

CITY OF SHINNSTON
WATER REVENUE BONDS, SERIES 2005 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)
DATE OF CLOSING: NOVEMBER 17, 2005
BOND TRANSCRIPT

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STEPTOE & JOHNSON PLLC

John C. Stump, Esquire
707 Virginia Street, East
Bank One Center, Seventh Floor
Charleston, WV 25326
(304)353-8196
john.stump@steptoe-johnson.com

Vincent A. Collins, Esquire
1085 Van Voorhis Road
United Center, Suite 400
Morgantown, WV 26505
(304)598-8161
collinva@steptoe-johnson.com

CITY OF SHINNSTON

**Water Revenue Bonds, Series 2005 A
(United States Department of Agriculture)**

BOND TRANSCRIPT

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CITY OF SHINNSTON

Water Revenue Bonds, Series 2005 A
(United States Department of Agriculture)

BOND ORDINANCE

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CITY OF SHINNSTON

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC WATERWORKS FACILITIES OF THE CITY OF SHINNSTON, AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED THEREOF, THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$7,292,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2005 A (UNITED STATES DEPARTMENT OF AGRICULTURE); DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE BONDS; PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE HOLDER OF THE BONDS; AND PROVIDING WHEN THIS ORDINANCE SHALL TAKE EFFECT.

THE CITY OF SHINNSTON HEREBY ORDAINS:

ARTICLE I

STATUTORY AUTHORITY, FINDINGS
AND DEFINITIONS

Section 1.01. Authority for this Ordinance. This Ordinance is adopted and enacted pursuant to the provisions of Chapter 8, Article 19 of the West Virginia Code of 1931, as amended (the "Act"), and other applicable provisions of law. The City of Shinnston (the "Issuer") is a duly created and validly existing municipal corporation and political subdivision of the State of West Virginia in Harrison County of said State.

Section 1.02. Findings and Determinations. It is hereby found, determined and declared as follows:

A. The Issuer currently owns and operates a public waterworks system and desires to acquire, construct and operate certain additional public waterworks facilities consisting of additions, betterments and improvements to such existing waterworks facilities, with all appurtenant facilities, within the boundaries of the Issuer to be owned and operated by the Issuer.

B. It is deemed essential, convenient and desirable for the health, welfare, safety, advantage and convenience of the inhabitants of the Issuer and, accordingly,

it is hereby ordered, that there be acquired and constructed certain additions, betterments and improvements to the existing waterworks system of the Issuer, consisting of installation of approximately 73, 686 lineal feet of water line varying in size from 2" through 10" diameter, install one (1) pressure reducing station, renovate the existing Bingamon booster pump, replace one (1) pump in the existing Owings booster pump station, install an electronic valve positioner control station to control water flow into the City of Shinnston, install two (2) booster pump stations, construct 88,000 gallon and 250,000 gallon potable water storage tanks, install a pressure reducing station, renovate the existing potable water treatment plant and existing raw water pump station, renovate six (6) existing potable water storage tanks, and install a system wide telemetering system, and all appurtenant facilities (the "Project"), particularly described in and according to the plans and specifications prepared by the Consulting Engineer and heretofore filed in the office of the City Clerk of the Issuer. The existing waterworks facilities of the Issuer, together with the Project and any further additions, betterments and improvements, are herein called the "System". The acquisition and construction of the Project and the financing hereby authorized and provided for are public purposes of the Issuer and are ordered for the purpose of meeting and serving public convenience and necessity.

C. The estimated revenues to be derived in each year from the operation of the System after completion of the Project will be sufficient to pay all costs of operation and maintenance of the System, the principal of and interest on the Bonds (as hereinafter defined) and all debt service, reserve fund and other payments provided for herein.

D. The estimated maximum cost of the acquisition and construction of the Project is \$7,942,000, of which not more than \$7,292,000 will be obtained from the proceeds of sale of the Bonds herein authorized, and not more than \$3,150,000 will be obtained from a grant from the Purchaser.

