

City of Salem

**Water Revenue Bonds, Series 2010 A
(West Virginia DWTRF Program); and
Water Revenue Bonds, Series 2010 B
(West Virginia DWTRF Program/ARRA)**

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CITY OF SALEM

**WATER REVENUE BONDS, SERIES 2009 A; and
WATER REVENUE BONDS, SERIES 2009 B
(WEST VIRGINIA DWTRF PROGRAM/ARRA)**

CONFORMED BOND ORDINANCE

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CITY OF SALEM

ORDINANCE AUTHORIZING A CONTRIBUTION IN AID OF CONSTRUCTION TO SUN VALLEY PUBLIC SERVICE DISTRICT FOR THE PURPOSE OF PAYING A PORTION OF THE COST OF A WATER LINE EXTENSION TO THE CITY OF SALEM, AND IN THE EVENT THAT SUFFICIENT FUNDS REMAIN THEREFORE, THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC WATERWORKS SYSTEM OF THE CITY OF SALEM AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF SALEM OF NOT MORE THAN \$1,800,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2009 A (WEST VIRGINIA DWTRF PROGRAM); AND NOT MORE THAN \$2,100,000 IN ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2009 B (WEST VIRGINIA DWTRF PROGRAM/ARRA) PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A ARRA ASSISTANCE AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

BE IT ORDAINED AND ENACTED BY THE COUNCIL OF THE CITY OF SALEM:

ARTICLE I

STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01. Authority for this Ordinance. This Ordinance (together with any ordinance, order or resolution supplemental hereto or amendatory hereof, the "Bond Legislation") is enacted pursuant to the provisions of Chapter 8, Article 19, Chapter 8, Article 23 and Chapter 16, Article 13 C of the West Virginia Code of 1931, as amended (collectively, the "Act"), and other applicable provisions of law.

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

A. The City of Salem (the "Issuer") is a municipal corporation and political subdivision of the State of West Virginia in Harrison County of said State. The Issuer presently operates a water treatment and distribution system within its authorized service area.

B. Sun Valley Public Service District (the "District") is a public corporation and political subdivision of the State which operates a water distribution system in Harrison County.

C. The Issuer desires to discontinue the operation of its existing water treatment facility and commence purchasing treated potable water from the City of Clarksburg which shall be supplied in part pursuant to the water distribution system owned and operated by the District. However, in order for the District to supply such water to the Issuer, it will be necessary for the District to construct a water line extension to connect its existing water distribution system to that of the Issuer.

D. It is deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer that its existing water treatment facility be decommissioned, that the Issuer provide a contribution in aid of construction to the District in order to pay a portion of the costs to be incurred by the District in its undertaking the construction of a water line to serve the Issuer, and to the extent that sufficient funds remain therefore, to undertake the acquisition and construction of additions, betterments and improvements to the Issuer's existing waterworks system (collectively, the "Project") (the existing public waterworks system of the Issuer, together with any improvements thereto undertaken pursuant to the Project and any further additions, betterments and improvements thereto hereafter undertaken are herein called the "System"), in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have heretofore been filed with the Issuer.

E. The Issuer intends to permanently finance the costs of the Project through the issuance of its revenue bonds to the West Virginia Water Development Authority (the "Authority"), which administers the West Virginia Drinking Water Treatment Revolving Fund on behalf of the West Virginia Bureau for Public Health (the "BPH").

F. It is deemed necessary for the Issuer to issue its Water Revenue Bonds, in the total aggregate principal amount of not more than \$3,900,000 in two or more series (collectively, the "Series 2009 Bonds") initially planned to be (i) the Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program) in the aggregate principal amount of not more than \$1,800,000 (the "Series 2009 A Bonds") and (ii) the Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA) in the aggregate principal amount of not more than \$2,100,000 (the "Series 2009 B Bonds") to permanently finance a portion of the costs of acquisition and construction of the Project and pay the costs of issuance thereof. Such costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor; interest, if any, upon the Series 2009 Bonds prior to and during acquisition or construction and for a period not exceeding 6 months after completion of acquisition and construction of the Project; amounts which may be deposited in the Reserve Accounts (as hereinafter defined); engineering and legal expenses; expenses for estimates of costs and revenues, expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense, commitment fees, fees and expenses of the Authority including the Administrative Fee (as hereinafter defined) for the Series 2009 Bonds; discount, initial fees for the services of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Series 2009 Bonds and such other expenses as may be necessary or incidental to the financing herein authorized, the acquisition or construction of the Project and the placing of same in operation, and the performance of the things herein required or permitted, in connection with any thereof, provided, that reimbursement to the Issuer for any amounts expended by it for allowable

costs prior to the issuance of the Series 2009 Bonds or the repayment of indebtedness incurred by the Issuer for such purposes shall be deemed Costs of the Project, as hereinafter defined.

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

H. It is in the best interests of the Issuer that its Series 2009 A Bonds be sold to the Authority pursuant to the terms and provisions of an ARRA Assistance Agreement by and between the Issuer and the Authority, on behalf of the BPH, and that the Series 2009 B Bonds be sold to the Authority pursuant to the terms of an ARRA Assistance Agreement by and between the Issuer and the Authority on behalf of the BPH both in the form satisfactory to the respective parties (the "ARRA Assistance Agreement") approved hereby if not previously approved by resolution of the Issuer.

I. On the Closing Date, there will be no outstanding obligations of the Issuer which will rank on a parity with the Series 2009 Bonds as to liens, pledge, source of and security for payment, or are secured by revenues or assets of the System.

J. The estimated revenues to be derived in each year after completion of the Project from the operation of the System will be sufficient to pay all costs of operation and maintenance of the System, the principal of and interest on the Series 2009 Bonds and to make payments into all funds and accounts and other payments provided for herein.

K. The Issuer has complied with all requirements of West Virginia law and the ARRA Assistance Agreement relating to authorization of the acquisition, construction and operation of the Project and the System and issuance of the Series 2009 Bonds, or will have so complied prior to issuance of any thereof. Prior to the issuance of the Series 2009 Bonds, the District will have obtained the approval of the Project and the financing thereof by the West Virginia Infrastructure and Jobs Development Council (the "Council") and shall have obtained a Certificate of Public Convenience and Necessity from the Public Service Commission of West Virginia by final order, the time for rehearing and appeal of which will either have expired prior to the issuance of the Series 2009 Bonds or such final order will not be subject to appeal.

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

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Series 2009 Bonds by the Registered Owners of the same from time to time, this Bond Legislation shall be deemed to be and shall constitute a contract between the Issuer and such Bondholders, and the covenants and agreements herein set forth to be performed by the Issuer shall be for the equal benefit, protection and security of the Bondholders of any and all of such Series 2009 Bonds, all which shall be of equal rank and without preference, priority or distinction between any one Bond and any other Bonds and by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

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

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

“Administrative Fee” means the Administrative Fee required to be paid pursuant to the ARRA Assistance Agreement for the Series 2009 Bonds.

“ARRA Assistance Agreement” means, the ARRA Assistance Agreement heretofore entered, or to be entered into by and between the Issuer and the Authority, on behalf of BPH, providing for the purchase of the Series 2009 Bonds from the Issuer by the Authority, the form of which shall be approved, and the execution and delivery by the Issuer authorized and directed or ratified by the Supplemental Resolution.

“Authority” means the West Virginia Water Development Authority, which is expected to be the original purchaser and Registered Owner of the Series 2009 Bonds, or any other agency, board or department of the State that succeeds to the functions of the Authority, acting in its administrative capacity and upon authorization from the BPH under the Act.

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

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

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

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

“Bonds” means, collectively, the Series 2009 Bonds and, where appropriate, any bonds on a parity therewith subsequently authorized to be issued hereunder or by another ordinance of the Issuer.

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

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

“City Clerk” means the City Clerk of the Issuer.

“City Manager” means the City Manager of the Issuer.

“Closing Date” means the date upon which there is an exchange of the Series 2009 Bonds for all or a portion of the proceeds of the Series 2009 Bonds from the Authority.

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

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

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

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

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

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

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

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

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

“Grants” means any grants committed to the Project.

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

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

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

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

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

“Mayor” means the Mayor of the Issuer.

“Net Proceeds” means the face amount of the Series 2009 Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds, if any, deposited in the Series 2009 Bonds Reserve Account.

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

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

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

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

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

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

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

- (a) Government Obligations;
- (b) Government Obligations which have been stripped of their unmatured interest coupons, interest coupons stripped from Government Obligations, and receipts or certificates evidencing payments from Government Obligations or interest coupons stripped from Government Obligations;
- (c) Bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Banks for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Bank System; Export-Import Bank of the United States; Federal Land Banks; Government National Mortgage Association; Tennessee Valley Authority; or Washington Metropolitan Area Transit Authority;
- (d) Any bond, debenture, note, participation certificate or other similar obligations issued by the Federal National Mortgage Association to the extent such obligation is guaranteed by the Government National Mortgage Association or issued by any other federal agency and backed by the full faith and credit of the United States of America;
- (e) Time accounts (including accounts evidenced by time certificates of deposit, time deposits or other similar banking arrangements) which, to the extent not insured by the FDIC, shall be secured by a pledge of Government Obligations, provided, that said Government Obligations pledged either must mature as nearly as practicable coincident with the maturity of said time accounts or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said time accounts;
- (f) Money market funds or similar funds whose only assets are investments of the type described in paragraphs (a) through (e) above;
- (g) Repurchase agreements, fully secured by investments of the types described in paragraphs (a) through (e) above, with banks or national banking associations which are members of FDIC or with government bond dealers recognized as primary dealers by the Federal Reserve Bank of New York, provided, that said investments securing said repurchase agreements either must mature as nearly as practicable coincident with the maturity of said repurchase agreements or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said repurchase agreements, and provided further that the holder of such repurchase agreement shall have a prior perfected security interest in the collateral therefor; must have (or its agent must have) possession of such collateral; and such collateral must be free of all claims by third parties;

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

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

“Registrar” means the Bond Registrar.

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

“Renewal and Replacement Fund” means the Renewal and Replacement Fund created by Section 5.01 herein.

“Reserve Accounts” means, collectively, the reserve accounts established for the Series 2009 Bonds.

“Reserve Requirement” means, collectively, the respective amounts required to be on deposit in any Reserve Account for the Series 2009 Bonds.

“Revenue Fund” means the Revenue Fund established by Section 5.01 herein.

“Series 2009 Bonds” means collectively the Series 2009 A Bonds and Series 2009 B Bonds.

“Series 2009 A Bonds” means the Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program), of the Issuer, authorized by this Bond Legislation.

“Series 2009 A Bonds Reserve Account” means the Series 2009 A Bonds Reserve Account established in Section 5.02 hereof.

“Series 2009 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 2009 A Bonds in the then current or any succeeding year.

“Series 2009 A Bonds Sinking Fund” means the Series 2009 A Bonds Sinking Fund established by Section 5.02 hereof.

“Series 2009 Bonds Construction Trust Fund” means the Series 2009 Bonds Construction Trust Fund which may be established pursuant to Section 5.01 hereof in the event that sufficient proceeds of the Series 2009 Bonds remain to construct improvements to the Issuer’s System after considering the funds necessary to make a contribution in aid of construction to the District, fund the Reserve Accounts and pay costs of issuance of the Series 2009 Bonds as herein provided.

“Series 2009 B Bonds Reserve Account” means the Series 2009 B Bonds Reserve Account established in Section 5.02 hereof.

“Series 2009 B Bonds Reserve Requirement” means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 2009 B Bonds in the then current or any succeeding year.

“Series 2009 B Bonds Sinking Fund” means the Series 2009 B Bonds Sinking Fund established by Section 5.02 hereof.

“Sinking Funds” means, collectively, the respective sinking funds established for the Series 2009 Bonds.

“State” means the State of West Virginia.

“Supplemental Resolution” means any resolution, ordinance or order of the Issuer supplementing or amending this Ordinance and, when preceded by the article “the,” refers specifically to the supplemental resolution authorizing the sale of the Series 2009 A Bonds; provided, that any matter intended by this Ordinance to be included in the Supplemental Resolution with respect to the Series 2009 A Bonds, and not so included may be included in another Supplemental Resolution.

“Surplus Revenues” means the Net Revenues not required by the Bond Legislation to be set aside and held for the payment of or security for the Bonds or any other obligations of the Issuer, including, without limitation, the Renewal and Replacement Fund, the Sinking Funds and the Reserve Accounts.

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

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

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

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

ARTICLE II

AUTHORIZATION OF THE PROJECT

Section 2.01. Authorization of the Project. The Issuer hereby authorizes the undertaking of the Project in an amount not to exceed \$1,827,000. The Project shall be constructed in accordance with the plans, specifications and designs which have been prepared by the Consulting Engineers, heretofore filed in the office of the Governing Body of the District and the Issuer, or in accordance with the plans, specifications and designs prepared by a consulting engineer engaged by the Issuer, in the case of Project improvements to the Issuer's System. The proceeds of the Series 2009 A Bonds and the Series 2009 B Bonds, hereby authorized, shall be applied as provided in Article VI hereof. It is anticipated that the District will receive bids and will enter into contracts for the acquisition and construction of the Project, in an amount and otherwise compatible with the financing plan submitted to the Authority and the BPH.

The total cost of the Project shall not exceed \$1,827,000, which amount shall be provided entirely from the proceeds of the Series 2009 Bonds.

ARTICLE III

AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND SALE OF BONDS; AUTHORIZATION AND EXECUTION OF ARRA ASSISTANCE AGREEMENT

Section 3.01. Authorization of Bonds. For the purposes of paying costs of the Project not otherwise provided for, funding the Reserve Accounts for the Series 2009 Bonds, if funded from bond proceeds, and paying certain costs of issuance of the Series 2009 Bonds and related costs, or any or all of such purposes, as determined by the Supplemental Resolution, there shall be and hereby are authorized to be issued the negotiable Series 2009 Bonds of the Issuer. The Series 2009 Bonds shall be issued in two series, each as a single bond, designated respectively as "Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program)", in the principal amount of not more than \$1,800,000, and "Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA)", in the principal amount of not more than \$2,100,000 and shall have such terms as set forth hereinafter and in the Supplemental Resolution. The proceeds of the Series 2009 Bonds remaining after funding of the Reserve Accounts (if funded from Bond proceeds), funding capitalized interest, if any, on the Series 2009 Bonds, and making the necessary contribution in aid of construction to the District, shall be deposited in or credited to the Series 2009 Bonds Construction Trust Fund established by Section 5.01 hereof. The proceeds of the Series 2009 Bonds which are necessary in order to make the contribution in aid of construction to the District will be disbursed from time to time as requisitioned by the Issuer.

Section 3.02. Terms of Bonds. The Series 2009 Bonds shall be issued in such principal amounts; shall bear interest, if any, at such rate or rates, not exceeding the then legal maximum, payable quarterly on such dates; shall mature on such dates and in such amounts; and shall be redeemable, in whole or in part, all as the Issuer shall prescribe in a Supplemental Resolution or as specifically provided in the ARRA Assistance Agreement. The Series 2009 Bonds shall be payable as to principal at the office of the Paying Agent, in any coin or currency which, on the dates of payment of principal is legal tender for the payment of public or private debts under the laws of the United States of America. Interest on the Series 2009 Bonds, if any, shall be paid by check or draft of the Paying Agent or its agent, mailed to the Registered Owner thereof at the address as it appears on the books of the Bond Registrar, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner thereof.

Unless otherwise provided by the Supplemental Resolution, the Series 2009 Bonds shall be issued in the form of a single bond for each series, fully registered to the Authority, with a record of advances and a debt service schedule attached, representing the aggregate principal amount of the Series 2009 Bonds. The Series 2009 Bonds shall be exchangeable at the option and expense of the Registered Owner for another fully registered Bond or Bonds of the same series in aggregate principal amount equal to the amount of said Bonds then Outstanding and being exchanged, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of said Bonds; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

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

Section 3.03. Execution of Bonds. The Series 2009 Bonds shall be executed in the name of the Issuer by its Mayor and City Manager, and the seal of the Issuer shall be affixed thereto or imprinted thereon and attested by the City Clerk. In case any one or more of the officers who shall have signed or sealed the Series 2009 Bonds shall cease to be such officer of the Issuer before the Series 2009 Bonds so signed and sealed have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any such Bonds may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Bonds shall hold the proper office in the Issuer, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

Section 3.04. Authentication and Registration. No Series 2009 Bonds shall be valid or obligatory for any purpose or entitled to any security or benefit under this Bond Legislation unless and until the Certificate of Authentication and Registration on such Bond, substantially in the form set forth in Section 3.10 hereof shall have been manually executed by the Bond Registrar. Any such executed Certificate of Authentication and Registration upon any such Bond shall be conclusive evidence that such Bond has been authenticated, registered and delivered under this Bond Legislation. The Certificate of Authentication and Registration on any Series 2009 Bond shall be deemed to have been executed by the Bond Registrar if manually signed by an authorized officer of the Bond Registrar, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all of the Bonds issued hereunder.

Section 3.05. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Series 2009 Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Holder, in accepting the Series 2009 Bonds shall be conclusively deemed to have agreed that such Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Holder shall further be conclusively deemed to have agreed that said Bonds shall be incontestable in the hands of a bona fide holder for value.

So long as the Series 2009 Bonds remain outstanding, the Issuer, through the Bond Registrar or its agent, shall keep and maintain books for the registration and transfer of such Bonds.

The registered Series 2009 Bonds shall be transferable only upon the books of the Bond Registrar, by the registered owner thereof in person or by his attorney duly authorized in writing, upon surrender thereto together with a written instrument of transfer satisfactory to the Bond Registrar duly executed by the registered owner or his duly authorized attorney.

In all cases in which the privilege of exchanging Series 2009 Bonds or transferring the registered Bonds are exercised, Bonds shall be delivered in accordance with the provisions of this Bond Legislation. All Bonds surrendered in any such exchanges or transfers shall forthwith be cancelled by the Bond Registrar. For every such exchange or transfer of Bonds, the Bond Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer and the cost of preparing each new Bond upon each exchange or transfer, and any other expenses of the Bond Registrar incurred in connection therewith, which sum or sums shall be paid by the Issuer. The Bond Registrar shall not be obliged to make any such exchange or transfer of Bonds during the period commencing on the 15th day of

the month next preceding an interest payment date on the Bonds or, in the case of any proposed redemption of Bonds, next preceding the date of the selection of Bonds to be redeemed, and ending on such interest payment date or redemption date.

Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Series 2009 Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue, and the Bond Registrar shall, if so advised by the Issuer, authenticate and deliver, a new Bond of the same series and of like tenor as the Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Holder's furnishing satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer and the Bond Registrar may incur. All Bonds so surrendered shall be cancelled by the Bond Registrar and held for the account of the Issuer. If any such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the Issuer may pay the same, upon being indemnified as aforesaid, and if such Bond be lost, stolen or destroyed, without surrender thereof.

Section 3.07. Bonds not to be Indebtedness of the Issuer. The Series 2009 Bonds shall not, in any event, be or constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Gross Revenues derived from the operation of the System as herein provided. No holder or holders of the Series 2009 Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 2009 Bonds or the interest, if any, thereon.

Section 3.08. Bonds Secured by Pledge of Gross Revenues. The payment of the debt service on the Series 2009 Bonds shall be secured by a first lien on the Gross Revenues derived from the System. The Gross Revenues in an amount sufficient to pay the principal of and interest, if any, on and other payments for the Series 2009 Bonds and to make all other payments hereinafter set forth, are hereby irrevocably pledged to such payments as they become due.

Section 3.09. Delivery of Bonds. The Issuer shall execute and deliver the Series 2009 Bonds to the Bond Registrar, and the Bond Registrar shall authenticate, register and deliver the Series 2009 Bonds to the original purchasers upon receipt of the documents set forth below:

- A. If other than the Authority, a list of the names in which the Series 2009 Bonds are to be registered upon original issuance, together with such taxpayer identification and other information as the Bond Registrar may reasonably require;
- B. A request and authorization to the Bond Registrar on behalf of the Issuer, signed by an Authorized Officer, to authenticate and deliver the Series 2009 Bonds to the original purchasers;
- C. An executed and certified copy of the Bond Legislation;
- D. Executed copies of the ARRA Assistance Agreement; and

E. The unqualified approving opinion of bond counsel on the Series 2009 Bonds.

Section 3.10. Form of Bonds. The text of the Series 2009 Bonds shall be in substantially the following form, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted hereby, or by any Supplemental Resolution adopted prior to the issuance thereof:

(FORM OF SERIES 2009 A BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
CITY OF SALEM
WATER REVENUE BONDS, SERIES 2009 A
(WEST VIRGINIA DWTRF PROGRAM)

No. AR-1

\$ _____

KNOW ALL MEN BY THESE PRESENTS: That on this the ____ day of _____, 2009, the CITY OF SALEM, a municipal corporation and political subdivision of the State of West Virginia in Harrison County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the West Virginia Water Development Authority (the "Authority") or registered assigns the sum of _____ DOLLARS (\$ _____), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing _____ 1, 200__, to and including _____ 1, 20__ as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference, together with interest thereon payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing _____ 1, 20__, to and including _____ 1, 20__, at the rate per annum as set forth on said EXHIBIT B.

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

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

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Bureau for Public Health (the "BPH"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the ARRA Assistance Agreement by and between the Issuer and the Authority, on behalf of the BPH, dated _____, 2009.

This Bond is issued (i) to provide a contribution in aid of construction to the Sun Valley Public Service District (the "District") in order to pay a portion of the costs to be incurred by the District in its undertaking the acquisition and construction of additions, betterments and improvements to its existing public waterworks system, consisting of the District's project to construct a waterline extension to Jarvisville Road area, Shaws Run, Lake Floyd, Salem Fork and supply water to the City of Salem, together with all necessary appurtenances, and to the extent that sufficient funds remain therefore, to undertake the acquisition and construction of additions, betterments and improvements to the Issuer's existing waterworks system (the "Project"); and (ii) to pay certain costs of issuance of the Bonds and related costs. The existing public waterworks system of the Issuer and any further additions, betterments or improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 8, Article 19, Chapter 8, Article 23 and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended (collectively, the "Act"), a Bond Ordinance duly enacted by the Issuer on _____, 2009, and a Supplemental Resolution duly adopted by the Issuer on _____, 2009 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S WATER REVENUE BONDS, SERIES 2009 B (WEST VIRGINIA DWTRF PROGRAM/ARRA) DATED _____, 2009, ISSUED SIMULTANEOUSLY HERewith IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$ _____ (THE "SERIES 2009 B BONDS").

This Bond is payable only from and secured by a pledge of the Gross Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on a parity with the pledge of Gross Revenues in favor of the Holders of the Series 2009 B Bonds, and from monies in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 2009 A Bonds Reserve Account"), and unexpended proceeds of the Bonds. Such Gross Revenues shall be sufficient to pay the principal of and interest on all Bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest, if any, hereon, except from said special fund provided from the Gross Revenues, the monies in the Series 2009 A Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds, and all other obligations secured by a lien on or payable from such revenues on a parity with the Bonds, including the Series 2009 B Bonds; provided however, that so long as there exists in the Series 2009 A Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a

parity with the Bonds, including the Series 2009 B Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

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

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

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

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

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

[Remainder of page intentionally blank]

IN WITNESS WHEREOF, the CITY OF SALEM has caused this Bond to be signed by its Mayor and City Manager and its corporate seal to be hereunto affixed and attested by its City Clerk, and has caused this Bond to be dated as of the day and year first written above.

[SEAL]

Mayor

City Manager

ATTEST:

City Clerk

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2009 A Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: _____, 2009.

THE HUNTINGTON NATIONAL BANK,
as Registrar

Authorized Officer

EXHIBIT A
RECORD OF ADVANCES

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

TOTAL \$ _____

EXHIBIT B

DEBT SERVICE SCHEDULE

(Form of)

ASSIGNMENT

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

Dated: _____, 20 ____.

In the presence of:

(FORM OF SERIES 2009 B BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
CITY OF SALEM
WATER REVENUE BONDS, SERIES 2009 B
(WEST VIRGINIA DWTRF PROGRAM/ARRA)

No. BR-1

\$ _____

KNOW ALL MEN BY THESE PRESENTS: That on this the ____ day of _____, 2009, the CITY OF SALEM, a municipal corporation and political subdivision of the State of West Virginia in Harrison County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the West Virginia Water Development Authority (the "Authority") or registered assigns the sum of _____ DOLLARS (\$ _____), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as Exhibit A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing _____ 1, 20____, to and including _____ 1, 20____ as set forth on the "Debt Service Schedule" attached as Exhibit B hereto and incorporated herein by reference. This Bond shall not be subject to the DWTRF Administrative Fee (as defined in the hereinafter describe Bond Legislation).

This Bond shall bear no interest. Principal installments of this Bond are forgivable quarterly as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference.

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

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Bureau for Public Health (the "BPH"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the ARRA Assistance Agreement by and between the Issuer and the Authority, on behalf of the BPH, dated _____, 2009.

This Bond is issued (i) to provide a contribution in aid of construction to the Sun Valley Public Service District (the "District") in order to pay a portion of the costs to be incurred by the District in its undertaking the acquisition and constructed of additions, betterments and improvements to its existing public waterworks system, consisting of the District's project to construct a waterline extension to Jarvisville Road area, Shaws Run, Lake Floyd, Salem Fork and supply water to the City of Salem, together with all necessary appurtenances, and to the extent that sufficient funds remain therefore, to undertake the acquisition and construction of additions, betterments and improvements to the Issuer's existing waterworks system (the "Project"); and (ii) to pay certain costs of issuance of the Bonds and related costs. The existing public waterworks system of the Issuer and any further additions, betterments or improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 8, Article 19, Chapter 8, Article 23 and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended (collectively, the "Act"), a Bond Ordinance duly enacted by the Issuer on _____, 2009, and a Supplemental Resolution duly adopted by the Issuer on _____, 2009 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S WATER REVENUE BONDS, SERIES 2009 A (WEST VIRGINIA DWTRF PROGRAM) DATED _____, 2009 ISSUED SIMULTANEOUSLY HEREWITH IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$ _____ (THE "SERIES 2009 A BONDS").

This Bond is payable only from and secured by a pledge of the Gross Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on a parity with the pledge of Gross Revenue in favor of the Holders of the Series 2009 A Bonds, and from monies in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 2009 B Bonds Reserve Account"), and unexpended proceeds of the Bonds. Such Gross Revenues shall be sufficient to pay the principal of and interest on all Bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest, if any, hereon, except from said special fund provided from the Gross Revenues, the monies in the Series 2009 B Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds, and all other obligations secured by a lien on or payable from such revenues on a parity with the Bonds, including the Series 2009 A Bonds; provided however, that so long as there exists in the Series 2009 B Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a

parity with the Bonds, including the Series 2009 A Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

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

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

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

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

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

[Remainder of page intentionally blank]

IN WITNESS WHEREOF, the CITY OF SALEM has caused this Bond to be signed by its Mayor and City Manager and its corporate seal to be hereunto affixed and attested by its City Clerk, and has caused this Bond to be dated as of the day and year first written above.

[SEAL]

Mayor

City Manager

ATTEST:

City Clerk

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2009 B Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: _____, 2009.

THE HUNTINGTON NATIONAL BANK,
as Registrar

Authorized Officer

EXHIBIT A
RECORD OF ADVANCES

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

TOTAL \$ _____

EXHIBIT B

DEBT SERVICE SCHEDULE

(Form of)

ASSIGNMENT

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

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

Dated: _____, 20 ____.

In the presence of:

Section 3.11. Sale of Bonds; Approval and Ratification of Execution of ARRA Assistance Agreement. The Series 2009 Bonds shall be sold to the Authority, pursuant to the terms and conditions of the ARRA Assistance Agreement. If not so authorized by previous ordinance or resolution, the Mayor and City Manager are specifically authorized and directed to execute the ARRA Assistance Agreement in the form attached hereto as "Exhibit A" and made a part hereof, and the City Clerk is directed to affix the seal of the Issuer, attest the same and deliver the ARRA Assistance Agreement to the Authority, and any such prior execution and delivery is hereby authorized, approved, ratified and confirmed. The ARRA Assistance Agreement, including all schedules and exhibits attached thereto, is hereby approved and incorporated in this Bond Legislation.

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

ARTICLE IV

[RESERVED]

ARTICLE V

FUNDS AND ACCOUNTS; SYSTEM REVENUES AND APPLICATION THEREOF

Section 5.01. Establishment of Funds and Accounts with Depository Bank. The following special funds or accounts are hereby created with and shall be held by the Depository Bank, separate and apart from all other funds or accounts of the Depository Bank or the Issuer and from each other:

- (1) Revenue Fund;
- (2) Renewal and Replacement Fund; and
- (3) Series 2009 Bonds Construction Trust Fund

Section 5.02. Establishment of Funds and Accounts with Commission. The following special funds or accounts are hereby created with and shall be held by the Commission, separate and apart from all other funds or accounts of the Commission or the Issuer and from each other:

- (1) Series 2009 A Bonds Sinking Fund;
- (2) Series 2009 A Bonds Reserve Account;

(3) Series 2009 B Bonds Sinking Fund; and

(4) Series 2009 B Bonds Reserve Account.

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

(1) The Issuer shall first, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Commission (i) commencing 4 months prior to the first date of payment of principal of the Series 2009 A Bonds for deposit in the Series 2009 A Bonds Sinking Fund, an amount equal to 1/3rd of the amount of principal which will mature and become due on the Series 2009 A Bonds on the next ensuing quarterly principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 2009 A Bonds Sinking Fund and the next quarterly principal payment date is less than 3 months, then such monthly payments shall be increased proportionately to provide, 1 month prior to the next quarterly principal payment date, the required amount of principal coming due on such date; and (ii) commencing 4 months prior to the first date of payment of principal of the Series 2009 B Bonds for deposit in the Series 2009 B Bonds Sinking Fund, an amount equal to 1/3rd of the amount of principal which will mature and become due on the Series 2009 B Bonds on the next ensuing quarterly principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 2009 B Bonds Sinking Fund and the next quarterly principal payment date is less than 3 months, then such monthly payments shall be increased proportionately to provide, 1 month prior to the next quarterly principal payment date, the required amount of principal coming due on such date.

(2) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Commission, commencing 4 months prior to the first date of payment of interest on the Series 2009 A Bonds for deposit in the Series 2009 A Bonds Sinking Fund, an amount equal to 1/3rd of the amount of interest which will mature and become due on the Series 2009 A Bonds on the next ensuing quarterly interest payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 2009 A Bonds Sinking Fund and the next quarterly interest payment date is less than 3 months, then such monthly payments shall be increased proportionately to provide, 1 month prior to the next quarterly interest payment date, the required amount of interest coming due on such date.

(3) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Commission (i) commencing 4 months prior to the first date of payment of principal of the Series 2009 A Bonds, if not fully funded upon issuance of the Series 2009 A Bonds, for deposit in the

Series 2009 A Bonds Reserve Account, an amount equal to 1/120th of the Series 2009 A Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 2009 A Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 2009 A Bonds Reserve Requirement; and (ii) commencing 4 months prior to the first date of payment of principal of the Series 2009 B Bonds, if not fully funded upon issuance of the Series 2009 B Bonds, for deposit in the Series 2009 B Bonds Reserve Account, an amount equal to 1/120th of the Series 2009 B Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 2009 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 2009 B Bonds Reserve Requirement.

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

(5) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and remit to the Depository Bank for deposit in the Renewal and Replacement Fund, a sum equal to 2 1/2% of the Gross Revenues each month, exclusive of any payments for account of any reserve account. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in as provided herein. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, emergency repairs, improvements or extensions to the System; provided that, any deficiencies in any reserve account (except to the extent such deficiency exists because the required payments into such account have not, as of the date of determination of a deficiency, funded such account to the maximum extent required hereof) shall be promptly eliminated with monies from the Renewal and Replacement Fund.

Monies in the Series 2009 A Bonds Sinking Fund and the Series 2009 B Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest, if any, on the Series 2009 Bonds as the same shall become due. Monies in the Series 2009 A Bonds Reserve Account and the Series 2009 B Bonds Reserve Account shall be used only for the purposes of paying principal of and interest, if any, on the Series 2009 Bonds as the same shall come due, when other monies in the Series 2009 A Bonds Sinking Fund and the Series 2009 B Bonds Sinking Fund are insufficient therefor, and for no other purpose.

All investment earnings on monies in the Series 2009 A Bonds Sinking Fund, the Series 2009 B Sinking Fund, the Series 2009 A Bonds Reserve Account and the Series 2009 B Bonds Reserve Account shall be returned, not less than once each year, by the Commission to the Issuer, and such amounts shall, during construction of the Project, be deposited in the Series 2009 Bonds Construction Trust Fund, if established, and if not to the respective Sinking Fund, and following completion of construction of the Project, shall be deposited in the respective Sinking Funds and applied in full, first to the next ensuing interest payment, if any, due on the Series 2009 Bonds and then to the next ensuing principal payment due thereon, all on a pro rata basis.

Any withdrawals from the Series 2009 A Bonds Reserve Account or the Series 2009 B Bonds Reserve Account which result in a reduction in the balance of such accounts to below the

respective Reserve Requirements, shall be subsequently restored from the first Gross Revenues available after all required payments have been made in full in the priority as set forth above, all on a prorata basis.

As and when additional Bonds ranking on a parity with the Series 2009 Bonds are issued, provision shall be made for additional payments into the respective sinking fund sufficient to pay the interest on such additional parity Bonds and accomplish retirement thereof at maturity and to accumulate a balance in the respective reserve account in an amount equal to the requirement therefor.

The Issuer shall not be required to make any further payments into the Series 2009 A Bonds Sinking Fund, the Series 2009 B Bonds Sinking Fund, the Series 2009 A Bonds Reserve Account or the Series 2009 B Bonds Reserve Account, when the aggregate amount of funds therein are at least equal to the aggregate principal amount of the Series 2009 Bonds issued pursuant to this Bond Legislation then Outstanding and all interest, if any, to accrue until the maturity thereof.

Principal, interest or reserve payments, whether made for a deficiency or otherwise, shall be made on a parity and pro rata, with respect to the Series 2009 A Bonds and the Series 2009 B Bonds, in accordance with the principal amounts then outstanding.

The Commission is hereby designated as the fiscal agent for the administration of the Series 2009 A Bonds Sinking Fund, the Series 2009 B Bonds Sinking Fund, the Series 2009 A Bonds Reserve Account and the Series 2009 B Bonds Reserve Account, created hereunder, and all amounts required for said accounts shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein. All remittances made by the Issuer to the Commission shall clearly identify the fund or account into which each amount is to be deposited.

Monies in the Series 2009 A Bonds Sinking Fund, the Series 2009 B Bonds Sinking Fund, the Series 2009 A Bonds Reserve Account and the Series 2009 B Bonds Reserve Account, shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

The Series 2009 A Bonds Sinking Fund, the Series 2009 A Bonds Reserve Account, the Series 2009 B Bonds Sinking Fund and the Series 2009 B Bonds Reserve Account shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Series 2009 Bonds under the conditions and restrictions set forth herein.

B. The Issuer shall on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the Commission the required principal, interest, if any, and reserve payments with respect to the Series 2009 Bonds and all such payments shall be remitted to the Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of this Bond Legislation. The Issuer shall also on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the Commission the Administrative Fee as set forth in the Schedule Y attached to the ARRA Assistance Agreement for the Series 2009 A Bonds.

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

transferred and paid into such funds during the following month or such other period as required by law, such excess shall be considered as surplus revenues (the "Surplus Revenues"). Surplus Revenues may be used for any lawful purpose of the System.

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

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

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

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

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

ARTICLE VI

BOND PROCEEDS; CONSTRUCTION DISBURSEMENTS

Section 6.01: Application of Bond Proceeds; Pledge of Unexpended Bond Proceeds. From the monies received from the sale of the Series 2009 Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. From the proceeds of the Series 2009 Bonds, there shall be deposited with the Commission in the respective Bonds Reserve Accounts, the amount, if any, set forth in the Supplemental Resolution for funding of the respective Bonds Reserve Account.

B. The Issuer shall requisition from BPH the remaining proceeds of the Series 2009 Bonds from time to time as necessary to pay costs of the Project, and such proceeds shall be deposited with the Depository Bank in the Series 2009 Bonds Construction Fund and thereupon

applied solely to payment of the costs of the Project in the manner set forth in Section 6.02 hereof and, until so expended are hereby pledged as additional security for the Series 2009 Bonds.

C. After completely disbursing the contribution in aid of construction to the District, as certified by the Consulting Engineers, and all costs have been paid, any remaining proceeds of the Series 2009 Bonds shall be expended on improvements to the Issuer's System as approved by the BPH.

Section 6.02. Disbursements from the Bond Construction Trust Fund. On or before the Closing Date, the Issuer shall have delivered to the Authority and the BPH a report listing the specific purposes for which the net proceeds of the Series 2009 Bonds will be expended and the disbursement procedures for such proceeds. The Issuer will also provide an estimated monthly draw schedule for any Project improvements to its System. The District will supply the estimated monthly draw schedule for the Project improvements to its System. Payments for the costs of the Project improvements to the Issuer's System shall be made monthly.

Except as provided in Section 6.01 hereof, disbursements from the Series 2009 Bonds Construction Trust Fund shall be made only after submission to and approval from the BPH, of the following:

(1) a completed and signed "Payment Requisition Form," a form of which is attached to the ARRA Assistance Agreement as Exhibit B, in compliance with the Issuer's or the District's construction schedule, as applicable, and

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

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

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

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

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

Pending such application, monies in the Series 2009 Bonds Construction Trust Fund shall be invested and reinvested in Qualified Investments at the written direction of the Issuer.

ARTICLE VII

ADDITIONAL COVENANTS OF THE ISSUER

Section 7.01. General Covenants of the Issuer. All the covenants, agreements and provisions of this Bond Legislation shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any Holder or Holders of the Series 2009 Bonds. In addition to the other covenants, agreements and provisions of

this Bond Legislation, the Issuer hereby covenants and agrees with the Holders of the Series 2009 Bonds as hereinafter provided in this Article VII. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of the Series 2009 Bonds or the interest, if any, thereon is Outstanding and unpaid.

Section 7.02. Bonds not to be Indebtedness of the Issuer. The Series 2009 Bonds shall not be nor constitute a corporate indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Bond Legislation. No Holder or Holders of the Series 2009 Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 2009 Bonds, or the interest, if any, thereon.

Section 7.03. Bonds Secured by Pledge of Gross Revenues. The payment of the debt service on the Series 2009 Bonds shall be secured by a first lien on the Gross Revenues derived from the System. The Gross Revenues in an amount sufficient to pay the principal of and interest, if any, on the Series 2009 Bonds and to make the payments into all funds and accounts and all other payments provided for in the Bond Legislation are hereby irrevocably pledged, in the manner provided herein, to such payments as they become due, and for the other purposes provided in the Bond Legislation.

Section 7.04. Initial Schedule of Rates and Charges. The Issuer has obtained any and all approvals of rates and charges required by State law and has taken any other action required to establish and impose such rates and charges, with all requisite appeal periods having expired without successful appeal and the Issuer shall provide an opinion of counsel to such effect. Such rates and charges shall be sufficient to comply with the requirements of the ARRA Assistance Agreement and the Issuer shall provide a certificate of certified public accountant to such effect. The initial schedule of rates and charges for the services of the facilities of the System shall be as set forth in the water rate ordinance of the Issuer enacted November 9, 2004, which rates are incorporated herein by reference as a part hereof.

So long as the Series 2009 Bonds are outstanding, the Issuer covenants and agrees to fix and collect rates, fees and other charges for the use of the System and to take all such actions necessary to provide funds sufficient to produce the required sums set forth in the Bond Legislation and in compliance with the ARRA Assistance Agreement. In the event the schedule of rates, fees and charges initially established for the System in connection with the Series 2009 Bonds shall prove to be insufficient to produce the required sums set forth in this Bond Legislation and the ARRA Assistance Agreement, the Issuer hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates, fees and charges and take all such actions necessary to provide funds sufficient to produce the required sums set forth in this Bond Legislation and the ARRA Assistance Agreement.

Section 7.05. Sale of the System. The Issuer shall not sell, lease, mortgage or in any manner dispose of or encumber the System, or any part thereof, except with the written consent of the Authority and the BPH. So long as the Series 2009 Bonds are outstanding and except as otherwise required by law or with the written consent of the Authority and the BPH, the System may not be sold, mortgaged, leased or otherwise disposed of, except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to fully pay all the Bonds Outstanding, in accordance with Article X hereof. The proceeds from any such sale,

mortgage, lease or other disposition of the System shall, with respect to the Series 2009 Bonds, immediately be remitted to the Commission for deposit in the Series 2009 A Bonds Sinking Fund and the Series 2009 B Bonds Sinking Fund respectively on a pro rata basis with respect to the principal amount of each of the Bonds then outstanding and, with the written permission of the Authority, or in the event the Authority is no longer a Bondholder, the Issuer shall direct the Commission to apply such proceeds to the payment of principal of and interest, if any, on the Series 2009 A Bonds and the Series 2009 B Bonds in accordance with Article X hereof. Any balance remaining after the payment of the Bonds and interest, if any, thereon shall be remitted to the Issuer by the Commission unless necessary for the payment of other obligations of the Issuer payable out of the revenues of the System.

The foregoing provision notwithstanding, the Issuer shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. Prior to any such sale, lease or other disposition of such property, if the amount to be received therefor is not in excess of \$10,000, the Issuer shall, by resolution duly adopted, determine that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof, and may then provide for the sale of such property. The proceeds of any such sale shall be deposited in the Renewal and Replacement Fund. If the amount to be received from such sale, lease or other disposition of said property shall be in excess of \$10,000 but not in excess of \$50,000, the Issuer shall first, in writing, determine upon consultation with the Consulting Engineers that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof, and may then, if it be so advised, by resolution duly adopted, authorize such sale, lease or other disposition of such property in accordance with the laws of the State. The proceeds derived from any such sale, lease or other disposition of such property, in excess of \$10,000 and not in excess of \$50,000, shall be deposited in the Renewal and Replacement Fund. The payment of such proceeds into the Renewal and Replacement Fund shall not reduce the amounts required to be paid into said funds by other provisions of this Bond Legislation.

No sale, lease or other disposition of the properties of the System shall be made by the Issuer if the proceeds to be derived therefrom shall be in excess of \$50,000 and insufficient to pay all Bonds then Outstanding without the prior approval and consent in writing of the Holders of the Bonds then Outstanding. The Issuer shall prepare the form of such approval and consent for execution by the then Holders of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 7.06. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. Except as provided for in Section 7.07 hereof, the Issuer shall not issue any other obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Series 2009 Bonds. All obligations issued by the Issuer after the issuance of the Series 2009 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 2009 Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into all funds and accounts set forth herein have been made and are current at the time of the issuance of such subordinate obligations.

Except as provided above, the Issuer shall not create, or cause or permit to be created, any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or being on a parity with the lien of the Series 2009 Bonds, and the interest, if any, thereon, upon any of the income and revenues of the System pledged for payment of the Series 2009 Bonds and the interest, if any, thereon in this Bond Legislation, or upon the System or any part thereof.

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

Section 7.07. Parity Bonds. No additional Parity Bonds payable out of the revenues of the System, shall be issued after the issuance of the Series 2009 Bonds pursuant to this Ordinance, without the prior written consent of the Authority and the BPH and without complying with the conditions and requirements herein provided.

All Parity Bonds issued hereafter shall be on a parity in all respects with the Series 2009 Bonds.

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

No such Parity Bonds shall be issued at any time, however, unless and until there has been procured and filed with the City Clerk a written statement by Independent Certified Public Accountants, reciting the conclusion that the Net Revenues actually derived, subject to the adjustments hereinafter provided for, from the System during any 12 consecutive months within the 18 months immediately preceding the date of the actual issuance of such additional Parity Bonds, plus the estimated average increased annual Net Revenues to be received in each of the 3 succeeding years after the completion of the improvements to be financed by such Parity Bonds, if any, shall be not less than 115% of the largest aggregate amount that will mature and become due in any succeeding Fiscal Year for principal of and interest on the following:

- (1) The Bonds then Outstanding;
- (2) Any Parity Bonds theretofore issued pursuant to the provisions contained in this Bond Legislation then Outstanding; and
- (3) The Parity Bonds then proposed to be issued.

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

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

All the covenants and other provisions of this Bond Legislation (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the Holders of the Series 2009 Bonds and the Holders of any Parity Bonds theretofore or subsequently issued from time to time within the limitations of and in compliance with this section. All the Bonds issued on a parity, regardless of the time or times of their issuance, shall rank equally with respect to their lien on the Gross Revenues of the System, and their source of and security for payment from said Gross Revenues, without preference of any Bond over any other. The Issuer shall comply fully with all the increased payments into the various funds and accounts created in this Bond Legislation required for and on account of such Parity Bonds, in addition to the payments required for Bonds theretofore issued pursuant to this Bond Legislation.

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien on the revenues of the System of which is subject to the prior and superior lien of the Series 2009 Bonds on such revenues. Any such subordinate bonds, notes, certificates or other obligations shall be payable from the Net Revenues remaining after all payments required to be made in accordance with this Bond Legislation have first been paid. The Issuer shall not issue any obligations whatsoever payable from the revenues of the System, or any part thereof, which rank prior to or equally, as to lien and source of and security for payment from such revenues, with the Series 2009 Bonds except in the manner and under the conditions provided in this section.

No Parity Bonds shall be issued at any time, however, unless all of the payments into the respective funds and accounts provided for in this Bond Legislation on account of the Bonds then Outstanding, and any other payments provided for in this Bond Legislation, shall have been made in full as required to the date of issuance of the Parity Bonds and the Issuer is then in full compliance with all the covenants, agreements and terms of this Bond Legislation and every ordinance supplemental thereto, or shall have fully corrected any delinquency or deficiency in such payments.

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

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

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

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

The Issuer shall file with the Authority and the BPH, or any other original purchaser of the Series 2009 Bonds, and shall mail in each year to any Holder or Holders of the Series 2009 Bonds, requesting the same, an annual report containing the following:

- (A) A statement of Gross Revenues, Operating Expenses, Net Revenues and Surplus Revenues derived from and relating to the System.
- (B) A balance sheet statement showing all deposits in all the funds and accounts provided for in this Bond Legislation and the status of all said funds and accounts.
- (C) The amount of any bonds, notes or other obligations outstanding.

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be audited by Independent Certified Public Accountants (and to the extent legally required in compliance with the applicable OMB Circular, or any successor thereof, and the Single Audit Act, or any successor thereof), and shall mail upon request, and make available generally, the report of the Independent Certified Public Accountants, or a summary thereof, to any Holder or Holders of the Series 2009 Bonds and shall submit the report to the Authority and the BPH, or any other original purchaser of the Series 2009 Bonds. Such audit report submitted to the Authority and the BPH shall include a statement that the Issuer is in compliance with the terms and provisions of the Act, the ARRA Assistance Agreement and this Bond Legislation and that the revenues of the System are adequate to meet the Issuer's Operating Expenses and debt service and reserve requirements.

Subject to the terms, conditions and provisions of the ARRA Assistance Agreement and the Act, the Issuer has acquired, or shall do all things necessary to acquire, the proposed site of

the Project and shall do, is doing or has done all things necessary to construct any Project improvements to its System in accordance with the plans, specifications and designs prepared by the Consulting Engineers. All real estate and interests in real estate and all personal property constituting the Project and the Project site heretofore or hereafter acquired shall at all times be and remain the property of the Issuer.

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

Section 7.09. Rates. Prior to the issuance of the Series 2009 Bonds, rates or charges for the use of the services and facilities of the System will be fixed and established, all in the manner and form required by law, and a copy of such rates and charges so fixed and established shall at all times be kept on file in the office of the City Clerk of the Issuer, which copy will be open to inspection by all interested parties. The schedule or schedules of rates and charges shall at all times be adequate to produce Gross Revenues from the System sufficient to pay Operating Expenses and to make the prescribed payments into the funds and accounts created hereunder. Such schedule or schedules of rates and charges shall be revised from time to time, whenever necessary, so that the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and continuous performance of this covenant with a margin for contingencies and temporary unanticipated reduction in income and revenues, the Issuer hereby covenants and agrees that the schedule or schedules of rates or charges from time to time in effect shall be sufficient, together with other revenues of the System, (i) to provide for all Operating Expenses of the System and (ii) to leave a balance each year equal to at least 115% of the maximum amount required in any year for payment of principal of and interest, if any, on the Series 2009 Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2009 Bonds; provided that, in the event that amounts equal to or in excess of the reserve requirement are on deposit respectively in the Series 2009 A Bonds Reserve Account and Series 2009 B Bonds Reserve Account and reserve accounts for obligations on a parity with the Series 2009 Bonds, are funded at least at the requirement therefor, such balance each year need only equal at least 110% of the maximum amount required in any year for payment of principal of and interest, if any, on the Series 2009 Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2009 Bonds. In any event, the Issuer shall not reduce the rates or charges for services set forth in the rate ordinance currently in effect.

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

Section 7.10. Operating Budget and Monthly Financial Report. The Issuer shall annually, at least 45 days preceding the beginning of each Fiscal Year, prepare and adopt by resolution a detailed, balanced budget of the estimated revenues and expenditures for operation and

maintenance of the System during the succeeding Fiscal Year and shall submit a copy of such budget to the Authority and the BPH within 30 days of adoption thereof. No expenditures for the operation and maintenance of the System shall be made in any Fiscal Year in excess of the amounts provided therefor in such budget without a written finding and recommendation by a registered professional engineer, which finding and recommendation shall state in detail the purpose of and necessity for such increased expenditures for the operation and maintenance of the System, and no such increased expenditures shall be made until the Issuer shall have approved such finding and recommendation by a resolution duly adopted. No increased expenditures in excess of 10% of the amount of such budget shall be made except upon the further certificate of a registered professional engineer that such increased expenditures are necessary for the continued operation of the System. The Issuer shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the Authority, the BPH and to any Holder of any Bonds who shall file his or her address with the Issuer and request in writing that copies of all such budgets and resolutions be furnished him or her and shall make available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to the Authority, the BPH and any Holder of any Bonds or anyone acting for and in behalf of such Holder of any Bonds.

