for 2-methyl 4, 6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
    - (C) Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with Section 4.4.b.7 or 4.4.b.9 of Series II of the Board's rules; and
    - (D) The level established by the Chief in accordance with Section 6.3.g. of Series II of the Board's rules;
  - (2) That any activity has occurred or will occur which would result in any discharge (on a non-routine or infrequent basis) of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
    - (A) Five hundred micrograms per liter (500 ug/l);
    - (B) One milligram per liter (1 mg/l) for antimony;
    - (C) Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with Section 4.4.b.7. of Series II of the Board's rules;
    - (D) The level established by the Chief in accordance with Section 6.3.g. of Series II of the Board's rules.
  - (3) That they have begun or expect to begin to use or manufacture as an intermediate or final product or by-product of any toxic pollutant which was not reported in the permit application under Section 4.4.b.9 of Series II of the Board's rules and which will result in the discharge on a routine or frequent basis of that toxic pollutant at levels which exceed five times the detection limit for that pollutant under approved analytical procedure.
  - (4) That they have begun or expect to begin to use or manufacture as an intermediate or final product or by-product of any toxic pollutant which was not reported in the permit application under Section 4.4.b.9 of Series II of the Board's rules and which will result in the discharge on a non-routine or infrequent basis of that toxic pollutant at levels which exceed ten times the detection limit for that pollutant under approved analytical procedure.

## 4. Other Noncompliance

The permittee shall report all instances of noncompliance not reported under the above paragraphs at the time monitoring reports are submitted. The reports shall contain the information listed in F.2.a).

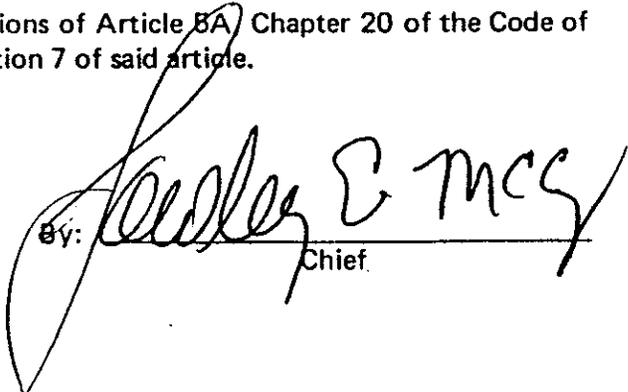
#### G. OTHER REQUIREMENTS

- 1) The herein-described treatment works, structures, electrical and mechanical equipment shall be adequately protected from physical damage by the maximum expected one hundred (100) year flood level and operability be maintained during the twenty-five (25) year flood level.
- 2) The entire sewage treatment facility shall be adequately protected by fencing.
- 3) Continuous maintenance and operation of the listed sewage treatment facility shall be performed by or supervised by a certified operator possessing at least a class II certificate for Waste Water Treatment Plant Operators, issued by the State of West Virginia.
- 4) An instantaneous flow from the sewage disposal system shall not exceed the peak design flow at any given time.
- 5) The arithmetic mean of values for effluent samples collected in a period of seven(7) consecutive days shall not exceed 45.0 mg/l for BOD<sub>5</sub> and TSS and 27.0 mg/l for TKN.
- 6) The arithmetic means of the effluent values of the BOD<sub>5</sub> and TSS discharged during a period of 30 consecutive days shall not exceed 15 percent of respective arithmetic means of the influent values for these parameters during the same time period except as specifically authorized by the permitting authority.
- 7) By facility registration form submitted for landfill dated the 23rd day of February 1988 and subsequent Division approval dated the 25th day of February 1988, the permittee has fulfilled the requirements of Section D.5 of this permit with respect to the sludge generated by the wastewater treatment facilities permitted herein. Furthermore, the permittee agrees to abide by the terms and conditions of the approved Sludge Management Program.

The herein-described activity is to be extended, modified, added to, made, enlarged, acquired, constructed or installed, and operated, used and maintained strictly in accordance with the terms and conditions of this permit; with the plans and specifications submitted with Permit Application No. WV0022039, dated the 20th day of March, 19 89,  
\_\_\_\_\_  
\_\_\_\_\_ ; with the plan of maintenance and method of operation thereof submitted with such application(s); and with any applicable rules and regulations promulgated by the State Water Resources Board.