E. It is necessary for the Issuer to issue its Water Revenue Bonds Series 2005 A (United States Department of Agriculture), in the aggregate principal amount of not more than \$7,292,000 (the "Series 2005 A Bonds"), to finance a portion of the cost of acquisition and construction of the Project. The cost of such acquisition and construction shall be deemed to include, without being limited to, the acquisition and construction of the Project; the cost of all property rights, easements and franchises deemed necessary or convenient therefor and for the improvements and extensions thereto; interest on the Series 2005 A Bonds prior to, during and for 6 months after estimated completion of such, acquisition and construction of the improvements and extensions; engineering, fiscal agents 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 Project, administrative expense, and such other expenses as may be necessary or incidental to the acquisition and construction of the Project and the financing authorized hereby; provided that, reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Series 2005 A Bonds or the repayment of

indebtedness incurred for costs of the Project by the Issuer for such purposes shall be deemed Costs of the Project.

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

G. There are outstanding obligations of the Issuer which will rank on a parity with the Series 2005 A Bonds as to liens, pledge and source of and security for payment, being the Water Revenue Bond, Series 1983 (United States Department of Agriculture) dated September 1, 1983, issued in the original aggregate principal amount of \$487,500 (the "Series 1983 Bonds"), and Water Revenue Bond, Series 1976 (United States Department of Agriculture) dated June 15, 1978, issued in the original aggregate principal amount of \$3,454,000 (the "Series 1976 Bonds"). The Series 1983 Bonds and the Series 1976 Bonds are hereinafter referred to as the "Prior Bonds". The Prior Bonds are currently held by the Purchaser. Other than the Prior Bonds, there are no other outstanding bonds or obligations of the Issuer which rank prior to or on a parity with the Series 2005 A Bonds as to liens, pledge and/or source of and security for payment.

The Issuer is not in default under the terms of the Prior Bonds, the ordinances and resolutions authorizing the Prior Bonds or any document in connection therewith, and has complied with all requirements of all the foregoing with respect to the issuance of parity bonds or has obtained a sufficient and valid consent or waiver thereof.

H. It is in the best interest of the Issuer that the Series 2005 A Bonds be sold to the Purchaser, pursuant to the terms and provisions of the Letter of Conditions dated July 14, 2003, and all amendments thereto, if any (collectively, the "Letter of Conditions").

I. The Issuer has complied with all requirements of law relating to the authorization of the acquisition and construction of the Project, the operation of the System, including, without limitation, the imposition of rates and charges, and the issuance of the Series 2005 A Bonds, or will have so complied prior to issuance of the Series 2005 A Bonds, including, among other things and without limitation, obtaining a certificate of public convenience and necessity and approval of the Project from the Public Service Commission of West Virginia by final order, the time for rehearing and appeal of which have expired or shall have been duly waived or otherwise provided for.

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Series 2005 A Bonds by those who shall be the Registered Owner of the same from time to time, this Ordinance (the "Bond Legislation") shall be deemed to be and shall constitute a contract between the Issuer and such Registered Owner, and the covenants and agreements set forth herein to be performed by the Issuer shall be for the benefit, protection and security of the Registered Owner of the Series 2005 A Bonds.

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

"Act" means Chapter 8, Article 19 of the West Virginia Code of 1931, as amended.

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

"Bond Registrar" or "Registrar" means the Issuer, which shall usually so act by its City Clerk.

"Bonds" means, collectively, the Series 2005 A Bonds and the Prior Bonds.

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

"City Manager" means the City Manager of the Issuer.

"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 Engineer" means Greenhorn & O'Mara, Inc., Fairmont, West Virginia, or any qualified engineer or firm of engineers which shall at any time hereafter be retained by the Issuer as Consulting Engineer for the System.

"Depository Bank" means WesBanco Bank, Inc., its office at Shinnston, West Virginia, a bank or trust company which is a member of FDIC (herein defined), and its successors and assigns.

"Facilities" or "waterworks facilities" means all the tangible properties of the System and also any tangible properties which may hereafter be added to the System by additions, betterments, extensions and improvements thereto and properties, furniture, fixtures or equipment therefor, hereafter at any time constructed or acquired.

"FDIC" means the Federal Deposit Insurance Corporation.

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

"Governing Body" or "Council" means the City Council of the Issuer.

"Government Obligations" means direct obligations of, or obligations the payment of the principal of and interest on which are guaranteed by, the United States of America.

"Grants" means, collectively, all grants committed for the Project.

"Herein" or "herein" means in this Bond Legislation.

"Issuer" or "Borrower" means the City of Shinnston, a municipal corporation and political subdivision of the State of West Virginia, in Harrison County, West Virginia, and includes the Governing Body.