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

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

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

The Issuer shall require the Consulting Engineers to submit As-Built Plans, as defined in the DWTRF Regulations. The District shall have an identical requirement with respect to the Project improvements to its System. The Issuer shall notify the BPH in writing of such receipt.

The Issuer shall at all times provide operation and maintenance of the System in compliance with all State and Federal standards. The Issuer shall employ qualified operating personnel properly certified by the State before the Project improvements to its System are 50% complete and shall retain such a certified operator to operate the System during the entire term of the ARRA Assistance Agreement. The Issuer shall employ qualified operating personell properly certified by the State.

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

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

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

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

Section 7.15. Insurance and Construction Bonds. A. The Issuer hereby covenants and agrees that so long as the Series 2009 Bonds remain Outstanding, the Issuer will, as an Operating Expense, procure, carry and maintain insurance with a reputable insurance carrier or carriers as is customarily covered with respect to works and properties similar to the System. Such insurance shall initially cover the following risks and be in the following amounts:

(1) FIRE, LIGHTNING, VANDALISM, MALICIOUS MISCHIEF AND EXTENDED COVERAGE INSURANCE, on all above-ground insurable portions of the System in an amount equal to the greater of the fair appraised value or the actual cost thereof. In time of war the Issuer will also carry and maintain insurance to the extent available against the risks and hazards of war. In the event of any damage to or destruction of any portion of the System, the proceeds of all such insurance policies shall be placed in the Renewal and Replacement Fund and used only for the repair or reconstruction of such damages or destroyed portion or for the other purposes provided herein for the Renewal and Replacement Fund. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance (fire and extended coverage) to protect the interests of the Issuer, the Authority, the prime contractor and all subcontractors as their respective interests may appear, in accordance with the ARRA Assistance 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 prime contractor and subcontractors, as their interests may appear.

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

(3) WORKER'S COMPENSATION COVERAGE FOR ALL EMPLOYEES OF OR FOR THE SYSTEM ELIGIBLE THEREFOR; AND PERFORMANCE AND PAYMENT BONDS, such bonds to be in the amounts of not less than 100% of the amount of any construction contract and to be required of each contractor dealing directly with the Issuer and such payment bonds will be filed with the Clerk of the County Commission of the County in which such work is to be performed prior to commencement of construction of any additions, extensions or improvements for the System in compliance with West Virginia Code, Section 38-2-39.

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

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

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

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

The Issuer shall also require all contractors engaged in the construction of the Project improvements to the Issuer's System to carry such worker's compensation coverage for all employees working on the Project improvements to its System 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 improvements to its System; provided that the amounts and terms of such coverage are satisfactory to the Authority and the BPH, and the Issuer shall verify such insurance prior to commencement of construction. In the event the ARRA Assistance Agreement so requires, such insurance shall be made payable to the order of the Authority, the Issuer, the prime contractor and all subcontractors, as their interests may appear.

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

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

The Issuer will obtain all permits required by state and federal laws for the acquisition and construction of the Project improvements to its System, all orders and approvals from the Public Service Commission of West Virginia and the BPH necessary for the acquisition and construction of the Project improvements to its System and the operation of the System and all approvals for the issuance of the Series 2009 Bonds required by State law, with all appeal periods having expired without successful appeal and the Issuer shall provide an opinion of counsel to such effect.

Section 7.18. Compliance with ARRA Assistance Agreement and Law. The Issuer shall perform, satisfy and comply with all the terms and conditions of the ARRA Assistance Agreement and the Act. Notwithstanding anything herein to the contrary, the Issuer will provide the BPH with copies of all documents submitted to the Authority. The Issuer also agrees to comply with all applicable laws, rules and regulations issued by the Authority, the BPH or other state,

federal or local bodies in regard to the acquisition and construction of the Project improvements to its System and the operation, maintenance and use of the System.

Section 7.19. [RESERVED]

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

Section 7.21. Contracts; Change Orders; Public Releases. A. The Issuer shall, simultaneously with the delivery of the Series 2009 Bonds or immediately thereafter, enter into written contracts for the immediate acquisition or construction of any Project improvements to its System.

B. The Issuer shall submit all proposed change orders to the BPH for written approval. The Issuer shall obtain the written approval of the BPH before expending any proceeds of the Series 2009 Bonds held in "contingency" as set forth in the schedule attached to the certificate of the Consulting Engineer. The Issuer shall also obtain the written approval of the BPH before expending any proceeds of the Series 2009 Bonds made available due to bid or construction or project underruns.

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

Section 7.22. Statutory Mortgage Lien. For the further protection of the Holders of the Series 2009 Bonds, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding, shall take effect immediately upon delivery of the Series 2009 Bonds.

ARTICLE VIII

INVESTMENT OF FUNDS

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

Any investment shall be held in and at all times deemed a part of the fund or account in which such monies were originally held, and the interest accruing thereon and any profit or loss

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

The Depository Bank shall keep complete and accurate records of all funds, accounts and investments, and shall distribute to the Issuer, at least once each year, or more often as reasonably requested by the Issuer, a summary of such funds, accounts and investment earnings. The Issuer shall retain all such records and any additional records with respect to such funds, accounts and investment earnings so long as any of the Series 2009 Bonds are Outstanding and as long thereafter as necessary to assure the exclusion of interest, if any, on the Series 2009 Bonds from gross income for federal income tax purposes.

Section 8.02. Certificate as to Use of Proceeds; Covenants as to Use of Proceeds. The Issuer shall deliver a certificate as to use of proceeds or other similar certificate to be prepared by nationally recognized bond counsel relating to restrictions on the use of proceeds of the Series 2009 Bonds as a condition to issuance of the Series 2009 Bonds.

In addition, the Issuer covenants (i) to comply with the Code and all Regulations from time to time in effect and applicable to the Series 2009 Bonds as may be necessary in order to maintain the status of the Series 2009 Bonds as governmental bonds; (ii) that it shall not take, or permit or suffer to be taken, any action with respect to the Issuer's use of the proceeds of the Series 2009 Bonds which would cause any bonds, the interest on which is exempt from federal income taxation under Section 103(a) of the Code, issued by the Authority or the BPH, as the case may be, from which the proceeds of the Series 2009 Bonds are derived, to lose their status as tax-exempt bonds; and (iii) to take such action, or refrain from taking such action, as shall be deemed necessary by the Issuer, or requested by the Authority or the BPH, to ensure compliance with the covenants and agreements set forth in this Section, regardless of whether such actions may be contrary to any of the provisions of this Ordinance.

The Issuer shall annually furnish to the Authority, information with respect to the Issuer's use of the proceeds of the Series 2009 Bonds and any additional information requested by the Authority.

ARTICLE IX

DEFAULT AND REMEDIES

Section 9.01. Events of Default. Each of the following events shall constitute an "Event of Default" with respect to the Series 2009 Bonds:

- (1) If default occurs in the due and punctual payment of the principal of or interest, if any, on any Series 2009 Bonds;
- (2) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part relating to the Series 2009 Bonds set forth in this Bond Legislation, any supplemental resolution or in the Series 2009 Bonds, and such default shall have continued for a period of 30 days after the Issuer shall have been given written notice of such default by the Commission, the Depository Bank, the Registrar, the Paying Agent or any other Paying Agent or a Holder of a Bond; or
- (3) If the Issuer files a petition seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America.

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

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

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

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

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

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

ARTICLE X

PAYMENT OF BONDS

Section 10.01. Payment of Bonds. If the Issuer shall pay or there shall otherwise be paid, to the Holders of the Series 2009 Bonds, the principal of and interest, if any, due or to become due thereon, if any, at the times and in the manner stipulated therein and in this Bond Legislation, then the pledge of Gross Revenues and other monies and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series 2009 Bonds shall thereupon cease, terminate and become void and be discharged and satisfied, except as may otherwise be necessary to assure the exclusion of interest, if any, on the Series 2009 Bonds from gross income for federal income tax purposes.

ARTICLE XI

MISCELLANEOUS

Section 11.01. Amendment or Modification of Bond Legislation. Prior to issuance of the Series 2009 Bonds, this Ordinance may be amended or supplemented in any way by the Supplemental Resolution. Following issuance of the Series 2009 Bonds, no material modification or amendment of this Ordinance, or of any ordinance, resolution or order amendatory or supplemental hereto, that would materially and adversely affect the rights of Registered Owners of the Series 2009 Bonds shall be made without the consent in writing of the Registered Owners of the Series 2009 Bonds so affected and then Outstanding; provided, that no change shall be made in the maturity of the Series 2009 Bonds or the rate of interest thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest out of the funds herein pledged therefor without the consent of the Registered Owner thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of the Series 2009 Bonds required for consent to the above-permitted amendments or modifications. Notwithstanding the foregoing, this Bond Legislation may be amended without the consent of any Bondholder as may be necessary to assure compliance with Section 148(f) of the Code relating to rebate requirements or otherwise as may be necessary to assure the excludability of interest on the Series 2009 Bonds from gross income of the holders thereof.

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

Section 11.03. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Ordinance should be held invalid by any court of competent jurisdiction, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance, the Supplemental Resolution or the Series 2009 Bonds.

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

Section 11.05. Notices. All notices to be sent to the Issuer, the Authority or the BPH shall be in writing and shall be deemed to have been given when delivered in person or mailed by first class mail, postage prepaid, addressed as follows:

ISSUER:

City of Salem
Post Office Box 352
Salem, West Virginia 26426
Attention: City Manager

AUTHORITY:

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

BPH:

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

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

Section 11.06. Conflicting Provisions Repealed. All ordinances, orders or resolutions and or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

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

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

Section 11.09 Effective Date. This Ordinance shall take effect 30 days following the public hearing hereon.

Passed on First Reading: September 8, 2009

Passed on Second Reading: September 22, 2009

Passed on Final Reading
Following Public
Hearing: October 13, 2009



Mayor



City Manger

CERTIFICATION

Certified a true copy of an Ordinance duly enacted by the Council of the CITY OF SALEM on the 13th day of October, 2009.

Dated: January 14, 2010.

[SEAL]


City Clerk

EXHIBIT A

ARRA Assistance Agreement included in bond transcript as Document 3

CITY OF SALEM

Water Revenue Bonds, Series 2010 A
(West Virginia DWTRF Program); and
Water Revenue Bonds, Series 2010 B
(West Virginia DWTRF Program/ARRA)

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNT, DATE, MATURITY DATE, REDEMPTION PROVISION, INTEREST RATE, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICE AND OTHER TERMS OF THE WATER REVENUE BONDS SERIES 2010 A (WEST VIRGINIA DWTRF PROGRAM), AND WATER REVENUE BONDS, SERIES 2010 B (WEST VIRGINIA DWTRF PROGRAM/ARRA) OF THE CITY OF SALEM; APPROVING AND RATIFYING THE ARRA ASSISTANCE AGREEMENT RELATING TO SUCH BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; APPROVING THE RECEIPT BY THE ISSUER OF A GRANT FROM THE INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL AND THE APPLICATION OF THE PROCEEDS OF SUCH GRANT TO THE PAYMENT OF PROFESSIONAL SERVICE FEES INCURRED IN CONNECTION WITH THE PROJECT AND IN CONNECTION WITH THE ISSUANCE OF SUCH BONDS; APPROVING A CONFORMED BOND ORDINANCE; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the council (the "Governing Body") of the City of Salem (the "Issuer") has duly and officially adopted and enacted a bond ordinance, effective October 13, 2009 (the "Bond Ordinance"), entitled:

ORDINANCE AUTHORIZING A CONTRIBUTION IN AID OF CONSTRUCTION TO SUN VALLEY PUBLIC SERVICE DISTRICT FOR THE PURPOSE OF PAYING A PORTION OF THE COST OF A WATER LINE EXTENSION TO THE CITY OF SALEM, AND IN THE EVENT THAT SUFFICIENT FUNDS REMAIN THEREFORE, THE ACQUISITION AND

CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC WATERWORKS SYSTEM OF THE CITY OF SALEM AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF SALEM OF NOT MORE THAN \$1,800,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2009 A (WEST VIRGINIA DWTRF PROGRAM); AND NOT MORE THAN \$2,100,000 IN ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2009 B (WEST VIRGINIA DWTRF PROGRAM/ARRA); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A ARRA ASSISTANCE AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

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

WHEREAS, the Bond Ordinance provides for the issuance of Water Revenue Bonds, Series 2010 A (West Virginia DWTRF Program) in an aggregate principal amount not to exceed \$1,800,000 (the "Series 2010 A Bonds") and Water Revenue Bonds, Series 2010 B (West Virginia DWTRF Program/ARRA) in an aggregate principal amount not to exceed \$2,100,000 (the "Series 2010 B Bonds" and together with the Series 2010 A Bonds, the "Series 2010 Bonds"), and has authorized the execution and delivery of the ARRA Assistance Agreement relating to the Series 2010 Bonds, including all schedules and exhibits attached thereto, by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Bureau for Public Health for the Series 2010 A Bonds and Series 2010 B Bonds (the "ARRA Assistance Agreement"), all in accordance with Chapter 8, Article 19 and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended (collectively, the "Act"), and in the Bond Ordinance it is provided that the form of the ARRA Assistance Agreement and the exact principal amount, date, maturity date, redemption provision, interest rate, interest and principal payment dates, sale price and other terms of the Series 2010 Bonds should be established by a supplemental resolution pertaining to the Series 2010 Bonds; and that other matters relating to the Series 2010 Bonds be herein provided for;

WHEREAS, the ARRA Assistance Agreement has been presented to the Issuer at this meeting;

WHEREAS, the Series 2010 Bonds are proposed to be purchased by the Authority pursuant to the ARRA Assistance Agreement; and

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted, that the ARRA Assistance Agreement be approved and ratified by the Issuer, that the exact principal amounts, the dates, the maturity dates, the redemption provisions, the interest rates, the interest and principal payment dates and the sale price of the Series 2010 Bonds be fixed hereby in the manner stated herein, and that other matters relating to the Series 2010 Bonds be herein provided for;

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

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

A. Water Revenue Bonds, Series 2010 A (West Virginia DWTRF Program), of the Issuer, originally represented by a single Bond, numbered AR-1, in the principal amount of \$900,000. The Series 2010 A Bonds shall be dated the date of delivery thereof, shall finally mature June 1, 2041, and shall bear no interest. The principal of the Series 2010 A Bonds shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2011, to and including June 1, 2041, and in the amounts as set forth in the "Schedule Y" attached to the ARRA Assistance Agreement and incorporated in and made a part of the Series 2010 A Bonds. The Series 2010 A Bonds shall be subject to redemption upon the written consent of the Authority and the BPH, and upon payment of the redemption premium, if any, and otherwise in compliance with the ARRA Assistance Agreement, so long as the Authority shall be the registered owner of the Series 2010 A Bonds. The Series 2010 A Bonds are not subject to an administrative fee.

B. Water Revenue Bonds, Series 2010 B (West Virginia DWTRF Program/ARRA), of the Issuer, originally represented by a single Bond, numbered BR-1, in the principal amount of \$927,000. The Series 2010 B Bonds shall be dated the date of delivery thereof, shall finally mature June 1, 2021, and shall bear no interest. The principal of the Series 2010 B Bonds shall be 100% forgiven as set forth in ARRA Assistance Agreement. The Series 2010 B Bonds shall be subject to redemption upon the written consent of the Authority and the BPH, and upon payment of the redemption premium, if any, and otherwise in compliance with the ARRA Assistance Agreement, so long as the Authority shall be the registered owner of the Series 2010 B Bonds. The Series 2010 B Bonds are not subject to an administrative fee.

Section 2. In accordance with Section 11.01 of the Bond Ordinance, the Issuer hereby approves certain amendments to the Bond Ordinance in order that the revised Bond Ordinance shall read as set forth in the Conformed Bond Ordinance which is attached hereto as Exhibit B. In addition, pursuant to Section 11.01 of the Bond Ordinance the series designations for the bonds which are set forth in the Bond Ordinance are hereby changed from Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program) and Water Revenue Bonds, Series 2009 B

(West Virginia DWTRF Program/ARRA), to Water Revenue Bonds, Series 2010 A (West Virginia DWTRF Program) and Water Revenue Bonds, Series 2010 B (West Virginia DWTRF Program/ARRA) in order to reflect the issuance of the bonds in 2010 rather than 2009.

Section 3. All other provisions relating to the Series 2010 Bonds and the text of each series of the Series 2010 Bonds shall be in substantially the form provided in the Bond Ordinance.

Section 4. The Issuer does hereby authorize, approve, ratify and accept the ARRA Assistance Agreement, a copy of which is incorporated herein by reference, and the execution and delivery of the ARRA Assistance Agreement by the Mayor, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, directed, ratified and approved. The Issuer hereby affirms all covenants and representations made in the ARRA Assistance Agreement and in the applications to the Authority and the BPH. The price of the Series 2010 Bonds shall be 100% of par value, there being no interest accrued thereon, provided that the proceeds of the Series 2010 Bonds shall be advanced from time to time as requisitioned by the Issuer.

Section 5. The Issuer does hereby approve its receipt of a grant from the West Virginia Infrastructure and Jobs Development Council in the amount of \$124,000 and the use of the proceeds of such grant by the Issuer to pay professional service fees in connection with the Project and in connection with the issuance of the Bonds.

Section 6. The Issuer does hereby appoint and designate The Huntington National Bank, Charleston, West Virginia, to serve as Registrar (the "Registrar") for the Bonds under the Bond Ordinance and does approve and accept the Registrar's Agreement to be dated the date of delivery of the Bonds, by and between the Issuer and the Registrar, and the execution and delivery of the Registrar's Agreement by the Mayor, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, approved and directed.

Section 7. The Issuer does hereby appoint and designate the West Virginia Municipal Bond Commission, Charleston, West Virginia, to serve as Paying Agent for the Bonds under the Bond Ordinance.

Section 8. The Issuer does hereby appoint and designate West Union Bank, West Union, West Virginia, to serve as Depository Bank under the Bond Ordinance.

Section 9. The Issuer does hereby appoint Steptoe & Johnson PLLC, Clarksburg, West Virginia to serve as bond counsel to the City in connection with the issuance of the Bonds, and the City Manager is hereby authorized to execute and deliver an Engagement Letter with Steptoe & Johnson.

Section 10. Series 2010 A Bonds proceeds in the amount of \$-0- shall be deposited in the Series 2010 A Bonds Sinking Fund, as capitalized interest.

Section 11. Series 2010 A Bonds proceeds in the amount of \$-0- shall be deposited in the Series 2010 A Bonds Reserve Account.

Section 12. The proceeds of the Series 2010 A Bonds which remain after any funding of the Series 2010 A Bonds Sinking Fund or the Series 2010 A Bonds Reserve Account, and the payment of any costs of issuance of the Series 2010 A Bonds shall be requisitioned by the Issuer from time to time and deposited into the Series 2010 Bonds Construction Fund to pay costs of the Project.

Section 13. Series 2010 B Bonds proceeds in the amount of \$-0- shall be deposited in the Series 2010 B Bonds Sinking Fund, as capitalized interest.

Section 14. Series 2010 B Bonds proceeds in the amount of \$-0- shall be deposited in the Series 2010 B Bonds Reserve Account.

Section 15. The proceeds of the Series 2010 B Bonds which remain after any funding of the Series 2010 B Bonds Sinking Fund or the Series 2010 B Bonds Reserve Account, and the payment of any costs of issuance of the Series 2010 B Bonds shall be requisitioned by the Issuer from time to time and deposited into the Series 2010 Bonds Construction Fund to pay costs of the Project.

Section 16. The Issuer hereby appoints Terry Schulte with the Harrison County Planning Commission as the Issuer's fiscal agent for the Project, with full power and authority to approve, execute and deliver all requisitions for the payment of costs of the Project without further action on the part of the Issuer.

Section 17. The Mayor, City Manager and City Clerk are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Series 2010 Bonds hereby and by the Bond Ordinance approved and provided for, to the end that the Series 2010 Bonds may be delivered on or about January 14, 2010, to the Authority pursuant to the ARRA Assistance Agreement.

Section 18. The acquisition and construction of the Project and the financing thereof in part with proceeds of the Series 2010 Bonds are in the public interest, serve a public purpose of the Issuer and will promote the health, welfare and safety of the residents of the Issuer.

Section 19. The Issuer does hereby approve and authorize all contracts relating to the financing, acquisition and construction of the Project.

Section 20. The Issuer hereby determines to invest all monies in the funds and accounts established by the Bond Ordinance held by the Depository Bank until expended, in repurchase agreements or time accounts, secured by a pledge of Government Obligations, and therefore, the Issuer hereby directs the Depository Bank to take such actions as may be necessary to cause such monies to be invested in such repurchase agreements or time accounts until further directed in writing by the Issuer. Monies in the Sinking Funds and Reserve Accounts shall be invested by the West Virginia Municipal Bond Commission in the West Virginia Consolidated Fund.

Section 21. The Special Conditions of the ARRA Assistance Agreement are attached as Exhibit A and hereby incorporated herein.

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

[Remainder of Page Intentionally Left Blank]

Adopted this 17th day of December, 2009.

By: Jim Daugherty
Its: Mayor

By: David W. Meyer
Its: City Manager

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Council of the City of Salem on the 17th day of December, 2010.

Dated: January 14, 2010.

[SEAL]


City Clerk

788170.00002

EXHIBIT A

Special Conditions – ARRA Funded Projects

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

B. AUDIT REQUIREMENT (Supplement to Article IV 4.1 (b) (xi)) – Effective October 1, 2003, the Local Government that receives \$500,000 or more (in federal funds) in a fiscal year must obtain audits in accordance with the Single Audit Act and the applicable OMB Circular or any successor thereto. Financial statement audits are required once all funds have been received by the Local Government.

C. BUY AMERICAN CERTIFICATION – The Local Government shall cause the contractor(s) to comply with, and provide certification of, the Buy American provisions of the ARRA in accordance with final guidance from the EPA.

D. ASSET MANAGEMENT – The Local Government shall develop and implement an asset management plan in accordance with guidelines issued by DEP and is approved by DEP.

E. CONTRACTS – The Local Government shall enter into contracts or commence construction by February 17, 2010.

F. LOGO – The Local Government must display the ARRA logo in a manner that informs the public that the project is an ARRA investment.

G. LOBBYING - The Local Government shall comply with Title 40 CFR Part 34, New Restrictions on Lobbying and shall submit certification and disclosure forms as required by DEP.

H. PURCHASING REQUIREMENTS – The Local Government shall comply with Section 6002 of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6962). Regulations issued under RCRA Section 6002 apply to any acquisition of an item where the purchase price exceeds \$10,000 or where the quantity of such items acquired in the course of the preceding fiscal year was \$10,000 or more. RCRA Section 6002 requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by EPA. These guidelines are listed in 40 CFR 247.

I. SUSPENSION AND DEBARMENT – The Local Government shall

comply with Subpart C of 2 CFR Part 180 and 2 CFR Part 1532, entitled "Responsibilities of Participants Regarding Transactions (Doing Business with Other Persons). To the extent required by DEP, the Local Government shall provide certifications as to compliance.

J. REPORTING – The Local Government shall comply with all requests for data related to the use of the funds provided under this agreement, including the information required in section 1512 of ARRA when requested by DEP.

K. INSPECTOR GENERAL REVIEWS – The Local Government shall allow any appropriate representative of the Office of US Inspector General to (1) examine its records relating to the Project and this ARRA Assistance Agreement and (2) interview any officer or employee of the Local Government.

L. FALSE CLAIMS – The Local Government must promptly refer to EPA's Inspector General any credible evidence that a principal, employee, agent, sub-grantee contractor, subcontractor, loan recipient, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving funds provided under this ARRA Assistance Agreement.

M. LIMIT ON FUNDS – The Local Government shall not use funds for particular activities for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

N. WAGE RATES – The Local Government shall require that all laborers and mechanics employed by its contractors and subcontractors be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor (DOL) in accordance with subchapter IV of chapter 32 of title 40, United States Code. The Local Government must require that contractors and subcontractors obtain wage determinations from DOL and comply with DOL guidance and regulations implementing wage rate requirements applicable to ARRA funds.

O. OFFICE OF MANAGEMENT AND BUDGET (OMB) GUIDANCE – The Local Government acknowledges and agrees that this ARRA Assistance is subject to all applicable provisions of implementing guidance for the American Recovery and Reinvestment Act of 2009 issued by the United States Office of Management and Budget, including the Initial Implementing Guidance for the American Recovery and Reinvestment Act (M-09-10) issued on February 18, 2009 and available on www.recovery.gov, and any subsequent guidance documents issued by OMB.

P. DISADVANTAGED BUSINESS ENTERPRISE – Pursuant to 40 CFR, Section 33.301, the Local Government agrees to make good faith efforts whenever procuring construction, equipment, services and supplies, and to require that prime contractors also comply. The Local Government shall provide DEP with MBE/WBE participation reports semi-annually.

Q. CIVIL RIGHTS – The Local Government shall comply with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the

Education Amendments of 1972, the Age Discrimination Act of 1975, and a variety of program-specific statutes with nondiscrimination requirements. The Local Government shall also comply with Title VII of the Civil Rights Act of 1964 (prohibiting race, color, national origin, religion, and sex discrimination in employment), the Americans with Disabilities Act (prohibiting disability discrimination in employment and in services provided by State and local governments, businesses, and non-profit agencies), and the Fair Housing Act (prohibiting race, color, national origin, age, family status, and disability discrimination in housing), as well as any other applicable civil rights laws.

R. BOND DESIGNATION – Each Local Bond funded by ARRA funds shall be designated “Series [2010] B” and shall contain “(West Virginia DWTRF Program/ARRA)” in the bond name.

S. USER RATES – The Local Government shall covenant that it will not reduce its approved or enacted customer rates for at least eighteen months after completion of the Project or until such time as a cost of service study has been completed establishing the actual operation and maintenance expenses.

T. NEW CUSTOMERS- The Local Government is serving no additional customers in connection with the Project. The Local Government shall not reduce the amount of additional customers served by the Project without the prior written approval of the WDA Board.

U. MAINTENANCE AUDIT- The Local Government shall perform an annual maintenance audit which maintenance audit shall be submitted to the WDA and the Public Service Commission of West Virginia.

EXHIBIT B

CONFORMED BOND ORDINANCE

(Included in bond transcript as Document No. 1)

DWTRF – ARRA
(12/09)

ARRA ASSISTANCE AGREEMENT

THIS DRINKING WATER TREATMENT REVOLVING FUND ARRA ASSISTANCE AGREEMENT (the “ARRA Assistance Agreement”), made and entered into in several counterparts, by and between the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY, a governmental instrumentality and body corporate of the State of West Virginia (the “Authority”), acting under the direction of the WEST VIRGINIA BUREAU FOR PUBLIC HEALTH, a division of the West Virginia Department of Health and Human Resources (the “BPH”), and the local entity designated below (the “Local Entity”).

CITY OF SALEM
(1998W-421/2009W-1155/09DWTRFA003)

W I T N E S S E T H:

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

WHEREAS, the United States Congress has provided additional capitalization grant funding under the Clean Water Act through the American Recovery and Reinvestment Act of 2009 (the “ARRA”);

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

WHEREAS, under the Act the BPH is designated the instrumentality to enter into capitalization agreements with the United States Environmental Protection Agency (“EPA”) to accept capitalization grant awards (U.S. General Services

Administration; Catalog of Federal Domestic Assistance, 32nd Edition §66.458 (1998)) and BPH has been awarded capitalization grants to partially fund the Program;

WHEREAS, the ARRA provides that at least fifty percent (50%) of the funds provided through the capitalization grant be provided as negative interest loans or principal forgiveness (the "ARRA Assistance");

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

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

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

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

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

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

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

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

the Fund, subject to the Local Entity's satisfaction of certain legal and other requirements of the Program.

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

ARTICLE I

Definitions

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE II

The Project and the System

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

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

2.3 All real estate and interests in real estate and all personal property constituting the Project and the Project site heretofore or hereafter acquired shall at all times be and remain the property of the Local Entity, subject to any mortgage lien or

other security interest as is provided for in the Local Statute unless a sale or transfer of all or a portion of said property is approved by BPH and the Authority.

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

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

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

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

2.8 The Local Entity shall require that each of its contractors and all subcontractors maintain, during the life of the construction contract, workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Authority and BPH

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

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

2.10 The Local Entity shall at all times provide operation and maintenance of the System in compliance with any and all State and federal standards. The Local Entity shall employ qualified operating personnel properly certified by the State and shall retain such a certified operator(s) to operate the System during the entire term of this ARRA Assistance Agreement.

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

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

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

2.14 The Local Entity shall serve the additional customers, if any, at the location(s) as set forth in Schedule X. The Local Entity shall not reduce the number of additional customers served by the project without the prior written approval of the Authority Board. Following completion of the Project the Local Entity shall certify to the Authority the number of customers added to the System.

2.15 The Local Entity shall perform an annual maintenance audit which maintenance audit shall be submitted to the Authority and the Public Service Commission of West Virginia (the "PSC").

ARTICLE III

Conditions to Loan; Issuance of Local Bonds

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

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

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

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

(d) The Local Entity shall either have received bids or entered into contracts for the construction of the Project, which are in an amount and otherwise compatible with the plan of financing described in the Application; provided, that, if the

(C1651187.1)

Loan will refund an interim construction financing, the Local Entity must either be constructing or have constructed its Project for a cost and as otherwise compatible with the plan of financing described in the Application; and, in either case, the Authority and BPH shall have received a certificate of the Consulting Engineers to such effect, the form of which certificate is attached hereto as Exhibit C;

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

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

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

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

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

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

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

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

3.4 The Local Bonds shall be delivered to the Authority, at the offices of the Authority, on a date designated by the Local Entity by written notice to the Authority, which written notice shall be given not less than ten (10) business days prior to the date designated.

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

Entity further specifically recognizes that all loans will be originated in conjunction with the DWTRF Regulations and with the prior approval of BPH or such later date as is agreed to in writing by the BPH.

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

ARTICLE IV

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

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

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

(i) to pay Operating Expenses of the System;

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

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

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

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

(b) Covenants substantially as follows:

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

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

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

(iv) That, except as otherwise required by State law or the DWTRF Regulations, the System may not be sold, mortgaged, leased or otherwise disposed of, except as a whole, or substantially as a whole, and only if the net proceeds to be realized from such sale, mortgage, lease or other disposition shall be sufficient to fully pay all of the Local Bonds outstanding and further provided that portions of the System

when no longer required for the ongoing operation of the System as evidenced by certificates from the Consulting Engineer, may be disposed of with such restrictions as are normally contained in such covenants;

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

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

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

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

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

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

(xi) That the Local Entity shall annually, within six months of the end of the fiscal year, cause the records of the System to be audited by an independent certified public accountant or independent public accountant and shall

submit the report of said audit to the Authority and BPH. If the Local Entity receives \$500,000 or more (in federal funds) in a fiscal year, the audit shall be obtained in accordance with the Single Audit Act (as amended from time to time) and the applicable OMB Circular (or any successor thereto). Financial statement audits are required once all funds have been received by the Local Entity. The audit shall include a statement that notes whether the results of tests disclosed instances of noncompliance that are required to be reported under government auditing standards and, if they are, describes the instances of noncompliance and the audited financial statements shall include a statement that notes whether the Local Entity's revenues are adequate to meet its Operating Expenses and debt service and reserve requirements;

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

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

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

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

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

(xvii) That the Local Entity shall on the first day of each month (if the first day is not a business day, then the first business day of each month)

deposit with the Commission the required interest, principal and reserve account payment. The Local Entity shall complete the Monthly Payment Form, attached hereto as Exhibit E and incorporated herein by reference, and submit a copy of said form along with a copy of the check or electronic transfer to the Authority by the 5th day of such calendar month. When required by the Authority, the Local Entity shall make monthly payments to the Commission by electronic transfer;

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

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

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

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

The Local Entity hereby represents and warrants that the Local Act has been or shall be duly adopted or enacted in compliance with all necessary corporate and other action and in accordance with applicable provisions of law. All legal matters incident to the authorization, issuance, validity, sale and delivery of the Local Bonds shall

be approved without qualification by nationally recognized bond counsel acceptable to the Authority in substantially the form of legal opinion attached hereto as Exhibit F.

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

4.3 At least two and one half percent (2.5%) of the proceeds of the Local Bonds will be advanced on the Date of Loan Closing. The remaining proceeds of the Local Bonds shall be advanced by the Authority monthly as required by the Local Entity to pay Costs of the Project, provided, however, if the proceeds of the Local Bonds will be used to repay an interim financing, the proceeds will be advanced on a schedule mutually agreeable to the Local Entity, the BPH and the Authority. The Local Bonds shall not bear interest during the construction period but interest shall commence accruing on the completion date as defined in the DWTRF Regulations, provided that the annual repayment of principal and payment of interest shall begin not later than one (1) year after the completion date. The repayment of principal and interest on the Local Bonds shall be as set forth on Schedule Y hereto. In no event shall the interest rate on or the net interest cost of the Local Bonds exceed any statutory limitation with regard thereto.

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

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

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

ARTICLE V

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

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

5.2 In the event, for any reason, the schedule of rates, fees and charges initially established for the System in connection with the Local Bonds shall prove to be insufficient to produce the required sums set forth in the Local Act and this ARRA Assistance Agreement, the Local Entity hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates, fees and charges (or where applicable, immediately file with the PSC for a rate increase) and take all such actions necessary to provide funds sufficient to produce the required sums set forth in the Local Act and this ARRA Assistance Agreement.

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

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

ARTICLE VI

Other Agreements of the
Local Entity

6.1 The Local Entity hereby acknowledges to the Authority and BPH its understanding of the provisions of the Act, vesting in the Authority and BPH certain

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

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

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

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

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

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

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

ARTICLE VII

Miscellaneous

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

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

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

7.4 No waiver by any party of any term or condition of this ARRA Assistance 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 ARRA Assistance Agreement.

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

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

7.7 This ARRA Assistance Agreement shall terminate upon the EARLIER of:

(i) written notice of termination to the Local Entity from either the Authority or BPH and the Project contracts were not executed by January 28, 2010;

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

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

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

(v) but further provided that the Authority and BPH reserve the right to terminate this ARRA Assistance Agreement upon five days written notice if the Local Bonds are not issued and the Project is not under written contract by January 28, 2010.

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

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

CITY OF SALEM

(SEAL)

Attest:

By: Jim P. Laughter
Its: Mayor
Date: January 14, 2010

[Signature]
Its: City Clerk

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

(SEAL)

Attest:

By: [Signature]
Its: Executive Director
Date: January 14, 2010

Carol A. Cummings
Its: Secretary-Treasurer

EXHIBIT A

MONTHLY FINANCIAL REPORT

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

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

Name of Person Completing Form

Address

Telephone

INSTRUCTIONS FOR COMPLETING MONTHLY FINANCIAL REPORT

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

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

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

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

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

EXHIBIT B

PAYMENT REQUISITION FORM

- WATER TREATMENT UPGRADE PROJECT

DWTRF FUNDING

	CLASSIFICATION	APPROVED BUDGET	ADJUSTMENTS	REVISED BUDGET	PAID PRIOR TO THIS DRAW	REQUESTED THIS REQUEST	PAID TO DATE	BALANCE REMAINING
1	Construction & Cons. Cont.							
	a. Contract 1 - Contractor Name	0	0	0	0	0	0	0
	b. Contract 2 - Contractor Name	0	0	0	0	0	0	0
	c. Contract 3 - Contractor Name	0	0	0	0	0	0	0
	g. Construction contingency	0	0	0	0	0	0	0
2	Technical Services							
	a. Basic Engineering Design	0	0	0	0	0	0	0
	b. Inspection	0	0	0	0	0	0	0
	c. Special Services	0	0	0	0	0	0	0
3	Legal/Fiscal							
	a. Legal	0	0	0	0	0	0	0
	b. Accounting	0	0	0	0	0	0	0
4	Administrative							
	a. Administrative Expenses	0	0	0	0	0	0	0
	b. Tap Fees	0	0	0	0	0	0	0
	c. Accounting	0	0	0	0	0	0	0
	d. Registrar Fee	0	0	0	0	0	0	0
5	Sites & Other Lands	0	0	0	0	0	0	0
6	WV DOH Fees	0	0	0	0	0	0	0
7	Interest	0	0	0	0	0	0	0
8	Contingency	0	0	0	0	0	0	0
9	Miscellaneous (Equipment)	0	0	0	0	0	0	0
10	TOTAL of Lines 1 through 9	0	0	0	0	0	0	0

OTHER FUNDING

	CLASSIFICATION	APPROVED BUDGET	ADJUSTMENTS	REVISED BUDGET	PAID PRIOR TO THIS DRAW	REQUESTED THIS REQUEST	PAID TO DATE	BALANCE REMAINING
1	Construction & Cons. Cont.							
	a. Contract 1 - Contractor Name	0	0	0	0	0	0	0
	b. Contract 2 - Contractor Name	0	0	0	0	0	0	0
	c. Contract 3 - Contractor Name	0	0	0	0	0	0	0
	g. Construction contingency	0	0	0	0	0	0	0
2	Technical Services							
	a. Basic Engineering Design	0	0	0	0	0	0	0
	b. Inspection	0	0	0	0	0	0	0
	c. Special Services	0	0	0	0	0	0	0
3	Legal/Fiscal							
	a. Legal	0	0	0	0	0	0	0
	b. Accounting	0	0	0	0	0	0	0
4	Administrative							
	a. Administrative Expenses	0	0	0	0	0	0	0
	b. Tap Fees	0	0	0	0	0	0	0
	c. Accounting	0	0	0	0	0	0	0
	d. Registrar Fee	0	0	0	0	0	0	0
5	Sites & Other Lands	0	0	0	0	0	0	0
6	WV DOH Fees	0	0	0	0	0	0	0
7	Interest	0	0	0	0	0	0	0
8	Contingency	0	0	0	0	0	0	0
9	Miscellaneous (Equipment)	0	0	0	0	0	0	0
10	TOTAL of Lines 1 through 9	0	0	0	0	0	0	0

TOTAL FUNDING

	CLASSIFICATION	APPROVED BUDGET	ADJUSTMENTS	REVISED BUDGET	PAID PRIOR TO THIS DRAW	REQUESTED THIS REQUEST	PAID TO DATE	BALANCE REMAINING
1	Construction & Cons. Cont.							
	a. Contract 1 - Contractor Name	0	0	0	0	0	0	0
	b. Contract 2 - Contractor Name	0	0	0	0	0	0	0
	c. Contract 3 - Contractor Name	0	0	0	0	0	0	0
	g. Construction contingency	0	0	0	0	0	0	0
2	Technical Services							
	a. Basic Engineering Design	0	0	0	0	0	0	0
	b. Inspection	0	0	0	0	0	0	0
	c. Special Services	0	0	0	0	0	0	0
3	Legal/Fiscal							
	a. Legal	0	0	0	0	0	0	0
	b. Accounting	0	0	0	0	0	0	0
4	Administrative							
	a. Administrative Expenses	0	0	0	0	0	0	0
	b. Tap Fees	0	0	0	0	0	0	0
	c. Accounting	0	0	0	0	0	0	0
	d. Registrar Fee	0	0	0	0	0	0	0
5	Sites & Other Lands	0	0	0	0	0	0	0
6	WV DOH Fees	0	0	0	0	0	0	0
7	Interest	0	0	0	0	0	0	0
8	Contingency	0	0	0	0	0	0	0
9	Miscellaneous (Equipment)	0	0	0	0	0	0	0
10	TOTAL of Lines 1 through 9	0	0	0	0	0	0	0

EXHIBIT C

FORM OF CERTIFICATE OF CONSULTING ENGINEER

(Issuer)

(Name of Bonds)

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

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

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

3. To the best of my knowledge, information and belief, (i) within the limits and in accordance with the applicable and governing contractual requirements relating to the Project, the Project will be constructed in general accordance with the approved plans, specifications and designs prepared by my firm and approved by BPH and any change orders approved by the Issuer, BPH and all necessary governmental bodies; (ii) the Project, as designed, is adequate for its intended purpose and has a useful life of at least _____ years, if properly operated and maintained, excepting anticipated replacements due to normal wear and tear; (iii) the Issuer has received bids for the acquisition and construction of the Project which are in an amount and otherwise compatible with the plan of financing set forth in Schedule B attached hereto as Exhibit A, and my firm¹ has ascertained that all successful bidders have made required provisions

¹If another responsible party, such as the Issuer's attorney, reviews the insurance and payment bonds, then

for all insurance and payment and performance bonds and that such insurance policies or binders and such bonds have been verified for accuracy; (iv) the successful bidders received any and all addenda to the original bid documents; (v) the bid documents relating to the Project reflect the Project as approved by the BPH and the bid forms provided to the bidders contain all critical operational components of the Project; (vi) the successful bids include prices for every item on such bid forms; (vii) the uniform bid procedures were followed; (viii) the Issuer has obtained all permits required by the laws of the State of West Virginia and the United States necessary for the acquisition and construction of the Project and operation of the System; (ix) as of the effective date thereof², the rates and charges for the System as adopted by the Issuer will be sufficient to comply with the provisions of the ARRA Assistance Agreement; (x) the net proceeds of the Bonds, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants, if any, irrevocably committed therefor, are sufficient to pay the costs of acquisition and construction of the Project approved by BPH; and (xi) attached hereto as Exhibit A is the final amended "Schedule B - Total Cost of Project; Sources of Funds and Cost of Financing" for the Project.

WITNESS my signature and seal on this ____ day of _____,

_____.

[SEAL]

By: _____

West Virginia License No. _____

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

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

EXHIBIT D

SPECIAL CONDITIONS – BASE PROGRAM

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

A. The Local Entity shall complete the form attached as Exhibit D-1 and submit to the BPH prior to the Closing.

B. The Local Entity shall complete the fencing at the tank sites as set forth in the Action Plan to Correct Significant Deficiencies dated January 4, 2010 by August 31, 2010.

C. The Local Entity shall complete the cross connection backflow prevention program described in the Action Plan to Correct Significant Deficiencies dated January 4, 2010 by August 31, 2010.

SPECIAL CONDITIONS – ARRA FUNDED PROJECTS

The Local Entity shall include the following covenants in its bond authorizing documents:

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

B. **AUDIT REQUIREMENT** (Supplement to Article IV 4.1 (b) (xi)) – Effective October 1, 2003, the Local Entity that receives \$500,000 or more (in federal funds) in a fiscal year must obtain audits in accordance with the Single Audit Act and the

applicable OMB Circular or any successor thereto. Financial statement audits are required once all funds have been received by the Local Entity.

C. BUY AMERICAN CERTIFICATION – The Local Entity shall cause the contractor(s) to comply with, and provide certification of, the Buy American provisions of the ARRA in accordance with final guidance from the EPA.

D. ASSET MANAGEMENT – The Local Entity shall develop and implement an asset management plan in accordance with guidelines issued by BPH and as approved by BPH.

E. CONTRACTS – The Local Entity shall enter into contracts or commence construction by January 28, 2010.

F. LOGO – The Local Entity must display the ARRA logo in a manner that informs the public that the project is an ARRA investment.

G. LOBBYING - The Local Entity shall comply with Title 40 CFR Part 34, New Restrictions on Lobbying and shall submit certification and disclosure forms as required by BPH.

H. PURCHASING REQUIREMENTS – The Local Entity shall comply with Section 6002 of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6962). Regulations issued under RCRA Section 6002 apply to any acquisition of an item where the purchase price exceeds \$10,000 or where the quantity of such items acquired in the course of the preceding fiscal year was \$10,000 or more. RCRA Section 6002 requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by EPA. These guidelines are listed in 40 CFR 247.

I. SUSPENSION AND DEBARMENT – The Local Entity shall comply with Subpart C of 2 CFR Part 180 and 2 CFR Part 1532, entitled “Responsibilities of Participants Regarding Transactions (Doing Business with Other Persons). To the extent required by BPH, the Local Entity shall provide certifications as to compliance.

J. REPORTING – The Local Entity shall comply with all requests for data related to the use of the funds provided under this agreement, including the information required in section 1512 of ARRA when requested by BPH.

K. INSPECTOR GENERAL REVIEWS – The Local Entity shall allow any appropriate representative of the Office of US Inspector General to (1) examine its

records relating to the Project and this ARRA Assistance Agreement and (2) interview any officer or employee of the Local Entity.

L. FALSE CLAIMS – The Local Entity must promptly refer to EPA’s Inspector General any credible evidence that a principal, employee, agent, sub-grantee contractor, subcontractor, loan recipient, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving funds provided under this ARRA Assistance Agreement.

M. LIMIT ON FUNDS – The Local Entity shall not use funds for particular activities for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

N. WAGE RATES – The Local Entity shall require that all laborers and mechanics employed by its contractors and subcontractors be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor (DOL) in accordance with subchapter IV of chapter 32 of title 40, United States Code. The Local Entity must require that contractors and subcontractors obtain wage determinations from DOL and comply with DOL guidance and regulations implementing wage rate requirements applicable to ARRA funds.

O. OFFICE OF MANAGEMENT AND BUDGET (OMB) GUIDANCE – The Local Entity acknowledges and agrees that this ARRA Assistance is subject to all applicable provisions of implementing guidance for the American Recovery and Reinvestment Act of 2009 issued by the United States Office of Management and Budget, including the Initial Implementing Guidance for the American Recovery and Reinvestment Act (M-09-10) issued on February 18, 2009 and available on www.recovery.gov, and any subsequent guidance documents issued by OMB.

P. DISADVANTAGED BUSINESS ENTERPRISE – Pursuant to 40 CFR, Section 33.301, the Local Entity agrees to make good faith efforts whenever procuring construction, equipment, services and supplies, and to require that prime contractors also comply. The Local Entity shall provide BPH with MBE/WBE participation reports semi-annually.

Q. CIVIL RIGHTS – The Local Entity shall comply with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and a variety of program-specific statutes with nondiscrimination requirements. The Local Entity shall also comply with Title VII of the Civil Rights Act of 1964 (prohibiting race, color, national origin, religion, and sex discrimination in employment), the Americans with

Disabilities Act (prohibiting disability discrimination in employment and in services provided by State and Local Entities, businesses, and non-profit agencies), and the Fair Housing Act (prohibiting race, color, national origin, age, family status, and disability discrimination in housing), as well as any other applicable civil rights laws.

R. BOND DESIGNATION – Each Local Bond contain “(WVDWTRF Program/ARRA)” in the bond name.

S. USER RATES – The Local Entity shall covenant that it will not reduce its approved customer rates for at least eighteen months after completion of the Project or (a) until such time as a cost of service study has been completed establishing the actual operation and maintenance expenses or (b) new rates have been established by order of the Public Service Commission. The Local Entity shall notify the Authority and the BPH of any action to reduce rates during the eighteen months following completion of construction of the Project.

T. CONTRIBUTION IN AID OF CONSTRUCTION – The Authority and BPH acknowledge that the proceeds of the Local Bonds will be used by the Local Entity as a contribution to the Sun Valley Public Service District for the purpose of paying a portion of the cost to be incurred by the District in constructing a main water line to supply potable water to the Local Entity. The terms and conditions in this ARRA Assistance Agreement inconsistent with the contribution, as opposed to the Local Entity actually constructing the Project, are hereby waived.

EXHIBIT D-1

For DBHR Use Only
Grant Number

**West Virginia Department of Health and Human Resources
Subrecipient (Grantee) Information Form**
Please see the Instructions for Completion of the Subrecipient (Grantee) Information Form

1. Subrecipient (Grantee) Name

2. Subrecipient (Grantee) Location (Street Address, City, State and Zip Code)

3. Subrecipient (Grantee) 9-Digit DUNS Number

4. Subrecipient (Grantee) Type (Please check one box only)

<input type="checkbox"/> State Government <input type="checkbox"/> County Government <input type="checkbox"/> City or Township Government <input type="checkbox"/> Special District Government <input type="checkbox"/> Regional Organization <input type="checkbox"/> U.S. Territory or Possession <input type="checkbox"/> Independent School District <input type="checkbox"/> Public/State Controlled Institution of Higher Learning <input type="checkbox"/> Indian/Native American Tribal Government (Federally Recognized) <input type="checkbox"/> Indian/Native American Tribal Government (Other than Federally Recognized) <input type="checkbox"/> Indian/Native American Tribally Designated Organization <input type="checkbox"/> Public/Local Housing Authority	<input type="checkbox"/> Nonprofit with 501(c)(3) Status (Other than Institution of Higher Education) <input type="checkbox"/> Nonprofit without 501(c)(3) Status (Other than Institution of Higher Education) <input type="checkbox"/> Private Institution of Higher Education <input type="checkbox"/> Individual <input type="checkbox"/> For-Profit Business (Other than Small Business) <input type="checkbox"/> Small Business <input type="checkbox"/> Hispanic Serving Institution <input type="checkbox"/> Historically Black Colleges and Universities (HBCUs) <input type="checkbox"/> Tribally Controlled Colleges and Universities (TCCUs) <input type="checkbox"/> Alaska Native and Native Hawaiian Serving Institutions <input type="checkbox"/> Non-domestic (non-US entity) <input type="checkbox"/> Other (Please explain) _____
---	--

5. Primary Performance Location (Street Address, City, State and Zip Code)

6. Names, Titles and Total Compensation for the 5 Most Highly Compensated Officers

Officer Name	Title	Total Compensation

NOTE: This form must be signed by an individual no lower than the Executive Director or Chief Financial Officer.

Printed Name _____ Title _____
 Signature _____ Date _____ Phone # _____

WVHR Form 4-1000

EXHIBIT D-2

ADDENDUM
FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT
AMERICAN RECOVERY AND REINVESTMENT ACT

A. Purpose and Summary

The purpose of this Addendum is to ensure that recipients of grant awards from the West Virginia Department of Health and Human Resources understand their responsibilities under the Federal Funding Accountability and Transparency Act of 2006 and the American Recovery and Reinvestment Act of 2009, as may be applicable.