Failure to comply with the terms and conditions of this permit, with the plans and specifications submitted with Permit Application No. WV0022039, dated the 20th day of March, 19 89,  
\_\_\_\_\_  
\_\_\_\_\_, and with the plan of maintenance and method of operation thereof submitted with such application(s) shall constitute grounds for the revocation or suspension of this permit and for the invocation of all the enforcement procedures set forth in Article 5A, Chapter 20 of the Code of West Virginia.

This permit is issued in accordance with the provisions of Article 5A, Chapter 20 of the Code of West Virginia and is transferable under the terms of Section 7 of said article.

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

Chief

STATE OF WEST VIRGINIA  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
DISCHARGE MONITORING REPORT

FACILITY NAME Point Pleasant, City of COMMERCIAL LABORATORY NAME COMMERCIAL LABORATORY ADDRESS  
 LOCATION OF FACILITY Point Pleasant, Mason County COMMERCIAL LABORATORY ADDRESS COMMERCIAL LABORATORY ADDRESS  
 PERMIT NUMBER WV0022039 OUTLET NO. 001  
 WASTELOAD FOR MONTH OF 19 INDIVIDUAL PERFORMING ANALYSES COMMERCIAL LABORATORY ADDRESS

Parameter	Quantity			Other Units			Measurement Frequency	Sample Type					
	Minimum	Avg. Monthly	Max. Daily	Units	N.E.	Minimum			Avg. Monthly	Max. Daily	Units	N.E.	
Flow, in Conduit or thru trmt. plant 50050	Reported	****	****	****									
	Permit Limitation	****	****	****									
BOD, 5-Day (20 Deg. C) 00310	Reported												
	Permit Limitation	N/A	175.1	350.3	bs/day		N/A	30.0	60.0	mg/l		1/Month	8 hour composite
Solids, Total Suspended 00530	Reported												
	Permit Limitation	N/A	175.1	350.3	bs/day		N/A	30.0	60.0	mg/l		1/Month	8 hour composite
Nitrogen, Total Kjeldahl (as N) 00625	Reported												
	Permit Limitation	N/A	105.1	210.2	bs/day		N/A	18.0	36.0	mg/l		1/Month	8 hour composite
pH 00400	Reported	****	****	****	****								
	Permit Limitation	****	****	****	****		6.0	N/A	9.0	Std. Units		1/Month	Grab
Coliform, Fecal General 74055	Reported	MF	- -	MPN									
	Permit Limitation	Circle	Method	Used			N/A	200	400	counts/100 ml		1/Month	Grab
Reported													
Permit Limitation													
Name of Principal Exec. Officer										Date Completed			
Title of Officer										Signature of Principal Exec. Officer or Authorized Agent			

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

## RIGHT OF APPEAL

Notice is hereby given of your right to appeal the terms and conditions of this permit which you are aggrieved by to the State Water Resources Board by filing a NOTICE OF APPEAL on the form prescribed by such Board for this purpose, with the Board, in accordance with the provisions of Section 15, Article 5A, Chapter 20 of the Code of West Virginia within thirty (30) days after the date of receipt of the above permit.

This information is subject to the following terms and conditions:

Department of Health Certificate of Approval No. 1268.

The information submitted on and with Permit Application No. WV0022039 dated the 20th day of March 1989, the information submitted with Permit Application No. WV0022039 dated the 15th day of September 1983 and the information submitted with Permit Modification No. WV0022039-A dated the 8th day of December 1988 are all hereby made terms and conditions of this Permit with like effect as if all such permit application information was set forth herein, and with other conditions set forth in Sections A, B, C, D, E, F, and G.

WASTEWATER TREATMENT PLANT CONSTRUCTED IN ACCORDANCE WITH:  
Plans:

Date Approved: February 21, 1989  
Prepared By: Dunn Engineers, Inc., 701 Virginia Street,  
West, Charleston, West Virginia 25302.  
Title: The City of Point Pleasant; Contract 1;  
Wastewater Treatment Plant; EPA Project No.  
C-540238-03.