"Letter of Conditions" means, collectively, the Letter of Conditions of the Purchaser dated July 14, 2003, and all amendments thereto, if any.

"Minimum Reserve" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 2005 A Bonds in the then current or any succeeding year.

"Mayor" means the Mayor of the Issuer.

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

"Operating Expenses" means the current expenses, paid or accrued, of operation and maintenance of the Project and the System and its facilities, and includes, without limiting the generality of the foregoing, insurance premiums, materials and supplies, pumping costs, salaries, wages and administrative expenses of the Issuer relating and chargeable solely to the Project and the System, the accumulation of appropriate reserves for charges not annually recurrent but which are such as may reasonably be expected to be incurred, and such other reasonable operating costs as are normally and regularly included under recognized accounting principles and retention of a sum not to exceed one-sixth of the budgeted Operating Expenses stated above for the current year as working capital, and language herein requiring payment of Operating Expenses means also retention of not to exceed such sum as working capital, provided that all monthly amortization payments upon the Series 2005 A Bonds and into the respective reserve accounts and the Depreciation Reserve have been made to the last monthly date prior to the date of such retention.

"Ordinances" means, collectively, the Prior Ordinances and the Bond Legislation.

"Prior Bonds" means the Water Revenue Bond, Series 1983 (United States Department of Agriculture), and Water Revenue Bond, Series 1976 (United States Department of Agriculture) of the Issuer described in Section 1.02(G) hereof.

"Prior Ordinances" means the ordinances of the Issuer, enacted August 2, 1977, and August 31, 1983, authorizing the issuance of the Prior Bonds, as supplemented.

"Project" shall have the meaning stated in Section 1.02B above.

"Purchaser" or "Government" means United States Department of Agriculture, Rural Utilities Service, and any successor thereof, acting for and on behalf of the United States of America.

"Qualified Investments" means and includes any of the following, to the extent such investments are permitted by law:

(a) Government Obligations;

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

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

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

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

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

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

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

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

"Registered Owner," "Bondholder," "Holder of the Bond" or any similar term means any person who shall be the registered owner of the Bond.

"Reserve Funds" means, collectively, the respective reserve funds for the Bonds and the Prior Bonds.

"Revenues" or "Gross Revenues" means all rates, rents, fees, charges or other income received by the Issuer, or accrued to the Issuer, or any department, board, agency or instrumentality thereof in control of the management and operation of the System, from the operation of the System, and all parts thereof, all as calculated in accordance with sound accounting practices.

"Series 1983 Bond" means the Water Revenue Bond, Series 1983, of the Issuer, described in Section 1.02G hereof.

"Series 1976 Bond" means the Water Revenue Bond, Series 1976, of the Issuer, described in Section 1.02G hereof.

"Series 2005 A Bonds" means the Water Revenue Bonds, Series 2005 A (United States Department of Agriculture) authorized hereby to be issued pursuant to this Bond Legislation.

"State" means the State of West Virginia.

"System" means 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 systems, including the Project, and any and all additions, betterments, improvements, properties or other facilities at any time acquired or constructed for the waterwork system from any source whatsoever.

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

Words importing singular number shall include the plural number in each case and vice versa; words importing persons shall include firms and corporations; and words importing the masculine feminine or neutral gender shall include any other gender; and any requirement for execution or attestation of the Series 2005 A Bonds or any certificate or other document by the Mayor, City Manager, or the City Clerk shall mean that such Series 2005 A Bonds, certificate or other documents may be executed or attested by an Acting Mayor, Acting City Manager, or Acting City Clerk.

ARTICLE II

AUTHORIZATION OF ACQUISITION AND
CONSTRUCTION OF THE PROJECT

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

There is hereby authorized and ordered the acquisition and construction of the Project, at an estimated cost of not to exceed \$7,942,000, in accordance with the plans and specifications which have been prepared by the Consulting Engineers, heretofore filed in the office of the Governing Body. The proceeds of the Series 2005 A Bonds hereby authorized shall be applied as provided in Article IV hereof.

ARTICLE III

AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND ISSUE OF BONDS

Section 3.01. Authorization of Bonds. Subject and pursuant to the provisions of this Bond Legislation, the Series 2005 A Bonds of the Issuer, to be known as "Water Revenue Bonds, Series 2005 A (United States Department of Agriculture)," are hereby authorized to be issued in the maximum principal amount of \$7,292,000, for the purpose of permanently financing a portion of the cost of the acquisition and construction of the Project.