As part of these responsibilities, and as condition for execution of this Grant Agreement, Grantees must remain current in the Central Contractor Registration (CCR) database (<http://www.ccr.gov>) at all times during which they have active DHHR grant awards. The CCR database is the repository for standard information about Federal financial assistance applicants, recipients and subrecipients. Grantees must update or renew their CCR registration at least once per year to maintain an active status.

In order to register in the Central Contractor Registration database, Grantees must first obtain a valid Data Universal Numbering System (DUNS) Number from Dun and Bradstreet at <http://www.dun.com>. A DUNS number is a unique nine-digit sequence recognized as the universal standard for identifying and keeping track of entities receiving Federal funds. The identifier is used for tracking purposes and for validating the address and point of contact information for Federal assistance applicants, recipients and subrecipients.

Additional information about obtaining a DUNS number and maintaining registration with the CCR are included on the websites referenced above and on the attached Instructions for Completion of the Recipient (Grantee) Information Form. As further explained within this Addendum, the attached Recipient (Grantee) Information Form must be completed by the Grantee and submitted to the DHHR during the negotiation (pre-award) stage of the grant cycle.

B. Federal Funding Accountability and Transparency Act of 2006

The Federal Funding Accountability and Transparency Act of 2006, Public Law 109-382, hereinafter referred to as the Transparency Act, is an Act of Congress that requires full disclosure to the public of all entities or organizations receiving Federal funds. The Transparency Act directed the Office of Management and Budget (OMB), by January 1, 2008, to ensure the existence and operation of a single searchable website, accessible to the public at no cost, which includes for each Federal award:

1. The amount of the award;
2. Information including transaction type, funding agency, the North American Industry Classification System code or Catalog of Federal Domestic Assistance number (where applicable), program source, and an award title descriptive of the purpose of each funding action;
3. The name and location of the recipient and the primary location of performance;
4. A unique identifier of the recipient and any parent agency (DUNS Number); and
5. Any other relevant information specified by the OMB.

The Transparency Act also required the OMB, by July 1, 2007, to commence a pilot program to test the collection of and access to data about subgrants and to determine how to implement a subaward-reporting program across the Federal Government. Thereafter, the Transparency Act required the OMB to terminate the pilot program by January 1, 2009 and, subject to extensions, replace it with a permanent system of ensuring that data regarding subawards is disclosed in the same manner as data regarding other Federal awards.

**ADDENDUM
FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT
AMERICAN RECOVERY AND REINVESTMENT ACT**

C. American Recovery and Reinvestment Act of 2009

The American Recovery and Reinvestment Act of 2009, Public Law 111-5 (hereinafter referred to as the ARRA), is an economic stimulus package enacted by the 111th United States Congress and signed into law by President Barack Obama on February 17, 2009. The ARRA is intended to provide a stimulus to the U.S. economy in the wake of the economic downturn and includes Federal tax relief, expansion of unemployment benefits and other social welfare provisions; and domestic spending on education, health care, and infrastructure, including the energy sector. The ARRA provides for unprecedented levels of transparency and accountability so that the public will be able to know how, when and where their tax dollars are being spent. Specific information and requirements under the ARRA are as follows:

1. Funding provided from the Federal Government through the ARRA is "one-time only" funding and, to maximize the transparency and accountability of ARRA funds, organizations receiving funding under the ARRA must maintain records that identify adequately the source and utilization of those funds.
2. Section 1512(c) of the ARRA requires customary reporting on the use of funds. The data elements proposed for reporting the information described in Section 1512(c) were published in the Federal Register on April 1, 2009 (74 FR 14324). The reporting requirements under Section 1512(c) of the ARRA currently apply only to entities receiving ARRA funds directly from the Federal Government, sometimes referred to as primary recipients.
3. Section 1512(h) of the ARRA requires recipients of ARRA funds, and their first-tier recipients (subrecipients) to register in the Central Contractor Registration (CCR) database at <http://www.ccr.gov>. In order to register in the CCR, a valid Data Universal Numbering System (DUNS) Number is required, as further described within this Addendum and within the Instructions for Completion of the Subrecipient (Grantee) Information Form.
4. Section 1605 of the ARRA requires that projects funded by the ARRA for the construction, alteration, maintenance, or repair of a public building or public work use American iron, steel, and manufactured goods in the project unless one of the specified exemptions applies. The ARRA provides that this requirement be applied in a manner consistent with U.S. obligations under international agreements. Definitions of "manufactured goods," "public building and public work," and other terms as they pertain to the Buy American guidance in 2 CFR part 175 are found in § 175.140 and § 175.150.
5. Section 1606 of the ARRA requires the payment of Davis-Bacon Act (40 U.S.C. 31) wage rates to laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the ARRA.
6. Grantees bound by the Single Audit Act Amendments of 1996 and OMB Circular A-133, *Abuses of States, Local Governments and Nonprofit Organizations*, must separately identify the expenditures for Federal awards under the ARRA on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by OMB Circular A-133. This requirement shall be accomplished by identifying expenditures for Federal awards made under the ARRA separately on the SEFA, and as separate rows under Item 9 of Part I on the SF-SAC by CFDA number, and inclusion of the prefix "ARRA-" in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF-SAC. Additional information regarding the Federal audit requirements of OMB Circular A-133 is located within Exhibit F of the D-H-H Grant Agreement and the Source of Funds Schedule, attached to this Grant Agreement as Exhibit B, identifies whether the funds awarded under the grant are being made available through appropriations under the ARRA.

ADDENDUM
FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT
AMERICAN RECOVERY AND REINVESTMENT ACT

D. DHHR Reporting to the Federal Government

At present time, direct reporting to the Federal Government lies solely at the primary recipient level. Therefore, while subrecipients of grant awards from the DHHR do not have to report data directly to the Federal Government, the DHHR, as a primary recipient and pass-through entity of Federal awards, does have a responsibility to report on certain data elements regarding its subgrant activities. As such, the DHHR is required to report the following information to the Federal Government with respect to its subawards:

1. Subrecipient DUNS number
2. Award number or other identifying number
3. Subrecipient name
4. Subrecipient location
5. Subrecipient type
6. Amount of subaward disbursed
7. Total amount of subaward
8. Subaward date
9. Subaward project/grant period
10. Primary performance location
11. Names and total compensation of the five most highly compensated officers of the entity

E. Subrecipient (Grantee) Information Form

Both the Transparency Act and the ARRA address the primary recipient's requirements to report information on the subawards it makes to subrecipient (Grantee) organizations. To ensure completeness and consistency in accounting for the funds received and subawarded by the West Virginia Department of Health and Human Resources (DHHR) to DHHR Grantees, the DHHR has developed a standardized form in which Grantees shall be required to complete and submit to the DHHR during the negotiation (pre-award) stage of the grant cycle. The DHHR will not process the Grant Agreement or commit any of the funds related thereto until the Grantee submits a signed copy of the Subrecipient (Grantee) Information Form.

F. Future Informational Updates and Regulatory Requirements

Currently, the rules, regulations and guidance issued by the Federal Government with respect to the oversight, accountability and reporting requirements associated with the Transparency Act and the ARRA are a work-in-progress. As referenced in the aforementioned sections of this Addendum, there are a number of reporting requirements (data elements) for which the DHHR, as a primary recipient of Federal funds, must report directly to the Federal Government. While the Federal Government has not currently issued specific reporting obligations on all subrecipients (Grantees), by all indications, these requirements are forthcoming from the Executive Office of the President or through the release of individual Federal agency regulations. Therefore, as additional information becomes available and the Federal Government provides more details on managing Federal funds, the DHHR will transmit the information or requirements to its grant community through an update to this memorandum or by other determinable means to ensure overall compliance with the Transparency Act and the ARRA.

G. Sources of Information / Websites

Federal Funding Accountability and Transparency Act of 2006
<http://www.usaspending.gov>

ADDENDUM
FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT
AMERICAN RECOVERY AND REINVESTMENT ACT

http://www.eaccess.gsa.gov/cgi-bin/getdoc.cgi?dbname=109_cong_bills&docid=s2590enr.txt.pdf

American Recovery and Reinvestment Act of 2009

<http://www.recovery.gov/>

http://www.eaccess.gsa.gov/cgi-bin/getdoc.cgi?dbname=109_cong_bills&docid=h1enr.pdf

http://www.wrthhouse.gov/omb/eassess/memoranda_to_2009/m29-10.pdf

http://www.wrthhouse.gov/omb/eassess/memoranda_to_2009/m29-15.pdf

<http://www.recovery.wv.gov/>

Interim Final Guidance from the OMB – Requirements for Implementing Sections 1512, 1603, and 1606 of the American Recovery and Reinvestment Act of 2009 for Financial Assistance Awards – published in the Federal Register, volume 74, Number 77, April 23, 2009, pages 13449-53

<http://www.gpoaccess.gov/fr/>

EXHIBIT F

OPINION OF BOND COUNSEL FOR LOCAL ENTITY

[To Be Dated as of Date of Loan Closing]

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

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

Ladies and Gentlemen:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Very truly yours,

SCHEDULE X

DESCRIPTION OF LOCAL BONDS

A. Series A Bonds (Base Program)

Principal Amount of Local Bonds	\$900,000
Purchase Price of Local Bonds	\$900,000

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

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

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

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

As of the date of the ARRA Assistance Agreement, the Local Bonds are on a parity as to liens, pledge and source of and security for payment with the following obligations of the Local Entity: Series B Bonds issued in the aggregate principal amount of \$927,000 issued simultaneously with the Series 2009 A Bonds.

B. Series B Bonds (ARRA)

Principal Amount of Local Bonds \$927,000
Purchase Price of Local Bonds \$927,000

The Local Bonds shall bear no interest. The Authority at the direction of the BPH shall forgive the principal amount of the Local Bonds. Principal forgiveness shall begin on September 1, 2011, and shall be made quarterly thereafter (March 1, June 1, September 1 and December 1 of each year) as set forth on Schedule Y attached hereto and incorporated herein by reference.

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

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

As of the date of the ARRA Assistance Agreement, the Local Bonds are on a parity as to liens, pledge and source of and security for payment with the following obligations of the Local Entity: Series A Bonds issued in the aggregate principal amount of \$900,000 issued simultaneously with the Series 2009 B Bonds.

Number of New Customers To Be Served: 0
Location: N/A

**SCHEDULE Y
DEBT SERVICE SCHEDULES**

0% Interest Rate

No Administrative Fee

30 Years

Dated	
Date	1/14/10
Delivery	
Date	1/14/10

Period Ending	Principal	Interest	Debt Service
1/14/10			
9/1/11	7,500		7,500
12/1/11	7,500		7,500
3/1/12	7,500		7,500
6/1/12	7,500		7,500
9/1/12	7,500		7,500
12/1/12	7,500		7,500
3/1/13	7,500		7,500
6/1/13	7,500		7,500
9/1/13	7,500		7,500
12/1/13	7,500		7,500
3/1/14	7,500		7,500
6/1/14	7,500		7,500
9/1/14	7,500		7,500
12/1/14	7,500		7,500
3/1/15	7,500		7,500
6/1/15	7,500		7,500
9/1/15	7,500		7,500
12/1/15	7,500		7,500
3/1/16	7,500		7,500
6/1/16	7,500		7,500
9/1/16	7,500		7,500
12/1/16	7,500		7,500
3/1/17	7,500		7,500
6/1/17	7,500		7,500
9/1/17	7,500		7,500
12/1/17	7,500		7,500
3/1/18	7,500		7,500
6/1/18	7,500		7,500
9/1/18	7,500		7,500
12/1/18	7,500		7,500
3/1/19	7,500		7,500
6/1/19	7,500		7,500
9/1/19	7,500		7,500
12/1/19	7,500		7,500
3/1/20	7,500		7,500
6/1/20	7,500		7,500
9/1/20	7,500		7,500
12/1/20	7,500		7,500
3/1/21	7,500		7,500
6/1/21	7,500		7,500
9/1/21	7,500		7,500
12/1/21	7,500		7,500
3/1/22	7,500		7,500

0% Interest Rate

No Administrative Fee

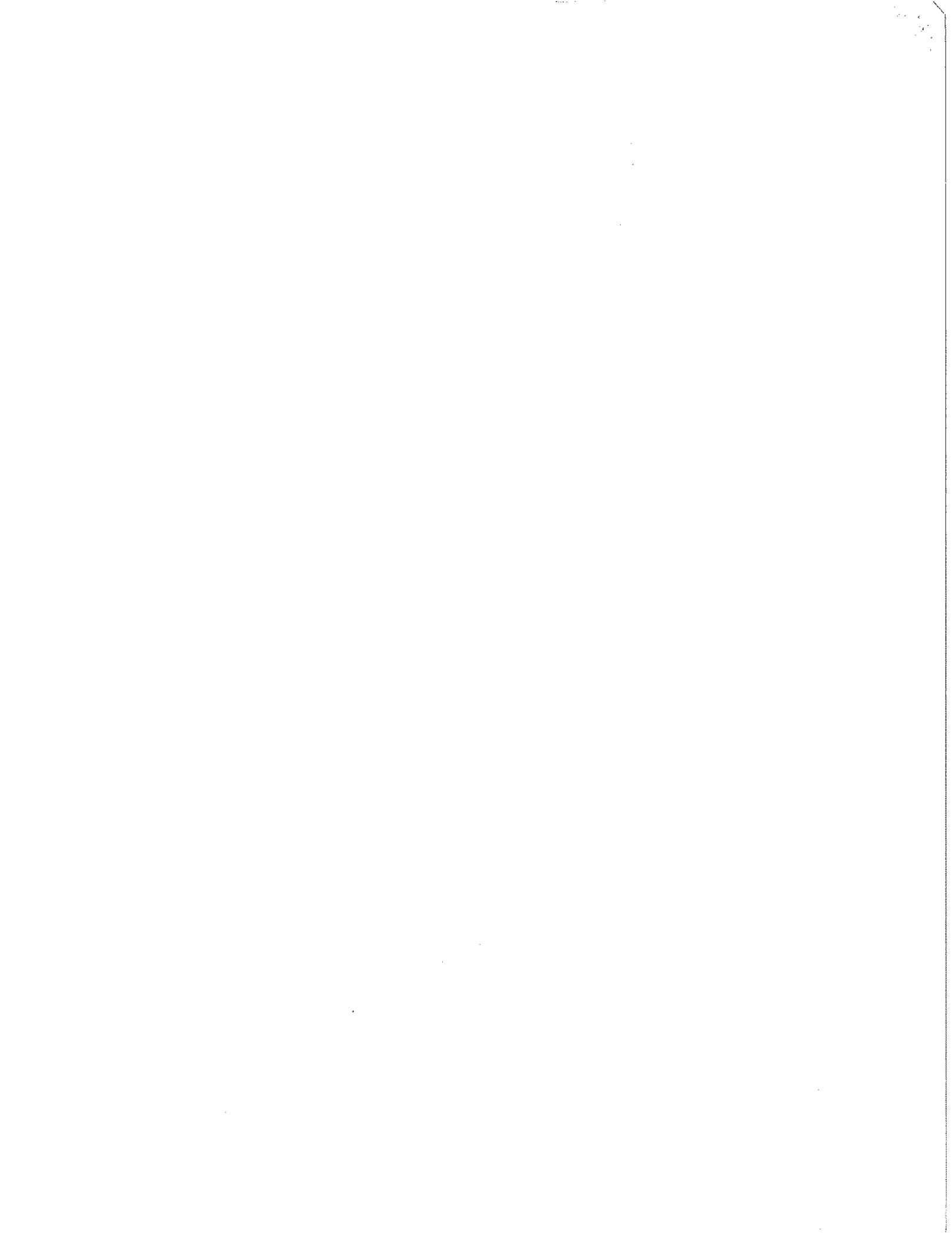
30 Years

Period:	Principal	Interest	Debt:
Ending:			Service:
6/1/22	7,500		7,500
9/1/22	7,500		7,500
12/1/22	7,500		7,500
3/1/23	7,500		7,500
6/1/23	7,500		7,500
9/1/23	7,500		7,500
12/1/23	7,500		7,500
3/1/24	7,500		7,500
6/1/24	7,500		7,500
9/1/24	7,500		7,500
12/1/24	7,500		7,500
3/1/25	7,500		7,500
6/1/25	7,500		7,500
9/1/25	7,500		7,500
12/1/25	7,500		7,500
3/1/26	7,500		7,500
6/1/26	7,500		7,500
9/1/26	7,500		7,500
12/1/26	7,500		7,500
3/1/27	7,500		7,500
6/1/27	7,500		7,500
9/1/27	7,500		7,500
12/1/27	7,500		7,500
3/1/28	7,500		7,500
6/1/28	7,500		7,500
9/1/28	7,500		7,500
12/1/28	7,500		7,500
3/1/29	7,500		7,500
6/1/29	7,500		7,500
9/1/29	7,500		7,500
12/1/29	7,500		7,500
3/1/30	7,500		7,500
6/1/30	7,500		7,500
9/1/30	7,500		7,500
12/1/30	7,500		7,500
3/1/31	7,500		7,500
6/1/31	7,500		7,500
9/1/31	7,500		7,500
12/1/31	7,500		7,500
3/1/32	7,500		7,500
6/1/32	7,500		7,500
9/1/32	7,500		7,500
12/1/32	7,500		7,500
3/1/33	7,500		7,500
6/1/33	7,500		7,500
9/1/33	7,500		7,500
12/1/33	7,500		7,500
3/1/34	7,500		7,500

0% Interest Rate
No Administrative Fee
30 Years

Period:	Principal	Interest	Debt Service
6/1/34:	7,500		7,500
9/1/34:	7,500		7,500
12/1/34:	7,500		7,500
3/1/35:	7,500		7,500
6/1/35:	7,500		7,500
9/1/35:	7,500		7,500
12/1/35:	7,500		7,500
3/1/36:	7,500		7,500
6/1/36:	7,500		7,500
9/1/36:	7,500		7,500
12/1/36:	7,500		7,500
3/1/37:	7,500		7,500
6/1/37:	7,500		7,500
9/1/37:	7,500		7,500
12/1/37:	7,500		7,500
3/1/38:	7,500		7,500
6/1/38:	7,500		7,500
9/1/38:	7,500		7,500
12/1/38:	7,500		7,500
3/1/39:	7,500		7,500
6/1/39:	7,500		7,500
9/1/39:	7,500		7,500
12/1/39:	7,500		7,500
3/1/40:	7,500		7,500
6/1/40:	7,500		7,500
9/1/40:	7,500		7,500
12/1/40:	7,500		7,500
3/1/41:	7,500		7,500
6/1/41:	7,500		7,500
	900,000		900,000

10 Years		
Dated		
Date	1/14/10	
Delivery		
Date	1/14/10	
Period Ending	Debt Service	Principal Forgiveness
1/14/10		
9/1/11	-23,175	-23,175
12/1/11	-23,175	-23,175
3/1/12	-23,175	-23,175
6/1/12	-23,175	-23,175
9/1/12	-23,175	-23,175
12/1/12	-23,175	-23,175
3/1/13	-23,175	-23,175
6/1/13	-23,175	-23,175
9/1/13	-23,175	-23,175
12/1/13	-23,175	-23,175
3/1/14	-23,175	-23,175
6/1/14	-23,175	-23,175
9/1/14	-23,175	-23,175
12/1/14	-23,175	-23,175
3/1/15	-23,175	-23,175
6/1/15	-23,175	-23,175
9/1/15	-23,175	-23,175
12/1/15	-23,175	-23,175
3/1/16	-23,175	-23,175
6/1/16	-23,175	-23,175
9/1/16	-23,175	-23,175
12/1/16	-23,175	-23,175
3/1/17	-23,175	-23,175
6/1/17	-23,175	-23,175
9/1/17	-23,175	-23,175
12/1/17	-23,175	-23,175
3/1/18	-23,175	-23,175
6/1/18	-23,175	-23,175
9/1/18	-23,175	-23,175
12/1/18	-23,175	-23,175
3/1/19	-23,175	-23,175
6/1/19	-23,175	-23,175
9/1/19	-23,175	-23,175
12/1/19	-23,175	-23,175
3/1/20	-23,175	-23,175
6/1/20	-23,175	-23,175
9/1/20	-23,175	-23,175
12/1/20	-23,175	-23,175
3/1/21	-23,175	-23,175
6/1/21	-23,175	-23,175
	927,000	927,000



PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

Entered: December 16, 2009

CASE NO. 07-0327-PWD-CN

SUN VALLEY PUBLIC SERVICE DISTRICT

Application for a certificate of convenience and necessity to construct a water line extension and improvement project in the areas of Jarvisville Road, Shaw's Run, Lake Floyd, Halls Run, Salem Fork, Flinderation and Coburn's Creek, and to supply water to the City of Salem, all in Harrison County.

RECOMMENDED DECISION

PROCEDURE

On March 13, 2007, the Sun Valley Public Service District (District) filed an application for a certificate of convenience and necessity to construct a water line extension and improvement project in the areas of Jarvisville Road, Shaw's Run, Lake Floyd, Halls Run, Salem Fork, Flinderation and Coburn's Creek, and to supply water to the City of Salem (Salem), all in Harrison County, with a total project cost of \$7,950,000. The financing for the project would be a combination of loans and grants from the West Virginia Infrastructure and Jobs Development Council (IJDC), the Rural Utility Service (RUS) and the Drinking Water Treatment Revolving Fund (DWTRF). The District also requested increased rates and charges.

By Recommended Decision entered on July 30, 2007, which became final by operation of law on August 19, 2007, the requested certificate of convenience and necessity was granted to the District and increased rates and charges representing a 22.75% rate increase, as recommended by Commission Staff, were approved for use by the District on and after the date the project was completed.

On April 2, 2008, the District filed a petition to reopen the certificate proceeding to approve changes in the project plans. Specifically, because of a low response or refusal of potential customers to participate in the project along certain of the proposed extensions, it was no longer practical or economically feasible to construct some of the proposed extensions, which would serve very few customers. Accordingly, the District requested that the Commission approve the deletion of all or part of several proposed extensions due to the low participation rate from potential customers. The District indicated that the previously-approved rates would not be affected by the changes. The

District also filed a petition with the Commission for approval of a Water Purchase Contract with the City of Salem, pursuant to which the District would sell water to Salem as a resale customer, and a petition for approval of a Water Purchase Agreement with the Clarksburg Water Board (Clarksburg), pursuant to which the District would purchase water from Clarksburg.

On November 7, 2008, the District filed a motion to dismiss its petition, due to a number of concerns and unresolved financial issues regarding the contracts with the City of Salem and the Clarksburg Water Board.

By Recommended Decision entered on December 29, 2008, as corrected on January 2, 2009, the District's motion to dismiss its petition was granted and the proceeding was removed from the Commission's docket of open cases.

On June 16, 2009, the District filed a second petition to reopen this proceeding. In its petition, the District again stated that, while it had been engaged in an extensive undertaking to sign up new customers in areas along various proposed extensions of its water main, in spite of those efforts, there had still been a low response or refusal of potential customers to participate in the project along various extensions. As a result, several of those extensions were no longer practical or economically feasible. The District had obtained cost estimates and total customer counts for the specific areas which needed to be deleted from the original project due to the low participation rate. The District requested that the Commission approve those changes in the originally-approved plans for the water construction and extension project by deleting and excluding from the project the extensions shown on Exhibit A attached to the petition. The District had been advised that those changes would not affect the project rates. Further, the District stated that it had finalized the Water Purchase Agreement with the Clarksburg Water Board, which agreement was attached as Exhibit B to the petition. That agreement has been executed by both parties and approved by the USDA Rural Development. Therefore, the District moved the Commission to approve the Water Purchase Agreement with the Clarksburg Water Board.

The District also explained that, as part of the original project plans, it proposed to sell water to the City of Salem as a resale customer, which would allow the City of Salem to decommission its water treatment plant, which is nearing the end of its useful life, and obtain potable public water supplies to provide service to its citizens. Subsequent to the entry of the Commission's Order in 2007, the District, officials of various funding agencies, the Clarksburg Water Board, the West Virginia Bureau for Public Health (BPH), the West Virginia Water Development Authority (WVDA), the City of Salem and Harrison County officials explored various alternatives involving the resale of water by the District to the City and potential alternatives with regard to the purchase of water by the District from the Clarksburg Water Board and the resale of water to the City. As a result of those efforts and investigations, the parties determined that the more feasible and appropriate method to provide water to the City of Salem involved the sale of water from the Clarksburg Water Board directly to the City, which water would be transported through the District's water distribution

system. The District and the Clarksburg Water Board are negotiating the terms of a Water Transportation Agreement which will be submitted to the Commission for approval in the immediate future. In order to proceed with the filing of the District's petition and to allow Commission Staff to begin its review of the District's petition as early as possible, the proposed Water Transportation Agreement between the Board and the District will be provided to the Commission as a supplemental filing in this case as soon as possible. Upon approval of that Water Transportation Agreement, the Water Purchase Contract between the District and the City of Salem would no longer be needed.

The District's petition went on to state that, as a result of a restructuring of the project financing, a portion of the construction cost of the project may be funded by economic stimulus funds provided by The American Recovery and Reinvestment Act of 2009 (ARRA). That proposed revised financing, which is contingent upon the receipt of ARRA funding provided from the BPH, is contained in a letter dated March 11, 2009, attached to the petition as Exhibit C. The District represented that final loan commitments would be submitted to the Commission for approval upon their receipt. The revised financing set forth in Exhibit C of the District's petition calls for ARRA funding through the BPH in the form of a loan in the amount of \$2,100,000, at a negative 9.704% interest rate, for a term of 30 years, equating to debt forgiveness of approximately \$1.8 million, resulting in debt service to be required only for a \$300,000, 0% 30-year loan. The other funding sources would be an RUS grant of \$1,850,000, an RUS loan of \$2,200,000, and a City of Salem contribution of \$1,800,000. The District's petition went on to state that the rates and charges for the proposed project must be revised and amended, and it requested that the Commission approve the rates and charges set forth in the District's Rule 42 Exhibit attached to the petition as Exhibit D.

On June 29, 2009, the City of Salem filed a petition to intervene in this matter, stating that the City fully supports the proposed project and anticipated that, upon project completion, all of its public water supply would flow through the District's transmission and storage facilities. Salem further acknowledged its responsibility to pay its fair share of the operation and maintenance cost of the facilities providing that service. However, Salem was disputing the proposed transmission fee included in the District's Rule 42 Exhibit of \$0.37 per 1,000 gallons. Salem asserted that it and its customers may suffer charges that are not representative of the actual costs generated by it.

Also on June 29, 2009, the District filed its supplemental filing, attached to which was the proposed Water Transportation Agreement between the District and the Clarksburg Water Board.

On July 6, 2009, the City of Salem filed an Inter-Utility Water Supply Agreement between the City of Salem and the Clarksburg Water Board regarding the water production and supply for and to the City of Salem. Salem asserted that, since the proposed Inter-Utility Agreement was an integral and indispensable part of the District's project, it was necessary that the agreement be reviewed in this proceeding.

On July 10, 2009, the Clarksburg Water Board filed a petition to intervene in this matter, since it was a party to several of the

agreements under review in this matter which were part of the District's project.

On July 17, 2009, Staff Attorney Lisa L. Wansley filed the Initial Joint Staff Memorandum herein, attached to which was the Initial Internal Memorandum prepared by Utilities Analyst Nathan Nelson of the Water and Wastewater Division and Jonathan Fowler, P.E., of the Engineering Division. The Memoranda detailed certain additional information Commission Staff needed in order to conclude its review of the petition and the various agreements filed herein. Contemporaneously with the filing of the Initial Joint Staff Memorandum, the Staff Attorney filed Commission Staff's first set of data requests to the District, formally requesting the information specified in the Technical Staff Memorandum.

By Commission Order entered on July 29, 2009, the Commission granted the petitions to intervene filed by the City of Salem and the Clarksburg Water Board and referred this matter to the Division of Administrative Law Judges for a decision to be rendered on or before January 12, 2010.

On July 31, 2009, Staff Attorney Wansley filed a Further Joint Staff Memorandum, attached to which was a Further Initial Internal Memorandum prepared by Mr. Nelson and Mr. Fowler. Those Memoranda related additional information which Commission Staff needed in order to complete its review of the petition and agreement. Contemporaneously with the filing of the Further Joint Staff Memorandum, the Staff Attorney filed Commission Staff's second data request to the District, formally requesting the information specified in the Memoranda.

On August 5, 2009, the District filed its responses to Commission Staff's first set of data requests.

On August 17, 2009, the District filed its responses to Commission Staff's second data requests.

On August 20, 2009, the Commission issued a revised Notice of Filing in this proceeding, directing the District to give notice to its customers of the filing of its petition to reopen its 2007 certificate application by publishing a copy of the Revised Notice of Filing one time in a qualified newspaper published and of general circulation in Harrison County. Anyone desiring to protest or intervene in this matter was given leave to do so within thirty (30) days following the date of publication. The Notice of Filing also provided that, if there was no substantial protest to the petition to reopen the application within the 30-day period, the Commission could waive formal hearing and grant the application based upon the evidence submitted with the application and the Commission's review thereof. The Notice of Filing specifically informed the customers that the District was requesting a 27% increase in its rates and charges.

On September 1, 2009, the District filed an affidavit of publication from The Exponent Telegram, a qualified newspaper published and generally circulated in Harrison County, verifying that the Revised Notice of Filing was published in that newspaper on August 26, 2009. The 30-day public protest period expired on September 25, 2009. The Commission received five letters of protest from members of the public (two from the

same person), only one of which was filed within the 30-day protest period.

On September 14, 2009, Staff Attorney Wansley filed a Further Joint Staff Memorandum in this proceeding, indicating that, while Commission Staff's Final Memorandum was due September 14, 2009, Technical Staff required five additional days to complete its review due to case load and recent Staff changes. Staff indicated that it would file its final recommendation on or before September 18, 2009.

On September 15, 2009, the City of Salem filed a cash flow analysis in this proceeding, which concluded that Salem will be able to make its proposed contribution in aid of construction for the subject project, while maintaining its required debt service coverage, without increasing rates to its customers.

On September 21, 2009, the District filed Tariff Form No. 6A, a certificate of separate mailing of notice to customers of change in tariff, verifying that, on September 18, 2009, it separately mailed notices to its customers that it was seeking a rate increase and that details would be available at its office after June 16, 2009.

On September 22, 2009, Staff Attorney Wansley filed the Final Joint Staff Memorandum herein, attached to which was the Final Internal Memorandum prepared by Mr. Nelson and Mr. Fowler. The engineering review looked at the change in scope proposed by the District and also provided a calculation for a proposed transportation fee. Engineering Staff supported the six project deletions proposed by the District, but recommended that the deleted lines be given priority, if, later in the project, any excess funds become available to add lines back into the project. Commission Staff noted that the original project was designed to provide service to approximately 447 new customers and the City of Salem, which would have been a resale customer of the District. The project, as revised, will provide service to approximately 391 new customers and the City of Salem will utilize the District's facilities to transport water from Clarksburg to the City, but the City will not be a resale customer of the District. Subsequent to the issuance of the certificate of convenience and necessity in 2007, it was determined that the residents in seven of the proposed project areas had little or no interest in a public water supply. Accordingly, the District made a determination that those areas should be eliminated from the project to reduce costs and provide sufficient contingencies to cover any increased construction costs which would occur as a result of the delay in getting the project off the ground. The current filing provides for a total construction cost reduction of \$529,347, but does not reduce total project cost, which remains at \$7,950,000, as originally filed and approved in 2007. Engineering Staff had reviewed the proposed project scope reductions and the District's proposal to reassign the funds saved by those reductions and agreed with the logic underlying the deletion of the specified areas. Engineering Staff also did not object to the District's choice to use any funds saved by deleting portions of the project as additional project contingency, so long as the deleted portions were given priority when considering the expenditure of any remaining excess project funds.

The single largest deletion is designated as Area No. 1 in the petition, and is part of Contract No. 2. That portion of the project deletes 33 potential customers and approximately 12,400 feet of main line and appurtenances, with a resulting cost reduction of \$321,699. This area lies along the main route to Jarvisville and extends approximately 2.3 miles north from the original terminus of the project. Of the potential customers in that area, only 12 had expressed interest in receiving water service and the construction cost to serve those 12 would be more than \$26,800 per customer, whereas the project's overall construction cost per customer was estimated to be approximately \$15,300. The second area to be deleted consists of a small side route off of the North Jarvisville area, County Route 31. That deletion eliminates six potential customers and approximately 750 feet of mainline and appurtenances, with a cost reduction of \$25,025. Only one customer in that area had expressed an interest in receiving service. The third area to be deleted removes three potential customers and approximately 400 feet of mainline and appurtenances, with a cost reduction of \$11,750. That area is a small side road off of Sycamore Road. None of the customers had expressed an interest in receiving service. The fourth area to be deleted removes eight potential customers and approximately 5,700 feet of mainline and appurtenances, with a cost reduction of \$117,171. That area lies along Sycamore Road near U.S. Route 19. Only three customers had expressed an interest in receiving service and the construction cost for those three customers would be more than \$39,000 each. The fifth area to be deleted will remove three potential customers and approximately 1,600 feet of mainline and appurtenances, with a cost reduction of \$27,825. That area lies along Yates Road. Only one customer had expressed an interest in receiving service. The sixth area to be deleted will remove three potential customers and approximately 1,800 feet of mainline and appurtenances, with a cost reduction of \$25,877. That area lies along County Route 50/52. No customers in that area had expressed an interest in receiving service.

The bulk of the engineering review discussed the Staff-recommended transportation rate for use by the District to charge the City of Salem for transporting the water it purchased from the Clarksburg Water Board. According to Mr. Fowler, the transportation rate was determined based upon an engineering allocation of costs attributable to transportation. The major costs covered in his analysis were electricity to pump water; the cost of additional direct labor attributable to Salem; the pro-rated maintenance costs of the water lines or segments of water lines which would be used by Salem; and the pro-rated maintenance and replacement costs of certain components of the main booster station. Mr. Fowler did not include any storage tanks in the analysis since the City of Salem has sufficient online storage to meet its peak needs and since the main booster station can easily provide more than the average daily flow to Salem.

According to Mr. Fowler, each of the four cost components was allocated to the transmission fee based on either the actual cost attributable to transmission, when such costs were known, or as a pro-rated portion of total historic cost, when the actual cost could not be estimated with reasonable accuracy. Mr. Fowler noted that a debt service component typically was part of a transportation rate. However, in this case, the City of Salem will provide a cash payment up-front in the amount of \$1,800,000, to cover the incremental cost of the District's

project related to providing service to the City. Therefore, Staff did not include debt service cost in the transportation rate.

Mr. Fowler noted that some of the costs are fixed and not related directly to the volume of water transported, while other costs were variable and would change in proportion to the volume of water transported. Therefore, estimating the volume to be transported would have an impact upon the transmission rate, since larger estimated volumes result in a lower cost per unit, while lower volume estimates would result in a higher unit cost per 1,000 gallons. In estimating the annual volume to be transported, Commission Staff utilized the most recent available data for water production reported by the City. Utilizing the months of May, June and July of 2009, Staff estimated that the City of Salem would purchase approximately 402,000 gallons per day, or 402 M gallons per day, or 146,730 M gallons per year. Staff calculated a total transportation rate to be charge to the City of \$0.15 per M gallons, and estimated that the transportation rate would generate annual revenue of approximately \$22,010.

Financial Staff reviewed the proposed funding, noting that the new project funding consists of the BPH ARRA loan of \$2,100,000 at a negative 9.704% interest rate for 30 years, and a City of Salem contribution of \$1,800,000, which also represents a BPH loan to be issued to the City of Salem. The original RUS grant and loan are still in place.

Financial Staff also reviewed the Purchased Water Agreement between the District and the City of Clarksburg. The District will continue to purchase water from Clarksburg and Staff stated that the proposed agreement is the standard USDA Rural Development form which appears to be reasonable and should be approved, without any revision to Section C.5, as had been previously recommended by Commission Staff in 2008. Commission Staff also recommended approval of the proposed Water Transportation Agreement between the District and the City of Salem, with the change from the District's proposed transportation rate to the Staff-recommended transportation rate.

With respect to project rates, Staff noted that the rates approved in 2007, to go into effect upon substantial completion of the project, represented a 22.75% increase over interim rates which had been approved in Case No. 07-0084-PWD-19A, a general rate proceeding for the District. On December 6, 2007, final rates were approved for the District in that case, which represented an increase of 11.93% over the interim rates. The District received an additional 4.55% increase in rates effective in February of 2008 in Case No. 07-0675-PWD-30B as a result of increased rates from the City of Clarksburg. The rates that the District proposed in this case represent a 27% across-the-board increase over the rates approved in February 2008, which are currently still in effect. Those proposed rates and charges would generate an additional \$290,698 in annual operating revenue, including \$24,514 in transportation revenue from the City of Salem. Based on the projected revenue, the District's cash flow surplus would be approximately \$21,951, with debt service coverage of 135.56%. Commission Staff believes that those amounts are excessive, given that approximately \$20,263 of the surplus funds at pro forma are being generated by the project rate increase, meaning that project rates are generating \$290,698 and are covering more than the project-related costs of \$270,435. Staff is recommending a project-

related rate increase of 23.8%. The Staff-recommended rate level should generate an additional \$269,724 in annual operating revenue and provide a cash flow surplus of approximately \$2,082, with debt service coverage of 123.02%. Financial Staff believes that the project, as revised, is financially feasible and should be approved, with the Staff-recommended rates. Commission Staff also recommended that all prior recommendations set forth in its Final Memorandum filed on June 12, 2007, remain unchanged.

On September 23, 2009, the Clarksburg Water Board filed a copy of the Water Transportation Agreement between the District and Clarksburg, regarding the transportation of water from Clarksburg to the City of Salem via the District's lines.

On October 2, 2009, the District filed a response to the Final Joint Staff Memorandum. The District specifically objected to Staff's revised transportation rate of \$0.15 per thousand gallons. Among other things, the District challenged Commission Staff's estimation of annual water purchases based only on the months of May, June and July 2009. The District's computation utilized the actual amount of water sold by the City of Salem for the year ended June 30, 2008, a copy of which was attached to its letter. The District's calculation estimated 66,253 M gallons to be transmitted from Clarksburg to the City of Salem, compared to Commission Staff's estimate of 146,730 M gallons. The District argued that the use by Staff of water usage figures over a shorter period of time resulted in a significant decrease in the requested transportation rate. The District argued that water usage figures representing a full year of usage as reflected in Salem's Annual Report is a more logical basis for calculating the anticipated annual water purchases from the Board by the City of Salem. Accordingly, the District asked Staff to review its calculation of the transportation rate and to use the actual yearly usage amount set forth in the Annual Report. The District argued that Salem's 2008 Annual Report represented the best available figures upon which to calculate the proposed transportation rate, since the City of Salem had not yet filed its Annual Report for the year ending June 30, 2009. In the alternative, if the Commission approved the transportation rate recommended by Commission Staff, the District requested that the Commission Order approving that transportation rate include an additional requirement that the Commission would review and consider the transportation rate 90 days after the District's water line construction project was completed and the new rates and charges become effective, so that the District would receive a fair and reasonable transportation rate for water transported by it from the Clarksburg Water Board to the City of Salem.

On October 8, 2009, the City filed a reply to the District's response to the Final Joint Staff Memorandum, arguing that the District's calculation of a transportation rate was not credible. The City pointed out that the District had not included all of the \$1,800,000 Salem capital contribution in its calculation, but had deleted \$566,100, and then included that amount in its calculation of a transportation rate. However, the entire \$1,800,000 capital cost to upgrade the District's distribution system to serve the City would be paid for by Salem either by grant or by Salem ratepayers. Therefore, there is no remaining cost of the upgrade of the Sun Valley system to be recovered from Salem ratepayers through the transportation rate. According to the City,

deleting that improper charge from the District's proposed transportation rate results in a transportation rate of \$0.15 per thousand gallons, which was the same fee proposed by Commission Staff. The City also argued that the District's calculation of the maintenance portion of the transportation rate was not credible, since, of the \$3,336 of maintenance cost proposed for recovery from Salem ratepayers, \$2,327.76 was estimated for the cost of daily meter reading. However, since there was no need to read the meter every day, that charge was unnecessary and unfair. The City also objected to the proposed recovery of maintenance costs for valve exercise and hydrant exercise, since there are neither valves nor hydrants planned for the portion of Sun Valley's system which will serve Salem. The City argued that Staff's calculation of the transportation rate is based upon known and measurable actual or historical cost data and is fairly apportioned based upon calculated pro rata shares of those costs. The City of Salem endorsed and supported the Staff analysis as consistent with Commission policy and as being the most accurate model of the costs to be incurred by the District subject to recovery from the Salem ratepayers.

By Procedural Order issued on November 25, 2009, Sun Valley Public Service District (District) was directed to file, no later than December 4, 2009, a thorough and complete explanation of its transportation rate calculation. The Order further provided that, if hearing was necessary, hearing in this matter would be held on Friday, December 11, 2009, at 1:30 p.m., in the Small Hearing Room, Public Service Commission Building, 201 Brooks Street, Charleston, West Virginia, and would continue on that date until concluded.

On December 4, 2009, the District filed its explanation of its transportation rate calculation and stated that it did not feel that a hearing in this matter was necessary.

On December 7, 2009, the City of Salem, an Intervener in this matter, and the other interested party with respect to the transportation rate, challenged the District's calculation, but also agreed with the District that a hearing in this matter was not necessary and requested that the Administrative Law Judge determine the issue based on the information in the case file.

On December 8, 2009, Staff Attorney Wansley filed a Further Joint Staff Memorandum herein, agreeing with the parties regarding the cancellation of the hearing scheduled for December 11, 2009. Staff also did not object to the reconsideration of the transportation rate in the future. However, the Staff Attorney noted that a one-year time period is more advisable than the District's proposal of 90 days, in order to allow for proper data collection.

By Procedural Order issued on December 8, 2009, the hearing tentatively scheduled for December 11, 2009, at the Public Service Commission Building, Charleston, West Virginia, was cancelled.

DISCUSSION

Upon consideration of the dispute regarding the transportation rate, while the undersigned appreciates the District's concerns, the

undersigned believes that the Staff-recommended transportation rate represents the more reasonable alternative, recognizing that all the figures at this point are estimates only. However, it should be pointed out that the District will be receiving compensation from two (2) different entities for transporting the same water from the Board to Salem. Pursuant to the Water Transportation Agreement between the District and the Board, the District will receive \$0.37 per M gallons from the Board for transporting water to Salem. Pursuant to the tariff approved herein, the District will then collect \$10.15 per M gallons from Salem for delivering that same water to it. The District is actually receiving a total of \$0.52 per M gallons for transporting water from the Board to Salem. Accordingly, a transportation rate in the amount of \$0.15 per thousand gallons will be approved for the transportation of water by the District from the Clarksburg Water Board to the City of Salem. The undersigned also agrees with the parties that the 90-day trial period for the transportation rate proposed by the District after project completion is simply too short to allow the accumulation of reasonable and reliable data. As noted by the City of Salem and Commission Staff, rates that go into effect upon project completion are typically in effect for one year prior to any Commission review of the accuracy of those rates. If, however, the District believes that it can demonstrate to the Commission after six months of operation under the Staff-recommended transportation rate that it is significantly under-recovering its costs, it may petition the Commission to commence a review of that transportation rate after that rate has been in effect for six months following project completion.

The Project at issue herein, in and of itself, is not remarkable and appears to be well-justified. There is more than ample proof of need to support the conclusion that the public convenience and necessity require the Project and that the Project appears to be economically and financially viable, based upon the proposed ARRA funding and the Staff-recommended water rates and charges. This Project is noteworthy because it is one of the last of the pending applications relying, at least in part, on stimulus funds under the ARRA.

Traditionally, orders granting certificates of convenience and necessity to public utilities have specifically approved the funding package proposed for the water or sewer project and have required that the public utility file a petition to reopen the proceeding to obtain Commission approval of any changes to project financing only in the event that project costs change and rates are affected, either requiring increases or decreases. That process is being retained in large part for projects using ARRA funds, since that process provides a reasonable, and streamlined, means of addressing the timing problems associated with ARRA projects, i.e., the financing would not be finally committed until sometime in August or September of 2009 or later and contracts must be awarded soon after. The biggest difference is the approval of project financing that has not been committed. To further accommodate the timing constraints of ARRA, essentially, the determination is being made in advance that any funding package that includes ARRA funds is reasonable, so that changes to an ARRA funding package do not require additional review, unless rates have to be increased.

Despite the ARRA constraints, the Public Service Commission has an obligation with regard to any certificate application, whether it is

filed by a private utility, a public service district or a municipality, to insure that the project is economically feasible and financially viable, which includes guaranteeing that there is adequate financing to fund the proposed project. See, Town of Man and Man Water Works, Inc., Case No. 81-433-W-PC, Order Affirming Hearing Examiner's Decision, April 16, 1982, 69 ARPSCWV 1893; Ohio County Public Service District, Case No. 82-482-S-CN, Order Affirming Hearing Examiner's Decision Without Prejudice, April 8, 1983, 70 ARPSCWV 2049. See also, Sexton v. Public Service Commission, 188 W. Va. 305, 423 S.E.2d 914, (1992). Accordingly, the District must reopen this proceeding for Commission review and approval of project changes which generate rate changes, with the clarification that this requirement will apply only to rate increases. Further, it is reasonable to include an ordering paragraph prohibiting the public utility from commencing construction, unless it has secured adequate funding to cover all project costs, as those costs have been determined upon the conclusion of the bidding process and after bids have been awarded for all of the construction contracts associated with the project, and to file that information with the Commission. The District will be required to file with the Commission a letter detailing the final funding package for this project upon that information being known, along with the bid tabulations for each construction contract to be awarded for the project. Those filings should be made as closed entries and should not be treated as petitions to reopen.

In the event that, after the filing of the letter by the public utility providing the details of the finalized funding package for the certificated project, Commission Staff concludes, based upon its own independent analysis, that either the specified funding package or the rates are insufficient to cover all project costs, it will be the obligation of Commission Staff to petition the Public Service Commission to reopen the certificate proceeding for the purpose of reviewing the financial viability of the certificated project.

As with all certificate applications filed with the Commission, in the event that the project scope changes, or changes in project cost and/or financing require a further rate increase, or if the District ultimately receives no ARRA funding, the District will be required to file a petition to reopen this matter, to allow the Commission to assess the nature of the project changes, both to determine if they are adequately funded and to determine if those changes are appropriate and not in conflict with any state laws or Commission rules, and to insure that funding package and associated rates support the economic feasibility and financial viability of the project.

FINDINGS OF FACT

1. Sun Valley Public Service District filed an application, duly verified, for a certificate of convenience and necessity to construct a water line extension and improvement project in the areas of Jarvisville Road, Shaw's Run, Lake Floyd, Halls Run, Salem Fork, Flinderation and Coburn's Creek and to supply water to the City of Salem in Harrison County, West Virginia. The District proposed a 21% rate increase over and above its proposed interim rate increase in Case No. 07-0084-PWD-19A, then pending before the Commission, to generate sufficient revenues to cover the increased debt service and operation and maintenance expenses associated with the project. (See, March 13 and 15, 2007 filings).

2. The requested certificate was granted by the Commission along with a rate increase. (See, July 30, 2007 Recommended Decision, final as of August 19, 2007).

3. On June 16, 2009, Sun Valley Public Service District filed a petition to reopen its 2007 certificate proceeding to revise the scope and financing for the project certificated therein by the Commission. The revised Project still would construct a water line extension and improvement project in several areas in Harrison County, serving approximately 391 new customers, but approximately seven (7) sparsely populated areas would be deleted. Additionally, the District would transport water from the Clarksburg Water Board to the City of Salem, rather than sell water itself to Salem. Agreements between the District and the Board and the Board and Salem were also filed for Commission approval. The revised Project has been approved by the IJDC. (See, application filed June 16, 2009; Salem filing of July 6, 2009; Final Joint Staff Memorandum and attachment filed September 22, 2009).

4. By Notice of Filing Order entered on August 20, 2009, Sun Valley Public Service District was required to publish a Notice of Filing one time in a newspaper, published and generally circulated in Harrison County, providing anyone affected by the reopened application thirty (30) days in which to file written protests with the Public Service Commission. Only one protest was filed within the thirty-day protest period. (See, Notice of Filing Order entered August 20, 2009; affidavit of publication filed September 1, 2009; case file generally).

5. The District has received a letter from the West Virginia Bureau of Public Health, informing it that the Project is eligible to be considered for an award of economic stimulus funds, under The American Recovery and Reinvestment Act of 2009, with said funding to be in the form of a \$2,100,000 loan, at a negative 9.704% interest rate for 30 years and no annual administrative fee. The other funding consists of a Rural Utilities Service grant in the amount of \$1,850,000; an RUS loan in the amount of \$2,200,000 at 4.75% for 38 years; and a \$1,800,000 contribution from the City of Salem. Salem has received a BPH loan to cover its contribution. (See, filings of March 13 and May 8, 2007; BPH letter dated March 11, 2009, filed June 16, 2009; District responses to Staff data requests filed August 5, 2009; BPH letter filed December 11, 2009).

6. The revised Project will require an additional rate increase. In 2007, when the original project was certificated, the Commission approved a 22.75% project-related rate increase to go into effect upon substantial completion. After review of the revised project-related expenses, Commission Staff is recommending a post-project 23.8% rate increase over current rates. Based upon those rates, and with adjustment by Commission Staff for different expenses, at project completion, the District should experience a cash flow surplus of \$2,082, with debt service coverage of 123.02%. (See, Final Joint Staff Memorandum and attachment filed September 22, 2009).

7. Commission Technical Staff has reviewed the plans and specifications for the revised Project and has concluded that there are no conflicts with the Commission's Water Rules concerning engineering

requirements. (See, Final Joint Staff Memorandum and attachment filed September 22, 2009).

8. The proposed deletions from the originally-certificated project represent small extensions to serve sparsely populated areas in which there was little interest in connecting to the proposed project. The deletions reduce the number of new customers to be served by the Project from 447 to 391. The savings from the deletions will be used to increase Project contingencies. (See, petition filed June 16, 2009; Final Joint Staff Memorandum and attachment filed September 22, 2009).