Specifications and Reports:

Date Approved: February 21, 1989  
Prepared By: Dunn Engineers, Inc., 701 Virginia Street,  
West, Charleston, West Virginia 25302.  
Title: The City of Point Pleasant; Volume I of III-  
Contract Documents; Volume II of III -  
Detail Specifications and Standard Detail  
Drawings; Volume III of III - MBE/WBE Pro-  
gram; Process Design Memorandum; EPA Project  
No. C-540238-03.





United States  
Department of  
Agriculture

Farmers  
Home  
Administration

P. O. Box 678  
Morgantown, WV 26505

May 16, 1989

Honorable Russell V. Holland  
Mayor of Point Pleasant  
400 Viand Street  
Point Pleasant, WV 25550

RE: City of Point  
Pleasant

Dear Mayor Holland:

Please be advised that Farmers Home Administration consents to the issuance of the City's proposed Combined Waterworks and Sewerage System Revenue Bonds, Series 1989, on parity with the outstanding Water and Sewer Revenue Bond, Series 1976 presently held by Farmers Home Administration, in accordance with the Bond and Notes Ordinance submitted to Farmers Home Administration. We further waive any requirement with respect to debt service coverage beyond that required by the proposed Ordinance.

Sincerely yours,

*William F. Stetson*  
JOHN C. MUSGRAVE  
State Director



Farmers Home Administration is an Equal Opportunity Lender.  
Complaints of discrimination should be sent to:  
Secretary of Agriculture, Washington, D.C. 20250





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III

841 Chestnut Building  
Philadelphia, Pennsylvania 19107

OCT 05 1987

CERTIFIED MAIL

RE: C-540238-02  
City of Point Pleasant

Honorable Russell V. Holland  
Mayor, City of Point Pleasant  
400 Viand Street  
Point Pleasant, West Virginia 25550

SIGNED COPY  
RECEIVED BY  
DUNN ENGINEERS  
10-20-87

Dear Mayor Holland:

We are pleased to inform you of the award of a Step II/III Federal grant for the preparation of construction drawings and specifications, and construction of wastewater treatment works for the referenced project, as described in your application and approved by the West Virginia Department of Natural Resources.

The grant award is for an amount not to exceed \$2,986,140. This amount includes Basic funds of \$2,927,100 and Alternative funds of \$59,040, and is subject to the conditions set forth in Part III of the Assistance Agreement.

Copies of the applicable Federal Regulations are forwarded for your reference.

The original and a copy of the Assistance Agreement are enclosed. The original copy of the Agreement should be signed and returned to Mrs. Catherine A. Mastropieri, Chief, Grants Management Branch, within twenty-one days of your receipt. The copy should also be signed and retained for your files.

Sincerely,

*Robert J. Mittus, Deputy*  
Alvin R. Morris, Director  
Water Management Division

Enclosures (2)

cc: Mr. Mike Johnson, WVDNR  
Mr. Edgar Henry, WDA  
Dunn Engineers



TABLE A - OBJECT CLASS CATEGORY  
(Non-construction)

TOTAL APPROVED ALLOWABLE  
BUDGET PERIOD COST

1. PERSONNEL	
2. FRINGE BENEFITS	
3. TRAVEL	
4. EQUIPMENT	
5. SUPPLIES	
6. CONTRACTUAL	
7. CONSTRUCTION	
8. OTHER	
9. TOTAL DIRECT CHARGES	
10. INDIRECT COSTS: RATE % BASE	
11. TOTAL (Share: Recipient _____ % Federal _____ %)	
12. TOTAL APPROVED ASSISTANCE AMOUNT	\$ N/A

TABLE B - PROGRAM ELEMENT CLASSIFICATION  
(Non-construction)

1.	
2.	
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10.	
11.	
12. TOTAL (Share: Recipient _____ % Federal _____ %)	
13. TOTAL APPROVED ASSISTANCE AMOUNT	\$ N/A

TABLE C - PROGRAM ELEMENT CLASSIFICATION  
(Construction)

Basic Alternative  
(55%) (20%)