9. Residents in the project area experience both water quality and water quantity problems. The groundwater contains iron and other undesirable minerals; corrodes pipes and fixtures; stains clothes; smells of sulfur; and tastes bad. Wells go dry at certain times of the year. The wells and cisterns in the project area exhibit potentially dangerous biological contamination. Commission Staff agrees that the groundwater supply in the project area is of poor quality and subject to drought-related shortages. (See, Final Joint Staff Memorandum and attachment filed June 12, 2007).

10. The District's proposed project should improve water quality within the proposed project area and alleviate drought-related shortages. Additionally, the revised project is a practical and cost-efficient means of supplying water to the proposed project extension area and to the City of Salem and will eliminate the need for the City of Salem to upgrade its old, outdated treatment facility and, as such, is in full accord with the recommendations presented by the Consolidation Committee of the IJDC. (See, Application and attachments filed March 13, 2007; Final Joint Staff Memorandum and attachment filed June 12, 2007; Final Joint Staff Memorandum and attachment filed September 22, 2009).

11. After concluding its review, Commission Staff recommended that a revised certificate of convenience and necessity be granted to the Sun Valley Public Service District, that the proposed financing be approved and that various other conditions with regard to certification of the project be adopted. (See, Final Joint Staff Memorandum and attachment filed September 22, 2009).

12. Commission Staff recommended approval of the two (2) agreements between the District and the Board, and the agreement between the Board and Salem, finding them reasonable. (See, Final Joint Staff Memorandum and attachment filed September 22, 2009).

CONCLUSIONS OF LAW

1. The Public Service Commission is empowered to require all public utilities, including municipally-operated public utilities, to demonstrate that a proposed water or sewer project is economically feasible and financially viable by demonstrating that they have secured adequate funding to cover all project costs, as those project costs are determined to be at the conclusion of the bidding process, and that the resulting rates are just, reasonable, applied without unjust discrimination or preference and based primarily on the cost of providing service. See, W. Va. Code §24-2-4b; State ex. rel. Public Service Commission v. Town of Fayetteville, 212 W. Va. 427, 573 S.E.2d 338

(2002); Town of Man and Man Water Works, Inc., Case No. 81-433-W-PC, Order Affirming Hearing Examiner's Decision, April 16, 1982, 69 ARPSCWV 1893; Ohio County Public Service Commission, Case No. 82-482-S-CN, Order Affirming Hearing Examiner's Decision Without Prejudice, April 8, 1983, 70 ARPSCWV 2049. See also, Sexton v. Public Service Commission, 188 W. Va. 305, 423 S.E.2d 914, (1992).

2. In order to accommodate the unique timing issues involving the economic stimulus funds provided under The American Recovery and Reinvestment Act of 2009, and recognizing that these funds are available for a short period on a one-time only basis, it is reasonable to modify some of the Commission's traditional requirements regarding certificate applications, as set forth in the ordering paragraphs of this decision.

3. The public convenience and necessity require the proposed project, as revised.

4. The revised Staff-recommended post-project rates and charges for use by Sun Valley Public Service District appear to be sufficient to cover all project-related costs, as well as the District's going-level operation and maintenance expenses.

5. The proposed funding package for the project, consisting of the BPH loan of ARRA funds in the amount of \$2,100,000, at a -9.704% interest rate for 30 years and no annual administrative fee, the RUS grant of \$1,850,000, the RUS loan of \$2,200,000 at 4.75% interest for 38 years, and the \$1,800,000 contribution from the City of Salem, is reasonable and is sufficient to cover the cost of the project, at its current cost estimates.

6. Because ARRA funds represent an additional one-time infusion of capital for West Virginia water and sewer projects, with extremely favorable terms, it is reasonable to conclude that any funding package which includes ARRA funds is convenient to the public, without further review, as long as rates do not have to be increased to support funding revisions made after a certificate is granted.

7. A certificate of convenience and necessity should be granted to the Sun Valley Public Service District for the project specified herein, without specifically approving the project's plans and specifications.

8. The Staff-recommended transportation rate of \$0.15 per thousand gallons to be charged to Salem appears to be the more reasonable of the two (2) alternatives and will be approved. However, if, after six (6) months of operation at that transportation rate, the District can demonstrate that it is not recovering its costs, it may petition the Commission to review that rate.

9. The two inter-utility agreements by and between the Sun Valley Public Service District and the Clarksburg Water Board and the inter-utility agreement between the Clarksburg Water Board and the City of Salem, respectively, are reasonable and should be approved, without specifically approving the terms and conditions thereof, because their terms and conditions are reasonable, no party to any of the agreements is given an undue advantage over the other party to said agreement and the agreements do not adversely affect the public in this State.

ORDER

IT IS, THEREFORE, ORDERED that the petition to reopen the instant proceeding filed by the Sun Valley Public Service District on June 16, 2009, for a revised certificate of convenience and necessity to construct a waterline extension and improvements to serve approximately 391 new customers in Harrison County and to serve as the transporter of water purchased by the City of Salem from the Clarksburg Water Board, all as more particularly described in the plans and specifications filed with the application, at a total cost of approximately \$7,950,000, be, and it hereby is, granted, without specifically approving the plans and specifications filed herein.

IT IS FURTHER ORDERED that the proposed project financing package, consisting of a loan in the amount of \$2,100,000 from the Bureau for Public Health at a negative 9.704% interest rate for 30 years, with no annual administrative fee, using funds provided by The American Recovery and Reinvestment Act of 2009, a Rural Utilities Service grant of \$1,850,000, an RUS loan of \$2,200,000 at 4.75% interest for 38 years, and a \$1,800,000 contribution from the City of Salem, be, and it hereby is, approved. Upon finalization of the funding package, the Sun Valley Public Service District shall file a letter with the Commission detailing the specifics of that funding package, including the terms and conditions of any loans awarded. If the funding package is revised, but still includes ARRA funds, the District is not required to petition the Commission for approval of that revised project financing, as long as the revised ARRA funding package does not require an additional rate increase. It will be sufficient for the District to file the revised funding commitment documentation, along with a certification from its certified public accountant or bond counsel that the revised funding package is adequate to cover all project costs and will not require any additional rate increase.

IT IS FURTHER ORDERED that the Staff-recommended rates and charges, attached hereto as Appendix A, be, and hereby are, approved, to become effective for all service rendered on and after the date the project is certified as substantially complete.

IT IS FURTHER ORDERED that, within thirty (30) days of the project being certified as substantially complete, Sun Valley Public Service District file an original and at least five (5) copies of a proper tariff setting forth the rates and charges hereby approved.

IT IS FURTHER ORDERED that, if the project scope changes, if project costs or financing require an additional rate increase, or if, ultimately, Sun Valley Public Service District does not receive any ARRA funding, the Sun Valley Public Service District petition the Commission for approval of such change(s) prior to commencing construction.

IT IS FURTHER ORDERED that, if, due to project cost or funding revisions, the rates approved herein are excessive and need to be decreased, Sun Valley Public Service District must notify the Commission through the filing of a letter detailing the funding and/or cost revisions and estimating the rate decrease needed, upon the funding package being finalized, along with copies of the final funding commitment documentation. The District must petition the Commission for

review and approval of those changes and obtain Commission approval of revised decreased rates prior to rates becoming effective upon substantial completion of the project.

IT IS FURTHER ORDERED that Sun Valley Public Service District cannot proceed to construction unless and until it has received all required federal, state and local permits, and unless the finally-awarded ARRA funding package is adequate to cover all project costs, as determined at the conclusion of the bidding process with a bid awarded for each construction contract or vendor contract for the project.

IT IS FURTHER ORDERED that Sun Valley Public Service District provide a copy of the engineer's certified tabulation of bids, within ten (10) days of the bid opening date, for each construction contract or vendor contract to be awarded for this project.

IT IS FURTHER ORDERED that Sun Valley Public Service District provide a copy of the certification of substantial completion for each contract associated with this project, within ten (10) days of issuance.

IT IS FURTHER ORDERED that the Water Purchase Agreement and the Water Transportation Agreement filed on June 16, 2009, and June 29, 2009, respectively, between Sun Valley Public Service District and the Clarksburg Water Board be, and hereby are, approved, without specifically approving the terms and conditions thereof.

IT IS FURTHER ORDERED that the Inter-Utility Water Supply Agreement between the Clarksburg Water Board and the City of Salem filed on July 6, 2009, be, and it hereby is, approved, without specifically approving the terms and conditions thereof.

IT IS FURTHER ORDERED that, if this Project requires the use of Division of Highways' rights-of-way, Sun Valley Public Service District comply with all rules and regulations of the Division of Highways regarding the use of those rights-of-way.

IT IS FURTHER ORDERED that this matter be removed from the Commission's docket of open cases.

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

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

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

Any party may request waiver of the right to file exceptions to an Administrative Law Judge's order by filing an appropriate petition in

writing with the Secretary. No such waiver will be effective until approved by order of the Commission, nor shall any such waiver operate to make any Administrative Law Judge's Order or Decision the order of the Commission sooner than five (5) days after approval of such waiver by the Commission.



Melissa K. Marland
Chief Administrative Law Judge

MKM:cdk
070327ag.wpd

SUN VALLEY PUBLIC SERVICE DISTRICT
CASE NO. 07-0327-PWD-CN

APPROVED RATES

APPLICABILITY

Applicable within the entire territory served.

AVAILABILITY

Available for general domestic, commercial, industrial and sale for resale service.

RATES (Customers with metered water supply)

First	3,000 gallons used per month	\$10.19 per 1,000 gallons
Next	3,000 gallons used per month	\$ 9.51 per 1,000 gallons
Next	3,000 gallons used per month	\$ 9.14 per 1,000 gallons
Next	6,000 gallons used per month	\$ 8.83 per 1,000 gallons
Next	22,500 gallons used per month	\$ 7.45 per 1,000 gallons
Over	37,500 gallons used per month	\$ 6.70 per 1,000 gallons

MINIMUM CHARGE

No bill will be rendered for less than the following, based on meter size:

	5/8-inch meter	\$ 29.52 per month
1	-inch meter	\$ 73.80 per month
1-1/2	-inch meter	\$ 147.60 per month
2	-inch meter	\$ 236.16 per month
3	-inch meter	\$ 442.80 per month
4	-inch meter	\$ 738.00 per month
6	-inch meter	\$1,476.00 per month
8	-inch meter	\$2,361.60 per month

TRANSPORTATION RATE

\$0.15 per 1,000 gallons

DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full when due, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

TAP FEE

The following charges are to be made whenever the utility installs a new tap to serve an applicant:

A tap fee of \$50.00 will be charged to customers applying for service before construction is completed adjacent to the customer's premises in connection with a certificate proceeding before the Commission. This pre-construction tap fee will be invalid after the completion of construction adjacent to an applicant's premises that is associated with a certificate proceeding.

A tap fee of \$300.00 will be charged to all customers who apply for service outside of a certificate proceeding before the Commission for each new tap to the system.

PRIVATE FIRE PROTECTION

Fifty Dollars (\$50.00) per month on all unmetered private fire service connection lines.

RECONNECTION

\$20.00

To be charged whenever the supply of water is turned off for violations of rules, non-payment of bills, or fraudulent use of water.

LEAK ADJUSTMENT

\$3.47 per 1,000 gallons is to be used when the bill reflects unusual consumption which can be attributed to eligible water leakage on the customer's side of the meter. This rate shall be applied to all such consumption above the customer's historical average usage.

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the utility up to a maximum of \$25.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

SECURITY DEPOSIT

A deposit of \$50.00 or 2/12 of the average annual usage of the applicant's specific customer class, whichever is greater.

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

Issued: December 18, 2009

CASE NO. 07-0327-PWD-CN

SUN VALLEY PUBLIC SERVICE DISTRICT

Application for a certificate of convenience and necessity to construct a water line extension and improvement project in the areas of Jarvisville Road, Shaw's Run, Lake Floyd, Halls Run, Salem Fork, Flinderation and Coburn's Creek, and to supply water to the City of Salem, all in Harrison County.

CORRECTIVE ORDER

By Recommended Decision entered in the above-styled and numbered proceeding on December 16, 2009, the undersigned granted the petition to reopen the instant proceeding filed by Sun Valley Public Service District (District) on June 16, 2009, for a revised certificate of convenience and necessity to construct a water line extension and improvements to serve approximately 391 new customers in Harrison County and to serve as a transporter of water purchased by the City of Salem (Salem) from the Clarksburg Water Board (Clarksburg), all as more particularly described in the plans and specifications filed with the application, at a total cost of approximately \$7,950,000. Further, a financing package for the project was approved, as were the Staff-recommended rates and charges, which included a \$0.15 per M gallons transportation rate to be charged to Salem by the District for transporting the water purchased by Salem from Clarksburg through the District's lines.

In addition to the certificate and rates, the Water Purchase Agreement and the Water Transportation Agreement filed on June 16, 2009, and June 29, 2009, respectively, between the District and Clarksburg were approved, without specifically approving the terms and conditions thereof, and the Water Supply Agreement between Clarksburg and Salem filed on July 6, 2009, was approved, without specifically approving the terms and conditions thereof. The Water Transportation Agreement between the District and Clarksburg specifically provided for a transportation rate of \$0.37 per M gallons to be charged by the District to Clarksburg for transporting the water purchased by Salem from Clarksburg through the District's lines. As described in the Decision, the undersigned interpreted the agreement and the tariff to mean that the District would be charging a total of \$0.51 per M gallons for transporting the volumes purchased by Salem from Clarksburg, with \$0.37 per M gallons to be charged to Clarksburg and \$0.15 per M gallons to be charged to Salem.

On December 18, 2009, Clarksburg filed a letter herein stating that it was its understanding that the \$0.15 per M gallon transportation rate included in the Staff-recommended tariff was to be the total transportation rate, and that the \$0.15 rate would be substituted in its

transportation agreement with the District in place of the original \$0.37 rate.

Also on December 18, 2009, Commission Staff filed a further memorandum explaining that its recommendation intended that the \$0.15 rate be the total transportation rate for the volumes purchased from Clarksburg by Salem. Also, Staff indicated its belief that this interpretation of the fee amount is consistent with the understanding of the other parties.

Accordingly, after again reviewing all of the relevant documents in the case file, and upon consideration of all of the above, the undersigned will correct the Recommended Decision entered on December 16, 2009, to provide that the Staff-recommended \$0.15 per M gallons transportation rate will be the total compensation to Sun Valley Public Service District for the transportation of water from Clarksburg to Salem rather than the amount of \$0.51 discussed in that Decision. The Water Transportation Agreement between Clarksburg and the District approved in the Recommended Decision entered on December 16, 2009, filed herein on June 29, 2009, shall be approved, but amended to eliminate the \$0.37 per M gallon transportation rate. Clarksburg and the District will be required to file a revised Water Transportation Agreement which incorporates the \$0.15 per M gallon transportation rate.

ORDER

IT IS, THEREFORE, ORDERED that the Recommended Decision entered herein on December 16, 2009, be, and it hereby is, corrected as follows:

1. The Water Transportation Agreement filed on June 29, 2009, between Sun Valley Public Service District and the Clarksburg Water Board is approved, without specifically approving the terms and conditions thereof, and as amended to reflect that the transportation rate applicable under the agreement is \$0.15 per M gallons. The District and Clarksburg shall file a revised Water Transportation Agreement reflecting the change in the transportation rate no later than ten (10) days after the date that the Recommended Decision becomes final.

2. Any discussion in the Recommended Decision entered on December 16, 2009, indicating that any rate other than a total transportation rate of \$0.15 per M gallons can be charged for the transportation of water from Clarksburg to Salem is stricken and disapproved.

IT IS FURTHER ORDERED that, in all other respects, the Recommended Decision entered on December 16, 2009, remain unchanged.

IT IS FURTHER ORDERED that the Commission's Executive Secretary serve a copy of this Order upon all parties to this proceeding by United States Certified Mail, return receipt requested, and upon Commission Staff by hand delivery.



Melissa K. Marland

Chief Administrative Law Judge

MKM:cdk
070327ah.wpd

**PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON**

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 28th day of December 2009.

CASE NO. 07-0327-PWD-CN

SUN VALLEY PUBLIC SERVICE DISTRICT

Application for a certificate of convenience and necessity to construct a waterline extension and improvement project in the areas of Jarvisville Road, Shaw's Run, Lake Floyd, Halls Run, Salem Fork, Flinderation, and Coburn's Creek, and to supply water to the City of Salem, all in Harrison County.

COMMISSION ORDER
WAIVING EXCEPTION PERIOD

On December 16, 2009, the Administrative Law Judge entered a Recommended Decision that approved the petition to reopen the instant proceeding filed by the Sun Valley Public Service District ("District") for a revised certificate of convenience and necessity to construct a waterline extension and improvements to serve approximately 391 new customers in Harrison County and to serve as the transporter of water purchased by the City of Salem from the Clarksburg Water Board, to become effective on and after the date that the Recommended Decision becomes a final order of the Commission.

On December 22, 2009, the District, and the City of Salem and Clarksburg Water Board, Intervenors, filed a joint petition to waive the fifteen-day period of time in which a party may file exceptions to the Recommended Decision in this proceeding.

Commission Staff has indicated that it does not intend to file exceptions in this proceeding.

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

IT IS THEREFORE ORDERED that the requested waiver is granted.

IT IS FURTHER ORDERED that the Administrative Law Judge December 16, 2009

Recommended Decision in this matter becomes final five days after the date of this order, absent further action by the Commission.

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

A True Copy. Tester

Sandra Squire
Sandra Squire
Executive Secretary

SS/kc
070327sc.wpd



WEST VIRGINIA

Infrastructure & Jobs Development Council

Gov. Joe Manchin, III
Chairman

Kenneth Lowe, Jr.
Public Member

Dwight Calhoun
Public Member

David "Bones" McComas
Public Member

Ron Justice
Public Member

Angela K. Chestnut, P.E.
Executive Director

Barbara J. Pauley
Administrative Secretary

December 4, 2009

David Mayle, City Manager
City of Salem
104 West Main Street
Salem, WV 26426

Re: City of Salem
2009W-1155 Soft Cost Binding Commitment

Dear Mr. Mayle:

At its December 2, 2009 meeting, the West Virginia Infrastructure and Jobs Development Council (Infrastructure Council), voted to offer a binding commitment for a \$124,000 Infrastructure Fund grant (Grant) to the City of Salem (City) for soft costs to complete the funding for this \$1,951,000 project (Project). The Grant will be subject to the terms set forth on Schedule A attached hereto and incorporated herein by reference. The final Grant amount will be established after the City has received acceptable invoices for the Project.

Please contact Angela K. Chestnut at 304-558-4607 if you have any questions.

Sincerely,

Kenneth Lowe, Jr.

KL:bjp

Attachment

cc: Bob Decrease, BPH (via e-mail)
Dean Upton, P.E., Stafford Consultants (via e-mail)
Region VI Regional Intergovernmental Council (via e-mail)

David Mayle, Manager
December 4, 2009
Page 2 of 3

NOTE: This letter is sent in triplicate. Please acknowledge receipt and immediately return two copies to the Infrastructure Council.

City of Salem

By: David Mayle

Its: City Manager

Date: 12/14/09

WEST VIRGINIA INFRASTRUCTURE & JOBS DEVELOPMENT COUNCIL

City of Salem
Water Project 2009W-1155

SCHEDULE A

A. Approximate Amount: \$124,000 Soft Cost Grant

B. Grant: \$124,000

1. Grant Advancement Date(s): Monthly, upon receipt of proper requisition.

NOTICE: The terms set forth above are subject to change following the receipt of construction bids.

C. Special Conditions: The funding package may be reduced prior to closing if an additional grant source is procured.

D. Other Funding:
DWTRF ARRA principle forgiveness \$1,827,000

E. Total Project Cost: \$1,951,000

F. Proposed User Rates: Approximately \$35.77 / 4000 gallons

CITY OF SALEM

Water Revenue Bonds, Series 2010 A
(West Virginia DWTRF Program); and
Water Revenue Bonds, Series 2010 B
(West Virginia DWTRF Program/ARRA)

CROSS-RECEIPT FOR BONDS AND BOND PROCEEDS

On the 14th day of January, 2010, the undersigned authorized representative of the West Virginia Water Development Authority (the "Authority"), for and on behalf of the Authority, and the undersigned City Manager and Mayor of the City of Salem (the "Issuer"), for and on behalf of the Issuer, hereby certify as follows:

1. On the date hereof, the Authority received the Water Revenue Bonds, Series 2010 A (West Virginia DWTRF Program), of the Issuer, in the principal amount of \$900,000, numbered AR-1 (the "Series 2010 A Bonds") and the Water Revenue Bonds, Series 2010 B (West Virginia DWTRF Program/ARRA), in the principal amount of \$927,000, numbered BR-1 (the "Series 2010 B Bonds"), each issued as a single, fully registered Bond, and dated January 14, 2010.

2. At the time of such receipt, all the Series 2010 A Bonds and Series 2010 B Bonds had been executed by the City Manager, Mayor and the City Clerk of the Issuer by their respective manual signatures, and the official seal of the Issuer had been affixed upon the Series 2010 Bonds.

3. The Issuer has received from the Authority, as the original purchaser of the Series 2010 A Bonds, the sum of \$450,000, being a portion of the principal amount of the Series 2010 A Bonds as a contribution in aid of construction. The balance of the principal amount of the Series 2010 A Bonds will be advanced by the Authority and the West Virginia Bureau for Public Health to the Issuer as acquisition and construction of the Project progresses.

4. The Issuer has received from the Authority, as the original purchaser of the Series 2010 B Bonds, the sum of \$27,000, being a portion of the principal amount of the Series 2010 B Bonds as a contribution in aid of construction. The balance of the principal amount of the Series 2010 B Bonds will be advanced by the Authority and the West Virginia Bureau for Public Health to the Issuer as acquisition and construction of the Project progresses.

Dated as of the day and year first written above.

WEST VIRGINIA WATER DEVELOPMENT
AUTHORITY

By: Carol A. Cummings
Its: Authorized Representative

CITY OF SALEM

By: Jim Plaugher
Its: Mayor

By: Dave [Signature]
Its: City Manager

CITY OF SALEM

Water Revenue Bonds, Series 2010 A
(West Virginia DWTRF Program); and
Water Revenue Bonds, Series 2010 B
(West Virginia DWTRF Program/ARRA)

DIRECTION TO AUTHENTICATE AND DELIVER BONDS

The Huntington National Bank,
as Bond Registrar
Charleston, West Virginia

Ladies and Gentlemen:

There are delivered to you herewith on this 14th day of January, 2010:

(1) Bond No. AR-1, constituting the entire original issue of the City of Salem Water Revenue Bonds, Series 2010 A (West Virginia DWTRF Program), in the principal amount of \$900,000 (the "Series 2010 A Bonds") and Bond No. BR-1 constituting the entire original issue of Water Revenue Bonds, Series 2010 B (West Virginia DWTRF Program/ARRA) in the principal amount of \$927,000 (the "Series 2010 B Bonds"), both dated January 14, 2010 (collectively the "Series 2010 Bonds"), executed by the Mayor, the City Manager and City Clerk of the City of Salem (the "Issuer") and bearing the official seal of the Issuer, authorized to be issued under and pursuant to a Bond Ordinance duly enacted by the Issuer on October 13, 2009, and a Supplemental Resolution duly adopted by the Issuer on December 17, 2009 (collectively, the "Bond Legislation");

(2) A copy of the Bond Legislation authorizing the above-captioned Series 2010 Bonds, duly certified by the City Clerk of the Issuer;

(3) Executed counterparts of the ARRA Assistance Agreement for the Series 2010 Bonds, dated January 14, 2010, by and between the Issuer and the West Virginia Water Development Authority, on behalf of the West Virginia Bureau for Public Health (the "ARRA Assistance Agreement"); and

(4) Executed opinion of nationally recognized bond counsel regarding the validity of the ARRA Assistance Agreement and the Series 2010 Bonds.

You are hereby requested and authorized to deliver the Series 2010 A Bonds to the Authority upon payment to the Issuer, of the sum of \$450,000, representing a portion of the

principal amount of the Series 2010 A Bonds. You are further hereby requested and authorized to deliver the Series 2010 B Bonds to the Authority upon payment to the Issuer, of the sum of \$27,000, representing a portion of the principal amount of the Series 2010 B Bonds.

Prior to such delivery of the Series 2010 Bonds, you will please cause the Series 2010 Bonds to be authenticated and registered by an authorized officer, as Bond Registrar, in accordance with the form of Certificate of Authentication and Registration thereon.

[Remainder of Page Intentionally Left Blank]

Dated as of the day and year first written above.

CITY OF SALEM

By: Jim Plaugher
Its: Mayor

By: David
Its: City Manager

SPECIMEN

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
CITY OF SALEM
WATER REVENUE BONDS, SERIES 2010 A
(WEST VIRGINIA DWTRF PROGRAM)

No. AR-1

\$900,000

KNOW ALL MEN BY THESE PRESENTS: That on this the 14th day of January, 2010, the CITY OF SALEM, a municipal corporation and political subdivision of the State of West Virginia in Harrison 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 NINE HUNDRED THOUSAND DOLLARS (\$900,000), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference; in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2011, to and including June 1, 2041, as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference. There shall be no Administrative Fee (as defined in the hereinafter described Bond Legislation) payable with respect to this Bond.

This Bond shall bear no 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 the West Virginia Bureau for Public Health (the "BPH"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the ARRA Assistance Agreement by and between the Issuer and the Authority, on behalf of the BPH, dated January 14, 2010.

This Bond is issued (i) to provide a contribution in aid of construction to the Sun Valley Public Service District (the "District") in order to pay a portion of the costs to be incurred by the District in its undertaking the acquisition and construction of a water line extension to provide potable drinking water to the City of Salem, together with all necessary appurtenances, and to the extent that sufficient funds remain therefore, to undertake the acquisition and construction of additions, betterments and improvements to the Issuer's existing waterworks system (the "Project"); and (ii) to pay certain costs of issuance of the Bonds and related costs. The existing public waterworks system of the Issuer and any further additions, betterments or improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 8, Article 19, Chapter 8, Article 23 and Chapter 16, Article 13C of the

West Virginia Code of 1931, as amended (collectively, the "Act"), a Bond Ordinance duly enacted by the Issuer on October 13, 2009, and a Supplemental Resolution duly adopted by the Issuer on December 17, 2009 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S WATER REVENUE BONDS, SERIES 2010 B (WEST VIRGINIA DWTRF PROGRAM/ARRA) DATED JANUARY 14, 2010, ISSUED SIMULTANEOUSLY HERewith IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$927,000 (THE "SERIES 2010 B BONDS").

This Bond is payable only from and secured by a pledge of the Gross Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on a parity with the pledge of Gross Revenues in favor of the Holders of the Series 2010 B Bonds, and from monies in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 2010 A Bonds Reserve Account"), and unexpended proceeds of the Bonds. Such Gross Revenues shall be sufficient to pay the principal of and interest on all Bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest, if any, hereon, except from said special fund provided from the Gross Revenues, the monies in the Series 2010 A Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds, and all other obligations secured by a lien on or payable from such revenues on a parity with the Bonds, including the Series 2010 B Bonds; provided however, that so long as there exists in the Series 2010 A Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with the Bonds, including the Series 2010 B Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Bond Legislation, only upon the books of the Registrar (as defined in the Bond Legislation) by the registered owner, or by its attorney duly authorized in writing, upon the

surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

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

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

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

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

[Remainder of page intentionally blank]

IN WITNESS WHEREOF, the CITY OF SALEM has caused this Bond to be signed by its Mayor and City Manager and its corporate seal to be hereunto affixed and attested by its City Clerk, and has caused this Bond to be dated as of the day and year first written above.

[SEAL]

Jim Plancher
Mayor

Dai [unclear]
City Manager

ATTEST:

[Signature]
City Clerk

SPECIMEN

EXHIBIT A

RECORD OF ADVANCES

<u>AMOUNT</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>DATE</u>
(1) \$450,000	1/14/2010	(19)	
(2)		(20)	
(3)		(21)	
(4)		(22)	
(5)		(23)	
(6)		(24)	
(7)		(25)	
(8)		(26)	
(9)		(27)	
(10)		(28)	
(11)		(29)	
(12)		(30)	
(13)		(31)	
(14)		(32)	
(15)		(33)	
(16)		(34)	
(17)		(35)	
(18)		(36)	

TOTAL \$ _____

EXHIBIT B

DEBT SERVICE SCHEDULE

**SCHEDULE Y
DEBT SERVICE SCHEDULES**

0% Interest Rate				
No Administrative Fee				
30 Years				
	Dated Date		1/14/10	
	Delivery Date		1/14/10	
Period Ending	Principal	Interest	Debt Service	
1/14/10				
9/1/11	7,500			7,500
12/1/11	7,500			7,500
3/1/12	7,500			7,500
6/1/12	7,500			7,500
9/1/12	7,500			7,500
12/1/12	7,500			7,500
3/1/13	7,500			7,500
6/1/13	7,500			7,500
9/1/13	7,500			7,500
12/1/13	7,500			7,500
3/1/14	7,500			7,500
6/1/14	7,500			7,500
9/1/14	7,500			7,500
12/1/14	7,500			7,500
3/1/15	7,500			7,500
6/1/15	7,500			7,500
9/1/15	7,500			7,500
12/1/15	7,500			7,500
3/1/16	7,500			7,500
6/1/16	7,500			7,500
9/1/16	7,500			7,500
12/1/16	7,500			7,500
3/1/17	7,500			7,500
6/1/17	7,500			7,500
9/1/17	7,500			7,500
12/1/17	7,500			7,500
3/1/18	7,500			7,500
6/1/18	7,500			7,500
9/1/18	7,500			7,500
12/1/18	7,500			7,500
3/1/19	7,500			7,500
6/1/19	7,500			7,500
9/1/19	7,500			7,500
12/1/19	7,500			7,500
3/1/20	7,500			7,500
6/1/20	7,500			7,500
9/1/20	7,500			7,500
12/1/20	7,500			7,500
3/1/21	7,500			7,500
6/1/21	7,500			7,500
9/1/21	7,500			7,500
12/1/21	7,500			7,500
3/1/22	7,500			7,500

0% Interest Rate			
No Administrative Fee			
30 Years			
Period	Principal	Interest	Debt Service
Ending			
6/1/22	7,500		7,500
9/1/22	7,500		7,500
12/1/22	7,500		7,500
3/1/23	7,500		7,500
6/1/23	7,500		7,500
9/1/23	7,500		7,500
12/1/23	7,500		7,500
3/1/24	7,500		7,500
6/1/24	7,500		7,500
9/1/24	7,500		7,500
12/1/24	7,500		7,500
3/1/25	7,500		7,500
6/1/25	7,500		7,500
9/1/25	7,500		7,500
12/1/25	7,500		7,500
3/1/26	7,500		7,500
6/1/26	7,500		7,500
9/1/26	7,500		7,500
12/1/26	7,500		7,500
3/1/27	7,500		7,500
6/1/27	7,500		7,500
9/1/27	7,500		7,500
12/1/27	7,500		7,500
3/1/28	7,500		7,500
6/1/28	7,500		7,500
9/1/28	7,500		7,500
12/1/28	7,500		7,500
3/1/29	7,500		7,500
6/1/29	7,500		7,500
9/1/29	7,500		7,500
12/1/29	7,500		7,500
3/1/30	7,500		7,500
6/1/30	7,500		7,500
9/1/30	7,500		7,500
12/1/30	7,500		7,500
3/1/31	7,500		7,500
6/1/31	7,500		7,500
9/1/31	7,500		7,500
12/1/31	7,500		7,500
3/1/32	7,500		7,500
6/1/32	7,500		7,500
9/1/32	7,500		7,500
12/1/32	7,500		7,500
3/1/33	7,500		7,500
6/1/33	7,500		7,500
9/1/33	7,500		7,500
12/1/33	7,500		7,500
3/1/34	7,500		7,500

**0% Interest Rate
No Administrative Fee
30 Years**

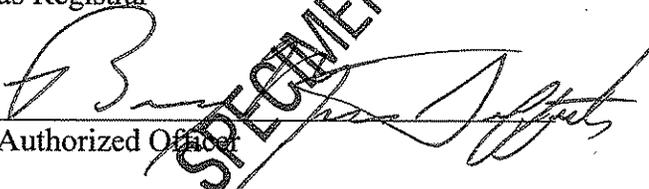
Period Ending	Principal	Interest	Debt Service
6/1/34	7,500		7,500
9/1/34	7,500		7,500
12/1/34	7,500		7,500
3/1/35	7,500		7,500
6/1/35	7,500		7,500
9/1/35	7,500		7,500
12/1/35	7,500		7,500
3/1/36	7,500		7,500
6/1/36	7,500		7,500
9/1/36	7,500		7,500
12/1/36	7,500		7,500
3/1/37	7,500		7,500
6/1/37	7,500		7,500
9/1/37	7,500		7,500
12/1/37	7,500		7,500
3/1/38	7,500		7,500
6/1/38	7,500		7,500
9/1/38	7,500		7,500
12/1/38	7,500		7,500
3/1/39	7,500		7,500
6/1/39	7,500		7,500
9/1/39	7,500		7,500
12/1/39	7,500		7,500
3/1/40	7,500		7,500
6/1/40	7,500		7,500
9/1/40	7,500		7,500
12/1/40	7,500		7,500
3/1/41	7,500		7,500
6/1/41	7,500		7,500
	900,000		900,000

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2010 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: January 14, 2010.

THE HUNTINGTON NATIONAL BANK,
as Registrar


Authorized Officer

SPECIMEN

SPECIMEN

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
CITY OF SALEM
WATER REVENUE BONDS, SERIES 2010 B
(WEST VIRGINIA DWTRF PROGRAM/ARRA)

No. BR-1

\$927,000

KNOW ALL MEN BY THESE PRESENTS: That on this the 14th day of January, 2010, the CITY OF SALEM, a municipal corporation and political subdivision of the State of West Virginia in Harrison 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 NINE HUNDRED TWENTY-SEVEN THOUSAND DOLLARS (\$927,000), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as Exhibit A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2011, to and including June 1, 2021 as set forth on the "Debt Service Schedule" attached as Exhibit B hereto and incorporated herein by reference. This Bond shall not be subject to the DWTRF Administrative Fee (as defined in the hereinafter describe Bond Legislation).

This Bond shall bear no interest. Principal installments of this Bond are forgivable quarterly as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Bureau for Public Health (the "BPH"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the ARRA Assistance Agreement by and between the Issuer and the Authority, on behalf of the BPH, dated January 14, 2010.

This Bond is issued (i) to provide a contribution in aid of construction to the Sun Valley Public Service District (the "District") in order to pay a portion of the costs to be incurred by the District in its undertaking the acquisition and construction of a main water line extension for the purpose of supplying potable drinking water to the City of Salem, together with all necessary appurtenances, and to the extent that sufficient funds remain therefore, to undertake the acquisition and construction of additions, betterments and improvements to the Issuer's existing waterworks system (the "Project"); and (ii) to pay certain costs of issuance of the Bonds and related costs. The existing public waterworks system of the Issuer and any further additions, betterments or improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 8, Article 19, Chapter 8, Article 23 and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended (collectively, the "Act"), a Bond Ordinance duly enacted by the Issuer on October 13, 2009, and a Supplemental

Resolution duly adopted by the Issuer on December 17, 2009 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S WATER REVENUE BONDS, SERIES 2010 A (WEST VIRGINIA DWTRF PROGRAM) DATED JANUARY 14, 2010 ISSUED SIMULTANEOUSLY HEREWITH IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$900,000 (THE "SERIES 2010 A BONDS").

This Bond is payable only from and secured by a pledge of the Gross Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on a parity with the pledge of Gross Revenue in favor of the Holders of the Series 2010 A Bonds, and from monies in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 2010 B Bonds Reserve Account"), and unexpended proceeds of the Bonds. Such Gross Revenues shall be sufficient to pay the principal of and interest on all Bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest, if any, hereon, except from said special fund provided from the Gross Revenues, the monies in the Series 2010 B Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds, and all other obligations secured by a lien on or payable from such revenues on a parity with the Bonds, including the Series 2010 A Bonds; provided however, that so long as there exists in the Series 2010 B Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with the Bonds, including the Series 2010 A Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Bond Legislation, only upon the books of The Huntington National Bank, as bond 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 Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

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

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

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

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

[Remainder of page intentionally blank]

IN WITNESS WHEREOF, the CITY OF SALEM has caused this Bond to be signed by its Mayor and City Manager and its corporate seal to be hereunto affixed and attested by its City Clerk, and has caused this Bond to be dated as of the day and year first written above.

[SEAL]

Jim Plavick

Mayor

Dave [unclear]

City Manager

ATTEST:

[Signature]

City Clerk

SPECIMEN

EXHIBIT A

RECORD OF ADVANCES

<u>AMOUNT</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>DATE</u>
(1) \$27,000	1/14/2010	(19)	
(2)		(20)	
(3)		(21)	
(4)		(22)	
(5)		(23)	
(6)		(24)	
(7)		(25)	
(8)		(26)	
(9)		(27)	
(10)		(28)	
(11)		(29)	
(12)		(30)	
(13)		(31)	
(14)		(32)	
(15)		(33)	
(16)		(34)	
(17)		(35)	
(18)		(36)	

TOTAL \$ _____

EXHIBIT B

DEBT SERVICE SCHEDULE

10 Years			
	Dated		
	Date	1/14/10	
	Delivery		
	Date	1/14/10	
Period	Debt		Principal
Ending	Service		Forgiveness
1/14/10			
9/1/11	-23,175		-23,175
12/1/11	-23,175		-23,175
3/1/12	-23,175		-23,175
6/1/12	-23,175		-23,175
9/1/12	-23,175		-23,175
12/1/12	-23,175		-23,175
3/1/13	-23,175		-23,175
6/1/13	-23,175		-23,175
9/1/13	-23,175		-23,175
12/1/13	-23,175		-23,175
3/1/14	-23,175		-23,175
6/1/14	-23,175		-23,175
9/1/14	-23,175		-23,175
12/1/14	-23,175		-23,175
3/1/15	-23,175		-23,175
6/1/15	-23,175		-23,175
9/1/15	-23,175		-23,175
12/1/15	-23,175		-23,175
3/1/16	-23,175		-23,175
6/1/16	-23,175		-23,175
9/1/16	-23,175		-23,175
12/1/16	-23,175		-23,175
3/1/17	-23,175		-23,175
6/1/17	-23,175		-23,175
9/1/17	-23,175		-23,175
12/1/17	-23,175		-23,175
3/1/18	-23,175		-23,175
6/1/18	-23,175		-23,175
9/1/18	-23,175		-23,175
12/1/18	-23,175		-23,175
3/1/19	-23,175		-23,175
6/1/19	-23,175		-23,175
9/1/19	-23,175		-23,175
12/1/19	-23,175		-23,175
3/1/20	-23,175		-23,175
6/1/20	-23,175		-23,175
9/1/20	-23,175		-23,175
12/1/20	-23,175		-23,175
3/1/21	-23,175		-23,175
6/1/21	-23,175		-23,175
	927,000		927,000

ASSIGNMENT

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

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

Dated: _____, 20__.

In the presence of:

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2010 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: January 14, 2010.

THE HUNTINGTON NATIONAL BANK,
as Registrar


Authorized Officer

SPECIMEN



Chase Tower, Sixth Floor
P.O. Box 2190
Clarksburg, WV 26302-2190
(304) 624-8000 (304) 624-8183 Fax
www.steptoe-johnson.com

Writer's Contact Information

January 14, 2010

City of Salem
Water Revenue Bonds, Series 2010 A
(West Virginia DWTRF Program)

City of Salem
Salem, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

West Virginia Bureau for Public Health
Charleston, West Virginia

Ladies and Gentlemen:

We have served as bond counsel in connection with the issuance by the City of Salem (the "Issuer"), a municipal corporation and political subdivision created and existing under the laws of the State of West Virginia, of its \$900,000 Water Revenue Bonds, Series 2010 A (West Virginia DWTRF Program), dated the date hereof (the "Bonds").

We have examined the law and certified copies of proceedings and other papers relating to the authorization of a ARRA Assistance Agreement dated January 14, 2010, including all schedules and exhibits attached thereto (the "ARRA Assistance Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Bureau for Public Health (the "BPH"), and the Bonds, which are to be purchased by the Authority in accordance with the provisions of the ARRA Assistance Agreement. The Bonds are originally issued in the form of one Bond, registered as to principal to the Authority, bearing no interest, with principal installments payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2011, to and including June 1, 2041, all as set forth in the "Schedule Y" attached to the Loan Agreement and incorporated in and made a part of the Bonds. The Bonds are not subject to the DWTRF Administrative Fee.

The Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly, Chapter 8, Article 19 and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended

(collectively, the "Act"), for the purposes of (i) providing a contribution in aid of construction to the Sun Valley Public Service District (the "District") in order to pay a portion of the costs to be incurred by the District in its undertaking the acquisition and construction of additions, betterments and improvements to its existing public waterworks system as necessary for the District to supply potable water to the Issuer, together with all necessary appurtenances, and to the extent that sufficient funds remain therefore, to undertake the acquisition and construction of additions, betterments and improvements to the Issuer's existing waterworks system (collectively, the "Project"); and (ii) paying certain costs of issuance and related costs.

We have also examined the applicable provisions of the Act and the Bond Ordinance duly enacted by the Issuer on October 13, 2009, as supplemented by a Supplemental Resolution duly adopted by the Issuer on December 17, 2009 (collectively, the "Bond Legislation"), pursuant to and under which Act and Bond Legislation the Bonds are authorized and issued, and the ARRA Assistance Agreement has been entered into. The Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Bond Legislation and the ARRA Assistance Agreement. All capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Bond Legislation and the ARRA Assistance Agreement when used herein.

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

1. The Issuer is a duly created and validly existing municipal corporation and political subdivision of the State of West Virginia, with full power and authority to make the contribution in aid of construction to the District for purposes of the Project, to operate and maintain the System, to adopt the Bond Legislation and to issue and sell the Bonds, all under the Act and other applicable provisions of law.

2. The ARRA Assistance Agreement has been duly authorized by and executed on behalf of the Issuer, is a valid and binding special obligation of the Issuer enforceable in accordance with the terms thereof, and inures to the benefit of the Authority and the BPH and cannot be amended by the Issuer so as to affect adversely the rights of the Authority or the BPH or diminish the obligations of the Issuer without the written consent of the Authority and the BPH.

3. The Bond Legislation and all other necessary ordinances, orders and resolutions have been duly and effectively enacted and adopted by the Issuer in connection with the issuance and sale of the Bonds and constitute valid and binding obligations of the Issuer enforceable against the Issuer in accordance with their terms. The Bond Legislation contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the ARRA Assistance Agreement.

4. The 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 Gross Revenues of the System and secured by a first lien on and pledge of the Gross Revenues of the System, on a parity with respect to liens, pledge and source of and security for payment with the Issuer's Water Revenue Bonds, Series 2010 B (West Virginia DWTRF Program/ARRA) dated January 14, 2010, issued concurrently with the Bonds in the original aggregate principal amount of \$927,000.

5. The Bonds, together with any interest thereon are, under the Act, exempt from all taxation by the State of West Virginia, or any county, municipality or county commission, political subdivision or agency thereof.

6. The Bonds have not been issued on the basis that the interest thereon, if any, is or will be excluded from the gross income of the owners thereof for federal income tax purposes. We express no opinion regarding the excludability of such interest from the gross income of the owners thereof for federal income tax purposes or other federal tax consequences arising with respect to the Bonds.

It is to be understood that the rights of the holders of the Bonds and the enforceability of the Bonds, the ARRA Assistance Agreement and the Bond Legislation, and the liens and pledges set forth therein, may be subject to and limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted to the extent constitutionally applicable and that their enforcement may also be subject to the exercise of judicial discretion and the application of equitable remedies in appropriate cases.

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

Very truly yours,

A handwritten signature in black ink that reads "Steptoe & Johnson PLLC". The signature is written in a cursive, flowing style.

STEPTOE & JOHNSON PLLC



Chase Tower, Sixth Floor
P.O. Box 2190
Clarksburg, WV 26302-2190
(304) 624-8000 (304) 624-8183 Fax
www.stepToe-johnson.com

Writer's Contact Information

January 14, 2010

City of Salem
Water Revenue Bonds, Series 2010 B
(West Virginia DWTRF Program/ARRA)

City of Salem
Salem, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

West Virginia Bureau for Public Health
Charleston, West Virginia

Ladies and Gentlemen:

We have served as bond counsel in connection with the issuance by the City of Salem (the "Issuer"), a municipal corporation and political subdivision created and existing under the laws of the State of West Virginia, of its \$927,000 Water Revenue Bonds, Series 2010 B (West Virginia DWTRF Program/ARRA), dated the date hereof (the "Bonds").

We have examined the law and certified copies of proceedings and other papers relating to the authorization of a ARRA Assistance Agreement, dated January 14, 2010, including all schedules and exhibits attached thereto (the "ARRA Assistance Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Bureau for Public Health (the "BPH"), and the Bonds, which are to be purchased by the Authority in accordance with the provisions of the ARRA Assistance Agreement. The Bonds are originally issued in the principal amount of \$927,000, in the form of one Bond, bearing no interest, registered as to principal only to the Authority, with 100% of the principal being forgiven in accordance with the ARRA Assistance Agreement. The Bonds are not subject to the DWTRF Administrative Fee.

The Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly, Chapter 8, Article 19 and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended (collectively, the "Act"), for the purposes of (i) providing a contribution in aid of construction to the Sun Valley Public Service District (the "District") in order to pay a portion of the costs to be incurred by the District in its undertaking the acquisition and

construction of additions, betterments and improvements to its existing public waterworks system as necessary for the District to supply potable water to the Issuer, together with all necessary appurtenances, and to the extent that sufficient funds remain therefore, to undertake the acquisition and construction of additions, betterments and improvements to the Issuer's existing waterworks system (collectively, the "Project"); and (ii) paying certain costs of issuance and related costs.

We have also examined the applicable provisions of the Act and the Bond Ordinance duly enacted by the Issuer on October 13, 2009, as supplemented by a Supplemental Resolution duly adopted by the Issuer on December 17, 2009 (collectively, the "Bond Legislation"), pursuant to and under which Act and Bond Legislation the Bonds are authorized and issued, and the ARRA Assistance Agreement has been entered into. The Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Bond Legislation and the ARRA Assistance Agreement. All capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Bond Legislation and the ARRA Assistance Agreement when used herein.

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

1. The Issuer is a duly created and validly existing municipal corporation and political subdivision of the State of West Virginia, with full power and authority to make the contribution in aid of construction to the District for the construction of the Project, to operate and maintain the System, to adopt the Bond Legislation and to issue and sell the Bonds, all under the Act and other applicable provisions of law.
2. The ARRA Assistance Agreement has been duly authorized by and executed on behalf of the Issuer, is a valid and binding special obligation of the Issuer enforceable in accordance with the terms thereof, and inures to the benefit of the Authority and the BPH and cannot be amended by the Issuer so as to affect adversely the rights of the Authority or the BPH or diminish the obligations of the Issuer without the written consent of the Authority and the BPH.
3. The Bond Legislation and all other necessary ordinances, orders and resolutions have been duly and effectively enacted and adopted by the Issuer in connection with the issuance and sale of the Bonds and constitute valid and binding obligations of the Issuer enforceable against the Issuer in accordance with their terms. The Bond Legislation contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the ARRA Assistance Agreement.
4. The 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 Gross Revenues of the System and secured by a first lien on and pledge of the Gross Revenues of the System, on a parity with respect to liens, pledge and source of and security for payment with the Issuer's Water Revenue Bonds, Series 2010 A (West Virginia DWTRF Program) dated January 14, 2010, issued in the original aggregate principal amount of \$900,000 issued concurrently herewith.

5. The Bonds, together with any interest thereon are, under the Act, exempt from all taxation by the State of West Virginia, or any county, municipality or county commission, political subdivision or agency thereof.

6. The Bonds have not been issued on the basis that the interest thereon, if any, is or will be excluded from the gross income of the owners thereof for federal income tax purposes. We express no opinion regarding the excludability of such interest from the gross income of the owners thereof for federal income tax purposes or other federal tax consequences arising with respect to the Bonds.

It is to be understood that the rights of the holders of the Bonds and the enforceability of the Bonds, the ARRA Assistance Agreement and the Bond Legislation, and the liens and pledges set forth therein, may be subject to and limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted to the extent constitutionally applicable and that their enforcement may also be subject to the exercise of judicial discretion and the application of equitable remedies in appropriate cases.

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

Very truly yours,



STEPTOE & JOHNSON PLLC

January 14, 2010

City of Salem
Water Revenue Bonds, Series 2010 A
(West Virginia DWTRF Program); and
Water Revenue Bonds, Series 2010 B
(West Virginia DWTRF Program/ARRA)

City of Salem
Salem, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

West Virginia Bureau for Public Health
Charleston, West Virginia

Ladies and Gentlemen:

We are counsel to the City of Salem, in Harrison County, West Virginia (the "Issuer"). As such counsel, we have examined copies of the approving opinions of Steptoe & Johnson PLLC, as bond counsel, an ARRA Assistance Agreement dated January 14, 2010, including all schedules and exhibits attached thereto (the "ARRA Assistance Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Bureau for Public Health (the "BPH"), the Bond Ordinance duly enacted by the Issuer on October 13, 2009, as supplemented by the Supplemental Resolution duly adopted by the Issuer on December 17, 2009 (collectively, the "Bond Legislation"), and other documents relating to the above-captioned Bonds of the Issuer (the "Bonds"). Capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Bond Legislation and the ARRA Assistance Agreement when used herein.

We are of the opinion that:

1. The Issuer has been duly created and is validly existing as a municipal corporation and political subdivision of the State of West Virginia, with full power and authority to make the contribution in aid of construction to Sun Valley Public Service

District (the "District") for the Project, to operate and maintain the System and to enact the Bond Legislation, all under the Act and other applicable provisions of law, and the City Manager, Mayor, City Clerk and members of the council of the Issuer have been duly and properly elected or appointed, as applicable, have taken the requisite oaths, and are authorized to act on behalf of the Issuer in their respective capacities.

2. The Bond Legislation has been duly adopted and enacted by the Issuer and is in full force and effect.

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

4. The execution and delivery of the Bonds and the ARRA Assistance Agreement and the consummation of the transactions contemplated by the Bonds, the ARRA Assistance Agreement and the Bond Legislation and the carrying out of the terms thereof, do not and will not, in any material respect, conflict with or constitute, on the part of the Issuer, a breach of or default under any ordinance, order, resolution, agreement or other instrument to which the Issuer is a party or any existing law, regulation, court order or consent decree to which the Issuer is subject.

5. To the best of our knowledge following due inquiry, the Issuer has received all permits, licenses, approvals, consents, exemptions, orders, certificates and authorizations necessary for the issuance of the Bonds, the contribution in aid of construction to the District for the Project, the operation of the System and the imposition of rates and charges for use of the System, including, without limitation, the receipt of all requisite orders and approvals from the BPH and 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 dated November 9, 2004 prescribing such rates and charges. Such ordinance remains in full force and effect.

6. To the best of our knowledge, there is no litigation, action, suit, proceeding or investigation at law or in equity before or by any court, public board or body, pending or threatened, wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by the Bonds, the ARRA Assistance Agreement, the Bond Legislation, the contribution in aid of construction to the District for the Project, the operation of the System, the validity of the Bonds or the collection or pledge of the Gross Revenues therefor.

7. The Issuer has received all approvals necessary to the enforceability of the Water Purchase Agreement, dated March 24, 2009, between the Issuer and the Clarksburg Water Board (the "Water Purchase Agreement"), including but not limited to, the Recommended Decision of the Public Service Commission of West Virginia, entered

on December 16, 2009, which became a final order of the PSC on January 2, 2010, in Case No. 07-0327-PWD-CN (the "PSC Order"), which, among other things, approves the form of the Water Purchase Agreement and the execution and delivery thereof by the parties thereto, and such Water Purchase Agreement has been duly executed and delivered by the Issuer and assuming due execution and delivery by the Clarksburg Water Board such Agreement is in full force and effect on the date hereof.

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

Very truly yours,



STEPTOE & JOHNSON PLLC



Chase Tower, Sixth Floor
P.O. Box 2190
Clarksburg, WV 26302-2190
304-624-8000 304-624-8183 fax
www.steptoe-johnson.com

Writer's Contact Information
ronald.hanlan@steptoe-johnson.com
304-624-8108

January 14, 2010

City of Salem, West Virginia (Issuer)
229 West Main Street
Salem, West Virginia 26426

West Virginia Bureau for Public Health
One Davis Square, Suite 20
Charleston, WV 25301

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

Re: Final Title Opinion for the City of Salem, West Virginia for the Sun Valley
Public Service District Water Line Extension Project IJDC# 98-W-421

Ladies and Gentlemen:

We are counsel to the City of Salem, West Virginia (the "Issuer") in connection with a contribution in aid of construction to Sun Valley Public Service District (the "District") for a proposed project to construct a main water line extension to provide drinking water to the Issuer from the Clarksburg Water Board through new water transportation lines being constructed by Sun Valley Public Service District (the "Project"). We provide this final title opinion on behalf of the Issuer to satisfy the requirements of the West Virginia Drinking Water Treatment Revolving Fund for the West Virginia Bureau for Public Health (the "BPH") for the Project. Please be advised of the following:

1. We are of the opinion that the Issuer is a duly created and validly existing municipal corporation possessed with all the powers and authority granted to municipal corporations under the laws of the State of West Virginia to make the contribution in aid of construction to the Project as approved by the BPH; and further that the Issuer is a duly constituted and authorized public water utility possessed with all the powers and authority necessary to operate and maintain its presently existing municipal public water distribution system (the "System") as the same presently exists.

2. We have investigated and ascertained the location of, and are familiar with the legal description of, the necessary sites, including easements and/or rights of way, required for the operation of the Issuer's System as the same presently exists.

3. We have examined the records on file in the Office of the Clerk of the County Commission of Harrison County, West Virginia, the county in which the Project is to be located and in which the Issuer presently operates its System; and, in our opinion, the Issuer has acquired legal title or such other estate or interest in all of the necessary site components for its System, including all easements and/or rights of way sufficient to assure undisturbed use and possession for the purpose of operation and maintenance of its System for the estimated life of the Project.

4. All deeds, easements and rights of way which have been acquired to date by the Issuer have been duly recorded in the Office of the Clerk of the County Commission of Harrison County to protect the legal title to and interest of the Issuer in and to its System.

5. There are no rights of way or easements or any other property rights or property acquisitions which must be obtained by the Issuer in connection with the Project improvements to be constructed by the District.

Very truly yours,



STEPTOE & JOHNSON PLLC

CITY OF SALEM

Water Revenue Bonds, Series 2010 A
(West Virginia DWTRF Program); and
Water Revenue Bonds, Series 2010 B
(West Virginia DWTRF Program/ARRA)

GENERAL CERTIFICATE OF ISSUER AND ATTORNEY ON:

1. TERMS
2. NO LITIGATION
3. GOVERNMENTAL APPROVALS
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. ARRA ASSISTANCE AGREEMENT
10. RATES
11. SIGNATURES AND DELIVERY
12. BOND PROCEEDS
13. PUBLICATION AND PUBLIC HEARING ON BOND
ORDINANCE
14. PUBLIC SERVICE COMMISSION ORDER
15. SPECIMEN BONDS
16. CONFLICT OF INTEREST
17. PROCUREMENT OF ENGINEERING SERVICES
18. SCHEDULE B FOR PROJECT
19. EXECUTION OF COUNTERPARTS

We, the undersigned CITY MANAGER, MAYOR and CITY CLERK of the City of Salem in Harrison County, West Virginia (the "Issuer"), and the undersigned COUNSEL to the Issuer, hereby certify, on this the 14th day of January, 2010, in connection with the Issuer's Water Revenue Bonds, Series 2010 A (West Virginia DWTRF Program) (the "Series 2010 A Bonds"), and Water Revenue Bonds, Series 2010 B (West Virginia DWTRF Program/ARRA) (the "Series 2010 B Bonds") dated the date hereof (collectively the "Bonds"), as follows:

1. TERMS: All capitalized words and terms used in this General Certificate and not otherwise defined herein shall have the same meaning as set forth in the Bond Ordinance of the Issuer duly enacted October 13, 2009, and the Supplemental Resolution duly adopted December 17, 2009 (collectively, the "Bond Legislation").

2. NO LITIGATION: No controversy or litigation of any nature is now pending or threatened, restraining, enjoining or affecting in any manner the issuance, sale or delivery of the Bonds, the contribution in aid of construction to Sun Valley Public Service

District (the "District") for the Project, the operation of the System, the receipt of the Gross Revenues, or in any way contesting or affecting the validity of the Bonds, or any proceedings of the Issuer taken with respect to the issuance or sale of the Bonds, the pledge or application of the Gross Revenues or any other monies or security provided for the payment of the Bonds or the existence or the powers of the Issuer insofar as they relate to the authorization, sale and issuance of the Bonds, the contribution in aid of construction to the District for the Project, the operation of the System, the collection of the Gross Revenues or the pledge of Gross Revenues as security for the Bonds.

3. GOVERNMENTAL APPROVALS: All applicable approvals, permits, exemptions, consents, authorizations, registrations and certificates required by law for the Issuer's contribution in aid of construction to the District for the Project, the operation of the System, the imposition of rates and charges, and the issuance of the Bonds have been duly and timely obtained and remain in full force and effect.

4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS: There has been no adverse change in the financial condition of the Issuer since the approval, execution and delivery by the Issuer of the ARRA Assistance Agreement, and the Issuer has met all conditions prescribed in the ARRA Assistance Agreement. The Issuer has or can provide the financial, institutional, legal and managerial capabilities necessary to complete the Project.

There are no outstanding obligations of the Issuer which will rank on a parity with the Series 2010 Bonds as to liens, pledge, source of and security for payment.

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

Bond Ordinance

Supplemental Resolution

ARRA Assistance Agreement

Public Service Commission Orders

Infrastructure and Jobs Development Council Approval

Specimen Bond, Series 2010 A

Specimen Bond, Series 2010 B

Closing Memorandum

Sweep Resolution

IJDC Grant Agreement

Water Purchase Agreement with Clarksburg Water Board

Charter and Rules of Procedure

Oaths of Office of Officers and Council Members

Water Rate Ordinance

Minutes on Adoption and Enactment of Rate Ordinance

Affidavit of Publication of Rate Ordinance and Notice of Public Hearing

Minutes on Adoption and Enactment of Bond Ordinance, Adoption of Supplemental Resolution and Sweep Resolution

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

Municipal Bond Commission New Issue Reports

(A) Series 2010 A

(B) Series 2010 B

Evidence of Insurance

6. INCUMBENCY AND OFFICIAL NAME: The proper corporate title of the Issuer is "City of Salem." The Issuer is a municipal corporation in Harrison County and is presently existing under the laws of, and a political subdivision of, the State of West Virginia. The governing body of the Issuer is its council, consisting of a Mayor and six (6) council members, all duly elected or appointed, as applicable, qualified and acting, and whose names and dates of commencement and termination of current terms of office are as follows:

Name	Date of Commencement of Office	Date of Termination of Office
James Plaughter, Mayor	July 1, 2009	June 30, 2013
Arlen Swiger	July 1, 2007	June 30, 2011
Alfonse Romagnoli	July 1, 2009	June 30, 2013
David Fisher	July 1, 2007	June 30, 2011
Israel James Williams	July 1, 2009	June 30, 2013

Tim Cork	July 1, 2007	June 30, 2011
Pam Holston	July 1, 2009	June 30, 2013

The duly appointed and acting Counsel to the Issuer is Steptoe & Johnson PLLC, Clarksburg, West Virginia. The duly appointed and acting City Clerk of the Issuer is Sherry Lovett Olenick.

7. LAND AND RIGHTS-OF-WAY: The Project improvements consisting of the construction by the District of a main water line extension as necessary to enable the District to supply treated potable water to the Issuer shall be constructed and owned by the District. Consequently, the District is responsible for obtaining all real property rights which may be necessary for the District to undertake the construction of the Project and to operate and maintain the same following completion of construction.

8. MEETINGS, ETC.: All actions, ordinances, resolutions, orders and agreements taken by and entered into by or on behalf of the Issuer in any way connected with the issuance of the Bonds and the contribution in aid of construction by the Issuer to the District and the financing thereof or the operation of the System were authorized or adopted at regular or special meetings of the Governing Body of the Issuer duly and regularly called and held pursuant to the Rules of Procedure of the Governing Body and all applicable statutes, including, particularly and without limitation, Chapter 6, Article 9A of the West Virginia Code of 1931, as amended, and a quorum of duly elected or appointed, as applicable, qualified and acting members of the Governing Body was present and acting at all times during all such meetings. All notices required to be posted and/or published were so posted and/or published.

9. ARRA ASSISTANCE AGREEMENT: As of the date hereof, (i) the representations of the Issuer contained in the ARRA Assistance Agreement are true and correct in all material respects as if made on the date hereof; (ii) the ARRA Assistance Agreement does not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; (iii) to the best knowledge of the undersigned, no event affecting the Issuer has occurred since the date of the ARRA Assistance 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 ARRA Assistance Agreement not misleading; and (iv) the Issuer is in compliance with the ARRA Assistance Agreement.

The Issuer hereby covenants and agrees to comply with the terms and conditions set forth in the special conditions of the ARRA Assistance Agreement attached hereto as Exhibit A and incorporated herein by reference.

10. RATES: The Issuer has duly enacted a water rate ordinance setting rates and charges for the services of the System on November 9, 2004. The time for appeal has expired prior to the date hereof without appeal and such rates remain in full force and effect.

11. SIGNATURES AND DELIVERY: On the date hereof, the undersigned City Manager and Mayor did officially sign all of the Bonds of the aforesaid issue, consisting upon original issuance of a single Bond for each series, dated the date hereof, by their manual signatures, and the undersigned City Clerk did officially cause the official seal of the Issuer to be affixed upon said Bonds and to be attested by his or her manual signature, and the Registrar did officially authenticate and deliver the Bonds to a representative of the Authority as the original purchaser of the Bonds under the ARRA Assistance Agreement. Said official seal of the Issuer is also impressed above the signatures appearing on this certificate.

12. BOND PROCEEDS: On the date hereof, the Issuer received \$450,000 from the Authority and the BPH, being a portion of the principal amount of the Series 2010 A Bonds. On the date hereof, the Issuer received \$27,000 from the Authority and the BPH, being a portion of the principal amount of the Series 2010 B Bonds. The balance of the principal amount of the Series 2010 A Bonds and Series 2010 B Bonds will be advanced to the Issuer as acquisition and construction of the Project progresses.

13. PUBLICATION AND PUBLIC HEARING ON BOND ORDINANCE: Upon adoption of the Bond Ordinance, an abstract thereof, determined by the Governing Body to contain sufficient information as to give notice of the contents thereof, was published once each week for 2 successive weeks, with not less than 6 full days between each publication, the first such publication occurring not less than 10 days before the date stated below for the public hearing, in the *Exponent-Telegram*, a qualified newspaper of general circulation in the City of Salem, together with a notice to all persons concerned, stating that the Bond Ordinance had been adopted and that the Issuer contemplated the issuance of the Bonds described in such Bond Ordinance, stating that any person interested may appear before the Governing Body at the public hearing held at a public meeting of the Governing Body on the 13th day of October, 2009, at 5:30 p.m., at the City Hall in Salem, West Virginia, and present protests, and stating that a certified copy of the Bond 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 Issuer. At such hearing all objections and suggestions were heard by the Governing Body and the Bond Ordinance became finally adopted, enacted and effective as of the date of such public hearing, and remains in full force and effect.

14. PUBLIC SERVICE COMMISSION ORDER: The District has received the Recommended Decision of the Public Service Commission of West Virginia entered December 16, 2009, as amended by a Corrective Order entered on December 18, 2009, which became the Final Order of the Commission on January 2, 2010 in Case No. 07-0327-PWD-CN, (the "Order") among other things, granting to the District a certificate of convenience and necessity for the construction of the Project, setting the water rates and charges of the District and approving the financing for the Project improvements to the District's system. The parties to the Recommended Decision have waived the right to file exceptions thereto. The parties to the Final Order have filed written waivers of their rights to appeal such Final Order to the West Virginia Supreme Court of Appeals. Such Order is in full force and effect.

15. SPECIMEN BONDS: Delivered concurrently herewith are true and accurate specimens of the Series 2010 Bonds.

16. CONFLICT OF INTEREST: No member, officer or employee of the Issuer has a substantial financial interest, direct, indirect or by reason of ownership of stock in any corporation, in any contract with the Issuer or in the sale of any land, materials, supplies or services to the Issuer or to any contractor supplying the Issuer, relating to the Bonds, the Bond Legislation and/or the Project, including, without limitation, with respect to the Depository Bank. For purposes of this paragraph, a "substantial financial interest" shall include, without limitation, an interest amounting to more than 5% of the particular business enterprise or contract.

17. PROCUREMENT OF ENGINEERING SERVICES: The Issuer has not procured engineering services in connection with the Project improvements to the District's system. The District has retained a consulting engineer in connection with the design and construction of the Project.

18. SCHEDULE B FOR PROJECT: The Schedule B for the Project which has been executed and delivered by the Issuer in connection with the closing on the issuance of the Bonds contains an accurate recitation of the sources and uses of funding provided by Salem for the Project.

19. EXECUTION OF COUNTERPARTS: This document may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same document.

[Remainder of Page Intentionally Left Blank]

WITNESS our signatures and the official seal of the CITY OF SALEM on the day and year first written above.

[CORPORATE SEAL]

SIGNATURE

OFFICIAL TITLE

Jane Plaugher

Mayor

Dennis

City Manager

Debra Davis

City Clerk

Robert H. Hale

Counsel to the Issuer

EXHIBIT A

Special Conditions – ARRA Funded Projects

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

B. AUDIT REQUIREMENT (Supplement to Article IV 4.1 (b) (xi)) – Effective October 1, 2003, the Local Government that receives \$500,000 or more (in federal funds) in a fiscal year must obtain audits in accordance with the Single Audit Act and the applicable OMB Circular or any successor thereto. Financial statement audits are required once all funds have been received by the Local Government.

C. BUY AMERICAN CERTIFICATION – The Local Government shall cause the contractor(s) to comply with, and provide certification of, the Buy American provisions of the ARRA in accordance with final guidance from the EPA.

D. ASSET MANAGEMENT – The Local Government shall develop and implement an asset management plan in accordance with guidelines issued by DEP and is approved by DEP.

E. CONTRACTS – The Local Government shall enter into contracts or commence construction by February 17, 2010.

F. LOGO – The Local Government must display the ARRA logo in a manner that informs the public that the project is an ARRA investment.

G. LOBBYING - The Local Government shall comply with Title 40 CFR Part 34, New Restrictions on Lobbying and shall submit certification and disclosure forms as required by DEP.

H. PURCHASING REQUIREMENTS – The Local Government shall comply with Section 6002 of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6962). Regulations issued under RCRA Section 6002 apply to any acquisition of an item where the purchase price exceeds \$10,000 or where the quantity of such items acquired in the course of the preceding fiscal year was \$10,000 or more. RCRA Section 6002 requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by EPA. These guidelines are listed in 40 CFR 247.

I. SUSPENSION AND DEBARMENT – The Local Government shall comply with Subpart C of 2 CFR Part 180 and 2 CFR Part 1532, entitled “Responsibilities of Participants Regarding Transactions (Doing Business with Other Persons). To the extent required by DEP, the Local Government shall provide certifications as to compliance.

J. REPORTING – The Local Government shall comply with all requests for data related to the use of the funds provided under this agreement, including the information required in section 1512 of ARRA when requested by DEP.

K. INSPECTOR GENERAL REVIEWS – The Local Government shall allow any appropriate representative of the Office of US Inspector General to (1) examine its records relating to the Project and this ARRA Assistance Agreement and (2) interview any officer or employee of the Local Government.

L. FALSE CLAIMS – The Local Government must promptly refer to EPA’s Inspector General any credible evidence that a principal, employee, agent, sub-grantee contractor, subcontractor, loan recipient, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving funds provided under this ARRA Assistance Agreement.

M. LIMIT ON FUNDS – The Local Government shall not use funds for particular activities for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

N. WAGE RATES – The Local Government shall require that all laborers and mechanics employed by its contractors and subcontractors be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor (DOL) in accordance with subchapter IV of chapter 32 of title 40, United States Code. The Local Government must require that contractors and subcontractors obtain wage determinations from DOL and comply with DOL guidance and regulations implementing wage rate requirements applicable to ARRA funds.

O. OFFICE OF MANAGEMENT AND BUDGET (OMB) GUIDANCE – The Local Government acknowledges and agrees that this ARRA Assistance is subject to all applicable provisions of implementing guidance for the American Recovery and Reinvestment Act of 2009 issued by the United States Office of Management and Budget, including the Initial Implementing Guidance for the American Recovery and Reinvestment Act (M-09-10) issued on February 18, 2009 and available on www.recovery.gov, and any subsequent guidance documents issued by OMB.

P. DISADVANTAGED BUSINESS ENTERPRISE – Pursuant to 40 CFR, Section 33.301, the Local Government agrees to make good faith efforts whenever procuring construction, equipment, services and supplies, and to require that prime contractors also

comply. The Local Government shall provide DEP with MBE/WBE participation reports semi-annually.

Q. CIVIL RIGHTS – The Local Government shall comply with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and a variety of program-specific statutes with nondiscrimination requirements. The Local Government shall also comply with Title VII of the Civil Rights Act of 1964 (prohibiting race, color, national origin, religion, and sex discrimination in employment), the Americans with Disabilities Act (prohibiting disability discrimination in employment and in services provided by State and local governments, businesses, and non-profit agencies), and the Fair Housing Act (prohibiting race, color, national origin, age, family status, and disability discrimination in housing), as well as any other applicable civil rights laws.

R. BOND DESIGNATION – Each Local Bond funded by ARRA funds shall be designated “Series [2010] B” and shall contain “(West Virginia DWTRF Program/ARRA)” in the bond name.

S. USER RATES – The Local Government shall covenant that it will not reduce its approved or enacted customer rates for at least eighteen months after completion of the Project or until such time as a cost of service study has been completed establishing the actual operation and maintenance expenses.

T. NEW CUSTOMERS- The Local Government is serving no additional customers in connection with the Project. The Local Government shall not reduce the amount of additional customers served by the Project without the prior written approval of the WDA Board.

U. MAINTENANCE AUDIT- The Local Government shall perform an annual maintenance audit which maintenance audit shall be submitted to the WDA and the Public Service Commission of West Virginia.

**SUN VALLEY PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2010A
(UNITED STATES DEPARTMENT OF AGRICULTURE),
WATER REVENUE BONDS, SERIES 2010B
(WEST VIRGINIA DWTRF PROGRAM)
AND
WATER REVENUE BONDS, SERIES 2010C
(WEST VIRGINIA DWTRF PROGRAM (ARRA))**

CERTIFICATE OF ENGINEER

I, Clay P. Riley, Registered Professional Engineer, West Virginia License No. 15634, of Thrasher Engineering, Inc. Consulting Engineers, Clarksburg, West Virginia, hereby certify as follows:

1. My firm is engineer for the acquisition and construction of certain additions, betterments and improvements (the "Project") to the existing public water system (the "System") of the Sun Valley Public Service District (the "Issuer"), to be constructed primarily in Harrison, County, West Virginia, which acquisition and construction are being permanently financed in part by the above-captioned bonds (the "Bonds") of the Issuer. Capitalized words used herein and not defined herein shall have the same meaning set forth in the Bond Resolutions adopted by the Issuer on January 12, 2010, and the ARRA Assistance Agreement by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Bureau for Public Health (the "BPH"), dated January 14, 2010.

2. The Bonds are being issued for the purposes of (i) paying a portion of the costs of the Project; and (ii) paying certain issuance and other costs in connection therewith.

3. To the best of my knowledge, information and belief, (i) within the limits and in accordance with the applicable and governing contractual requirements relating to the Project, the Project will be constructed in general accordance with the approved plans, specifications and designs prepared by my firm and approved by the BPH and the Purchaser and any change orders approved by the Issuer, BPH, the Purchaser and all necessary governmental bodies; (ii) the Project, as designed, is adequate for its intended purpose and has a useful life of at least 40 years, if properly operated and maintained, excepting anticipated replacements due to normal wear and tear; (iii) the Issuer has received bids for the acquisition and construction of the Project which are in an amount and otherwise compatible with the plan of financing set forth in Schedule B attached hereto as Exhibit A, and in reliance on the opinion of West and Jones all successful bidders have made required provisions for all insurance and payment and performance bonds and that such insurance policies or binders and such bonds have been verified for accuracy; (iv) the successful bidders received any and all addenda to the original bid documents; (v) the bid documents relating to the Project reflect the Project as approved by the BPH and the Purchaser and the bid forms provided to the bidders contain all critical operational components of the Project; (vi) the successful bids include prices for every item on such bid forms; (vii) the uniform bid procedures were followed; (viii) the Issuer has obtained all permits required by the

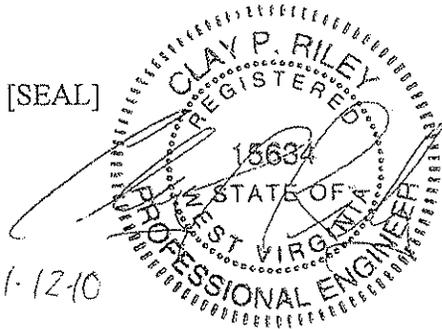
laws of the State of West Virginia and the United States necessary for the acquisition and construction of the Project and operation of the System; and (ix) in reliance upon the certificate of Tetrick & Bartlett, PLLC of even date herewith, as of the effective date thereof, the rates and charges for the System as adopted by the Issuer will be sufficient to comply with the provisions of the ARRA Assistance Agreement, (x) the net proceeds of the Bonds, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of the grants, if any, irrevocably committed therefor, are sufficient to pay the costs of acquisition and construction of the Project approved by BPH and the Purchaser; and (xi) attached hereto as Exhibit A is the final amended "Schedule B – Total Cost of Project; Sources of Funds and Cost of Financing" for the Project.

WITNESS my signature and seal on this 14th day of January, 2010.

THRASHER ENGINEERING, INC.

By: Clay P. Riley

Its: Project Manager
West Virginia License No. 15634



**WEST VIRGINIA BUREAU FOR PUBLIC HEALTH
SCHEDULE B**

SUN VALLEY PUBLIC SERVICE DISTRICT
ROUTE 50 WEST WATER LINE EXTENSION PROJECT (JDC 98W-421)

TOTAL COST OF PROJECT, SOURCES OF FUNDS AND COST OF FINANCING

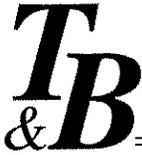
A. Cost of Project	RUS GRANTS		DWTRF ARRA		DWTRF ARRA		DWTRF ARRA		JDC GRANT
	RUS LOAN	PRINCIPAL FORGIVENESS SALEM	DWTRF BASE LOAN SALEM	PRINCIPAL FORGIVENESS SUN VALLEY	DWTRF BASE LOAN SUN VALLEY	PRINCIPAL FORGIVENESS SUN VALLEY	DWTRF BASE LOAN SUN VALLEY		
Total									
1. a. Construction									
Contract 1 Stonegate	\$0.00	\$900,000.00	\$900,000.00	\$286,176.00	\$121,134.00			\$27,000.00	
Contract 2 Stonegate	\$0.00	\$0.00		\$1,486,824.00					
Contract 3 Stonegate	\$900,000.00								
Contract 4 Mid-Atlantic	\$221,200.00								
Total Construction	\$1,121,200.00	\$900,000.00	\$900,000.00	\$1,773,000.00	\$249,500.00			\$27,000.00	
b. Construction Contingency	\$245,000.00								
c. Misc. Equipment	\$347,000.00								
Total	\$97,576.00	\$97,576.00							
2. Technical Services (Thrasher)									
a. Basic \$450,000									
b. Inspection \$370,000									
c. Special Services \$80,000									
Total Engineering	\$500,000.00		\$400,000.00						
3. Legal & Fiscal									
a. Legal (West and Jones)	\$20,800.00								
b. Accounting (LeRick and Bartlett)	\$10,000.00								
4. Sites and Other Lands	\$10,127.00								
5. Miscellaneous									
Administration	\$20,000.00								
Interim Financing									
7. Project Contingency	\$64,873.00		\$50,000.00						
8. Sub total of Lines 1 through 6	\$1,972,000.00	\$900,000.00	\$900,000.00	\$1,773,000.00	\$299,500.00			\$27,000.00	
B. Cost of Financing									
9. Funded Reserve Account									
10. Capitalized Interest	\$198,000.00								
11. Other Costs									
a. Bond Counsel (Bowles Rice)	\$30,000.00								
b. Bank Registrar Fee	\$500.00							\$500.00	
Total Cost of Financing (lines 9 through 11)	\$228,500.00							\$500.00	
13 Total Project Cost (line 7 plus line 12)	\$2,200,500.00	\$900,000.00	\$900,000.00	\$1,773,000.00	\$300,000.00			\$27,000.00	
C. Sources of Funds									
14. Federal Grants: (RUS)									
15 State Grants: (LJDC)	\$1,850,000.00		\$1,850,000.00						
16 Other Grants-Contribution by Salem, WV	\$27,000.00							\$27,000.00	
17 Total Grants (lines 14 through 16)	\$1,877,000.00	\$900,000.00	\$900,000.00	\$1,773,000.00	\$300,000.00			\$27,000.00	
18. Size-of-Bond-Issue (Line 13 minus line 17)	\$4,273,000.00							\$300,000.00	

[Signature]
CHAIRMAN, SUN VALLEY PUBLIC SERVICE DISTRICT

[Signature]
CONSULTING ENGINEER

1-12-2010
DATE:

1-12-10
DATE:



Tetrick & Bartlett, PLLC
Certified Public Accountants
Consultants

122 N. Oak St. • PO Box 1916 • Clarksburg, WV 26302-1916 • (304) 624-5564 • Fax: (304) 624-5582 • www.tetrickbartlett.com

January 14, 2010

City of Salem

Water Revenue Bonds, Series 2010 A
(West Virginia DWTRF Program); and
Water Revenue Bonds, Series 2010 B
(West Virginia DWTRF Program/ARRA)

City of Salem
Salem, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

West Virginia Bureau for Public Health
Charleston, West Virginia

Ladies and Gentlemen:

Based upon the water rates and charges as set forth in the Water Rate Ordinance enacted by the City of Salem (the "Issuer") on November 9, 2004, and the projected operating expenses and the anticipated customer usage as furnished to us by the City of Salem (the "Issuer"), it is our opinion that such rates and charges will be sufficient to provide revenues which, together with other revenues of the waterworks system (the "System") of the Issuer, will pay all operating expenses of the System and leave a balance each year equal to at least 115% of the maximum amount required in any year for debt service on the Issuer's Water Revenue Bonds, Series 2010 A (West Virginia DWTRF Program) (the "Series 2010 A Bonds") and Water Revenue Bonds, Series 2010 B (West Virginia DWTRF Program/ARRA) (the "Series 2010 B Bonds" and collectively with the Series 2010 A Bonds, the "Bonds") and all other obligations secured by a lien on or payable from such revenues as defined in the Bond Ordinance authorizing the Bonds.

Very truly yours,

Tetrick & Bartlett, PLLC

Tetrick & Bartlett, PLLC

CITY OF SALEM

Water Revenue Bonds, Series 2010 A
(West Virginia DWTRF Program); and
Water Revenue Bonds, Series 2010 B
(West Virginia DWTRF Program/ARRA)

CERTIFICATE AS TO USE OF PROCEEDS

The undersigned City Manager, Mayor and City Clerk of the City of Salem in Harrison County, West Virginia (the "Issuer"), being the officials of the Issuer duly charged with the responsibility for the issuance of \$900,000 Water Revenue Bonds, Series 2010 A (West Virginia DWTRF Program) (the "Series 2010 A Bonds") and \$927,000 Water Revenue Bonds, Series 2010 B (West Virginia DWTRF Program/ARRA), of the Issuer, both dated January 14, 2010 (the "Series 2010 B Bonds" and collectively the "Bonds" or the "Series 2010 Bonds") on the 14th day of January, 2010, hereby certify as follows:

1. We are the officers of the Issuer duly charged with the responsibility of issuing the Bonds. We are familiar with the facts, circumstances and estimates herein certified and duly authorized to execute and deliver this certificate on behalf of the Issuer. Capitalized terms used herein and not otherwise defined herein shall have the meanings set forth in the Bond Ordinance duly enacted by the Issuer on October 13, 2009, as supplemented by the Supplemental Resolution duly adopted on December 17, 2009 (collectively, the "Bond Ordinance"), authorizing the Bonds.

2. This certificate may be relied upon as the certificate of the Issuer.

3. This certificate is based upon facts, circumstances, estimates and expectations of the Issuer in existence on January 14, 2010, the date on which the Bonds are being physically delivered in exchange for an initial advance of the principal amount of the Series 2010 Bonds, and to the best of my knowledge and belief, the expectations of the Issuer set forth herein are reasonable.

4. In the Bond Ordinance pursuant to which the Bonds are issued, the Issuer has covenanted that it shall not take, or permit or suffer to be taken, any action with respect to Issuer's use of the proceeds of the Bonds which would cause any bonds, the interest, if any, on which is exempt from federal income taxation under Section 103(a) of the Internal Revenue Code of 1986, as amended, and the temporary and permanent regulations promulgated thereunder or under any predecessor thereto (collectively, the "Code"), issued by the West Virginia Water Development Authority (the "Authority") or the West Virginia Bureau for Public Health (the "BPH"), as the case may be, from which the proceeds of the Bonds are derived, to

lose their status as tax-exempt bonds. The Issuer hereby covenants to take all actions necessary to comply with such covenant.

5. The Series 2010 A Bonds were sold on January 14, 2010, to the Authority, pursuant to an ARRA Assistance Agreement dated January 14, 2010, by and between the Issuer and the Authority, on behalf of the BPH, for an aggregate purchase price of \$900,000 (100% of par), at which time the Issuer received \$450,000 from the Authority and the BPH, being the first advance of the principal amount of the Series 2010 A Bonds. No accrued interest has been or will be paid on the Series 2010 A Bonds. The balance of the principal amount of the Series 2010 A Bonds will be advanced to the Issuer as acquisition and construction of the Project progresses.

6. The Series 2010 B Bonds were sold on January 14, 2010, to the Authority, pursuant to an ARRA Assistance Agreement dated January 14, 2010, by and between the Issuer and the Authority, on behalf of the BPH, for an aggregate purchase price of \$927,000 (100% of par), at which time the Issuer received \$27,000 from the Authority and the BPH, being the first advance of the principal amount of the Series 2010 A Bonds. No accrued interest has been or will be paid on the Series 2010 B Bonds. The balance of the principal amount of the Series 2010 B Bonds will be advanced to the Issuer as acquisition and construction of the Project progresses.

7. The Series 2010 A Bonds and Series 2010 B Bonds are being delivered simultaneously with the delivery of this certificate and are issued for the purposes of (i) financing a contribution in aid of construction by the Issuer to the District in order to pay a portion of the cost to be incurred by the District in constructing facilities necessary to supply treated potable water to the Issuer (the "Project"); and (ii) paying certain costs of issuance of the Bonds and related costs.

8. Within 30 days after the delivery of the Series 2010 Bonds, it is expected that the District will enter into agreements which require the District to expend at least 5% of the net sale proceeds of the Bonds on the Project, constituting a substantial binding commitment.

9. The total cost of the Project, a portion of which is financed from the proceeds of the Series 2010 Bonds (including all costs of issuance of the Series 2010 Bonds), is estimated at \$1,951,000. Sources and uses of funds for the Project are as follows:

SOURCES

Proceeds of the Series 2010 A Bonds	\$ 900,000
Proceeds of the Series 2010 B Bonds	\$ 927,000
Proceeds of IJDC Grant	\$ 124,000
Total Sources	<u>\$1,951,000</u>

USES

Contribution in aid of Construction to District for Project	\$ 1,800,000
Application of IJDC Grant to Payment of Professional Service Fees for Project	\$ 124,000
Costs of Issuance	\$ 27,000
 Total Uses	 <u>\$ 1,951,000</u>

10. Pursuant to Article V of the Bond Ordinance, the following special funds or accounts have been created relative to the Series 2010 Bonds:

- (1) Revenue Fund;
- (2) Renewal and Replacement Fund;
- (3) Series 2010 Bonds Construction Trust Fund;
- (4) Series 2010 A Bonds Sinking Fund;
- (5) Series 2010 A Bonds Reserve Account;
- (6) Series 2010 B Bonds Sinking Fund; and
- (7) Series 2010 B Bonds Reserve Account.

11. Pursuant to Article VI of the Bond Ordinance, the proceeds of the Bonds will be deposited as follows:

- (1) Series 2010 A Bonds proceeds in the amount of \$-0- will be deposited in the Series 2010 A Bonds Reserve Account.
- (2) The balance of the proceeds of the Series 2010 A Bonds will be advanced to the Issuer as such proceeds are requisitioned from time to time and applied solely to payment of costs of the Project.
- (3) Series 2010 B Bonds proceeds in the amount of \$-0- will be deposited in the Series 2010 B Bonds Reserve Account.
- (4) The balance of the proceeds of the Series 2010 B Bonds will be advanced to the Issuer as such proceeds are requisitioned from time to time and applied solely to payment of costs of the Project.

12. Monies held in the Series 2010 A Bonds Sinking Fund will be used solely to pay principal of and interest on the Series 2010 A Bonds and will not be available to meet costs of the Project. All investment earnings on monies in the Series 2010 A Bonds Sinking Fund and Series 2010 A Bonds Reserve Account will be withdrawn therefrom and deposited not less than once each year in the Revenue Fund, and such amounts will be applied as set forth in the Bond Ordinance.

13. Monies held in the Series 2010 B Bonds Sinking Fund will be used solely to pay principal of and interest on the Series 2010 B Bonds and will not be available to meet costs of the Project. All investment earnings on monies in the Series 2010 B Bonds Sinking Fund and Series 2010 B Bonds Reserve Account will be withdrawn therefrom and deposited not less than once each year in the Revenue Fund, and such amounts will be applied as set forth in the Bond Ordinance.

14. The Issuer will take such steps as requested by the Authority to ensure that the Authority's bonds meet the requirements of the Code.

15. With the exception of the amount deposited in the Series 2010 A Bonds Reserve Account and Series 2010 B Bonds Reserve Account, if any, all of the proceeds of the Bonds will be expended for the contribution in aid of construction by the Issuer to the District.

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

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

18. The Bonds are not federally guaranteed.

19. The Issuer has retained the right to amend the Bond Ordinance authorizing the issuance of the Bonds if such amendment is necessary to assure that the Bonds remain governmental bonds.

20. The Issuer has either (a) funded the Series 2010 A Bonds Reserve Account at the maximum amount of principal and interest which will mature and become due on the Series 2010 A Bonds in the then current or any succeeding year with the proceeds of the Series 2010 A Bonds, or (b) created the Series 2010 A Bonds Reserve Account which will be funded with equal payments made on a monthly basis over a 10-year period until such Series 2010 A Bonds Reserve Account holds an amount equal to the maximum amount of principal and interest which will mature and become due on the Series 2010 A Bonds in the then current or any succeeding year. Monies in the Series 2010 A Bonds Reserve Account and the Series 2010 A Bonds Sinking Fund will be used solely to pay principal of and interest on the Series 2010 A Bonds and will not be available to pay costs of the Project.

21. The Issuer has either (a) funded the Series 2010 B Bonds Reserve Account at the maximum amount of principal and interest which will mature and become due on the Series 2010 B Bonds in the then current or any succeeding year with the proceeds of the Series 2010 B Bonds, or (b) created the Series 2010 B Bonds Reserve Account which will be funded with equal payments made on a monthly basis over a 10-year period until such Series 2010 B Bonds Reserve Account holds an amount equal to the maximum amount of principal and interest which will mature and become due on the Series 2010 B Bonds in the then current or any succeeding year. Monies in the Series 2010 B Bonds Reserve Account and the Series 2010 B Bonds Sinking Fund will be used solely to pay principal of and interest on the Series 2010 B Bonds and will not be available to pay costs of the Project.

22. There are no other obligations of the Issuer which (a) are to be issued at substantially the same time as the Bonds, (b) are to be sold pursuant to a common plan of financing together with the Bonds and (c) will be paid out of substantially the same sources of funds or will have substantially the same claim to be paid out of substantially the same sources of funds as the Bonds.

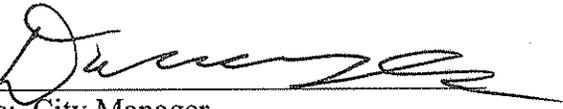
23. To the best of my knowledge, information and belief, there are no other facts, estimates and circumstances which would materially change the expectations herein expressed.

24. The Issuer will comply with instructions as may be provided by the Authority, at any time, regarding use and investment of proceeds of the Bonds, rebates and rebate calculations.

25. To the best of our knowledge, information and belief, the foregoing expectations are reasonable.

WITNESS our signatures on the day and year first written above.

CITY OF SALEM

By: 
Its: City Manager

By: 
Its: Mayor

OFFICIAL CHARTER
OF THE
CITY OF SALEM

SALEM, WEST VIRGINIA

EFFECTIVE DATE JULY 1, 1996

CHARTER-CITY OF SALEM

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CHARTER - CITY OF SALEM

ARTICLE I. POWERS OF THE CITY

Section 1.01. Powers of the City.

The inhabitants of so much of the County of Harrison, as are within the bounds prescribed by Council according to law and as amended from time to time and as are shown on a map held in the city office, shall be and continue in perpetuity to be a municipal body politic and corporate, under the name of the "City of Salem," with all powers possible for a city to have under the constitution and laws of the state of West Virginia as fully and completely as though they were specifically enumerated in this charter.

Section 1.02. Construction.

The powers of the city under this charter shall be construed liberally in favor of the city, and the specific mention of particular powers in the charter shall not be construed as limiting in any way the general power granted in this article.

Section 1.03. Intergovernmental Relations.

The city may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more states or any state civil division or agency, or the United States or any of its agencies.

Section 1.04. Type of Government.

The government for the City of Salem will be organized according to Plan V, the "Manager-Mayor Plan," outlined in Chapter 8, Article 3, Section 2 of the West Virginia Code.

ARTICLE II. CITY COUNCIL

Section 2.01. General Powers and Duties.

All powers of the city shall be vested in the city council, except as otherwise provided by law or this charter, and the council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the city by Chapter 8, Article 12, Section 5 of the West Virginia Code.

Section 2.02. Composition, Eligibility, Election and Terms.

(a) **Composition.** There shall be a city council composed of the mayor and six members; the council members shall be elected by the voters of the city at large and the mayor shall be elected as provided in Section 2.03.

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(b) **Eligibility.** Only registered voters of the city shall be eligible to hold the office of council member or mayor.

(c) **Filing for Office.** Any person who is eligible to hold and seeks to hold the office of mayor or member of council shall file with the city clerk, between the second Monday of January and the first Saturday of February, a certificate declaring candidacy for such office, accompanied by a \$25.00 filing fee, which certificate shall be in form an effect as follows:

I, _____, hereby certify that I am a candidate for the office of _____ of the City of Salem, and desire my name to be printed on the official ballot of the City of Salem to be voted at the election to be held on the _____ day of _____ in the year _____, that I am a legally qualified voter of the City of Salem; that my residence is _____ in the City of Salem; that I am eligible to hold that office; and that I am a candidate for that office in good faith.

Candidate

(d) **Election and Terms.** The regular election of council members shall be held on the first Tuesday of June in each odd numbered year, in the manner provided by law. At the first election under this charter six council members shall be elected; the three candidates receiving the greatest number of votes shall serve for terms of four years, and the three candidates receiving the next greatest number of votes shall serve for terms of two years. Thereafter, all council members shall be elected for four-year terms. The terms of council members shall begin the first day of July after their election.

Section 2.03. Mayor.

A mayor shall be elected at the initial election and every subsequent four years thereafter. The mayor shall be a member of the city council and shall preside at meetings of the council, represent the city in intergovernmental relationships, appoint with the advice and consent of the council the members of citizen advisory boards and commissions, present an annual state of the city message, and perform the duties specified by council. They mayor shall be recognized as head of the city government for all ceremonial purposes and by the governor for purposes of military law but shall have no administrative duties. The council shall elect from among its members a deputy mayor who shall act as mayor during the absence or disability of the mayor and, if a vacancy occurs, shall become mayor for the remainder of the unexpired term. The vacant council seat thus created shall be filled according to Section 2.06 (c) of this Charter.

Section 2.04. Compensation; Expenses.

At the effective date of this charter, the salary of the mayor shall be \$35 per meeting of the council attended by him or her, not to exceed \$840 in any fiscal year or \$105 any one month. The salary of the other members of council shall be \$25 for each meeting of the council attended by him or her, not to exceed \$600 in any fiscal year or \$75 any one month. Thereafter, the city council may determine the annual salary of the mayor and council members by ordinance, but no ordinance increasing such salary shall become effective until the date of commencement of the terms of council members elected at the next regular election. The salaries of the mayor and council members shall be fixed not later than 30 days preceding any election. The mayor and council members shall receive their actual and necessary expenses incurred in the performance of their duties of office.

Section 2.05. Prohibitions.

(a) **Holding Other Office.** Except where authorized by law, no council member shall hold any other elected public office during the term for which the member was elected to the council. No former council member shall hold any compensated appointive office or employment with the city until one year after the expiration of the term for which the member was elected to the council. Nothing in this section shall be construed to prohibit the council from selecting any current or former council member to represent the city on the governing board of any regional or other intergovernmental agency.

(b) **Appointments and Removals.** Neither the city council nor any of its members shall in any manner control or demand the appointment or removal of any city administrative officer or employee whom the city manager or any subordinate of the city manager is empowered to appoint, but the council may express its views and fully and freely discuss with the city manager anything pertaining to appointment and removal of such officers and employees.

(c) **Interference with Administration.** Except for the purpose of inquiries and investigations under Section 2.10, the council or its members shall deal with city officers and employees who are subject to the direction and supervision of the city manager solely through the city manager, and neither the council nor its members shall give orders to any such officer or employee, either publicly or privately.

(d) **Conflict of Interest.** Any member of the council having any interest direct or indirect, other than as a citizen of the City of Salem, in any matter to be acted upon in any way by council, shall divulge that conflict of interest to the city council and shall have no vote on such matter, nor shall he be privileged to take part in the discussion thereof except by unanimous consent, and, upon the request of any other member of the council, the member shall retire from the session until such matter has been disposed of.

Section 2.06. Vacancies; Forfeiture of Office; Filling of Vacancies.

(a) **Vacancies.** The office of a council member shall become vacant upon

the member's death, resignation, removal from office or forfeiture of office in any manner authorized by law.

(b) Forfeiture of Office. A council member shall forfeit that office if the council member

- (1) lacks at any time during the term of the office for which elected any qualification for the office prescribed by this charter or by law,
- (2) violates any express prohibition of this charter,
- (3) is convicted of a crime involving moral turpitude, or
- (4) fails to attend three consecutive regular meetings of the council without being excused by the council.

(c) Filling of Vacancies. If a vacancy occurs in the city council, the council by a majority vote of all its remaining members shall appoint a qualified person to fill the vacancy. An individual who has forfeited the office of member of the city council cannot be reappointed to complete the unexpired term. The appointee will remain in office until the person elected to serve the remainder of the unexpired term takes office. This person will be elected at the regular municipal election following the date the vacancy occurred. If the vacancy occurs less than 60 days prior to the next regular municipal election, the appointee will remain in office for the remainder of the unexpired term of the council member. If the council fails to appoint someone to fill the vacancy within 30 days, then of the unsuccessful candidates for the office of member of council at the last election, who are still qualified and willing to serve, the one who received more votes than any of the others shall be entitled to the office. If this person is unwilling to serve or is no longer qualified, the mayor shall appoint a qualified person to fill the position.

Section 2.07. Judge of Qualifications.

The city council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their office. In order to exercise these powers, the council shall have power to subpoena witnesses, administer oaths and require the production of evidence. The city recorder shall notify a member charged with conduct constituting grounds for forfeiture of office by certified mail. If the member desires a public hearing, he or she must notify the city council within ten days. The public hearing must be held no later than twenty days after the receipt of the request for such a hearing. A notice of such hearing shall be published in one or more newspapers of general circulation in the city at least one week in advance of the hearing. Decisions made by the council under this section shall be subject to judicial review.

Section 2.08. Recall of Mayor or Member of Council.

The Mayor or any member of council may be removed from office by the following procedure: a petition signed by at least twenty percent of the qualified voters of the city shall be filed with the city clerk, which petition shall contain a general statement of the grounds for which the removal is sought. The petition shall be accompanied by a bond in an amount determined by the city

clerk to equal the cost of the recall election with sufficient surety to pay the cost of the recall election if a majority of the legal votes cast are against the recall. Such petition and bond shall be submitted to, examined and certified by the city clerk, and if such petition be deemed sufficient by the city clerk, the city clerk shall certify the same to the city council without delay. Upon receipt of such petition the council shall order and fix a date for holding a special recall election, not less than thirty days nor more than fifty days from the date of the city clerk's certificate. The council shall publish notice of the election at least ten days prior to the recall election in two newspapers of general circulation in the city. The ballot for such recall election shall be substantially of the following form and effect:

OFFICIAL BALLOT

_____ day of _____
in the year _____. Special recall election for the removal of

For the recall of _____

_____ Against the recall of _____

Should a majority of the votes cast be in favor of recall the person recalled shall forthwith forfeit his office and the council shall appoint a successor to such office following the provisions in Section 2.06 of this Charter.

The method of removal shall be cumulative and in addition to any other methods of removal provided by law. No recall petition shall be filed within ninety days succeeding or proceeding any regular council election. Not more than one recall election shall be held with respect to an officer during his term of office.

Section 2.09. City Recorder.

The city council shall appoint a qualified person who shall have the title of city recorder. The city recorder shall not be an employee of the city and shall become a notary public at the expense of the city. The city recorder shall give notice of council meetings to its members and the public, keep the journal of its proceedings, administer oaths of office and keep an accurate record of city ordinances. The salary of the city recorder shall be the same as a member of the city council and shall be governed by Section 2.04 of this Charter. The city recorder shall receive the actual and necessary expenses incurred in the performance of his duties of office.

Section 2.10. Investigations.

The city council may make investigations into the affairs of the city and the conduct of any city department, office or agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence. The failure or refusal of a witness to appear and testify or to

produce evidence may result in enforcement proceedings in the circuit court, in accordance with Chapter 8, Article 12, Section 2(c) of the West Virginia Code.

Section 2.11. Independent Audit.

The city council shall provide for an independent annual audit of all city accounts and may provide for more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the city government or any of its officers. The council may, without requiring competitive bids, designate such accountant or firm annually or for a period not exceeding three years, but the designation for any particular fiscal year shall be made no later than 30 days after the beginning of such fiscal year. If the state makes such an audit, the council may accept it as satisfying the requirements of this section.

Section 2.12. Procedure.

(a) **Meeting.** The council shall meet regularly at least once in every month at such times and places as the council may prescribe by rule. Special meetings may be held on the call of the mayor or of four or more members and, except in cases of emergency, upon no less than twenty-four hours' notice to each member, the public and news media, specifying the time, place and purpose of the meeting. Except as allowed by the Open Governmental Proceedings Act, Chapter 6, Article 9A, Section 4 of the West Virginia Code, all meetings shall be public.

(b) **Rules and Journal.** The city council shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings. An updated and official record of the city ordinances along with the city charter shall be kept in a locked, secure location under the supervision of the city recorder. A copy of the journal of council proceedings, the city charter and the city ordinances shall be kept at the city building and be available to the public.