1. ADMINISTRATION EXPENSE	25,000	1,057
2. <del>XXXXXXXXXXXX</del> Legal	30,000	1,269
3. LAND STRUCTURES, RIGHT-OF-WAY		
4. ARCHITECTURAL ENGINEERING BASIC FEES	63,000	2,665
5. OTHER ARCHITECTURAL ENGINEERING FEES	53,560	2,266
6. PROJECT INSPECTION FEES	123,500	5,224
7. LAND DEVELOPMENT		
8. RELOCATION EXPENSES		
9. RELOCATION PAYMENTS TO INDIVIDUALS AND BUSINESSES		
10. DEMOLITION AND REMOVAL		
11. CONSTRUCTION AND PROJECT IMPROVEMENT	4,255,000	180,000
12. EQUIPMENT	115,000	75,000
13. <del>XXXXXXXXXXXX</del> Design Allowance	231,455	9,790
14. TOTAL (Lines 1 thru 13)		
15. ESTIMATED INCOME (If applicable)		
16. NET PROJECT AMOUNT (Line 14 minus 15)		
17. LESS: INELIGIBLE EXCLUSIONS		
18. ADD: CONTINGENCIES	425,485	17,929
19. TOTAL (Share: Recipient <u>43.9</u> % Federal <u>56.1</u> %)	5,322,000	295,200
20. TOTAL APPROVED ASSISTANCE AMOUNT combined (2,986,140)	\$ 2,927,100	59,040

PART III-AWARD CONDITIONS

a. GENERAL CONDITIONS

The recipient covenants and agrees that it will expeditiously initiate and timely complete the project work for which assistance has been awarded under this agreement, in accordance with all applicable provisions of 40 CFR Chapter I, Subpart B. The recipient warrants, represents, and agrees that it, and its contractors, subcontractors, employees and representatives, will comply with: (1) all applicable provisions of 40 CFR Chapter I, Subchapter B, INCLUDING BUT NOT LIMITED TO the provisions of Appendix A to 40 CFP Part 30, and (2) any special conditions set forth in this assistance agreement or any assistance amendment pursuant to 40 CFR 30.425.

b. SPECIAL CONDITIONS:

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

The grantee is subject to all the requirements of 40 CFR Part 35, Subpart I, Part 30, Part 33 and other pertinent regulations. The grantee is directed to certain following special considerations of those requirements.

1. Regulations Affecting Federal Grant Payments

(a) Payments shall not be made for Step III professional services until the grantee complies with the procurement requirements of 40 CFR Part 33, Subpart A.

(b) Payments shall be made in accordance with 40 CFR 35.2300.

2. 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 application, is included as a special condition. The grantee is expected to take all appropriate actions to ensure that this schedule is maintained.

In the event that the project is delayed for reasons beyond the control of the grantee, this schedule may be revised. If the delay arises from mismanagement and could otherwise have been avoided, the schedule will not be revised, in which case EPA will be compelled to determine if ineligible incremental costs have been incurred as a result.

3. Project Initiation (40 CFR 35.2212)

Construction is expected to be initiated on the following schedule.

Failure of the grantee to initiate construction of all major contracts within 12 months of approval of plans and specifications will result in disallowance of incremental costs in accordance with 40 CFR 35.2212, "Project Initiation".

	<u>Date</u>		
Plans and Specifications approval	<u>07/88</u>	_____	_____
Bid Advertisement	<u>08/88</u>	_____	_____
Construction Contract Award	<u>12/88</u>	_____	_____
Construction Start (NTP)	<u>01/89</u>	_____	_____

4. Grant Payment Milestones (40 CFR 35.2206)

Grant payments cannot exceed 50% of the Federal share unless the grantee has furnished a satisfactory final plan of operation, and cannot exceed 90% unless the grantee has furnished a satisfactory Operations and Maintenance Manual. The following dates represent an estimate of the timing of those payments.

Final Plan of Operation Approval	<u>07/89</u>
Operation and Maintenance Manual Approval	<u>08/89</u>

5. Sewer Use Ordinance and User Charge System (40 CFR 35.2208)

The sewer use ordinance must be adopted, and the user charge system implemented, before the system is placed in operation. The following dates represent an estimate of that operational date.

Sewer Use Ordinance Adoption	<u>10/89</u>
User Charge System Implementation	<u>10/89</u>

6. Notice of Building Completion (40 CFR 35.2216)

Grantee agrees to notify the State when construction is completed and also agrees to submit a preliminary final payment request on schedule.