(c) **Voting.** Voting, except on procedural motions, shall be by roll call and the ayes and nays shall be recorded in the journal. Four members of the council shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the council. No action of the council, except as otherwise provided in the preceding sentence and in Section 2.06 shall be valid or binding unless adopted by the affirmative vote of four or more members of council.

Section 2.13. Action Requiring an Ordinance.

In addition to other acts required by law or by specific provision of this charter to be done by ordinance, those acts of the city council shall be done by ordinance which:

- (1) Adopt or amend an administrative code or establish, alter, or abolish

- (2) any city department, office or agency; Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;
 - (3) Levy taxes or provide for the collection of fees of any kind;
 - (4) Require a license to do business;
 - (5) Provide for public improvement;
 - (6) Grant, renew or extend a franchise;
 - (7) Regulate the rate charged for its services by a public utility;
 - (8) Authorize the issuance of bonds or other forms of indebtedness;
 - (9) Lay out or vacate a public street, avenue, road, alley or way;
 - (10) Relate to planning and zoning;
 - (11) Regulate land use and development;
 - (12) Provide for contractual or other agreement with another jurisdiction;
 - (13) Provide for the purchase of private property by the municipality or for the sale of property belonging to the municipality;
 - (14) Amend or repeal any ordinance previously adopted; and
- Acts other than those referred to in the preceding sentence may be done either by ordinance or by resolution.

Section 2.14. Ordinances in General.

(a) **Form.** Every proposed ordinance shall be introduced in writing in the form required for final adoption. No ordinance shall contain more than one subject which shall be clearly expressed in its title. The enacting clause shall be "The City of Salem hereby ordains..." Any Ordinance which repeals or amends an existing ordinance or part of the city code shall set out in full the ordinance, sections or subsections to be repealed or amended, and shall indicate matters to be omitted by enclosing it in brackets or by striking type and shall indicate new matters by underscoring or by italics.

(b) **Procedure.** Any ordinance may be introduced by any member at any regular or special meeting of the council. Upon introduction of any ordinance, the city recorder shall distribute a copy to each council member and to the city manager and shall file a reasonable number of copies in the office of the city clerk and such other public places as the council may designate. The proposed ordinance shall be read by title at not less than two meetings of the city council with at least one week intervening between each meeting, unless a member of the city council demands that the ordinance be read in full at one or both meetings. If such demand is made, the ordinance shall be read in full as demanded. The city recorder shall publish the ordinance together with a notice setting out the time and place for a public hearing thereon and for its consideration by the council. The public hearing shall follow the publication by at least seven days, may be held separately or in connection with a regular or special council meeting and may be adjourned from time to time; all persons interested shall have an opportunity to be heard. After the hearing the council may adopt the ordinance with or without amendment or reject it, but it is amended as to any substance, the council may not adopt it until the ordinance

or its amended sections have been subjected to all the procedures herein before required in the case of a newly introduced ordinance. As soon as practical after adoption, the recorder shall have the ordinance and a notice of its adoption, published and available at a reasonable price

(c) **Effective Date.** Except as otherwise provided in this charter, every adopted ordinance shall become effective at the expiration of 30 days after adoption or at any later date specified therein.

(d) **"Publish" Defined.** As used in this section, the term "publish" means to print in one or more newspapers of general circulation in this city: (1) The subject matter and general title or titles thereof, and (2) the places where copies of it have been filed and the times when they are available for public inspection and purchase at a reasonable price.

Section 2.15. Emergency Ordinances.

To meet a public emergency affecting life, health, property or the public peace, the city council may adopt one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its services or authorize the borrowing of money except as provided in Section 5.06 (b). An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least five members shall be required for adoption. After its adoption, the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such a later time as it may specify. Every emergency ordinance, except one made pursuant to Section 5.07 (b), shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent re-enactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

Section 2.16. Codes of Technical Regulations.

The city council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally except that:

- (1) Before any such ordinance shall be adopted, the code must be printed or typewritten and shall be presented in pamphlet form to the city council at a regular meeting, and copies of such code shall be made available for public inspection.
- (2) The ordinance adopting such code shall not set out said code in full,

but shall merely identify the same. After adoption of the ordinance, such code or codes shall be certified by the mayor and filed as a permanent record in the office of the recorder, who shall not be required to transcribe and record the same in the ordinance book as other ordinances are transcribed and recorded. Copies of any adopted code of technical regulations shall be made available by the city clerk for distribution or for purchase at a reasonable price.

Section 2.17. Authentication and Recording; Codification; Printing.

(a) **Authentication and Recording.** The city recorder shall authenticate by signing and shall record in full in a properly indexed book kept for the purpose all ordinances and resolutions adopted by the city council.

(b) **Codification.** One year after this charter is in effect and at least every four years after, the city council shall provide for the preparation of a general codification of all city ordinances and resolutions having the force and effect of the law. The general codification shall be adopted by the council by ordinance and shall be published promptly in bound or loose-leaf form, together with this charter and other laws of the state of West Virginia, and such codes as the council may specify. This compilation shall be known and cited officially as the Salem City Code. Copies of the code shall be furnished to city officers, placed in libraries and public offices for free public reference and made available for purchase by the public at a reasonable price fixed by the council.

(c) **Printing of Ordinances and Resolutions.** The city council shall cause each ordinance and resolution having the force and effect of law and each amendment to this charter to be printed promptly following its adoption, and printed ordinances, resolutions and charter amendments shall be distributed or sold to the public at reasonable prices as fixed by the council. Following publication of the first Salem City Code and at all times thereafter, the ordinances, resolutions and charter amendments shall be printed in substantially the same style as the code currently in effect and shall be suitable in form for integration therein. The council shall make such further arrangements as it deems desirable with respect to reproduction and distribution of any current changes in or addition to the provisions of the constitution and other laws of the state of West Virginia, or the codes of technical regulations and other rules and regulations included in the code.

ARTICLE III. CITY MANAGER

Section 3.01. Appointment; Qualifications; Compensation; Evaluation.

The city council by a majority vote of its total membership shall appoint a city manager for an indefinite term and fix the manager's compensation. The city manager shall be appointed solely on the basis of executive and administrative qualifications with particular emphasis on education and experience in city management. No person shall be eligible to the office of manager who has been convicted of bribery, perjury, a felony or other infamous crime. The

manager need not be a resident of the city or state at the time of appointment but may reside outside the city while in office only with the approval of the council. The city manager shall be prohibited from taking another administrative or executive position while serving as city manager for the city of Salem. The performance of the city manager shall be reviewed by the city council at least semiannually and a written copy of this evaluation given to the city manager.

Section 3.02. Removal.

The city manager may be suspended by a resolution approved by the majority of the total membership of the city council which shall set forth the reasons for suspension and proposed removal. A copy of such resolution shall be served immediately upon the city manager. The city manager shall have fifteen days in which to reply thereto in writing, and upon request, shall be afforded a public hearing, which shall occur not earlier than ten days nor later than fifteen days after such hearing is requested. After the public hearing, if one be requested, and after full consideration, the city council by a majority vote of its total membership may adopt a final resolution of removal. The city manager shall continue to receive full salary until the effective date of a final resolution of removal.

Section 3.03. Acting City Manager.

By letter filed with the city clerk, the city manager shall designate a city officer or employee to exercise the powers and perform the duties of city manager during the manager's temporary absence or disability. The city council may revoke such designation at any time and appoint another officer of the city to serve until the city manager returns.

Section 3.04. Powers and Duties of the City Manager.

The city manager shall be the chief administrative officer of the city, responsible to the council for the administration of all city affairs placed in the manager's charge by or under this charter. The city manager shall:

- (1) Appoint and, when necessary for the good of the service, suspend or remove city employees and appointive administrative officers provided for by or under this charter, except as otherwise provided by law, this charter or personnel rules adopted pursuant to this charter. The city manager may authorize any administrative officer subject to the manager's direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency;
- (2) Direct and supervise the administration of all departments, offices and agencies of the city, except as otherwise provided by this charter or by law;
- (3) Attend all city council meetings. The city manager shall have the right to take part in discussion but shall not vote;

- (4) See that all laws, provisions of this charter and acts of the city council, subject to enforcement by the city manager or by officers subject to the manager's direction and supervision, are faithfully executed;
- (5) Prepare and submit the annual budget and capital program to the city council;
- (6) Submit to the city council and make available to the public a complete report on the finances and administrative activities of the city as of the end of each fiscal year;
- (7) Make such other reports as the city council may require concerning the operations of city department, offices and agencies subject to the city manager's direction and supervision;
- (8) Keep the city council fully advised as to the financial condition and future needs of the city;
- (9) Make recommendations to the city council concerning the affairs of the city;
- (10) Serve as an ex officio member of all committees of council; and
- (11) Determine the needs and prepare, in consultation with city department heads, a long range plan, extending two, five, and ten years, setting forth the capital expenditures which are needed to enhance the growth, prosperity and future development of the city and the improvement and development of its facilities, suggesting funding sources to acquire the same. The plan should address, but should not be limited to, parks and recreation, business and residential development and public works.
- (12) Perform such other duties as are specified in this charter or may be required by the city council.

ARTICLE IV. DEPARTMENTS, OFFICES AND AGENCIES

Section 4.01. General Provisions.

(a) **Creation of Departments.** The city council may establish city departments, offices or agencies in addition to those created by this charter and may prescribe the functions of all departments, offices and agencies, except that no function assigned by this charter to a particular department, office or agency may be discontinued or, unless this charter specifically so provides, assigned to any other.

(b) **Direction by City Manager.** All departments, offices and agencies under the direction and supervision of the city manager shall be administered by an officer appointed by and subject to the direction and supervision of the manager. With the consent of council, the city manager may serve as the head of one or more such departments, offices or agencies or may appoint one person as the head of two or more of them.

Section 4.02. Personnel System.

(a) **Merit Principle.** All appointments and promotions of city officers and

employees shall be made solely on the basis of merit and fitness demonstrated by a valid and reliable examination or other evidence of competence.

(b) **Merit System.** Consistent with all applicable federal and state laws the city council shall provide by ordinance for the establishment, regulation and maintenance of a merit system governing personnel policies necessary to effective administration of the employees of the city's departments, offices and agencies, including but not limited to classification and pay plans, examinations, force reduction, removals, working conditions, provisional and exempt appointments, in-service training, grievances and relationships with employee organizations.

Section 4.03. Legal Officer.

There shall be a legal officer of the city appointed by the city manager as provided in 4.01 (b). The legal officer shall serve as chief legal adviser to the city council, the manager and all city departments, offices and agencies, shall represent the city in all legal proceedings and shall perform any other duties prescribed by state law, by this charter or by ordinance.

Section 4.04. Planning and Zoning Commission.

The city council shall establish a Planning and Zoning Commission having five members whose purpose shall be to promote the orderly development of the municipality's governmental units and its environs. The members of this commission must be residents of the municipality and shall include representatives of business, industry and labor. One member of the commission shall also be a member of city council and one member shall be the city manager, who will serve as an ex officio, non-voting member. The terms of these two members shall be co-extensive with the term of office to which they have been elected or appointed, unless the city council and city manager at the first regular meeting of the commission each year designate others to serve as the municipality's representatives. The city manager will nominate one member of council and four residents of the city, who are qualified by knowledge and experience in matters pertaining to the development of the municipality, to serve on the commission. The appointees must then be confirmed by the city council. The appointments of the four residents will be one member for one year, one member for two years and two members for three years respectively when first selected. Thereafter members shall be selected for terms of three years each. A member may be reappointed to his position on the commission. The commission shall fix the time for holding regular meetings, but it shall meet at least once in the months of January, April, July and October. All activities of the commission will be consistent with Chapter 8, Article 24 of the West Virginia Code.

Section 4.05. Police Judge.

There shall be a police judge appointed by the city manager. The police judge shall have criminal jurisdiction over the violation of all ordinances of the

city. The police judge shall hold Police Court at such times and places as may be determined by him or her. He or she shall give bond with security as required of a police judge, for the holding and proper disbursement of all sums which may come to him or her in his or her official capacity. The mayor may perform the duties of police judge if mutually agreed upon between mayor and the city manager.

Section 4.06. City Clerk.

The city manager shall appoint a qualified individual to the office of city clerk. Before entering upon the discharge of his or her duties, the city clerk shall execute a bond as required by law. The city clerk shall collect and receive all taxes, assessments, fines and costs, and other money due the city from any source, and shall receipt for same. The city clerk shall keep an accurate record of all moneys paid to him or her for the use of the city. The city clerk shall have charge of all contracts, bonds, notes, certificates and other evidences of indebtedness. The city clerk shall make arrangement for all municipal elections.

Section 4.07. Chief Police.

The city manager shall appoint a qualified individual to the office of chief of police.

Section 4.08. Board of Parks and Recreation.

With the concurrence of council, the mayor will appoint four residents of the city to serve on a Board of Parks and Recreation. The city manager will serve as the fifth member of this board. Each member will serve for a two year term and may be reappointed. The board will develop a plan for the improvement of all recreational facilities and submit a corresponding budget request to the city manager annually. This plan and budget will become part of the overall plan and budget for the city. The board will be required to develop rules, regulations and operating procedures for all recreational facilities. The board shall be required to meet at least once a month on a regularly scheduled date which they themselves shall determine. An appointee shall forfeit his or her office if he or she fails to attend three consecutive regularly scheduled meetings of the Board without being excused by the city manager.

Section 4.09. Enforcement Agency for the Repair, Closing, Demolition of Dwellings or Buildings Unfit for Human Habitation.

The city council shall enact ordinances regulating the repair, closing, demolition, etc. of dwellings or buildings unfit for human habitation consistent with the Chapter 8, Article 12, Section 16 of the West Virginia Code. The enforcement agency shall consist of the mayor, the municipal engineer or building inspector and one member at large to be selected by and to serve at the will and pleasure of the mayor. The ranking health officer and fire chief shall serve as ex-officio members of the enforcement agency. The enforcement agency shall be known as the Building Commission.

ARTICLE V. FINANCIAL PROCEDURES

Section 5.01. Fiscal Year.

The fiscal year of the city shall begin on the first day of July and end on the last day of June.

Section 5.02. Submission of Budget and Budget Message.

On or before the first day of March of each year, the city manager shall submit to the city council a budget for the ensuing fiscal year and an accompanying message.

Section 5.03. Budget Message.

The city manager's message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the city for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the city's debt position and include such other material as the city manager deems desirable.

Section 5.04. Budget.

The budget shall provide a complete financial plan of all city funds and activities for the ensuing fiscal year and, except as required by law or this charter, shall be in such form as the city manager deems desirable or the city council may require. The budget shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditure, including debt service, for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year. It shall indicate in separate sections:

- (1) The proposed goals and objectives and expenditures for current operations during the ensuing fiscal year, detailed for each fund by organization unit, and program, purpose or activity, and the method of financing such expenditures;
- (2) Proposed capital expenditures during the ensuing fiscal year, detailed for each fund by organization unit when practicable, and the proposed method of financing each such capital expenditure; and
- (3) The anticipated income and expenses and profit and loss for the ensuing year for each utility or other enterprise fund operated by the city.

For any fund, the total of proposed expenditures shall not exceed the total estimated income plus carried forward fund balance, exclusive of reserves.

Section 5.05. City Council Action on Budget.

(a) **Notice and Hearing.** The city council shall publish in one or more newspapers of general circulation in the city the general summary of the budget and a notice stating:

- (1) The times and places where copies of the message and budget are available for inspection by the public, and
- (2) The time and place, not less than two weeks after such publication, for a public hearing on the budget.

(b) **Amendment Before Adoption.** After the public hearing, the city council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for any estimated cash deficit, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than total estimated income.

(c) **Adoption.** The city council shall adopt the budget on or before the fourth Monday of March of the fiscal year currently ending. If it fails to adopt the budget by this date, the budget proposed by the city manager shall go into effect.

Adoption of the budget shall constitute appropriations of amounts specified therein as expenditures from the funds indicated and shall constitute a levy of the property tax therein proposed.

Section 5.06. Amendments after Adoption.

(a) **Supplemental Appropriations.** If during the fiscal year the city manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the city council by ordinance may make supplemental appropriations for the year up to the amount of such excess.

(b) **Emergency Appropriations.** To meet a public emergency affecting life, health property or the public peace, the city council may make emergency appropriations. Such appropriations may be made by emergency ordinance in accordance with the provisions of Section 2.14. To the extent that there are no available unappropriated revenues or a sufficient fund balance to meet such appropriations, the council may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.

(c) **Reduction of Appropriations.** If at any time during the fiscal year it appears probable to the city manager that the revenues or fund balances available will be insufficient to finance the expenditures for which appropriations have been authorized, the manager shall report to the city council without delay, indicating the estimated amount of the deficit, any remedial action taken by the manager and recommendations as to any other steps to be taken. The council shall then take such further action as it deems necessary to prevent or

reduce any deficit and for that purpose it may by ordinance reduce one or more appropriations.

(d) **Transfer of Appropriations.** At any time during the fiscal year the city council may by resolution transfer part or all of the unencumbered appropriation balance from one department or major organizational unit to the appropriation for other departments or major organizational units. The manager may transfer part or all of any unencumbered appropriation balances among programs within a department or organizational unit and shall report such transfers to the council in writing in a timely manner.

(e) **Limitation; Effective Date.** No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

Section 5.07. Lapse of Appropriations.

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until expended, revised or repealed; the purpose of any such appropriation shall be deemed abandoned if three years pass without any disbursement from or encumbrance of appropriation.

Section 5.08. Overspending of Appropriations Prohibited.

No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the city manager or his designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this charter shall be void and any payment so made illegal. A violation of this provision shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligation. Such officer may also be liable to the city for any amount so paid. Except where prohibited by law, however, nothing in this charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of revenue bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, but only if such action is made or approved by ordinance and is in accordance with state law.

Section 5.09. Public Records.

Copies of the budget, capital program and appropriation and revenue

ordinances shall be public records and shall be made available to the public at suitable places in the city.

ARTICLE VI. ELECTIONS

Section 6.01. City Elections.

(a) **Regular Elections.** The regular city election shall be held on the first Tuesday of June of every odd-numbered year.

(b) **Registered Voter Defined.** All residents of the city who are legally registered under the constitution and laws of the state of West Virginia to vote in the county shall be registered voters of the city within the meaning of this charter.

(c) **Conduct of Elections.** The provisions of the general election laws of the state of West Virginia shall apply to elections held under this charter. All elections provided for by the charter shall be conducted by the elections authorities established by law and shall be integrated with the system of permanent registration of voters in accordance with Chapter 3, Article 1, Section 1 et. seq. of the West Virginia Code. Candidates shall run for office without party designation. For the conduct of city elections, for the prevention of fraud in such elections and for the recount of ballots in cases of doubt or fraud, the city council shall adopt ordinances consistent with law and this charter, and the election authorities may adopt further regulations consistent with law and this charter and the ordinances of the council. Such ordinances and regulations pertaining to elections shall be publicized in the manner of city ordinances generally.

Section 6.02. Initiative and Referendum.

The powers of initiative and referendum are hereby reserved to the electors of the city. The provisions of Chapter 8, Article 12, Section 4 (1) and (2) of the West Virginia Code, and of the election law of the state of West Virginia, as they currently exist or may hereafter be amended or superseded, shall govern the exercise of the powers of initiative and referendum under this charter.

ARTICLE VII. GENERAL PROVISIONS

Section 7.01. Prohibitions.

(a) Activities Prohibited.

- (1) No person shall be appointed to or removed from, or in any way favored or discriminated against with respect to any city position or appointive city administrative office because of race, gender, age, handicap, religion, country of origin or political affiliation.
- (2) No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment under the provisions of this charter or the rules and regulations made thereunder, or in any manner commit or attempt

to commit any fraud preventing the impartial execution of such provisions, rules and regulations.

(3) No person who seeks appointment or promotion with respect to any city position or appointive city administrative office shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with his or her test, appointment, proposed appointment, promotion.

(4) No person shall knowingly or willfully solicit or assist in soliciting any assessment, subscription or contribution for any political party or political purpose to be used in conjunction with any city election from any city employee.

(5) No city employee shall knowingly or willfully solicit or receive any contribution to the campaign funds of any political party or committee to be used in a city election or to campaign funds to be used in support of or opposition to any candidate for election to city office or city ballot issue. No city employee shall solicit votes for any candidate for election to city office or city ballot issue. Further, no city employee shall manage the campaign of or participate in fund-raising activities for any candidate for city office. Nor shall a city employee work at the polls for a municipal election. This section shall not be construed to limit any person's right to exercise rights as a citizen to express opinions or to cast a vote nor shall it be construed to prohibit any person from active participation in political campaigns at any other level of government.

(b) **Penalties.** Any person convicted of a violation of this section shall be ineligible for a period of five years following such conviction to hold any city office or position and, if an officer or employee of the city, shall immediately forfeit his or her office or position. The city council shall establish by ordinance such further penalties as it may deem appropriate.

Section 7.02. Charter Amendments.

Amendments to this charter shall be made in accordance with the general laws of the State of West Virginia.

ARTICLE VIII. TRANSITION/SEPARABILITY PROVISION

Section 8.01. Officers and Employees.

(a) **Rights and Privileges Preserved.** Nothing in this charter except as otherwise specifically provided shall affect or impair the rights or privileges of persons who are city officers or employees at the time of its adoption.

(b) **Continuance of Office or Employment.** Except as specifically provided by this charter, if at the time this charter takes full effect a city administrative officer or employee holds any office or position which is or can be abolished by or under this charter, he or she shall continue in such office or

position until the taking effect of some specific provision under this charter directing that he or she vacate the office or position.

Section 8.02. Department, Offices and Agencies.

(a) **Transfer of Powers.** If a city department, office or agency is abolished by this charter, the powers and duties given it by law shall be transferred to the city department, office or agency designated in this charter or, if the charter makes no provision, designated by the city council.

(b) **Property and Records.** All property, records and equipment of any department, office or agency existing when this charter is adopted shall be transferred to the department, office or agency assuming its powers and duties, but in the event that the powers or duties are to be discontinued or divided between units or in the event that any conflict arises regarding a transfer, such property, records or equipment shall be transferred to one or more departments, offices or agencies designated by the city council in accordance with this charter.

Section 8.03. Pending Matters.

All rights, claims, actions, orders, contracts and legal administrative proceedings shall continue except as modified pursuant to the provisions of this charter and in each case shall be maintained, carried on or dealt with by the city department, office or agency appropriate under this charter.

Section 8.04. State and Municipal Laws.

All existing ordinances and all existing administrative rules, regulations and practices, if not inconsistent or in conflict with this charter, shall continue in full force and effect until repealed or modified by the council or other competent authority of the city. All ordinances, rules, regulations and practices that are inconsistent or in conflict with this charter shall, unless sooner repealed or modified, continue in full force and effect for a period of sixty days only, and at the end of that period shall to the extent of such inconsistency or conflict be of no further force or effect.

Section 8.05. Schedule.

(a) **Hiring of City Manager.** At the time the charter is approved by the voters, the city council will commence the search for qualified candidates for city manager by advertising the position in a professional journal. The members of council will scrutinize resumes, interview candidates and select the most qualified individual for the position of city manager. The city manager will commence his duties on July 1, 1996.

(b) **Budgeting.** At the time the charter is approved by the voters, the city council will commence work on the budget for the fiscal year 1997 which will provide for the salaries of the city manager and the city recorder.

(c) **Appointment of the City Recorder.** At the time the charter is approved by the voters, the city council will commence the search for a qualified

individual to serve as city recorder. The city council will select an individual who will begin his or her duties on July 1, 1996.

(d) **Time of Taking Effect.** The charter shall take effect on the date of July 1, 1996.

(e) **Position of City Clerk.** At the time this charter takes effect on July 1, 1996, the city recorder under the old charter shall assume the title of city clerk and perform the duties described herein.

(f) **First Council Meeting.** The first city council meeting under the new charter will be held on Tuesday, July 8, 1996 at 7:00 p.m. in the Council Chambers of the City Building.

(g) **First Election.** The first election of the members of the city council in accordance with the provisions of this charter shall be held on Tuesday, June 3, 1997.

Section 8.06. Separability.

If any provision of this charter is held invalid, the other provisions of the charter shall not be affected thereby. If the application of the charter or any of its provisions to any person or circumstance is held invalid, the application of the charter and its provisions to other persons or circumstances shall not be affected thereby.

ALTERNATIVES FOR WARD SYSTEM

Section 2.02. Composition, Eligibility, Election and Terms.

(a) **Composition.** There shall be a city council composed of the mayor and six members. Two council members shall be nominated and elected by the voters in each of the three wards. The mayor shall be elected in accordance with the provisions of Section 2.03.

(d) **Election and Terms.** The regular election of council members shall be held on the first Tuesday of June in each odd numbered year, in the manner provided by law. At the first election under this charter six council members shall be elected; the candidate in each ward receiving the greatest number of votes shall serve for a term of four years, and the candidate in each ward receiving the second greatest number of votes shall serve for a term of two years. Thereafter, all council members shall be elected for four year terms. The terms of council members shall begin the first day of July after their election.

Section 6.03. Wards; Adjustments of Wards.

(a) **Number of Wards.** The city shall be divided into three wards. The number of wards can be changed according to West Virginia Code Chapter 8, Article 5, Section 7.

(b) **Ward Boundaries.** A map indicating the boundaries of the wards will be held in the city building. Beginning with the first census after the adoption of this charter and every ten years thereafter, the city council shall evaluate the population of each ward and make adjustment in the ward boundaries as necessary to have equal representation for each ward as required by West Virginia Code Chapter 8, Article 5, Section 7.


Thomas Mason, Chairperson


Linda Fluharty, Secretary


Dr. Joseph Audia


Michael Blake


Donna Hayes


Florence Hunt


Walter Nutter

Question #3

AN ORDINANCE OF OPEN GOVERNMENTAL PROCEEDINGS RULES

Declaration
Special Meetings

Regular Meetings

Pursuant to Chapter 6, Article 9A, Section 3 of the West Virginia Code, the Council of the City of Salem does hereby adopt the following rules to make available, in advance, the date, time, place and agenda of all regularly scheduled meetings of Council, and the date, time, place and purpose of all special meetings of Council to the public and news media (except in the case of an emergency requiring immediate action) as follows:

Regular Meetings: A notice shall be posted and maintained by the City Clerk at the front door or bulletin board of the City Hall of the date, time and place fixed and entered of record by Council for the holding of regularly scheduled meetings. In addition, a copy of the agenda for each regularly scheduled meeting shall be posted at he same location by the City Clerk not less than 72 hours before such regular meeting is to be held. If a particular regularly scheduled meeting is canceled or postponed, a notice of such cancellation or postponement shall be posted at the same location as soon as feasible after such cancellation or postponement has been determined.

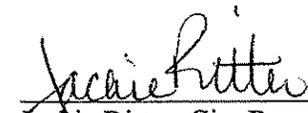
Special Meetings: A notice shall be posted by the City Clerk at the front door or bulletin board of the City Hall not less than 72 hours before a specialy scheduled meeting is to be held, stating the date, time, place and purpose for which such special meeting shall be held. If the special meeting is cancelled, a notice of such cancellation shall be posted at the same location as soon as feasible after such cancellation has been determined.

These rules regarding notice of meetings shall replace any and all previous rules heretofore adopted by Council.

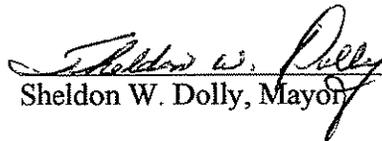
NOW THEREFORE BE IT FURTHER ORDAINED THAT this ordinance shall take effect and be in force from and after its passage, the public welfare requiring it.

PASSED by the City Council of the City of Salem, West Virginia on **FIRST READING**
This 13 th day of May, 2003.

PASSED by the City Council of the City of Salem, West Virginia on **SECOND READING**
This 12 th day of August, 2003.



Jackie Ritter, City Recorder



Sheldon W. Dolly, Mayor

CITY OF SALEM
229 West Main Street
P.O. Box 352
Salem, WV 26426
304-782-1318

OATH OF OFFICE

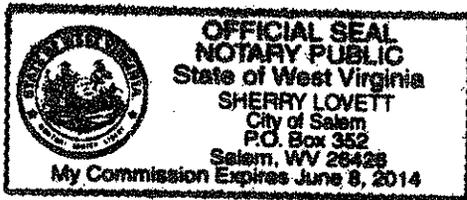
I, James Plaugher, do solemnly swear that I will support the Constitution of the United States and the Constitution of West Virginia, and that I will truly and faithfully and impartially discharge the duties of:

Mayor

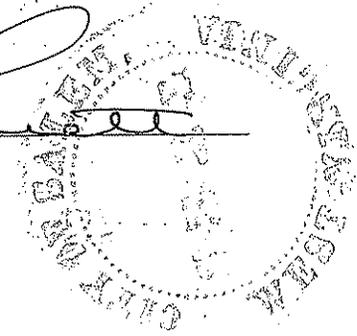
Of the City of Salem, West Virginia, to the best of my ability, as long as I shall remain in office.

Jim Plaugher
Signature

Subscribed and sworn before me this 23rd day of June, 2009



Sherry Lovett
Notary Public



My Commission Expires June 8, 2014

CITY OF SALEM

229 West Main Street

P.O. Box 352

Salem, WV 26426

304-782-1318

OATH OF OFFICE

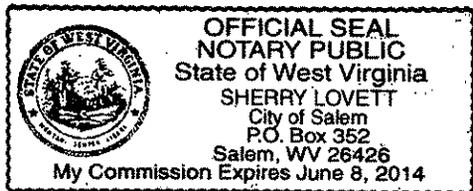
I, Arten Swiger, do solemnly swear that I will support the Constitution of the United States and the Constitution of West Virginia, and that I will truly and faithfully and impartially discharge the duties of:

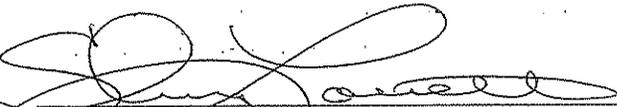
Council member

Of the City of Salem, West Virginia, to the best of my ability, as long as I shall remain in office.


Signature

Subscribed and sworn before me this 1st day of July, 2007




Notary Public

My Commission Expires June 8, 2014

CITY OF SALEM

229 West Main Street
P.O. Box 352
Salem, WV 26426
304-782-1318

OATH OF OFFICE

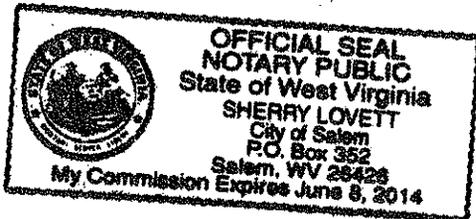
I, Alfonso Romagnoli, do solemnly swear that I will support the Constitution of the United States and the Constitution of West Virginia, and that I will truly and faithfully and impartially discharge the duties of:

Council Member

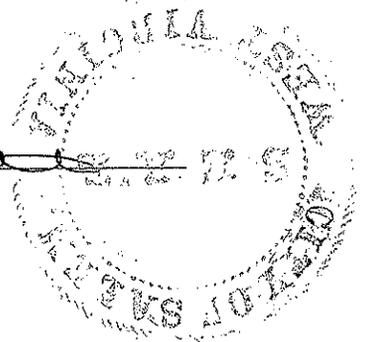
Of the City of Salem, West Virginia, to the best of my ability, as long as I shall remain in office.

Alfonso Romagnoli
Signature

Subscribed and sworn before me this 25th day of June, 2009



Sherry Lovett
Notary Public



My Commission Expires June 8, 2014

#2

City Of Salem

Mill & Valley Streets
Post Office Box 352, Salem West Virginia 26426
Phone (304) 782-1313 Fax (304) 782-4229

Oath Of Office

I, Dave Fisher, 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 truly and faithfully and impartially discharge the duties of:

Council person

of the City of Salem, West Virginia, to the best of my ability, so long as I remain in office.

D.W. Inah
Signature

Subscribed and sworn to before me this the 23 day of August 2005

Jackie Ritter
Notary



CITY OF SALEM

229 West Main Street

P.O. Box 352

Salem, WV 26426

304-782-1318

OATH OF OFFICE

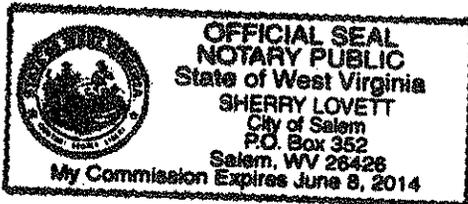
I, Israel James Williams III, do solemnly swear that I will support the Constitution of the United States and the Constitution of West Virginia, and that I will truly and faithfully and impartially discharge the duties of:

Council member

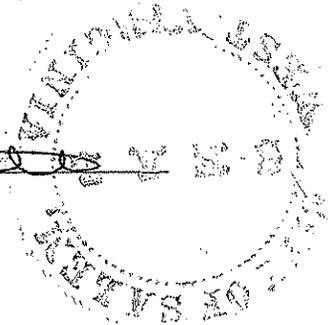
Of the City of Salem, West Virginia, to the best of my ability, as long as I shall remain in office.

Israel James Williams III
Signature

Subscribed and sworn before me this 23rd day of June, 2009



Sherry Lovett
Notary Public



My Commission Expires June 8, 2014

#2

City Of Salem

Mill & Valley Streets
Post Office Box 352, Salem West Virginia 26426
Phone (304) 782-1313 Fax (304) 782-4229

Oath Of Office

I, Tim Cork, 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 truly and faithfully and impartially discharge the duties of:

Council Third Ward

of the City of Salem, West Virginia, to the best of my ability, so long as I remain in office.

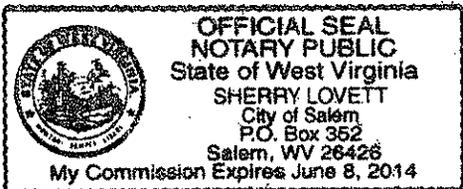
Tim Cork

Signature

Subscribed and sworn to before me this the 16th day of October, 2006

Sherry Lovett

Notary



CITY OF SALEM

229 West Main Street
P.O. Box 352
Salem, WV 26426
304-782-1318

OATH OF OFFICE

I, Pam Holston, do solemnly swear that I will support the Constitution of the United States and the Constitution of West Virginia, and that I will truly and faithfully and impartially discharge the duties of:

Council Member

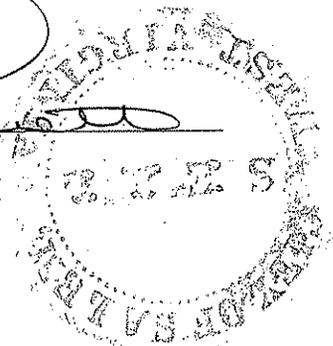
Of the City of Salem, West Virginia, to the best of my ability, as long as I shall remain in office.

Pamela Holston
Signature

Subscribed and sworn before me this 23rd day of June, 2009



[Signature]
Notary Public



My Commission Expires June 8, 2014

**AN ORDINANCE TO AMEND
WATER RATES FOR THE CITY OF SALEM AND CHAPTER SEVENTEEN**

Declarations	Rate Fee Schedule
Residential Water Tap Fee	Reconnect Non Payment Fee
Returned Check Fee	Customer Service Fee
Commercial Water Tap Fee	Bulk Water Rate Fee
Delayed Payment Penalty	Customer Security Deposit

WHEREAS, the City of Salem operates a water system for the commercial and residential purposes for residents and non-residents of the City of Salem, and

WHEREAS, the rates applicable to consumers to fund the water system for the City of Salem appear inadequate based upon recent requirements of West Virginia Public Service Commission, and

WHEREAS, it would be in the best interest of the City of Salem, its residents and users of said system to increase water rates in order to adequately fund the maintenance and improvements to said system, and

WHEREAS, the City of Salem intends to amend Chapter Seventeen to provide for certain fees related to water services,

BE IT IS THEREFORE, ORDAINED that the rates for the city water services shall hereby be deemed as follows:

First 2,000 gallons used per month	\$17.89 (Minimum Bill)
Next 3,000 gallons used per month	\$8.94 per 1,000 gallons
Next 10,000 gallons used per month	\$7.31 per 1,000 gallons
Next 25,000 gallons used per month	\$6.50 per 1,000 gallons
Over 40,000 gallons used per month	\$4.24 per 1,000 gallons

BE IT THEREFORE, FURTHER ORDAINED that the price for additional services shall be as follows:

RESIDENTIAL WATER TAP: A water tap fee made for a residential customer will be charged Two Hundred Dollars (\$200.00), plus any additional cost for a larger than three-fourths inch connection. The City of Salem shall be responsible for the repair and replacement of any water line from its main supply to the customer's meter and all other repair and maintenance shall be the obligation of the landowner.

RECONNECT NON PAYMENT FEE: A fee of Twenty-Five Dollars (\$25.00) will be charged to the customer when the City must reconnect water service that has been discontinued due to failure to make a payment.

RETURNED CHECK FEE: A fee of Twenty Dollars (\$20.00) will be charged to the customer when a check has been returned by the bank against the City's Funds.

CUSTOMERS SERVICE FEE: A fee of Twenty-Five (\$25.00) will be charged to the customer when the City must turn the water off and then turn the water on at the meter of street curb to enable the customer to perform repairs on the customer's water lines.

COMMERCIAL WATER TAP: A fee for commercial taps shall be the responsibility of the property owner, a fee will be calculated at the cost of installation including all lines, fittings, meters, labor, etc. as shall be needed.

BULK WATER RATE: A fee of Eight Dollars and Eighteen Cents (\$8.18) per One Hundred (100) gallons will be charged to the customer. Containers and connections are the responsibility of the customers and must meet the specifications of the City's Public Works Director.

DELAYED PAYMENT PENALTY: The above rate fee schedule is net on the first day of the billing month. On all accounts not paid in full within Twenty (20) days of the billing date, a Ten Percent (10%) penalty will be added to the net amount shown. This delayed payment penalty is not interest and is only to be collected once for each months billing where it is appropriate.

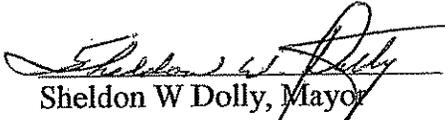
CUSTOMER SECURITY DEPOSIT: The utility shall require the applicant or customer to make as a guarantee of the payment for water service a deposit. Such deposit shall not be more than one-twelfth (1/12) of the annual estimated service to secure the utility from loss. The utility shall not be bound to supply service until the deposit has been paid to utility. After the customer has paid for service for twelve (12) consecutive months, the utility shall refund the deposit.

The remaining provisions of Chapter Seventeen not affected by this Ordinance shall remain in effect.

This Ordinance shall become effective on January 1, 2005.

PASSED by Council of the City of Salem, West Virginia, of the **FIRST**
READING this 12th day of October, 2004.

PASSED by Council of the City of Salem, West Virginia, of the **SECOND**
READING this 9th day of November, 2004.


Sheldon W Dolly, Mayor

Attest:


Jackie Ritter, City Recorder

PUBLISHER'S CERTIFICATE

vs.

Tariff Form No. 12

Public Notice of Change in Water Rates of the City of Salem

NOTICE is hereby given that the City of Salem, a public utility, has adopted by first reading an ordinance on October 12, 2004 a tariff containing increased rates, tolls and charges for furnishing water service to 847 customers in the entire area served by the City of Salem in the County of Harrison, West Virginia.

The public hearing and second reading for final consideration of the proposed ordinance will be held at 7:00 PM on November 9, 2004.

The proposed increased rate and charges will become effective on January 1, 2005, unless otherwise ordered by the Public Service Commission and will produce approximately \$166,950.00 annually in additional revenue, and increase of 53%. The estimated average monthly bill for the various classes of customers will be charged as follows:

Customer Class	\$ Increase	% Increase
Residential	\$13.96	59.96%
Commercial	876.75	53.05
Public Authorities	1,154.15	53.11
Multi-Family Units	135.86	52.99
Industrial	364.93	53.08

The increases shown are based on averages of all customer in the allocated class. Individual customers may receive increases that are greater or less than average. Furthermore the requested rates and charges are only a proposal and are subject to change (increase or decrease) by the Public Service Commission in its review of this filing. The Commission shall review and approve or modify the increase rates only upon the filing of a petition within thirty (30) days of the adoption of the ordinance charging said rates or charges by:

(1) Any customer aggrieved by the changed rates or charges who presents to the Commission a petition signed by not less than twenty-five percent of the customers served by such municipality operated public utility; or

(2) Any customer who is served by a municipality operated public utility any who resides outside the corporate limits and who is affected by the change in said rates or charges and who presents to the Commission a petition alleging discrimination between customer within and without the municipal boundaries. Said petition shall be accompanied by evidence of discrimination; or

(3) Any customer or group of customers who are affected by said changing in rates who reside within the municipal boundaries and who present a petition to the Commission alleging discrimination between said customer or group of customers and other customer of the municipal utility. Said petition shall be accompanied by evidence of discrimination.

All petitions should be addressed to the Executive Secretary, Public Service Commission of West Virginia, 201 Brooks Street, P.O. Box 812, Charleston, WV 25323. A copy of the proposed rates as well as a representative of the Utility to provide information requested concerning it is available to customer and prospective customer at the Municipal building, 104 West Main Street, Salem, West Virginia.

A copy of the proposed rates is available for public inspection at the Office of the Secretary of the Public Service Commission at 201 Brooks Street, P.O. Box 812, Charleston, West Virginia 25323.

STATE OF WEST VIRGINIA,
COUNTY OF HARRISON

SARA V. SHINGLETON

I, _____
Classified Manager of THE EXPONENT-TELEGRAM, a newspaper of general circulation published in the City of Clarksburg, County and State aforesaid, do hereby certify that the annexed

CHANGE IN WATER RATES

was published in said THE EXPONENT-TELEGRAM once a week for _____ successive weeks,

commencing on the 29 day of October 2004
and ending on the 2 day of November 2004

The publisher's fee for said publication is \$ 172.62

Given under my hand this 2 day of November 2004

Sara V. Shingleton

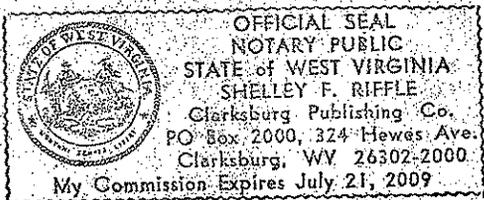
Classified Manager of The Exponent-Telegram



Subscribed and sworn to before me this 2 day of November 2004

Shelley F. Riffle
Notary Public in and for Harrison County, WV

My commission expires on the 21 day of July 2009



52004

**SALEM CITY COUNCIL
PUBLIC HEARING
OCTOBER 12, 2004**

PRESENT: Kevin Bender, Councilman
Laura Yokochi, Councilwoman
Fredette Leda, Councilwoman
Brad Eddy, Councilman
Mary Dolly, Councilwoman
Ken Yost, City Manager
Jackie Ritter, City Recorder

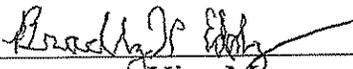
ABSENT: Daniel Daquilante, Councilman
Sheldon Dolly, Mayor

The Salem City Council met on Tuesday October 12, 2004 for a public hearing on the following two ordinances. Vice Mayor Eddy called the public hearing to order at 7:00 P.M.

- A. An Ordinance to Provide for the Cooperation of the City of Salem with the Harrison County Commission for the implementation of 911 Addressing and Mapping within City of Salem, West Virginia, in connection with the West Virginia Statewide Addressing and Mapping Project
- B. Authorizing Ordinance an Ordinance to Authorize Sale of Real Estate

No one was present.

Meeting adjourned at 7:05 P.M.



Vice Mayor



Recorder

**SALEM CITY COUNCIL
PUBLIC HEARING
NOVEMBER 9, 2004**

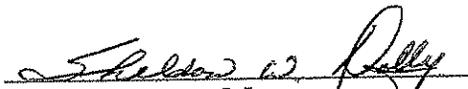
PRESENT: Kevin Bender, Councilman
Laura Yokochi, Councilwoman
Fredette Leda, Councilwoman
Brad Eddy, Councilman
Mary Dolly, Councilwoman
Ken Yost, City Manager
Sheldon Dolly, Mayor
Jackie Ritter, City Recorder

ABSENT: Daniel Daquilante, Councilman

The Salem City Council met on Tuesday November 9, 2004 for the purpose of conducting a public hearing on the proposed Ordinance Amendment to Increase Water Tariff Rates. The First Reading was held October 12, 2004. Mayor Dolly called the public hearing to order at 7:00 p.m.

- A. John Schnittger – Expressed concern over how those on a fixed income will be able to afford the water rate increase.
- B. Harold Pratt – Also expressed concern for those on fixed incomes and feels a water rate increase is not justified due to lack of new business in the city.
- C. Steve Cleavenger – Expressed concern over perceived higher rate for residential compared to commercial as well as the burden on those on fixed incomes.

The public hearing adjourned at 7:15 p.m.



Mayor



Recorder

**SALEM CITY COUNCIL
REGULAR MEETING
NOVEMBER 9, 2004**

PRESENT: Laura Yokochi, Councilwoman
Fredette Leda, Councilwoman
Brad Eddy, Councilman
Ken Yost, City Manager
Jackie Ritter, City Recorder
Sheldon Dolly, Mayor
Kevin Bender, Councilman
Mary Dolly, Councilman

ABSENT: Daniel Daquilante, Councilman

The Salem City Council met on Tuesday November 9, 2004 for its regular meeting. Mayor Dolly called the meeting to order at 7:15 p.m.

1. Pledge of Allegiance and Prayer:

Mayor Dolly opened the meeting with the Pledge of Allegiance and Rev. Kevin Bender offered prayer.

2. Review and Approval of Council Minutes for October 26, 2004 Regular Meeting:

The minutes for the October 26, 2004 regular meeting were not available.

OLD BUSINESS

3. Bid Opening, Review and Award FEMA RPA George and Ross Streets Repairs Water Line Stabilization:

Only one bid was received from Bilco Construction Company of South Charleston. Their bid for George Street was \$49,900 and \$49,000 for Ross Street. Total bids exceed grant amount of \$59,106. FEMA will be contacted to seek approval to fix George Street only.

4. Second Reading and Consideration for Vote of Amendment to Increase Water Tariff Rates (First Reading October 12, 2004):

Councilman Eddy made a motion to complete the second reading of the Amendment to Increase Water Tariff Rates by title only. Councilwoman Dolly seconded the motion. Carried 6/0. Mayor Dolly completed the reading of the ordinance by title only. It was noted the last water rate increase was in 2000. Councilman Eddy made a motion to approve the Ordinance Amendment to Increase Water Tariff. Councilwoman Yokochi seconded the motion. Carried 6/0.

5. Progress Report Water System Improvements and Raw Water Impounds Dam Safety Projects:

The City Manager met with the contractors that will be building the new water tank and provided pictures of what the new water tank will look like. He also reported the backwash line will be an 8-inch line for more continuous back washing and use of line for storage. An account will be opened at West Union Bank for the SCBG money. The CPA fee for preparation of the Rule of 42 needs paid. Councilman Eddy made a motion to pay \$2,700 to the CPA, Gary K. Bennett, for preparation of the Rule of 42. Councilwoman Yokochi seconded the motion. Carried 6/0. Region XI will now complete the payment process of this invoice. The City Manager reports HNTB engineers will be meeting with the plant operators to review plans for the filters, sludge removal and chemical feeders. The new filters will be different than the current system and the plant operators have questions regarding operation of the plant.

6. Sewer NPDES Permit Report:

The City Manager reports this permit application was prepared and sent to the DEP. This is required every two years for operation of the wastewater treatment plant.

****Councilwoman Yokochi made a motion to alter the agenda to allow a citizen petition from Karen Siders regarding the noise ordinance. Councilwoman Leda seconded the motion. Carried 6/0. Ms. Siders spoke on a recent problem regarding party noise from neighbors. There was discussion of the city police staffing on weekends and lack of county assistance on civil complaints such as noise.**

7. Demolition of Condemned Properties Report:

The City Manager reports the asbestos inspections failed review by a DEP enforcement officer, more samples were needed. There can be no progress on demolition until the contractor completes the job, as the contract requires.

8. Grants Report:

The Law Enforcement Block Grant is officially completed. There was review of the status of the Transportation Grant for the Depot Restrooms. The Mayor will add building drawings and description and the hours to be open to the grant and it will be re-submitted. The plan should include the fact that the restrooms will be directly adjacent to a historical site.

****The November 23, 2004 regular council meeting is cancelled and re-scheduled for November 30, 2004. Those council members interested in participating in the lighting of the city Christmas lights and community service should meet at city hall on November 23, 2004 at 7:00 p.m.**

****At 8:03 p.m. council took a break and resumed at 8:23 p.m.**

9. **Appointment of Safety Committee and Safety Director (Work Place Violence Policy; Public Health Security & Bioterrorism Preparedness & Response Act of 2002 Emergency Preparedness):**

This committee and the following two committees are needed to address tabled business and also to address insurance risk reduction. If certain safety policy and procedures are instituted a discount might be offered on the increasing insurance premiums. Councilman Bender, Councilman Eddy, Councilwoman Dolly and Mayor Dolly will be the members of this committee.

10. **Appointment of Personnel Committee (Personnel Handbook & Grievance Procedures):**

Councilwoman Leda, Mayor Dolly and Councilwoman Yokochi will be the members of this committee.

11. **Appointment of Police Committee (Police Department Rules and Regulations Operational Manual):**

Councilman Eddy, Councilwoman Dolly and Councilman Bender will be the members of this committee.

12. **City Managers Report:**

- A. The City Manager provided information on a rate increase for the Gas Company.
- B. There was review of a letter from Board of Risk and Insurance Management regarding increases to the automobile insurance deductibles and other insurance changes.
- C. There was review of information from area banks regarding the services and interest rates. Councilwoman Dolly made a motion to approve the moving of city accounts to West Union Bank. Councilman Bender seconded the motion. Carried 6/0.
- D. The financial statements for all three funds for period ending Oct. 31, 2004 were provided. Water loss has been cut to 6%.
- E. Veteran's Day activities were reviewed including the dedication of a new memorial marker at the VFW Memorial Park on Main Street in Salem.
- F. The State Auditor will be in Salem the week of Thanksgiving.
- G. The parking lot at the Barn will be paved by next week.
- H. The sale of land next to the sewer plant is progressing. The land has been cleared except for the ditch and should pass DEP review.
- I. There is no progress on the property to property transfer issue on Walnut Street.
- J. The repairs to the GMC truck are done except for new tires.
- K. The Harden Elementary School PTO is still wanting an agreement to use the city land as parking for parents. The PTO president was advised it will be their responsibility to draft the agreement and present it to council.
- L. There was discussion of the lack of enforcement of the noise ordinance.

NEW BUSINESS

None

**At 9:14 p.m. Councilwoman Leda made a motion to move to executive session to discuss legal updates. Councilwoman Dolly seconded the motion. Carried 6/0.

EXECUTIVE SESSION

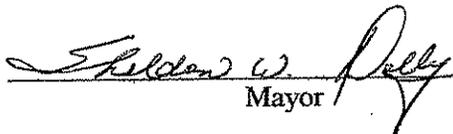
13. **Legal Updates Report on WV/NPDES Wastewater I & I Plan of Action and WVDEP Order No. 5269 & WVDEP Order No. 5365, Report WVDEP (WV IJDC Application) Smoke and Dye Testing Sewer Use Ordinance Review:**

**At 10:23 p.m. Councilwoman Dolly made a motion to return to regular session. Councilwoman Leda seconded the motion. Carried 6/0.

**At 10:24 p.m. Councilman Eddy made a motion to adjourn. Councilman Bender seconded the motion. Carried 6/0.

TABLED BUSINESS

1. Annexation of City Owned Properties
2. Policy Outlining Guidelines for WTP Backwash, Filter Treatment, & WTP discharges to WWTP
3. Policy restricting the Addition of Water Customers above a certain elevation & distance from the WTP
4. Parking Lot Lease Agreement
5. Allegheny Power Street Lighting Agreement
6. Actions on Sponsor Grant Agreements
7. Internet Service
8. Lakeview Terrace Easement Changes



Mayor



Recorder

BOND AUTHORIZING ORDINANCE

Notice is hereby given that the following entitled Ordinance was enacted at a regular meeting of the Council of the City of Salem (the "City") held on Tuesday, October 13, 2009, at 6:00 p.m. at the Salem City Hall, 229 West Main Street, Salem, West Virginia, following a public hearing held thereon:

CITY OF SALEM

ORDINANCE AUTHORIZING A CONTRIBUTION IN AID OF CONSTRUCTION TO SUN VALLEY PUBLIC SERVICE DISTRICT FOR THE PURPOSE OF PAYING A PORTION OF THE COST OF A WATER LINE EXTENSION TO THE CITY OF SALEM AND IN THE EVENT THAT SUFFICIENT FUNDS REMAIN THEREFORE, THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC WATERWORKS SYSTEM OF THE CITY OF SALEM AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED THEREOF THROUGH THE ISSUANCE BY THE CITY OF SALEM OF NOT MORE THAN \$1,800,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2009 A (WEST VIRGINIA DWTRF PROGRAM); AND NOT MORE THAN \$2,100,000 IN ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2009 B (WEST VIRGINIA DWTRF PROGRAM/ARRA) PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A ARRA ASSISTANCE AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

The above-quoted title of the Ordinance describes generally the contents thereof and the purposes of the Bonds contemplated thereby. The City contemplates the issuance of the Bonds described in the Ordinance. The proceeds of the Bonds will be used (i) to make a contribution in aid of construction to the Sun Valley Public Service District (the "District") in order to pay a portion of the cost to be incurred by the District in constructing a water line extension to serve the City (the "Project"); (ii) to fund a Reserve Account for the Bonds (the "Bonds"), if funded from Bond proceeds; and (iii) to pay certain costs of issuance of the Bonds and related costs. The Bonds are payable only from the Gross Revenues to be

derived from the operation of the public waterworks system of the City. No taxes may at any time be levied for the payment of the Bonds or the interest thereon. The above-entitled Ordinance was adopted by the Council of the City of Salem on third reading following a public hearing on October 13, 2009. A copy of the above-entitled Ordinance is on file with the City Clerk of the City for review by interested parties during regular office hours of the City at Salem City Hall, 229 West Main Street, Salem, West Virginia.
/s/ David W. Mayle
City Manger

PUBLISHER'S CERTIFICATE

I, Sara V. Shingleton, Classified Manager of THE EXPONENT TELEGRAM, a newspaper of general circulation published in the City of Clarksburg, County and state aforesaid, do hereby certify that the annexed:

NOTICE OF ADOPTION OF BOND AUT

was published in THE EXPONENT-TELEGRAM 1 time(s) commencing on the 21st day of October 2009 and ending on the 21st day of October 2009 at the request of STEPTOE & JOHNSON.

Given under my hand this 22nd day of October 2009

The publisher's fee for said publication is: \$60.32 for 464 words at \$0.1300 per word per day.

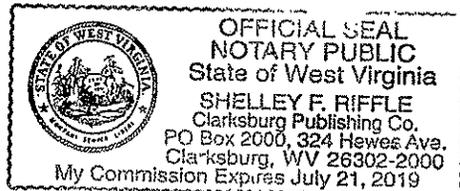
Sara V. Shingleton
Classified Manager of The Exponent-Telegram



Subscribed to and sworn to before me this 22nd day of October 2009.

Shelley F. Riffe
Notary Public in and for Harrison County, WV

My commission expires on:
The 21 day of July 2019



NOTICE OF PUBLIC HEARING ON THE CITY OF SALEM BOND ORDINANCE

A public hearing will be held on the following entitled Ordinance at a regular meeting of the Council of the City of Salem (the "City") to be held on Tuesday, October 13, 2009, at 5:30 p.m. at the City Hall, 104 West Main Street, Salem, West Virginia; and at such hearing any person interested may appear before the City and present protests and all protests and suggestions shall be heard by the City and it shall then take such actions as it shall deem proper in the premises upon an Ordinance entitled:

CITY OF SALEM ORDINANCE AUTHORIZING A CONTRIBUTION IN AID OF CONSTRUCTION TO SUN VALLEY PUBLIC SERVICE DISTRICT FOR THE PURPOSE OF PAYING A PORTION OF THE COST OF A WATER LINE EXTENSION TO THE CITY OF SALEM AND IN THE EVENT THAT SUFFICIENT FUNDS REMAIN THEREFORE, THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC WATERWORKS SYSTEM OF THE CITY OF SALEM AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF SALEM OF NOT MORE THAN \$1,800,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2009 A (WEST VIRGINIA DWTRF PROGRAM), AND NOT MORE THAN \$2,100,000 IN ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2009 B (WEST VIRGINIA DWTRF PROGRAM/ARRA) PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REG-

ISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A ARRA ASSISTANCE AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

The above quoted title of the Ordinance describes generally the contents thereof and the purposes of the Bonds contemplated thereby. The City contemplates the issuance of the Bonds described in the Ordinance. The proceeds of the Bonds will be used (i) to make a contribution in aid of construction to the Sun Valley Public Service District (the "District") in order to pay a portion of the cost to be incurred by the District in constructing a water line extension to serve the City (the "Project"); (ii) to fund a Reserve Account for the Bonds (the "Bonds"), if funded from Bond proceeds; and (iii) to pay certain costs of issuance of the Bonds and related costs. The Bonds are payable only from the Gross Revenues to be derived from the operation of the public waterworks system of the City. No taxes may at any time be levied for the payment of the Bonds or the interest thereon.

The above-entitled Ordinance was adopted by the Council of the City of Salem on September 22, 2009. A certified copy of the above entitled Ordinance is on file with the City for review by interested parties during regular office hours.

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

/s/ David W. Mayle
City Manager

PUBLISHER'S CERTIFICATE

I, Sara V. Shingleton, Classified Manager of THE EXPONENT TELEGRAM, a newspaper of general circulation published in the City of Clarksburg, County and state aforesaid, do hereby certify that the annexed:

NOTICE OF PUBLIC HEARING

was published in THE EXPONENT-TELEGRAM 2 time(s) commencing on the 24th day of September 2009 and ending on the 1st day of October 2009 at the request of STEPTOE & JOHNSON.

Given under my hand this 12th day of October 2009

The publisher's fee for said publication is: \$114.89 for 505 words at \$0.1138 per word per day.

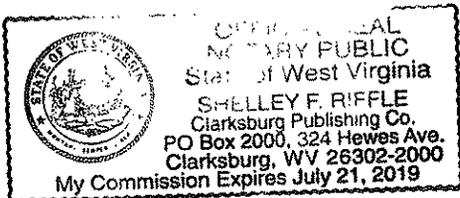
Sara V. Shingleton
Classified Manager of The Exponent-Telegram



Subscribed to and sworn to before me this 12th day of October 2009.

Shelley F. Riffle
Notary Public in and for Harrison County, WV

My commission expires on:
The 21 day of July 2019



City of Salem
Regular Council Meeting
Tuesday, September 8, 2009

The Salem City Council held a Regular meeting on Tuesday, September 8, 2009 at the City Conference Room. Mayor Jim Plaugher called the meeting to order at 6:00 p.m. The Pledge of Allegiance to the Flag of the United States of America was recited by all in attendance. Councilmember Tim Cork offered prayer.

Mayor Plaugher called for the Roll Call of the Council members in attendance.

PRESENT:

David Fisher---Council Member

Arlen "Al" Swiger---Council Member

Israel Williams---Council Member

Alfonso "Al" Romagnoli---Council Member

Tim Cork---Council Member

Jim Plaugher---Mayor

David Mayle---City Manager

ABSENT:

Pam Holston---Council Member

Sherry Lovett---City Clerk

Mayor Plaugher asked for approval of the Special Meeting Minutes of August 21, 2009.

Councilmember Cork moved for the approval of the minutes as presented. Councilmember Fisher seconded the motion and motion passed by unanimous voice vote.

No Old Business was to be presented before Council.

New Business:

Mayor Plaugher instructed the City Recorder to read the opening paragraph of the consideration of a Bond Issue concerning monies to fund the Water Line project for the City of Salem from the Sun Valley PSC and Clarksburg Water Board. *See handout from this meeting.*

Following the reading of the statement paragraph, Mayor Plaugher asked City Attorney Hanlan to offer further explanation of this proposal. Mr. Hanlan first explained that a Bond Process differs from a City Ordinance in that there must be three (3) readings of the proposed bond versus just 2-3 readings of an ordinance depending on the City Charter. He further explained that bond financing procedure is defined by the WV State Constitution and must be followed as outlined. Another difference is that there will be only one Public Hearing before the 3rd and Final reading. This timeline allows the public more time to read the bond issue proposal and to form questions before the hearing. Mr. Hanlan went on to explain why any form of government would pursue a bond versus just borrowing money for projects. He stated that no government body be it a state, county or city is permitted to obligate itself for more than its current year's tax revenue. The City of Salem can not borrow the money for this waterline project. Borrowing the any money is a violation of the WV State Constitution. Issues bonds for the money is the way that the City of Salem can enter into long-term debt for projects.

Mr. Hanlan further explained why the large sums of money were put into the bond issue when the City Council clearly agreed on just accepting a \$900,000 loan and accepting a \$900,000 grant from the Federal Stimulus monies. The bond issue, if accepted, does not commit the City of Salem into an agreement the large sum of money (\$4million). At the end of the public hearing, the City of Salem would only be agreeing to the \$900,000 loan and the \$900,000 stimulus grant. The extra amount of money is placed into the bond issue in the beginning because the total figures of the project are not

ready. Mr. Hanlan stated that perhaps the extra monies would be needed for such additions as a new building to house equipment and instrument panels to maintain the water lines. No one knows what the final costs for this project will be and Mr. Hanlan stated that the extra money is a contingent fund for the monies to complete the project.

Mr. Hanlan went on to explain that no water projects in the State of WV has been funded as of yet through the Stimulus Act. There have been a couple of sewer plant projects, including Clarksburg, that have been funded, but no water projects are ready. Mr. Hanlan reminded Council that there is a deadline of February 17, 2010 in order to have the project ready to go in order to obtain the Stimulus Act monies. Mr. Hanlan stated that once the project is ready and the financial paperwork is signed, the project and the City would have to have 2 debt schedules—one for the grant monies and one for the loan/bond monies to ease the accounting of the money flow.

He stated again that by passing this Bond Proposal, that the City of Salem is not obligated to anything but begins the process of issuing bonds for the project. If the City of Salem does not allow for enough money for the bonds at the beginning of the process, then the City could lose the stimulus money by having to start the bond process again. The bond process will take at minimum six (6) weeks for approval.

Mayor Plaughter thanked Mr. Hanlan for his explanation and then asked for comments from members of Council.

Councilmember Williams requested a transcript of Mr. Hanlan's remarks. Mayor Plaughter asked the City Recorder if that is possible. Miss Nutter stated that she would transcribe. *Miss Nutter will give Mr. Hanlan the transcript for review and signature and then distribute to members of Council.*

Councilmember Williams stated that he was not pleased that this was the first time he was receiving a copy of the proposed bond. He stated that he did not feel comfortable making this decision tonight. Mr. Hanlan stated that the process must start immediately so that the monies from the Stimulus Act are not lost due to the deadline of February 17, 2010. Councilmember Williams asked if Sun Valley PSC is ready to proceed with the project and what steps they were having to take for the project. Mr. Hanlan stated that Sun Valley would have to go through the same bonding process as Salem and that Sun Valley is ready to proceed with the process.

Councilmember Romagnoli clarified that the vote by City Council is to allow the bonding process to begin and that this vote in no way obligates the City to the millions of dollars in the documents as presented. Mr. Hanlan stated again that comes before Council to allow the process to begin and in no way obligates the City to the monies.

Councilmember Williams asked what is the update on the project by Sun Valley. All engineering is completed on this project and the project is almost ready to begin the bidding process for contracting. Recommendations on the rate structure from Clarksburg need to be reviewed as well to allow for public comments and review from the City of Salem.

It was reminded to City Council that they already approved the \$900,000 loan and the acceptance of the \$900,000 grant from the Stimulus Act monies. That is all the City Council approved so far.

Councilmember Romagnoli asked for clarification on why the City would need to build a new structure for this project. City Manager Mayle stated that the current water plant building is in the wrong location for the new lines and that the current building may not be structurally sound to house new equipment and monitors.

Councilmember Swiger state that if the project loses the Stimulus Act monies by not allowing the bonding process to move forward, then the City of Salem could be “on the hook” for the \$1.8 million through a loan process.

Councilmember Fisher moved for the approval of the First Reading of the proposed bond for the Water project. Councilmember Swiger seconded the motion and the motion passed by the following voice vote results: Councilmember Fisher—aye, Councilmember Swiger—aye, Councilmember Williams—no, Councilmember Romagnoli—aye, Councilmember Cork—aye, Mayor Plaughter—aye.

Mayor Plaughter asked for the City Manager’s report:

1. FEMA Project on Randolph Street Update—Tom Corruthers of Hornor Brothers was to be present at this Council meeting to announce who the contractors will be following the bid opening. Mr. Mayle had not heard from Mr. Corruthers prior to this meeting.
2. Mr. Mayle would like to review/redesign a City Leash Law.
3. Salem Park Barn—the youth at the Industrial Home will begin scraping, repairing, priming and painting this week depending on the weather.
4. Depot Park—the stage has been re-roofed.
5. Street Repair—ongoing and will continue the project as long as the asphalt plants continue production. Streets that will be worked on next include Pride, Prospect, Monroe, Liberty and High Street.

Mayor Plaughter asked for anything other business to come before Council. Councilmember Williams asked to address Council. Permission was granted.

1. Mr. Williams extended his apologies to the Mayor for his comments concerning the Hall’s Drilling project.
2. Mr. Williams would like to see a gauge installed at both Upper and Lower Dog Run Dams to measure the height of the water.
3. Mr. Williams stated that he is unhappy with the recent “cover-ups” of incidents that occurred at the Salem Industrial Home.
4. Mr. Williams requested an update on the 30+ sewer hook-ups that have not been registered or paid for.

In the midst of Mr. Williams’ requests, Mr. Tom Corruthers of Hornor Brothers entered the Council Chambers. Mayor Plaughter stated that Council could return to Mr. Williams’ requests following the presentation by Hornor Brothers Engineering.

Mr. Corruthers apologized for being late. Mayor Plaughter asked him to report on who Hornor Brothers recommends for the FEMA Project on Randolph Street. Mr. Corruthers reported that there were 4 bids received for the project. Three of the companies came in at extremely high bids and the 4th company was \$8,415 over the proposed FEMA budget and monies. This company, BILCO, of South Charleston, has worked on many WV Department of Highways projects and all the recommendations for this Company have come back very positive. Total bid for the project from BILCO was \$146,982. FEMA has approved the extra \$8,415 for the project and will adjust the paperwork. Mr. Mayle stated that the city will be doing the guardrail work instead of the contractor, thus saving more money on the project. Council then requested to Hornor Brothers that they would need to approve all Change Orders” prior to the changes going into effect on the project. Mayor Plaughter stated that he was present for the bid opening and felt very confident that BILCO would do a great job. Councilmember Fisher moved for the approval of the recommendation of BILCO of South Charleston to be the contractor on the FEMA project on Randolph Street. The motion was seconded by Councilmember Swiger and the motion passed by unanimous voice vote. Mr. Corruthers thanked Council for their time and stated that he will instructed their bookkeeper to begin the paperwork process with FEMA and BILCO and get the Notice

of Job Award to BILCO. Mr. Corruthers stated that 7-10 days would be needed to allow Allegheny Power to move the power lines so the project could begin.

Mayor Plaughter then asked City Manager Mayle and Mr. Ronnie Davis to respond to Councilmember Williams' request about information on the sewer line hook-ups. Mr. Mayle stated that the project is still in process and that records are being reviewed. It could take another 6-8 weeks to remedy the situation.

Mayor Plaughter asked for additional business to come before Council. Hearing none, Mayor Plaughter asked for a motion to adjourn. Councilmember Fisher moved for the adjournment of the meeting. The motion was seconded by Councilmember Cork and the motion passed by unanimous voice vote. The meeting was adjourned at 6:50 p.m.

Respectfully submitted,
Charla L. Nutter
City Recorder

Salem City Council
Regular Meeting Minutes
Tuesday, September 22, 2009

The Salem City Council held a Regular Council meeting on Tuesday, September 22, 2009 at the Salem City Hall, Main Street, Salem. Mayor Jim Plaugher called the meeting to order at 6:05 p.m. All in attendance recited the Pledge of Allegiance to the Flag of the United States of America. Mayor Plaugher then gave the Opening Prayer.

Mayor Plaugher called for the Roll Call:

PRESENT:

Jim Plaugher—Mayor
David Fisher—Vice Mayor
Arlen “Al” Swiger—Councilmember
J. Israel Williams—Councilmember
Alfonso “Al” Romagnoli—Councilmember
Pam Holston—Councilmember
Sherry Lovett—City Clerk
Ron Hanlan—City Attorney
ABSENT: Tim Cork—Councilmember
David Mayle—City Manager

Mayor Plaugher called for the approval of the Meeting Minutes of September 8, 2009. The following corrections were noted:

- On Page 3, Mr. Williams stated he was concerned about cover-up of actions at Salem International University, not Salem Industrial Home for Youth.
- On Page 1, next to last paragraph, correction on “bond issue is the way” under why a bond is issued for the waterline project.

Councilmember Romagnoli moved for the acceptance of the corrected minutes for September 22, 2009. The motion was seconded by Councilmember Williams and the motion passed by unanimous voice vote.

Mayor Plaugher called for the approval of the minutes for the Special Meeting held on September 8, 2009. Hearing no corrections, Vice Mayor Fisher moved for the acceptance of the minutes as presented. The motion was seconded by Councilmember Swiger and the motion passed by unanimous voice vote.

Unfinished Business:

Mayor Plaugher asked for clarification from the City Attorney and City Recorder that the Passage of the Building Inspector Ordinance would be in effect 30 days following the Final Reading and Acceptance by City Council. Mr. Hanlan stated that effective date is 30 days following approval by Council, so the Ordinance would be effective October 8, 2009.

Speaker's List:

1. **Emily Dulaney—Alpha Phi Omega Service Organization at SIU**—Ms. Dulaney came before Council to offer services by this volunteer service organization at the University. APO is a National Fraternity that encourages the development of leadership and community-service. One such program that the APO is working on is to sponsor a Halloween event for area children. It was suggested that APO and the City work together to sponsor an event. Councilmember Swiger moved to allot \$500 if funds are available to the combined Halloween Event for Salem's youth to be held on October 31, 2009 at 7 p.m. The motion was seconded by Vice Mayor Fisher and the motion passed by unanimous voice vote. Ms. Dulaney and Mrs. Phyllis Plaughter will meet to work out the arrangements.
2. **Robert "Bobby" Samples, citizen of Salem**—came before Council to thank and commend the group that maintains the flowers and containers on Main Street. Mr. Samples also wanted to invite all citizens to become a member of the Salem Improvement Movement and that this group will be reconvening in October. Mr. Samples will have more information at the beginning of October.

New Business:

1. Mayor Plaughter announced that Salem's "Trick or Treat" Night will be Saturday, October 31 from 6-7 p.m.
2. Councilmember Romagnoli reported on the activities of the Street Light Committee (Councilmember Williams, Holston and Romagnoli). Mr. Romagnoli and Mr. Williams found that there are several street lights being paid for by the City and that are actually out of city limits. Both Mr. Romagnoli and Mr. Williams recommend that those such lights be removed, thus saving the City money. Councilmember Romagnoli also recommended that City employees help with the identification of other street lights that could be removed. Councilmember Williams commented that there was one street light that was recommended for removal that may be owned by the neighboring church and ownership needs to be clarified. Allegheny Power did supply a plot/blueprint of lights that the City is currently expensing.
3. Councilmember Romagnoli asked for an update on the ATV Ordinance for Salem. Chief Willis has been out due to illness and has not been able to report the status.
4. Councilmember Romagnoli was approached by the owner of Boyd's Good Eats on Main Street. The owner is interested in renting/leasing the Old City Hall to relocate his business. The owner feels that the move could increase the traffic flow into the restaurant.
5. Councilmember Romagnoli stated concern about the lack of enforcement or proper ordinance concerning Salem's leash laws. A constituent in Mr. Romagnoli's Ward had a cat killed due to an unleashed dog.

6. Councilmember Romagnoli expressed a desire to see K.D. Hurley Blvd swept and cleaned prior to the AppleButter Festival Parade. Several members of Council stated that they attempted to sweep that area earlier this month and had requested assistance by the University, but no one from the University was present the day of the cleaning. There were also problems with the street sweeper cleaning the areas where mud had collected. Ms. Dulaney of SIU's APO service organization volunteered to assist the City with the next clean-up.

Vice Mayor Fisher asked to speak before Council. Mayor Plaughter granted permission.

- Vice Mayor Fisher reiterated that Salem's Building Inspector Ordinance would go into effect on October 8, 2009.
- Mr. Fisher updated Council on the progress of the Water Project with Sun Valley PSD. The WV Public Service Commission has a website that shows cases and projects under review by the Commission. Currently the Salem-Sun Valley project is being reviewed. One of the issues that is being researched is the transport fee—originally Salem was quoted to be charged 19 cents per 1000 gallons. Sun Valley submitted the final paperwork at 37 cents per 1000 gallons. After the WV Public Service Commission reviewed the paperwork and all supporting documentation, the Commission's recommendation is for the transport fee to be 15 cents per 1000 gallons. At this new rate, Sun Valley could see \$22,000 per year in revenue from Salem versus their proposed \$54,250 (at the 37 cents per 1000 gallons).
- The next step on the project is for the Bidding Process to begin by the end of October.
 - Councilmember Williams asked how long Vice Mayor Fisher had been the City's liaison for this project. Mr. Fisher and City Attorney Hanlan both stated that the appointment was after August 2007.

Mayor Plaughter thanked Vice Mayor Fisher for the update.

Councilmember Holston brought up an issue within her Ward. With the construction of the new ResCare Home on Main Street, there is a concern of water run-off on the Rails to Trails and Liberty Street extension. Ms. Holston stated that while there was a ditch in place, she was concerned if the size of the ditch was adequate for the potential run-off. Ms. Holston stated that ground water flooding into basements is already a problem for some citizens on Liberty Street. Ronnie Davis of the Street/Water Department stated that the construction foreman for ResCare offered assistance with the water run-off problem. Councilmember Romagnoli asked what the City's responsibility or liability was for the water run-off created by the construction. Mr. Davis again stated that ResCare has offered to correct any and all problems created by the construction.

Mayor Plaughter then asked the City Recorder to have the Second Reading of the Bond Ordinance for the Sun Valley/Salem Water Line Project.

Miss Nutter read the following opening statement and submitted the next 59 pages of the Bond Issue Ordinance.

CITY OF SALEM

ORDINANCE AUTHORIZING A CONTRIBUTION IN AID OF CONSTRUCTION TO SUN VALLEY PUBLIC SERVICE DISTRICT FOR THE PURPOSE OF PAYING A PORTION OF THE COST OF A WATER LINE EXTENSION TO THE CITY OF SALEM, AND IN THE EVENT THAT SUFFICIENT FUNDS REMAIN THEREFORE. THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC WATERWORKS SYSTEM OF THE CITY OF SALEM AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF SALEM OF NOT MORE THAN 1,800,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER-REVENUE BONDS, SERIES 2009 A (WEST VIRGINIA DWTRF PROGRAM); AND NOT MORE THAN \$2,100,000 IN ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2009 B (WEST VIRGINIA DWTRF PROGRAM IARRA) PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING AN ASSISTANCE AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

BE IT ORDAINED AND ENACTED BY THE COUNCIL OF THE CITY OF SALEM:

Mayor Plaughter then asked for questions or comments from Council concerning the Second Reading of the proposed ordinance. Councilmember Williams asked for clarification of the 2 bonds and the amounts that are proposed--\$1.8 million and \$2.1 million. Mr. Hanlan, City Attorney, stated that this Ordinance or the process of offering bonds for the project does not commit the City of Salem to spend any of the monies and again, the bond issue does not commit the City of Salem to accepting or spending any monies for this project. Mr. Hanlan reminded Council that the City of Salem refused to sign the original document that committed the City to anything above and beyond the agreed upon \$900,000 grant from Stimulus Funds and the \$900,000 matching loan. Mr. Hanlan repeated that by passing the proposed Ordinance for the Bond Process that the City of Salem is not obligated to the monies as stated in the opening paragraph of the proposed Ordinance.

Councilmember Williams stated again that he was concerned about the amount of time he was given to review the Ordinance. Mr. Hanlan stated that the public will have adequate time to review the document before the Public Hearing and that the purpose of the

Hearing is to answer all questions that the citizens of Salem may have concerning the bond issue and ordinance.

Councilmember Williams asked for the background or qualifications of the person responsible for writing the ordinance. Mr. Hanlan stated that Mr. Tom Ammon, Jr. was Bond Counsel with Steptoe & Johnson and is also a Certified Public Accountant (CPA). Mr. Hanlan assured Councilmember Williams that Mr. Ammon is very knowledgeable in the matter of bonds and bond issuance. Mr. Hanlan stated that the State of WV has outlined very clear requirements for issuing bonds.

Councilmember Williams asked for clarification of the roles of Clay Riley and Randy Watson from Thrasher Engineering. Mr. Hanlan stated that Mr. Riley is the engineer from Thrasher that was hired by Sun Valley PSD for the water project to Salem. Randy Watson is the project engineer from Thrasher that was hired by Salem for the Small Cities Block Grant program for the Water-Line Replacement Project that is on-going. Mr. Hanlan stated that these are two separate projects, funded by different monies.

Councilmember Williams reiterated that he was not happy with the amount of time he was given prior to the First Reading of the proposed ordinance.

Mayor Plaughter asked for questions or comments from the citizens in attendance. Hearing none, Mayor Plaughter asked for a motion to accept the Second Reading of the proposed Bond Issue Ordinance for the Water Project. Councilmember Romagnoli moved for the acceptance of the Second Reading. Vice Mayor Fisher seconded the motion and the motion passed with the following voice vote results: Councilmember Holston—aye, Councilmember Romagnoli—aye, Councilmember Williams—no, Councilmember Swiger—aye, Vice Mayor Fisher—aye, Mayor Plaughter—aye.

Mayor Plaughter asked for a motion to set the Public Hearing date for the proposed Bond Issue Ordinance. Councilmember Swiger moved to set the date of Tuesday, October 13, 2009 at 5:30 p.m. in the Conference Room of Salem City Hall for the Public Hearing. The motion was seconded by Councilmember Holston and the motion passed by the following voice vote: Councilmember Holston—aye, Councilmember Romagnoli—aye, Councilmember Williams—no, Councilmember Swiger—aye, Vice Mayor Fisher—aye, Mayor Plaughter—aye. Mayor Plaughter stated that the Public Hearing Meeting Notice had been posted on the doors of the City Hall and will be sent to the *Exponent-Telegram* for publication.

Mayor Plaughter asked for further business to come before Council. Hearing none, Mayor Plaughter asked for a motion to adjourn. Councilmember Holston moved for the adjournment of the meeting. The motion was seconded by Councilmember Romagnoli and the motion passed by unanimous voice vote. The meeting was adjourned at 7:12 p.m.

Respectfully submitted,

Charla L. Nutter
Salem City Recorder

Citizens in attendance for the 2nd Reading of the proposed Building Code Ordinance on Tuesday, September 8, 2009 were as follows:

Ruby Fisher
Phyllis Plaughter
John Seamone, Jr.
Ashton Cork
Christian Cork
Josiah Cork

Salem City Council
Regular Meeting Minutes
Tuesday, October 13, 2009

The Salem City Council held a Regular Council meeting on Tuesday, October 13, 2009 at the Salem City Hall, Main Street, Salem. Mayor Jim Plaughner called the meeting to order at 6:02 p.m. All in attendance recited the Pledge of Allegiance to the Flag of the United States of America. Mayor Plaughner then gave the Opening Prayer.

Mayor Plaughner called for the Roll Call:

PRESENT:

Jim Plaughner—Mayor
David Fisher—Vice Mayor
Arlen “Al” Swiger—Councilmember
J. Israel Williams—Councilmember
Alfonso “Al” Romagnoli—Councilmember
Pam Holston—Councilmember
Sherry Lovett—City Clerk
Ron Hanlan—City Attorney

ABSENT: Tim Cork—Councilmember
David Mayle—City Manager

Mayor Plaughner called for the approval of the Meeting Minutes of September 22, 2009. The following correction was noted by the City Recorder:

- Correction of the spelling of Tom Aman’s name.

The following correction was noted by Councilmember Romagnoli:

- On page 3, item 6—it should read “at the request of a constituent in Ward 3, K.D. Hurley Blvd should been cleaned and swept prior to the AppleButter Festival.” Also in the same paragraph, it should read “attempted to sweep that area earlier this year and”. The correction is change the word “month” to “year”.

Councilmember Romagnoli moved for the acceptance of the corrected minutes for September 22, 2009. The motion was seconded by Councilmember Swiger and the motion passed by unanimous voice vote.

Mayor Plaughter asked the City Recorder to read a letter from the City Manager David Mayle.

TO: Charla Nutter—City Recorder
FROM: David Mayle—City Manager
DATE: October 11, 2009

As some of you may be aware, my father is in the hospital and has undergone a major operation for throat cancer. I wanted to stress to the citizens my profound apology for not being at tonight's Council meeting. I assert the firm belief that family comes first and I am where I should be at this time. I stress everyday to all the City employees, family is the most important thing in the world and I encourage them to do whatever they need for their families. I appreciate Council's understanding through this trying time for myself and my family.

*City government is bigger than any one man and I would encourage any citizen if they have issues that require the City, please see Police Chief Willis for the Police Department; Ron Davis for the Public Works Department; and Sherry Lovett for the Front Office. I also would suggest that if you need anything that these folks can't help you with, please contact Mayor Plaughter, Vice Mayor Fisher or any member of the Salem City Council.
I hope to return to the City Building as soon as I can.*

*Best regards,
Dave Mayle,
Salem City Manager*

New Business:

1. **Hall's Drilling**—came before City Council seeking approval for a Right-of-Way Agreement between the City of Salem and Hall Drilling LLC/Bluestone Energy Partners for Parcel 52 on Map 281 with totals 135.272 acres of land bounded by the lands as follows:
 - i. North by land of William J. Boggs
 - ii. East by land of Clyde Kinney
 - iii. South by land of Access Road/Mae Lynch et al
 - iv. West by land of Ora E. and Mary J. Ford

**See attached Agreement. Total consideration for this agreement is 3130'
@ \$5 per foot = \$15,650.00.**

Mayor Swiger stated that a separate work session had been held prior to this Council meeting to discuss the agreement. Mayor Plaughter asked for questions/comments from Council. Councilmember Holston asked if the Gun Club was OK with the agreement since the access road/right-of-way would be to the left of their property. Vice Mayor Fisher, who is also a member of the Club, stated that part of the agreement was to make sure the access road was kept below the crest of the hill by the property. It was also stated that the City and the Club are not liable for stray bullets. Councilmember Williams asked that the written agreement be changed to clarify that the agreement is for one "roadway", not "roadways" as typewritten. Terry Wykoff of Hall's Drilling had no problem

making that change and asked that the Mayor simply initial the change on the notarized copy once approved.

Mayor Plaughter asked for additional questions or comments. Hearing none, the Mayor asked for a motion to grant or deny approval to Hall's Drilling for the access road/right-of-way. Councilmember Swiger moved for the approval of the agreement on the access road/right-of-way for the above listed property owned by the City of Salem. Councilmember Williams seconded the motion and the motion passed by unanimous voice vote. The agreement was then signed by the Mayor and duly notarized.

2. **Stewart Evans**—came before Council on behalf of the Salem Softball and Little League seeking approval for the League to expand into the existing Salem Babe Ruth field. Due to the increasing number of area children desiring to participate in baseball/softball, the League is looking to upgrade/expand on the existing field. In 1967, the State of WV issued 11.3 acres to the Salem Park Commission to create playgrounds, pool area and ball fields. Mr. Evans further stated that Salem International University has expressed an interest to use the new fields as well. With the construction of a new sports complex for Liberty High School, LHS and Mountaineer Middle School would also be looking to use this new field, so there is the potential for additional use and income for the expansion. Mayor Plaughter asked City Attorney Hanlan to speak on this issue. Mr. Hanlan stated that the existing contract does allow for upgrades to the property, but stated that per the listing in the document, that named State Agency no longer exists and the City is not sure which current Agency would need to approve the upgrades. Mr. Hanlan will continue to investigate who the plans/documents for the upgrades need to be forwarded to for approval. Mr. Evans stated that James Swiger of WYK Associates will be working with the Little League to draw up plans/specs for the upgrades. Councilmember Romagnoli asked if the specifications for softball could be easily adapted/adjusted for College and High School. Mr. Evans stated that the field would have 2 pitcher's mounds to comply with regulations (46 ft for High School/College and 42 ft for Little League). Vice Mayor Fisher stated for the record that the City Council had already approved the upgrades in a previous meeting of 2009. Councilmember Swiger voiced his approval for the project again. Mr. Hanlan stated that once his office clarified who the drawings and notes need to be sent to for approval, the Little League could proceed.

Speaker's List:

1. **Hall Stewart, citizen of Salem**—came before Council to discuss an issue concerning unleashed dogs near his home. On one occasion, Mr. Stewart was walking on the Rail/Trail and was knocked down and injured by 2 dogs being walked on the trail without a leash by another resident. Mr. Stewart reported

the incident to the City Manager. Mr. Mayle stated that a police officer would be dispatched to meet with Mr. Stewart to discuss the issue. Mr. Stewart stated that Chief Willis did speak to him concerning the matter and was told that there was nothing the police could do at this time. Mr. Stewart felt that his complaint was ignored. The Stewarts then requested a copy of the City Ordinance concerning leash laws and other information. A copy was obtained from the City Clerk following the incident.

Mayor Plaugher requested that the City Recorder read the section of the Ordinance pertaining to care and control of animals in City limits. Councilmember Swiger asked if the City had any authority on the property owned by the Rails to Trails Committee.

Mr. Stewart became very upset about the lack of attention paid to the severity of the issue with the dogs being allowed to run unleashed and expressed his concern about the dogs continuing to have the potential to hurt citizens. He also stated that he was shocked at the lack of concern that the City Council showed concerning this serious issue. City Attorney Hanlan stated that the City Council has no authority to law enforcement and that the City Manager and the Police Department must be the enforcement agencies for the City of Salem. Councilmember Williams stated that any citizen has the ability to go "over the head" of any city official and suggested that the Stewarts needed to seek legal counsel in the matter.

Councilmember Romagnoli asked to address Council. He, too, is very upset at the lack of serious attention taken in this case. Since both cases of unleashed dogs were in Ward 1, he feels that Council should be doing something about the enforcement of the Ordinance. Mr. Hanlan stated that the City Council is not the enforcement agency of the City. Following further heated discussion and the Stewarts' reiterated statement that the City was not taking this matter seriously, the Stewarts left Council Chambers.

Mayor Plaugher asked Chief Willis to speak concerning this issue. Chief Willis stated that he did meet with Mr. Stewart and told him that the City had no ability to enforce the leash law at this time due to not have a proper kennel to house the animal once it was captured. He instructed the Stewarts to call 9-1-1 and a County officer would be dispatched to investigate if the City Police were not on duty. Mr. Stewart did call the County officer and a write-up was done on the incident. Chief Willis also stated that Harrison County Animal Control will not be dispatched after hours unless the animal is deemed vicious. The Animal Control office is only open Monday-Friday, 8 am to 4 pm. Chief Willis stated that the City did have a kennel, but it is in need of repairs to bring it up to code and the kennel also needs relocated due to the existing one being in the flood area. Councilmember Holston moved to allow the investigation of a new kennel. The motion was seconded by Councilmember Williams. Councilmember Romagnoli moved to modify the

motion to set a time limit of 6 months. Mayor Plaughter asked that the motions be tabled until the City Manager could be informed. Councilmember Holston moved to table her motion; the motion was seconded by Councilmember Romagnoli and the motion to table the discussion was passed by unanimous voice vote.

2. **James Swiger, property owner in Salem**---came before Council to give an update on the new Kiwanis Club and the Salem Depot project.
 - i. **Kiwanis Club**—the newly chartered Salem-Doddridge County Kiwanis club will celebrate its chartering at a special dinner on Thursday, November 12 at SIU's Powell Lounge beginning at 6:30 p.m. Cost is \$15 per person or \$25 per couple. Mr. Swiger encouraged everyone to come and help celebrate with the new Club.
 - ii. **Salem Depot**—Mr. Swiger reported that the Salem Depot will be renovated to allow for a more multipurpose function with the hopes that more people and/or local organizations will use the facility.

City Manager's Report:

Mr. Mayle asked Mayor Plaughter to report on the following:

- a. The American Leak Detection Company will be returning to Salem to perform more testing at the end of October. The Day Tank is now leaking again.
- b. The insurance company has opened a claim for the leak in the roof of City Hall.
- c. The City looks to be approved for \$400,000 for the demolition of Flanagan Ford garage, Dr. Audia's office building and the old Ancel's Newstand building. Mr. Mayle is hoping that Governor Manchin will make the approval official as of October 15, 2009 and that demolition will begin in January 2010.
- d. Mr. Mayle has met with two prospective businesses over the last 2 months. Food Fresh is a grocery store that has one location in Bridgeport and wishes to have a second store in Salem; possibly at the current Dollar General store once it relocates to the new building. Another business, CJ's Pizza, is looking to either renovate the existing Mario's Pizza building or to buy the lot at the corner of Main and Valley and build.
- e. Mr. Mayle thanked the Public Works and Police Departments for their great job during the recent AppleButter Festival.

Mayor Plaughter asked for other business to come before the Council. Councilmember Holston requested clarification of the Salem Zoning Ordinance concerning the new ResCare Facility on Main Street. As per the Ordinance on Page 23, the area of Main Street to Elizabeth Street to Cross Street is designated as "residential

only” and other citizens have concerns about the new building being in violation of the Ordinance. Mr. Hanlan will review how the ResCare Residential Home is classified; either business, live-in, or strictly residential.

Councilmember Williams suggested that a new refrigerator be purchased for the Front Office as the employees have no where to store their lunches and such. Vice Mayor Fisher stated that those types of purchases are at the discretion of the City Manger.

Councilmember Williams moved for the approval to remove the street lights on Patterson Street that are out of the City limits but are still being paid for by the City. Mayor Plaughter asked if the final survey of all the City-owned street lights were completed. Councilmember Romagnoli and Williams both stated that the survey was not completed as only a portion of Ward 1 was reviewed. Mayor Plaughter suggested that the Committee should wait until the survey is completed before taking action on just one area of the City. Mayor Plaughter called for a second on the motion. Hearing none, the motion was not seconded or approved.

Mayor Plaughter asked the City Recorder to read the opening paragraph of the Bond Issue Ordinance for Final Reading:

Miss Nutter read the following opening statement and submitted the next 59 pages of the Bond Issue Ordinance.

CITY OF SALEM

Ordinance authorizing a contribution in aid of construction to Sun Valley Public Service District for the purpose of paying a portion of the cost of a water line extension to the City of Salem, and in the event that sufficient funds remain therefore, the acquisition and construction of additions, betterments, and improvements to the existing public waterworks system of the City of Salem and the financing of the cost, not otherwise provided, thereof through the issuance by the City of Salem of not more than \$1,800,000 in aggregate principal amount of water revenue bonds, Series 2009 A (West Virginia DWTRF Program); and not more than \$2,100,000 in original aggregate principal amount of Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA) providing for the rights and remedies of and security for the registered owners of such bonds; authorizing execution and delivery of all documents relating to the issuance of such bonds; approving, ratifying and confirming a ARA Assistance Agreement relating to such bonds; authorizing the sale and providing for the terms and provisions of such bonds and adopting other provisions relating thereto.

Be it ordained and enacted by the Council of the City of Salem:

Mayor Plaughter called for a motion to accept or reject the 3rd and Final Reading of this proposed ordinance. Councilmember Romagnoli moved for the acceptance of the 3rd and Final Reading. Councilmember Swiger seconded the motion. Mayor Plaughter asked for discussion or comments from Council. Councilmember Romagnoli asked Mr. Tom Aman for clarification of the process to issue bonds, specifically the time frame of the Readings of the Ordinance and passage of the Ordinance. Mr. Aman stated that it is required to have three (3) Readings at a regular Council meeting and then a time for the Public Hearing prior to the final vote of acceptance. Councilmember Romagnoli asked for clarification for those in attendance if the approval of the Ordinance obligated the City of Salem financially for the Bond Issuance. Mr. Aman stated that the City would not be obligated by the passing the Final Reading of the Ordinance; that the passing of the Final Reading was just a part of the process to start issuing bonds on this water project with Sun Valley PSD.

Councilmember Williams asked if the Ordinance was made available to the citizens and if the citizens had enough time to review the written document. Mr. Hanlan stated that the Ordinance in written form had been available for review since the First Reading by City Council and that the Public Hearing notice was printed in The Exponent-Telegram as outlined by the WV State regulations. *See attached notice.* Councilmember Williams continued to ask if the public had enough notice of the proposed Ordinance. Mr. Hanlan stated that all rules and regulations were followed as per the guidelines set forth by the State of WV.

Councilmember Williams requested a copy of the contract between the City of Salem and Mr. Hanlan/Steptoe & Johnson, PLLC.

Mayor Plaughter called for additional comments and/or further discussion from the audience members. Hearing none, Mayor Plaughter called for a vote on the motion and the motion passed with the following voice vote results: Vice Mayor Fisher—aye, Councilmember Swiger—aye, Councilmember Williams—no, Councilmember Romagnoli—aye, Councilmember Holston—aye, Mayor Plaughter—aye.

Vice Mayor Fisher moved that the Publisher's Certificate as notarized become a part of the official minutes of this meeting. The motion was seconded by Councilmember Swiger and the motion passed by unanimous voice vote.

Mayor Plaughter called for a motion to adjourn. The motion to adjourn was made by Councilmember Romagnoli and seconded by Councilmember Holston. The motion passed by unanimous voice vote. The meeting was adjourned at 7:55 p.m.

Respectfully submitted,

Charla L. Nutter
City Recorder
Salem City Council

Road Grant/Right Of Way Agreement

THIS AGREEMENT, made this 13th day of October, 2009, by and between Ci having an address of P.O. Box 352 Salem WV 26426 hereinafter referred to as "Grantor Drilling LLC./ Bluestone Energy Partners. Hereinafter referred to as "Grantee", havi P.O. 249 Ellenboro, WV. 26346.

WITNESS: That for and in the consideration of the ten dollars (\$10.00), cash in receipt of which is hereby acknowledged, Grantor does hereby grant unto the said Grant successors or assigns all rights necessary to construct, operate, maintain and employ acc which must be approved by the Grantor prior to the construction thereof. This Right of covenants and agreements contained herein, shall run with the land and shall inure to, ar upon, the parties, their successors and assigns. The said Grantor, their heirs, successors fully use and enjoy said premises, except for the purposes granted to the said Grantee w to pay any damages, which may arise to crops, trees and fences from the construction of said damages, if not mutually agreed upon are to be ascertained and determined by three persons. The appointments should be as follows: One thereof appointed by the Grantor Grantee and third by the two so appointed aforesaid, and the award of the such three per and conclusive.

Included in the rights granted with this agreement are the rights of ingress and eg said work and to maintain said roadway and whereas said Right^{JER} of-Way is to be for, an following described tract of land in Deed Book N/A Page No. N/A located in Ten Mill Harrison County, West Virginia 135.272 acres bounded by the lands as follow
Map 281 Parcel 52:

North by land of: William J. Boggs
East by land of: Clyde Kinney
South by land of: Access Road/ Mae Lynch ed al
West by land of: Ora E & Mary J. Ford

Additional considerations if any: The City of Salem Riffle and Gun Club will not be l for stray bullets by Hall Drilling LLC. And its Contractors while traveling this roa
The total consideration for this document is: 3130' @ \$5.00 per ft = \$16,650.00
\$15,650.00

WITNESS: the following signatures and seals:

Grantor/James E. Plaughter Mayor of the City of Salem

NOTICE OF PUBLIC HEARING ON THE CITY OF SALEM BOND ORDINANCE

A public hearing will be held on the following entitled Ordinance at a regular meeting of the Council of the City of Salem (the "City") to be held on Tuesday, October 13, 2009, at 5:30 p.m. at the City Hall, 104 West Main Street, Salem, West Virginia, and at such hearing, any person interested may appear before the City and present oral testimony. All proposals and suggestions shall be made by the City and it shall not take such actions as listed hereon as the Council of the City of Salem.

CITY OF SALEM ORDINANCE AUTHORIZING A CONTRIBUTION IN AID OF CONSTRUCTION TO SUN VALLEY PUBLIC SERVICE DISTRICT FOR THE EXTENSION OF THE WATER MAINS AND IN THE EVENT THAT SUFFICIENT FUNDS REMAIN THEREFOR THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, IMPROVEMENTS AND WATERWORKS SYSTEM OF THE CITY OF SALEM AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF SALEM OF NOT MORE THAN \$1,800,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2009 A (WEST VIRGINIA DWTRF PROGRAM) AND NOT MORE THAN \$2,100,000 IN ORIGINAL AMOUNT OF WATER REVENUE BONDS, SERIES 2009 B (WEST VIRGINIA DWTRF PROGRAM) PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS, AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS, APPROVING, RATIFYING AND CONFIRMING A FINANCIAL ASSISTANCE AGREEMENT RELATING TO SUCH BONDS, AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS.

REGISTERED OWNERS OF SUCH BONDS, AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS, APPROVING, RATIFYING AND CONFIRMING A FINANCIAL ASSISTANCE AGREEMENT RELATING TO SUCH BONDS, AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS.

The purpose of the Bonds contemplated by this Ordinance is to make a contribution in aid of construction to the Sun Valley Public Service District (the "District") in order to pay a portion of the cost to be incurred by the District in constructing a water line extension to serve the City (the "Project"). (i) to fund a Reserve Account for the Bonds (the "Bonds"), if funded from Bond proceeds; and (ii) to pay certain costs of issuance of the Bonds and related costs. The Bonds are payable only from the Gross Revenue to be derived from the operation of this public waterworks system of the City. No taxes may at any time be levied for the payment of the Bonds or the interest thereon. The above-entitled Ordinance was adopted by the Council of the City of Salem on September 22, 2009. A certified copy of the above entitled Ordinance is on file with the City for review by interested parties during regular office hours. Following the public hearing, the City intends to adopt the Ordinance upon final reading.

W/ David W. Mayle
City Manager

PUBLISHER'S CERTIFICATE

I, Sara V. Shingleton, Classified Manager of THE EXPONENT TELEGRAM, newspaper of general circulation published in the City of Clarksburg, County and state aforesaid, do hereby certify that the annexed:

NOTICE OF PUBLIC HEARING

was published in THE EXPONENT-TELEGRAM (time(s) commencing on the 24th day of September 2009 and ending on the 1st day of October 2009 at the request of STEPTOE & JOHNSON. Given under my hand this 12th day of October

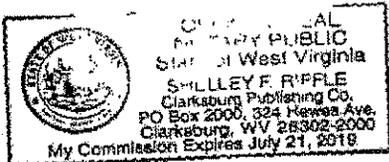
The publisher's fee for said publication is: \$ for 505 words at \$0.1138 per word per day

Sara V. Shingleton
Classified Manager of The Exponent-Telegram

Subscribed to and sworn to before me this 12th day of October 2009.