Grantee's request to State for final physical inspection	<u>03/90</u>
Preliminary Final Payment Request	<u>03/90</u>

7. Project Performance (40 CFR 35.2218)

Federal Regulations place special emphasis on the performance of the project. It is vitally important that the facility performs as designed and on schedule. The grantee, therefore, agrees to initiate operation and certify performance by the dates below. It is likewise important that the final Federal share of the project be determined at the earliest possible date. The grantee, therefore, agrees to submit its request for final payment in accordance with this schedule.

Initiation of Operation	<u>01/90</u>
Project Performance Certification	<u>01/91</u>
Final Payment Request	<u>01/91</u>

8. Subagreements and Contracts

- (a) The grantee agrees to negotiate a subagreement and contract for all services to be awarded under this grant. Such subagreements and contracts shall be in conformance with and incorporate the required clauses of 40 CFR Part 33.
- (b) A copy of the proposed subagreements and contracts shall be submitted to the Regional Administrator for review and pre-award approval as appropriate under 40 CFR Part 33. The submittal of the proposed subagreements and contracts shall include the procurement records required in Appendix A to 40 CFR Part 33.
- (c) The grantee shall submit to the Regional Administrator the proposed subagreement and contract cost or price data on EPA Form 5700-41 or on a form which contains similar information.

9. Flood Insurance

The grantee agrees to acquire and maintain at his own cost any flood insurance made available to it under the National Flood Insurance Act of 1968, as amended. This condition shall not be applicable if, on the date of execution of this Grant Agreement by both parties, flood insurance was not available pursuant to the Flood Insurance Act of 1968, as amended, for property in the project location.

10. Land Acquisition

The grantee shall not make any offer to acquire allowable real property until the Regional Administrator approves the price the grantee will offer the property owner (40 CFR 35.2210).

11. Review

The grantee recognizes that approval of any part of this grant, change orders, grant increase amendments, subagreements, any specific items, or eligibility of any other costs will be subject to final review, including project officer review, audit review, and final determination of the Grant Approving official.

12. Advertisement for Bids

Prior to the advertisement for construction bids, the grantee agrees to submit to the Regional Administrator for approval the following:

A draft plan of operation (40 CFR 35.2106);

An executed intermunicipal service agreement (40 CFR 35.2107);

A user charge system (40 CFR 35.2140); and

Final design drawings and specification (40 CFR 35.2040 (b)(5)).

13. MBE/WBE Requirements

The recipient agrees to submit to the Chief, Construction Grants Branch, attn: EEO Specialist, EPA, Region III, a completed Standard Form-334 within 30 days after the date the recipient begins building the project (see 40 CFR 35.2202). This Standard Form-334 will contain the information on subagreement awards to minority and women's businesses during the design phase of the project. The recipient agrees to submit to the Chief, Construction Grants Branch, attn: EEO Specialist, EPA, Region III, a completed Standard Form-334 within 30 days after the end of each Federal fiscal quarter during which the recipient or its contractors award any subagreements for building and building-related services and supplies.

14. Award Restrictions

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

15. Public Participation

Additional public participation is required to inform prospective users of the expected costs and rates. The grantee shall submit to the DNR project officer, within 2 months, a plan/schedule for conducting the additional public participation.

16. Audit Requirement

The recipient agrees that it will comply with the provisions of OMB Circular A-128 governing the audit of State and local government recipients of Federal assistance for fiscal years that begin after December 31, 1984. (This requirement replaces 40 CFR 30.540(b) which is based on OMB Circular A-102, Attachment P.)

17. EPA's National Municipal Policy

Nothing in this grant agreement shall be construed to excuse the Grantee from meeting the requirements of the National Municipal Policy and the enforceable requirements of the Clean Water Act, as amended.

The schedule for completion of this project will be revised as needed to correspond to any schedule approved in the context of an enforcement action.

18. Eligibility Agreement

The grantee and the Environmental Protection Agency agree, pursuant to section 203(a)(2) of the Clean Water Act, that only those items specified in the project description (scope) portion of the grant agreement are eligible for Federal participation in accordance with 40 CFR Part 35.2250 (determination of allowable costs).