Shelley F. Riffle
Notary Public in and for Harrison County, WV

My commission expires on: The 21 day of July 2011



WV MUNICIPAL BOND COMMISSION

1207 Quarrier Street
Suite 401
Charleston, WV 25301
(304) 558-3971

NEW ISSUE REPORT FORM

Date of Report: 1/14/2010

ISSUE: City of Salem
Water Revenue Bonds, Series 2010 A (West Virginia DWTRF Program)

ADDRESS: 229 West Main Street, Salem WV 26426 COUNTY: Harrison

PURPOSE OF ISSUE:

New Money: X
Refunding: _____

REFUNDS ISSUE(S) DATED: NA

ISSUE DATE: 1/14/2010

CLOSING DATE: 1/14/2010

ISSUE AMOUNT: \$900,000

RATE: 0%; Administrative Fee 0%

1ST DEBT SERVICE DUE: 9/1/2011

1ST PRINCIPAL DUE: 9/1/2011

1ST DEBT SERVICE AMOUNT \$7,500

PAYING AGENT: Municipal Bond Commission

BOND COUNSEL:

Firm: Stephoe & Johnson PLLC
Contact: Tom Aman, Esquire
Phone: 304.624.8136

UNDERWRITERS COUNSEL

Firm: Jackson Kelly, PLLC
Contact: Samme Gee, Esquire
Phone: (304) 340-1318

CLOSING BANK:

Bank: West Union Bank
Contact: Linda Jett/Jennifer Lowe
Phone: 304.873.2361

ESCROW TRUSTEE:

Firm: _____
Contact: _____
Phone: _____

KNOWLEDGEABLE ISSUER CONTACT

Contact: David W. Mayle
Position: City Manager
Phone: 304.782.1318

OTHER:

Agency: West Virginia DWTRF Program
Contact: Robert DeCrease, PE
Position: Manager
Phone: 304.558.2981

DEPOSITS TO MBC AT CLOSE

By: _____ Wire _____
_____ Check _____
Accrued Interest: \$ _____
Capitalized Interest: \$ _____
Reserve Account: \$ _____
Other: \$ _____

REFUNDS & TRANSFERS BY MBC AT CLOSE

By: _____ Wire _____
_____ Check _____
_____ IGT _____
To Escrow Trustee \$ _____
To Issuer \$ _____
To Cons. Invest. Fund \$ _____
To Other: _____ \$ _____

NOTES: The Series 2010 A Bonds Reserve Account will be funded over 10 years.

FOR MUNICIPAL BOND COMMISSION USE ONLY:

DOCUMENTS REQUIRED: _____
TRANSFERS REQUIRED: _____

WV MUNICIPAL BOND COMMISSION

1207 Quarrier Street
Suite 401
Charleston, WV 25301
(304) 558-3971

NEW ISSUE REPORT FORM

Date of Report: 1/14/2010

ISSUE: City of Salem
Water Revenue Bonds, Series 2010 B (West Virginia DWTRF Program/ARRA)

ADDRESS: 229 West Main Street, Salem WV 26426 COUNTY: Harrison

PURPOSE OF ISSUE:

New Money: X
Refunding: _____

REFUNDS ISSUE(S) DATED: NA

ISSUE DATE: 1/14/2010

CLOSING DATE: 1/14/2010

ISSUE AMOUNT: \$927,000

RATE: 0%; Administrative Fee 0%

1ST DEBT SERVICE DUE: 100% Forgivable

1ST PRINCIPAL DUE 100% Forgivable

1ST DEBT SERVICE AMOUNT 100% Forgivable

PAYING AGENT: Municipal Bond Commission

BOND COUNSEL:

Firm: Steptoe & Johnson PLLC
Contact: Tom Aman, Esquire
Phone: (304) 624.8136

UNDERWRITERS COUNSEL

Firm: Jackson Kelly, PLLC
Contact: Samme Gee, Esquire
Phone: (304) 340-1318

CLOSING BANK:

Bank: West Union Bank
Contact: Linda Jett/Jennifer Lowe
Phone: 304.873.2361

ESCROW TRUSTEE:

Firm: _____
Contact: _____
Phone: _____

KNOWLEDGEABLE ISSUER CONTACT

Contact: David W. Mayle
Position: City Manager
Phone: 304.782.1318

OTHER:

Agency: West Virginia DWTRF Program
Contact: Robert DeCrease, PE
Position: Manager
Phone: 304.558.2981

DEPOSITS TO MBC AT CLOSE

By: _____ Wire _____
_____ Check _____
Accrued Interest: \$ _____
Capitalized Interest: \$ _____
Reserve Account: \$ _____
Other: \$ _____

REFUNDS & TRANSFERS BY MBC AT CLOSE

By: _____ Wire _____
_____ Check _____
_____ IGT _____
To Escrow Trustee \$ _____
To Issuer \$ _____
To Cons. Invest. Fund \$ _____
To Other: _____ \$ _____

NOTES: The principal amount of the Series 2010 B Bonds is 100% forgivable. The Series 2010 B Bonds Reserve Account will not be funded.

FOR MUNICIPAL BOND COMMISSION USE ONLY:

DOCUMENTS REQUIRED: _____
TRANSFERS REQUIRED: _____

CITY OF SALEM

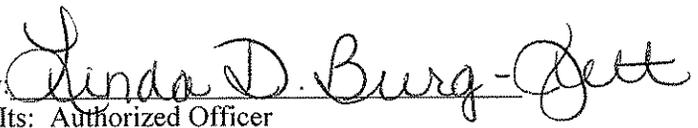
Water Revenue Bonds, Series 2010 A
(West Virginia DWTRF Program); and
Water Revenue Bonds, Series 2010 B
(West Virginia DWTRF Program/ARRA)

ACCEPTANCE OF APPOINTMENT AS DEPOSITORY BANK

WEST UNION BANK, West Union, West Virginia, hereby accepts appointment as Depository Bank in connection with the Bond Ordinance of the City of Salem (the "Issuer") enacted October 13, 2009, and the Supplemental Resolution of the Issuer adopted December 17, 2009 (collectively, the "Bond Legislation"), authorizing issuance of the Issuer's Water Revenue Bonds, Series 2010 A (West Virginia DWTRF Program), dated January 14, 2010, issued in the principal amount of \$900,000 and Water Revenue Bonds, Series 2010 B (West Virginia DWTRF Program/ARRA), dated January 14, 2010, issued in the principal amount of \$927,000 (collectively the "Bonds"), and agrees to serve as Depository Bank in connection with the Bonds, all as set forth in the Bond Legislation.

WITNESS my signature on this 14th day of January, 2010.

WEST UNION BANK

By: 
Its: Authorized Officer

788170.00002

CITY OF SALEM

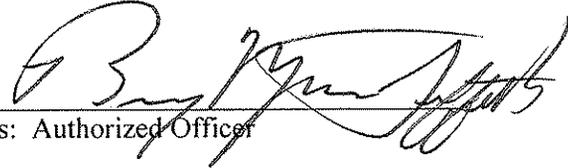
Water Revenue Bonds, Series 2010 A
(West Virginia DWTRF Program); and
Water Revenue Bonds, Series 2010 B
(West Virginia DWTRF Program/ARRA)

ACCEPTANCE OF DUTIES AS REGISTRAR

THE HUNTINGTON NATIONAL BANK, Charleston, West Virginia, hereby accepts appointment as Registrar in connection with the City of Salem Water Revenue Bonds, Series 2010 A (West Virginia DWTRF Program), dated January 14, 2010, issued in the principal amount of \$900,000 and Water Revenue Bonds, Series 2010 B (West Virginia DWTRF Program/ARRA), dated January 14, 2010, issued in the principal amount of \$927,000 (collectively, the "Bonds"), and agrees to perform all duties of Registrar in connection with the Bonds, all as set forth in the Bond Legislation authorizing issuance of the Bonds.

WITNESS my signature on this 14th day of January, 2010.

THE HUNTINGTON NATIONAL BANK

By: 
Its: Authorized Officer

788170.00002

CITY OF SALEM

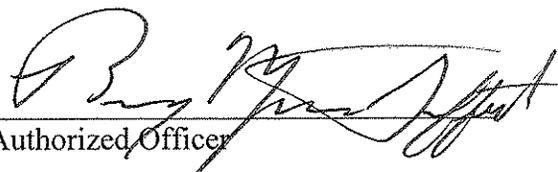
Water Revenue Bonds, Series 2010 A
(West Virginia DWTRF Program); and
Water Revenue Bonds, Series 2010 B
(West Virginia DWTRF Program/ARRA)

CERTIFICATE OF REGISTRATION OF BONDS

THE HUNTINGTON NATIONAL BANK, Charleston, West Virginia, as Registrar under the Bond Legislation and Registrar's Agreement providing for the above-captioned Bonds of the City of Salem (the "Issuer"), hereby certifies that on the date hereof, the single, fully registered Water Revenue Bonds, Series 2010 A (West Virginia DWTRF Program), of the Issuer, dated January 14, 2010, in the principal amount of \$900,000, numbered AR-1, and the single, fully registered Water Revenue Bonds, Series 2010 B (West Virginia DWTRF Program/ARRA), of the Issuer, dated January 14, 2010 in the principal amount of \$927,000, numbered BR-1, were registered as to principal and interest, if any, in the name of "West Virginia Water Development Authority" in the books of the Issuer kept for that purpose at our office, by a duly authorized officer on behalf of The Huntington National Bank, as Registrar.

WITNESS my signature on this 14th day of January, 2010.

THE HUNTINGTON NATIONAL BANK

By: 
Its: Authorized Officer

CITY OF SALEM

Water Revenue Bonds, Series 2010 A
(West Virginia DWTRF Program); and
Water Revenue Bonds, Series 2010 B
(West Virginia DWTRF Program/ARRA)

REGISTRAR'S AGREEMENT

THIS REGISTRAR'S AGREEMENT, dated as of the 14th day of January, 2009, by and between the CITY OF SALEM, a municipal corporation and political subdivision of the State of West Virginia (the "Issuer"), and THE HUNTINGTON NATIONAL BANK, Charleston, West Virginia (the "Registrar").

WHEREAS, the Issuer has, contemporaneously with the execution hereof, issued and sold its \$900,000 Water Revenue Bonds, Series 2010 A (West Virginia DWTRF Program) and \$927,000 Water Revenue Bonds, Series 2010 B (West Virginia DWTRF Program/ARRA), in fully registered form (collectively, the "Bonds"), pursuant to the Bond Ordinance of the Issuer duly enacted October 13, 2009, and the Supplemental Resolution of the Issuer duly adopted December 17, 2009 (collectively, the "Bond Legislation");

WHEREAS, capitalized words and terms used in this Registrar's Agreement and not otherwise defined herein shall have the respective meanings given them in the Bond Legislation, a copy of which is attached as EXHIBIT A hereto and incorporated herein by reference;

WHEREAS, the Bond Legislation provides for an appointment by the Issuer of a Registrar for the Bonds; and

WHEREAS, the Issuer desires to appoint, and by the Bond Legislation and this Registrar's Agreement does appoint, the Registrar to act as Registrar under the Bond Legislation and to take certain other actions hereinafter set forth;

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

1. Upon the execution of this Registrar's Agreement by the Issuer and the Registrar and during the term hereof, the Registrar does accept and shall have and carry out the powers and duties of Registrar for the Bonds, all as set forth in the Bond Legislation, such duties including, among other things, the duties to authenticate, register and deliver Bonds upon original issuance and when properly presented for exchange or transfer, and shall do so with the

intention of maintaining the exclusion of interest, if any, on the Bonds from gross income for federal income tax purposes, in accordance with any rules and regulations promulgated by the United States Treasury Department or by the Municipal Securities Rulemaking Board or similar regulatory bodies as the Issuer advises it of and with generally accepted industry standards.

2. The Registrar agrees to furnish the Issuer with appropriate records of all transactions carried out by it as Registrar and to furnish the Issuer with the names and specimen signatures of the Registrar's authorized officers for the purposes of acting as the Registrar and with such other information and reports as the Issuer may from time to time reasonably require.

3. The Registrar shall have no responsibility or liability for any action taken by it at the specific direction of the Issuer.

4. As compensation for acting as Registrar pursuant to this Registrar's Agreement, the Issuer hereby agrees to pay to the Registrar the compensation for services rendered as provided in the annexed schedule.

5. It is intended that this Registrar's Agreement shall carry out and implement provisions of the Bond Legislation with respect to the Registrar. In the event of any conflict between the terms of this Registrar's Agreement and the Bond Legislation, the terms of the Bond Legislation shall govern.

6. The Issuer and the Registrar each warrants and represents that it is duly authorized and empowered to execute and enter into this Registrar's Agreement and that neither such execution nor the performance of its duties hereunder or under the Bond Legislation will violate any order, decree or agreement to which it is a party or by which it is bound.

7. This Registrar's Agreement may be terminated by either party upon 60 days' written notice sent by registered or certified mail to the other party, at the following respective addresses:

ISSUER: City of Salem
 229 West Main Street
 Salem, WV 26427
 Attention: City Manager

REGISTRAR: The Huntington National Bank
 One Huntington Square
 Charleston, West Virginia 25301
 Attention: Corporate Trust Department

8. The Registrar is hereby requested and authorized to authenticate and deliver the Bonds in accordance with the Bond Legislation.

9. This document may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same document.

[Remainder of Page Intentionally Blank]

IN WITNESS WHEREOF, the parties hereto have respectively caused this Registrar's Agreement to be signed in their names and on their behalf, all as of the day and year first above-written.

CITY OF SALEM

By: 
Its: City Manager

By: 
Its: Mayor

THE HUNTINGTON NATIONAL BANK

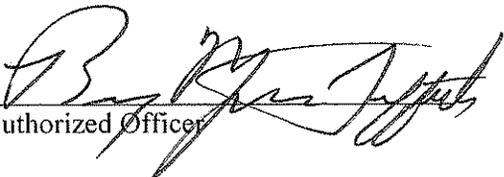
By: 
Its: Authorized Officer

EXHIBIT A

Bond Legislation included in bond transcript as Documents Nos. 1 and 2.

SCHEDULE OF COMPENSATION

(Please see attached)

Private Financial Group
P.O. Box 633 - WE3013
Charleston, West Virginia 25322-0633



STATEMENT OF REGISTRAR'S FEES
Invoice Date January 14, 2010

City of Salem
Account Number 6089001809

City of Salem
Water Revenue Bonds, Series 2010 A
C/o Thomas L. Aman, Jr.
Steptoe & Johnson, PLLC
P.O. Box 1588
Charleston, WV 25326-1588

SUMMARY OF ACCOUNT

FEE CALCULATION FOR January, 2010

TOTAL AMOUNT	\$	500.00
TOTAL DUE	\$	<u>500.00</u>

FEE INVOICES ARE PAYABLE WITHIN 30 DAYS

MAIL CHECK TO:
THE HUNTINGTON NATIONAL BANK
ATTN: BARRY GRIFFITH – WE3013
PO BOX 633
CHARLESTON, WV 25322-0633

PLEASE INCLUDE A COPY OF THIS INVOICE WITH YOUR PAYMENT

IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT
Barry Morgan Griffith at (304)348-5035

Private Financial Group
P.O. Box 633 - WE3013
Charleston, West Virginia 25322-0633



STATEMENT OF REGISTRAR'S FEES
Invoice Date January 14, 2010

City of Salem
Account Number 6089001809

City of Salem
Water Revenue Bonds, Series 2010 B
C/o Thomas L. Aman, Jr.
Steptoe & Johnson, PLLC
P.O. Box 1588
Charleston, WV 25326-1588

SUMMARY OF ACCOUNT

FEE CALCULATION FOR January, 2010

TOTAL AMOUNT	\$	500.00
TOTAL DUE	\$	<u>500.00</u>

FEE INVOICES ARE PAYABLE WITHIN 30 DAYS

MAIL CHECK TO:
THE HUNTINGTON NATIONAL BANK
ATTN: BARRY GRIFFITH – WE3013
PO BOX 633
CHARLESTON, WV 25322-0633

PLEASE INCLUDE A COPY OF THIS INVOICE WITH YOUR PAYMENT

IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT
Barry Morgan Griffith at (304)348-5035

10-168
Permit

CLAY R

PWSID: WV3301726

State of West Virginia

OFFICE OF ENVIRONMENTAL HEALTH SERVICES

CAPITOL and WASHINGTON STREETS 1 DAVIS SQUARE, SUITE 200 CHARLESTON, WEST VIRGINIA 25301
TELEPHONE 304-558-2981 JAN 29 2007

PERMIT

THRASHER ENGINEERING, INC.

PROJECT: (Water)
Route 50 Water Line Extension to Salem

PERMIT NO.: 17,372

LOCATION: near Salem

COUNTY: Harrison

DATE: 1-22-2007

THIS IS TO CERTIFY that after reviewing plans, specifications, application forms, and other essential information that

Sun Valley Public Service District
P. O. Box 95
Reynoldsville, West Virginia 26422

is hereby granted approval to: install approximately 44,500 LF of 10", 5,700 LF of 8", 123,400 LF of 6" and 5,800 LF of 2" water line; one (1) 800 G.P.M. duplex water booster station with booster chlorination; upgrade the existing Sycamore water booster station; install a 500,000 gallon and a 132,000 gallon water storage tanks; two (2) master meter stations; and all necessary valves, controls and appurtenances.

Facilities are to serve the City of Salem and approximately 447 customers in Jarvisville, Shaw's Run, Sycamore, Coburn's Creek, Hall's Run, Lake Floyd, Marshville, Salem Fork and Flinderation .

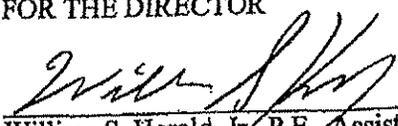
NOTE:

This permit is contingent upon: 1) All new water line and water storage tanks being disinfected, flushed and bacteriologically tested, prior to use; 2) Maintaining a minimum ten (10) feet horizontal separation between sewer and water lines and a minimum 18" vertical separation between crossing sewer and water lines, with the water line to be above the sewer line; and 3) Enclosing the new water storage tanks with a minimum six (6) feet high fence with a locking gate.

The Office of Environmental Health Services Philippi District Office (304) 457-2296, is to be notified when construction begins.

Validity of this permit is contingent upon conformity with plans, specifications, application forms, and other information submitted to the West Virginia Bureau for Public Health.

FOR THE DIRECTOR



William S. Herold, Jr., P.E., Assistant Manager
Infrastructure and Capacity Development
Environmental Engineering Division

JAN 24 2007

S.V.P.S.D.

WSH:emt

pc: Thrasher Engineering, Inc.
James W. Ellars, P.E., PSC-Engineering Division
Amy Swann, PSC
Harrison County Health Department
OEHS-EED Philippi District Office



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
BUREAU FOR PUBLIC HEALTH
OFFICE OF ENVIRONMENTAL HEALTH SERVICES

Joe Manchin III
Governor

Patsy A. Hardy, FACHE, MSN, MBA
Cabinet Secretary

December 3, 2009

Mr. James Plaugher
Mayor, City of Salem
104 West Main Street
Salem, West Virginia 26426

RE: Revised Binding Commitment Letter
City of Salem
IJDC Project No.: 1998W-421
DWTRF Project No.: 09DWTRFA003
Harrison County

Dear Mayor Plaugher:

The Bureau for Public Health (Bureau) provides this binding offer of a loan of \$1,827,000 for the City of Salem's (City) contribution in aid for the construction of the Sun Valley Public Service District's (PSD) proposed project to construct a 10-inch water line, 700 GPM Booster Pump Station, and 500,000 gallon water storage tank to provide water to the City of Salem. This revised binding commitment supersedes all prior commitments.

The loan will be subject to the terms set forth on "**Schedule A**" attached hereto and incorporated herein by reference. The loan agreement will be between the City and the West Virginia Water Development Authority, who is the administrator of the DWTRF, acting on behalf of the Bureau. This loan must be executed in conjunction with the PSD loan closing prior to February 1, 2010.

If the City of Salem becomes aware that it will not comply, they should immediately notify the Bureau of this fact and the circumstances which have caused this non-compliance.

Mayor Plaughter
DWTRF Revised Binding Commitment
December 3, 2009
Page Two

If you have any questions regarding this loan commitment, please contact me at (304) 558-6749 or e-mail robert.w.decrease@wv.gov.

Very truly yours,



Robert W. DeCrease, P.E., Manager
Infrastructure & Capacity Development
Environmental Engineering Division

RWD:bms
Enclosures

pc: Randy Watson, P.E., Thrasher Engineering, Inc.
David Mayle, City Manager, City of Salem
Chris Jarrett, Executive Director, Water Development Authority
Samme L. Gee, Esquire, Jackson & Kelly
Joe Crickenberger, USDA RUS
Angela Chestnut, P.E., Executive Director, WV IJDC
Sheena Hunt, Region VI, Planning and Development Council
Walter M. Ivey, P.E., Director, BPH/OEHS/EED
OEHS Philippi District Office
Richard G. Dale, Sun Valley PSD
Jim Weimer, PE, PSC
Ingrid Ferrell, PSC

NOTE: This letter is sent in **triplicate**. Please acknowledge receipt on **two copies** and immediately return them both to the Bureau for Public Health, Capitol and Washington Streets, 1 Davis Square, Suite 200, Charleston, WV 25301-1798.

CITY OF SALEM

BY: Jim Plaughter

TITLE: Mayor

DATE: 12-8-09

WEST VIRGINIA BUREAU FOR PUBLIC HEALTH
Drinking Water Treatment Revolving Fund

(Binding Commitment)

“REVISED SCHEDULE A”

December 3, 2009

A. Project:

City of Salem
Contribution in Aid for the Connection to Sun Valley PSD Project
Harrison County
IJDC No.: 98W-421 (Sun Valley IJDC Number)
DWTRF No.: 09DWTRFA003

B. Drinking Water Treatment Revolving Fund:

Loan A (DWTRF Base Program):	\$900,000
Terms:	0%
Maturity Date:	30 years
	Special Conditions: Annual debt service payment is estimated to be \$30,000 plus reserve requirement.
Loan B (DWTRF ARRA):	\$927,000
Terms:	Principal Forgiveness
Maturity Date:	10 years
	Special Conditions: No annual debt service payment (Principal Forgiveness for this loan)

NOTE 1: There **will not** be an administration fee for either loan.

C. Other Funding Sources:

IJDC Soft Cost Grant - **\$124,000**

D. Total Project Cost: \$1,951,000

IC-2
(11/09)

GRANT AGREEMENT
(2009W-1155/09DWTRFA003)

This Grant Agreement entered into by and between the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority"), on behalf of the WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL (the "Council") and the CITY OF SALEM (the "Governmental Agency").

RECITALS

WHEREAS, the Council has authorized the Authority to make a grant to the Governmental Agency in the amount not to exceed \$124,000 (the "Grant") for the purposes of the design, acquisition or construction of a project for which a preliminary application has been submitted and approved by the Council;

WHEREAS, the Governmental Agency wishes to accept the Grant upon such terms and conditions as are hereinafter set forth for the purposes of designing, acquiring or constructing the project described in Exhibit A attached hereto and incorporated herein by reference (the "Project");

WHEREAS, this Grant Agreement sets forth the Council, the Authority and the Governmental Agency's understandings and agreements with regard to the Grant.

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

TERMS

1. Prior to the distribution of the Grant, the Governmental Agency shall provide the Authority with a Project budget and an anticipated monthly draw schedule reflecting the receipt dates and amounts from other funding sources. The Project budget shall not be amended unless the Governmental Agency has received the prior written consent of the Council.

2. The Authority shall advance the Council's share of the Project costs from the Grant from time to time upon receipt of a requisition evidencing the costs incurred, which requisition must be satisfactory to the Authority. Unless agreed to by the Council prior to the commencement of construction, the Grant shall be the last dollars expended on the Project.

3. The monthly requisition will also set forth (i) the amounts requested for that requisition period from all other funding agencies, and (ii) the amounts advanced for the Project to date from all other funding agencies.

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

CITY OF SALEM

By: Jim Plaugher
Its: Mayor
Date: January 14, 2010

(SEAL)

Attest:
[Signature]
Its: City Clerk

WEST VIRGINIA WATER
DEVELOPMENT AUTHORITY

By: [Signature]
Its: Executive Director
Date: January 14, 2010

(SEAL)

Attest:
Carol A. Cummings
Its: Secretary-Treasurer

**West Union Bank
105 East Main Street
West Union, WV 26456**

Exhibit B

Wiring Instructions

January 14, 2010

**City of Salem
229 West Main Street
Salem, West Virginia 26426**

Payor:	West Virginia Water Development Authority
Source:	Grant Proceeds
Amount:	\$ 124,000
Date:	January 14, 2010
Form:	Electronic Funds Transfer
Payee:	City of Salem
Contact Name:	David W. Mayle
Telephone:	(304) 782-1318
Bank Name:	West Union Bank
Bank Street Address:	105 East Main Street, West Union, WV 26456
Bank Contact:	Linda Jett/ Jennifer Lowe
Telephone:	(304) 873-2361
Routing No.:	051502159
Account No.:	1035862
Account Name:	2009 Construction Fund

PRODUCER
Commercial Insurance Services
340 MacCorkle Ave. Ste #200
Charleston WV 25314

Trip King
Phone: 304-345-8000 Fax: 304-345-8014

INSURED

City of Salem
David Mayle, City Manager
P. O. Box 352
Salem WV 26426

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

COMPANIES AFFORDING COVERAGE

- COMPANY A Argonaut Great Central Ins. Co
- COMPANY B
- COMPANY C
- COMPANY D

COVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CD LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	COVERED PROPERTY	LIMITS
A	<input checked="" type="checkbox"/> PROPERTY	PE-4616850-01	07/01/09	07/01/10	BUILDING	\$
	CAUSES OF LOSS				PERSONAL PROPERTY	\$
	<input type="checkbox"/> BASIC				BUSINESS INCOME	\$
	<input type="checkbox"/> BROAD				EXTRA EXPENSE	\$
	<input checked="" type="checkbox"/> SPECIAL				<input checked="" type="checkbox"/> BLANKET BUILDING	\$ 4,979,521
	<input type="checkbox"/> EARTHQUAKE				<input checked="" type="checkbox"/> BLANKET PERS PROP	\$ 165,081
	<input type="checkbox"/> FLOOD				BLANKET BLDG & PP	\$
						\$
	INLAND MARINE				\$	
	TYPE OF POLICY				\$	
	CAUSES OF LOSS				\$	
	<input type="checkbox"/> NAMED PERILS				\$	
	<input type="checkbox"/> OTHER				\$	
	CRIME				\$	
	TYPE OF POLICY				\$	
	BOILER & MACHINERY				\$	
	OTHER				\$	

LOCATION OF PREMISES/DESCRIPTION OF PROPERTY

SPECIAL CONDITIONS/OTHER COVERAGES
Certificate holder is named as additional insured as respects Water Revenue Bonds.

CERTIFICATE HOLDER

WVWDCHA

WV Water Development Authority
180 Association Drive
Charleston WV 25311

CANCELLATION
SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE
[Signature]

ACORD CERTIFICATE OF LIABILITY INSURANCE

OP ID AH
SALEM-2

DATE (MM/DD/YYYY)
07/13/09

PRODUCER Commercial Insurance Services 340 MacCorkle Ave. Ste #200 Charleston WV 25314 Phone: 304-345-8000 Fax: 304-345-8014	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
	INSURERS AFFORDING COVERAGE	NAIC #
INSURED City of Salem David Mayle, City Manager P. O. Box 352 Salem WV 26426	INSURER A: Argonaut Great Central Ins. Co	
	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR	INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A		GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	PE-4616850-01	07/01/09	07/01/10	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ N/A PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 6,000,000 PRODUCTS - COMP/OP AGG \$ 6,000,000 Emp Ben. 2,000,000
A		AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	PE-4616850-01	07/01/09	07/01/10	COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
		GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EA ACC \$ AGG \$
		EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$
A		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below	PE-4616850-01	07/01/09	07/01/10	WC STATUTORY LIMITS OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
		OTHER				

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS
Certificate holder is named as additional insured as respects Water Revenue Bonds.

CERTIFICATE HOLDER WVWDCHA WV Water Development Authority 180 Association Drive Charleston WV 25311	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE 
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IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

DISCLAIMER

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

CLOSING MEMORANDUM

To: Financing Team

From: Thomas L. Aman, Jr., Esquire

Date: January 14, 2010

Re: City of Salem Water Revenue Bonds, Series 2010 A (West Virginia DWTRF Program); and Water Revenue Bonds, Series 2010 B (West Virginia DWTRF Program/ARRA)

1. DISBURSEMENTS TO THE CITY OF SALEM

- A. Payor: West Virginia Bureau for Public Health
Water Revenue Bonds, Series 2010 A
- Amount: \$ 450,000
- Form: Wire Transfer
- Payee: City of Salem
- Bank: West Union Bank
- Contact: Linda Jett/ Jennifer Lowe
- Acct. No.: 1035862
- ABA: 051502159
- Account: Series 2010 Bonds Construction Trust Fund
- B. Payor: West Virginia Bureau for Public Health
Water Revenue Bonds, Series 2010 B
- Amount: \$ 27,000
- Form: Wire Transfer
- Payee: City of Salem
- Bank: West Union Bank
- Contact: Linda Jett/ Jennifer Lowe
- Acct. No.: 1035862
- ABA: 051502159
- Account: Series 2010 Bonds Construction Trust Fund
- C. Payor: West Virginia Infrastructure and Jobs Development Council
Soft Cost Grant
- Amount: \$ 121,500
- Form: Wire Transfer
- Payee: City of Salem
- Bank: West Union Bank
- Contact: Linda Jett/ Jennifer Lowe
- Acct. No.: 1035862
- ABA: 051502159
- Account: Series 2010 Bonds Construction Trust Fund

788170.00002

5207979

**RESOLUTION OF THE CITY OF SALEM APPROVING INVOICES RELATING TO
THE SUN VALLEY PUBLIC SERVICE DISTRICT US ROUTE 50 W WATERLINE
EXTENSION PROJECT AND AUTHORIZING PAYMENT THEREOF**

WHEREAS, the City of Salem has reviewed the invoices attached hereto and incorporated herein by reference in relation to the contribution in aid of construction by the City to the Sun Valley Public Service District ("the District") project to construct a waterline extension to serve the City (the "Project") funded in part by the West Virginia Infrastructure & Jobs Development Council (IJDC), West Virginia Bureau of Public Health Drinking Water Treatment Revolving Loan Fund (DWTRF) and finds as follows:

- a) That none of the items for which 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 paid 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.
- d) That the payment for each of the items proposed is due and owing.

NOW, THEREFORE, BE IT RESOLVED by the City of Salem as follows: There is hereby authorized and directed the payment of the attached invoices in relation to the Project as follows:

Payment Request #1 (see attached summary of expenditures with supporting documentation)

Vendor	Total Amount	IJDC Soft Cost Grant	DWTRF ARRA	DWTRF Base
Steptoe & Johnson	\$ 26,000		\$26,000	
Steptoe & Johnson	\$114,000	\$114,000		
Huntington Bank	\$ 1,000		\$ 1,000	
City of Salem	\$450,000			\$450,000
Tetrick & Bartlett	\$ 7,500	\$ 7,500	-0-	-0-
Total	\$598,500	\$121,500	\$27,000	\$450,000

ADOPTED BY the City of Salem at the meeting held on the 17th day of December, 2009.

By: Jim P. Laugher

Its: Mayor

By: Dad W. Orff

Its: City Manager

SWEEP RESOLUTION

City of Salem

WHEREAS, the City of Salem (the "Issuer") is a governmental body and political subdivision of the State of West Virginia;

WHEREAS, the Issuer has issued bonds, as more specifically set forth on Exhibit A, attached hereto and incorporated herein by reference (the "Bonds");

WHEREAS, the Issuer makes or will make monthly debt service payments on and transfer reserve funds for certain of such Bonds by check to the West Virginia Municipal Bond Commission (the "MBC") which in turn pays the owners of the Bonds and deposits funds in the reserve accounts;

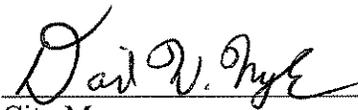
WHEREAS, the MBC may accept such monthly payments by electronic funds transfer, thereby eliminating delay in payments and lost checks;

WHEREAS, the Issuer finds and determines that it is in the best interest of the Issuer, its citizens and the owners of the Bonds that the monthly debt service and reserve fund payments be made by electronic funds transfer with the State Treasurer sweeping the Issuer's account.

NOW THEREFORE BE IT RESOLVED AS FOLLOWS:

- 1) The monthly debt service payments on and reserve funds for the Bonds, as set forth in Exhibit A, shall be made to the MBC by an electronic transfer by the State Treasurer from the accounts set forth in Exhibit A in such form and at such directions as are provided by the MBC.
- 2) The City Manager, Mayor and City Clerk are hereby authorized to sign and execute all such documents as are necessary to facilitate the electronic transfer of the Bond debt service and reserve fund payments.
- 3) This resolution shall be effective immediately upon adoption.

Adopted this 17th day of December, 2009.



City Manager



Mayor



American Recovery and Reinvestment Act of 2009 (ARRA)

Project Certification

Program: West Virginia Drinking Water Treatment Revolving Fund (DWTRF)

Project: City of Salem, Harrison County

Description: The project will provide contribution in aid for the construction of the Sun Valley Public Service District's (PSD) proposed project to construct a 10-inch water line, 700 GPM Booster Pump Station, and 500,000 gallon water storage tank to provide water to the City of Salem.

Total Project Cost

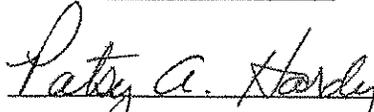
\$1,951,000

ARRA Assistance Provided

\$927,000

I hereby certify that the above project has received the full review and vetting required by federal law and that the investment of federal and state funds in this infrastructure project is an appropriate use of taxpayer dollars.

This certification will be posted on the Governor's website and linked to the federal ARRA website www.recovery.gov.



Patsy A. Hardy, Cabinet Secretary, FACHE, MSN, MBA



Date



**PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON**

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 16th day of April 2009

GENERAL ORDER NO. 182.09

Public Service Commission intended procedures concerning water and sewer projects that are funded with federal stimulus funds.

COMMISSION ORDER

Earlier this year, Congress enacted and the President signed the *American Recovery and Reinvestment Act of 2009*. Under this legislation, the State of West Virginia is to receive certain stimulus funds, a portion of which will be dedicated to the construction of water and sewer infrastructure. The Public Service Commission ("Commission") has received information from various funding agencies. The State Bureau for Public Health through its drinking water treatment revolving fund will have approximately \$19.5 million for water projects. In addition, the State Department of Environmental Protection through the clean water state revolving fund will have approximately \$61 million for sewer projects. Both of these state agencies have indicated that they intend to have the projects bid by August 2009 and contracts awarded by October 2009. In addition, certain other stimulus funds for water and sewer projects will be administered by the U.S. Department of Agriculture, Rural Utilities Service.

Although the Commission is not a funding source for the stimulus funds, it will nonetheless be called upon to process utility applications for certificates of public convenience and necessity ("certificates") to authorize the construction of stimulus-funded water and sewer projects. Given the aggressive schedule planned by the funding agencies, and the requirement in the federal law that water and sewer projects be "shovel ready," meaning under construction within a quick time line, the Commission intends to expedite these applications to the greatest extent possible consistent with existing State Law.

As a preliminary observation, the Commission would stress that applications must be complete and the statutory thirty-day notice to the public must be given at the outset of the application. Failure to file complete applications or failure to provide timely public notice will lead to delays in processing projects and jeopardize the ability to receive federal stimulus funds. The Commission anticipates that it will receive (i) new applications for water and sewer projects using federal stimulus funds, (ii) amendments to pending applications

containing some measure of federal stimulus funds, and (iii) petitions to reopen certificates already issued seeking to amend funding by including federal stimulus funds. The Commission issues this General Order to inform the public, regulated utilities, attorneys who practice before the Commission, funding agencies, and the staff of the Commission of its intended procedures and processes.

With respect to new stimulus project applications, the Commission intends that applicants and Staff observe the following procedures. At the outset, the Commission again stresses that it is essential that a utility project sponsor file a complete application and provide timely public notice of its application.

1. Staff assigned to the case should immediately review the filing to determine if it is complete. The Initial Joint Staff Memorandum should be filed within ten days.¹

2. If the filing is complete and does not require an increase in rates for the project, Staff should file its Final Joint Staff Memorandum in thirty-five days which allows for the protest period assuming the applicant has timely published notice.

3. If the filing is complete and includes a proposed increase in rates for the project, Staff may deem it necessary to file a data request for items needed to complete the review and make a final Staff recommendation. This data request should be filed within ten days. The applicant should expedite its response to Staff's requests and Staff should file its Final Joint Staff Memorandum within forty-five to sixty days

4. If the filing is not complete, irrespective of whether or not the application seeks an increase in rates, Staff should file a data request, if necessary, for the items needed to complete the review and make a final Staff recommendation. This data request should be filed within ten days. The applicant should expedite its responses to Staff's requests and Staff should file its Final Joint Staff Memorandum within forty-five to sixty days.

5. If rates are required for the project and a rate change has not been included with the application:

A. For municipalities, the processing time is out of the Commission's ability to control. Staff needs to determine where the municipality is in the ordinance process and what else is needed to process the case. This should all be part of the Initial Joint Staff Memorandum to let the Commission know if the case can be processed or needs dismissed. (Certificates and rate ordinances need to be coordinated for a municipal appeal.) Data requests should still be filed within the ten-day period.

¹ Days in this Order are calendar days. Filings due on weekends or holidays are due the next working day.

B. Public service districts ("districts") that need rates for the project can follow steps 1 and 3 or 4 above.

C. Districts that require rates outside of the project and are in default on bonds cannot move forward. Staff must address this in its initial memorandum.

5. For newly-filed water or sewer applications for certificates of convenience and necessity where the funding is described at the time of the filing as Stimulus Funding the Commission shall designate the filings as "SCN." The Commission, its Staff and Administrative Law Judges, will process those designated filings as expeditiously as possible.

The stimulus funds may be used to replace existing funding for projects that are ready to proceed, allowing the State of West Virginia to fund more projects than planned and provide an enhanced investment in water and sewer infrastructure to unserved and under-served areas of the State. To expedite the processing of projects that have already received a certificate and are eligible to receive stimulus funds, the Commission plans the following process and procedures:

6. In instances where municipalities or municipal water or sewer boards ("municipal utilities") have already been granted certificates, and in the event the municipality is awarded a stimulus assistance funding package to replace either existing grant or loan funding from another source, the municipal utility shall only be required to file with the Commission a letter from the funding agency that describes the change in the project funding. The filing will be treated as a closed entry by the Executive Secretary and the Commission anticipates no further action by the Commission.

7. Similarly, for districts that are awarded a stimulus assistance funding package equivalent to the existing grant money from another source, that has no impact on rates, the district shall only be required to file with the Commission a letter from the funding agency that describes the change in the project funding. The filing will be treated as a closed entry by the Executive Secretary and the Commission anticipates no further action by the Commission.

8. In the event that a district is awarded a stimulus assistance funding package and the benefit to the customers of such improved financing is lower project costs, the district will only be required to file a petition to reopen the original formal case granting the certificate in order that the Commission may review the rates established for the project.

The Commission will provide for such petitions to reopen to be handled in an expedited manner. To that end, the district will be required to file with its petition to reopen a letter from the funding agency that describes the change in project funding, specifically setting forth the newly-committed funding and an accompanying calculation by the district

of the impact to its rates together with supporting documentation. Upon the filing of this information, Staff will perform a review of the revised project funding and rate calculations and file a final recommendation with the Commission stating its recommended rates as soon as possible, but no later than ten days after receipt of the petition. The Commission will issue an order as soon thereafter as possible.

9. For districts that are awarded a stimulus assistance funding package to supplement funding to deal with a cost overrun in whole or part, that has no impact on rates, the district may utilize the enhanced funding to first fund any project alternatives that were reviewed as either deducts or adducts that were approved as a part of the original certificate, contingent upon funding, in order that all portions of the project can be constructed. In this event, the district shall be required to file with the Commission a letter from the funding agency that describes both the change in the project funding and also notes the deducts or adducts that will be funded for construction. The filing will be treated as a closed entry by the Executive Secretary and the Commission anticipates no further action on its part.

The issuance of these guidelines should expedite these projects and the continuing effort to provide quality water and sewer service throughout the State of West Virginia. The Commission understands that there will be instances and situations where events will disrupt these intended procedures; however, the Commission expects all parties to use their best efforts to process these cases in a timely manner. Finally, given the aggressive time frame contemplated by the funding agencies and the intent to have bids out by August 2009, project applications should be filed no later than June 1, 2009, to avoid jeopardizing the timely consideration of those applications.

IT IS SO ORDERED.

IT IS FURTHER ORDERED that the Executive Secretary of the Commission give public notice of this order in a manner deemed most efficient and appropriate.

[Faint signature]

Sandra Spivey
Sandra Spivey
Executive Secretary

go18209c.wpd

WATER PURCHASE AGREEMENT

THIS AGREEMENT, made this 24th day of March, 2009, by and between the Clarksburg Water Board (hereinafter referred to as "CWB"), a municipal corporation, and the City of Salem (hereinafter referred to as "Customer").

WHEREAS, CWB operates a water filtration plant and distribution system for distribution to residential and existing commercial, governmental, and industrial customers in the area served by Customer;

WHEREAS, the Customer desires to purchase water for distribution to residential and existing commercial, governmental and industrial customers in the area served by Customer;

WHEREAS, the parties desire to reduce to writing their respective rights and obligations with respect to the purchase, sale, delivery and distribution of water by the Customer from CWB.

NOW THEREFORE, THIS AGREEMENT WITNESSETH: In consideration of the prompt performance of the covenants hereinafter contained, to be kept and performed, it is mutually agreed between the parties as follows:

1. CWB understands that, for all intents and purposes, customers are captive and have no other means of having their water needs met other than through arrangements made with CWB. Accordingly, it is the intent of CWB to act in a manner consistent with the contractual requirements of good faith and fair dealing in all agreements with all customers.

2. Customer recognizes that clean water is a limited natural resource. Accordingly, Customer agrees to undertake appropriate actions to insure the best possible method for

conservation of water supplied to it. Additionally, Customer agrees to undertake conservation programs proposed by CWB in the event that there is an emergency situation or drought conditions.

3. CWB will make available to Customer, and Customer will accept delivery of, water at point or points of delivery, as follows: at or near the present location of the Salem water treatment plant, and at such other point or points of delivery as may be agreed by the parties.

4. Except during the five (5) year phase-in period detailed in Paragraph 5, the price of water purchased pursuant to the terms of this Agreement shall be the applicable rate, established by the Clarksburg Water Board, in effect at the time of delivery. It shall be subject to change, from time to time, in accordance with the charter and ordinances of the City of Clarksburg, the practice and procedures of the Clarksburg Water Board, and the laws of the State of West Virginia, in effect at the date of the proposed change.

5. During the first (5) years of the term of this Agreement, the applicable rate charged by CWB and contained in CWB's tariff will be phased in for Customer. At the end of said five (5) year period, Customer's rates shall be CWB's tariff rate, and subject to change as set forth in Paragraph 4. The rates for the phase-in period shall be:

Initial Rate	35.63% of Tariff Rate
After 1st Year	48.51% of Tariff Rate
After 2nd Year	61.14% of Tariff Rate
After 3rd Year	74.25% of Tariff Rate
After 4th Year	87.13% of Tariff Rate
After 5th Year	100.00% of Tariff Rate

If, during the five (5) year phase-in period, Customer fails to pay in full CWB charges, including the transportation charge detailed in Paragraph 6, within thirty (30) days of notice, the phase-in period shall be terminated and Customer shall be charged CWB's full tariff rate, plus the transportation charges detailed in Paragraph 6, for the remainder of the term of this Agreement.

6. In addition to the charges imposed by CWB for the purchase of water by Customer under Paragraphs 4 and 5 of this Agreement, CWB will also charge Customer for the amount per thousand gallons charged CWB by Sun Valley Public Service District for transporting CWB's water to Customer at the point or points of delivery.

7. Customer will take, and CWB will furnish, all of the future requirements of Customer for water, exclusive of that quantity of water available from Customer's own facilities and any obligations that Customer has previously made to take and pay for water from other water distributors

Subject to the order, direction or requirements of the Public Service Commission, Customer agrees that it will not purchase water from another distributor after execution of this Agreement, unless prior approval is made by CWB, which approval will not be unreasonably withheld.

8. All water to Customer from CWB shall be metered at the point of delivery and monthly payments shall be made promptly by Customer upon submission of a statement for such water under applicable rules, regulations and tariffs.

7. CWB will install and maintain such taps, valves, and metering devices which may be necessary to be installed at the point of delivery. Such fixtures shall be the property of CWB. CWB will test the metering devices annually and will provide the results of those tests to Customer, upon Customer's written request. An employee or representative of Customer at all

reasonable times shall have access to the metering devices for the purpose of verifying meter readings.

8. CWB reserves the right to have an employee or agent supervise and inspect all connections made by Customer to the water system of CWB.

9. Customer recognizes that CWB may from time to time experience shortage in its storage capacities, and that due to the inadequacies of said storage facilities or some other emergency which may arise in the distribution system of CWB, CWB may find it necessary to reduce the supply to Customer below the minimum set forth herein until such time as said emergency may abate. In the event of a breakdown in CWB's filtration plant or pumping system, CWB may also have to reduce the amount of water it makes available to its customers generally until such time as the system can become fully operational. If water supplies are limited, CWB may require customer to reduce original projections for any or all additional water distribution proposed by Customer. The parties agree that in the event of a water shortage requiring a restriction of the volume of water usage by the various persons or entities served by both CWB's and Customer's systems, that CWB and Customer shall be required to reduce their water usage proportionally with the proportion of reduction resting with CWB, with the understanding that CWB will reduce Customer and CWB's other customers at the same rate of restriction. The good faith judgment of CWB as to whether a shortage or emergency exists shall be conclusive upon Customer, subject to review by the Public Service Commission.

10. It is the intent of CWB to continue to provide water at adequate pressures and consumption levels at the metering point as may be needed by Customer. In order to insure proper flow, pressure, and availability of water to Customer, Customer will request confirmation from CWB of adequate water supply and pressure, when it is determined that a new customer or

customers will increase Customer's water demand significantly (10% or more) or in the event of (1) a request for a new service connection of four inches (4'') in diameter or larger; (2) construction of a line extension of four inches (4'') in diameter or larger or (3) new storage tank facilities are to be constructed on Customer's system.

11. CWB shall not be liable for any damages to or failure of the lines, or water distribution systems to be constructed or installed by Customer or of that system now in operation, nor of any line extending from such system to the properties of those taking water from Customer, nor shall CWB be liable for any damage to, or failure of, the plumbing on the premises of those obtaining water from Customer, unless such damages or failures are caused by, result from, arise out of or re connected with the neglect or intentional acts conduct, or omissions of CWB. Under this Agreement, the sole duty of CWB shall be to furnish and deliver water produced by CWB at its plant in the City of Clarksburg to Customer in the quantity herein set out and of potability and quality as is required by the State of West Virginia and the United States of America.

12. Customer, to the extent applicable and as allowed by law, shall save and hold harmless CWB from all claims, suits, damages, charges, and requirements arising out of, or the result of, the taking, pumping, storage, and distribution of the water supplied hereunder to Customer, asserted or claimed by third parties or those consuming or using the same from said system, unless such claims, suits, damages, charges, and requirements are caused by, result from, arise out of, or are connected with the negligent or initial acts, conduct, or omissions of CWB, and Customer will promptly notify CWB of such claim, suit, damage, charge and requirement and make available to CWB all pertinent information pertaining thereto.

13. Customer may not assign this Agreement in whole or in part without first obtaining the express written permission from CWB.

14. Customer shall, within thirty (30) days of notice, pay to CWB charges for such water. If Customer fails to pay charges billed by CWB when the same becomes due and payable, or Customer fails to comply with any other terms of this Agreement, CWB may, at its discretion, seek to exercise such remedies as are available under law or equity for said breach(es), including, but not limited to, monetary damages and/or termination of services, in a court, administrative agency, or other forum of competent jurisdiction.

15. The term of this Agreement shall be forty (40) years.

16. Should any provision of this Agreement or its application to any party or circumstance be held invalid, the invalidity does not affect other provisions or applications of this Agreement which can be given effect without the invalid provision or application, and to this end the provisions of this Agreement are severable.

17. This Agreement is subject to the approval of the Public Service Commission of West Virginia and USDA Rural Development. In the event that this Agreement is not approved, in its entirety, by both agencies, the Agreement is null and void, unless both parties agree in writing to all changes proposed by the Public Service Commission and USDA Rural Development.

18. The parties acknowledge that performance by the CWB under this Agreement is contingent upon the CWB entering into a transportation contract with Sun Valley Public Service District. The CWB bears no liability for its failure to perform under this Agreement if that failure is a result of the CWB's inability to obtain a transportation agreement with Sun Valley

Public Service District, or Sun Valley Public Service District's inability or unwillingness to perform under its transportation agreement with the CWB.

19. This Agreement supersedes any previous Agreement.

WITNESS the following signatures:

CLARKSBURG WATER BOARD,
a municipal corporation,

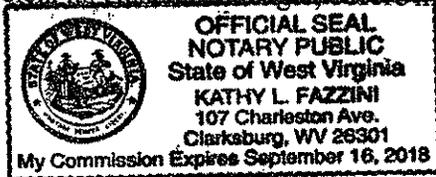
By: Richard D. Welch
Clarksburg Water Board, General Manager

CITY OF SALEM

By: Jim P. Laughter
Its Vice Mayor

TO WIT:
COUNTY OF HARRISON
STATE OF WEST VIRGINIA:

The foregoing agreement was acknowledged by the Clarksburg Water Board, by Richard D. Welch, its General Manager, before me this 28th day of December, 2009.



Kathy L. Fazzini
Notary Public

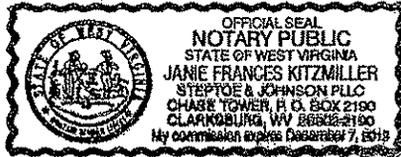
My commission expires September 16, 2018.

TO WIT:
COUNTY OF HARRISON
STATE OF WEST VIRGINIA:

The foregoing agreement was acknowledged by the City of Salem, by

Jim Plaucher, its Vice Mayor, before me this

24th day of March, 2009.




Notary Public

My commission expires December 7, 2013.