PART IV

**NOTE:** The Agreement must be completed in duplicate and the Original returned to the Grants Administration Division for Headquarters awards and to the appropriate Grants Administrations Office for State and local awards within 3 calendar weeks after receipt or within any extension of time as may be granted by EPA.

Receipt of a written refusal or failure to return the properly executed document within the prescribed time, may result in the withdrawal of the offer by the Agency. Any change to the Agreement by the recipient subsequent to the document being signed by the EPA Award Official which the Award Official determines to materially alter the Agreement shall void the Agreement.

OFFER AND ACCEPTANCE

The United States of America, acting by and through the U.S. Environmental Protection Agency (EPA), hereby offers assistance/~~amendment~~ to the City of Point Pleasant

for 56.1% of all approved costs incurred up to and not exceeding \$ 2,986,140

for the support of approved budget period effort described in application (including all application modifications) C-540238-02 City of Point Pleasant included herein by reference.

ISSUING OFFICE (Grants Administration Office)	AWARD APPROVAL OFFICE
ORGANIZATION/ADDRESS Environmental Protection Agency Grants Management Branch (3PM70) 841 Chestnut Building Philadelphia, Pennsylvania 19107	ORGANIZATION/ADDRESS Environmental Protection Agency Water Management Division (3WMOO) 841 Chestnut Building Philadelphia, Pennsylvania 19107

THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY

SIGNATURE OF AWARD OFFICIAL 	TYPED NAME AND TITLE James M. Seif, Regional Administrator	SEP 25 1987
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This Agreement is subject to applicable U.S. Environmental Protection Agency statutory provisions and assistance regulations. In accepting this award or amendment and any payments made pursuant thereto, (1) the undersigned represents that he is duly authorized to act on behalf of the recipient organization, and (2) the recipient agrees (a) that the award is subject to the applicable provisions of 40 CFR Chapter I, Subchapter B and of the provisions of this agreement (Parts I thru IV), and (b) that acceptance of any payments constitutes an agreement by the payee at the amounts, if any found by EPA to have been overpaid will be refunded or credited in full to EPA.

BY AND ON BEHALF OF THE DESIGNATED RECIPIENT ORGANIZATION

SIGNATURE 	TYPED NAME AND TITLE Russell V. Holland, Mayor	DATE October 19, 1987
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STATE OF WEST VIRGINIA  
DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF WATER RESOURCES  
1201 Greenbrier Street  
Charleston, West Virginia 25311  
June 23, 1989

GASTON CAPERTON  
Governor

J. EDWARD HAMRICK III  
Director

LARRY W. GEORGE  
Deputy Director

Russell V. Holland, Mayor  
City of Pt. Pleasant  
400 Viand Street  
Pt. Pleasant, WV 25550

RE: Pt. Pleasant  
C-540238-02

Dear Mayor Holland:

You are hereby advised that the bidding procedures for Contract 1 of the above referenced project have been reviewed and approved. The contract may now be awarded to the low, responsive bidder, Hayslett Construction, as indicated by the proposal you have submitted.

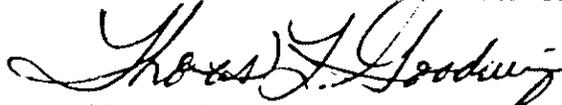
Certain construction activities have been assigned to our Engineering Section. You will be contacted by a representative of this section in the near future.

The Part B documents that you submitted have been reviewed by this office. The Environmental Protection Agency (EPA Form 5780-1B) has been approved with some revisions. The grant amendment is currently being processed and will be forwarded under separate cover. The total eligible costs in the grant amendment are \$4,545,800 with an EPA grant amount of \$2,500,190.

Should you have any questions, please contact Rosalie Ortega at (304) 348-0637.

Sincerely,

CONSTRUCTION GRANTS BRANCH

  
Mike Johnson, P. E.  
Branch Head

MJ/ROW

cc: Chuck Fog, EPA  
Dunn Engineers  
Bernie Yonkosky, WDA  
Vince Collins, Steptoe & Johnson

33B



FLOW OF FUNDS SCHEMATIC DIAGRAM - SYSTEM REVENUES