Section 3.02. Description of Bonds. The Series 2005 A Bonds shall be issued in single form, numbered AR-1, only as a fully registered Bond, and shall be dated on the date of delivery thereof. The Series 2005 A Bonds shall bear interest from date of delivery, payable monthly at a rate not to exceed 5.0 % per annum, and shall be sold for the par value thereof.

The Series 2005 A Bonds shall be subject to prepayment of scheduled monthly installments, or any portion thereof, at the option of the Issuer, and shall be payable as provided in the Bond form hereinafter set forth.

Section 3.03. Negotiability, Registration, Transfer and Exchange of Bonds. The Series 2005 A Bonds shall be and have all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia, but the Series 2005 A Bonds, and the right to the principal of and stated interest on the Series 2005 A Bonds, may only be transferred by transfer of the registration thereof upon the books required to be kept pursuant to Section 3.04 hereof, by the party in whose name it is registered, in person or by attorney duly authorized in writing, upon surrender of the Series 2005 A Bonds for cancellation, accompanied by delivery of a written instrument of transfer, duly executed in a form acceptable to the Bond Registrar.

Whenever the Series 2005 A Bonds shall be surrendered for registration of transfer, the Issuer shall execute and deliver a new Bond or Bonds in authorized denominations, for a like aggregate principal amount. The Bond Registrar shall require the payment by the new owner requesting such transfer of any tax or other governmental charge required to be paid with respect to such transfer, but the Issuer shall pay any other expenses incurred by the Bond Registrar with respect to such transfer.

No registration of transfer of the Series 2005 A Bonds shall be permitted to be made after the 15th day next preceding any installment payment date on the Series 2005 A Bonds.

Section 3.04. Bond Registrar. The Issuer shall be the Bond Registrar, and will keep or cause to be kept at its office by its agent, sufficient books for the registration and transfer of the Series 2005 A Bonds, and, upon presentation for such purpose, the Bond Registrar shall, under such reasonable regulations as it may prescribe, register the Series 2005 A Bonds initially issued pursuant hereto and register the transfer, or cause to be registered by its agent, on such books, the transfer of the Series 2005 A Bonds as hereinbefore provided.

The Bond Registrar shall accept the Series 2005 A Bonds for registration of transfer only if ownership thereof is to be registered in the name of the Purchaser, an individual (including joint ownership), a corporation, a partnership or a trust, and only upon receipt of the social security number of each individual, the federal employer identification number of each corporation or partnership or the social security numbers of the settlor and beneficiaries of each trust and the federal employer identification number and date of each trust and the name of the trustee of each trust, and/or such other identifying number and information as may be required by law. The Series 2005 A Bonds shall initially be fully registered as to both principal and interest in the name of the United States of America. So long as the Series 2005 A Bonds shall be registered in the name of the United States of America, the address of the United States of America for registration purposes shall be National Finance Office, St. Louis, Missouri 63103, or such other address as shall be stated in writing to the Issuer by the United States of America.

Section 3.05. Execution of Bonds. The Series 2005 A Bonds shall be executed in the name of the Issuer by the Mayor and the City Manager and the seal of the Issuer shall be affixed thereto and attested by the City Clerk. In case any one or more of the officers who shall have signed or sealed the Series 2005 A Bonds shall cease to be such officer of the Issuer before the Series 2005 A Bonds so signed and sealed has been actually sold and delivered, such Bond may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Series 2005 A Bonds had not ceased to hold such office. The Series 2005 A Bonds may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Series 2005 A Bonds shall hold the proper office in the Issuer, although at the date of such Bond such person may not have held such office or may not have been so authorized.

Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case the Series 2005 A Bonds shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue and deliver a new Bond of like tenor as the Bond so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the holder's furnishing the Issuer proof of his ownership thereof and complying with such other reasonable regulations and conditions as the Issuer may require. The Series 2005 A Bonds so surrendered shall be canceled and held for the account of the Issuer. If the Series 2005 A Bonds shall have matured or be about to mature, instead of issuing a substitute Series 2005 A Bond the Issuer

may pay the same, and, if such Series 2005 A Bonds be destroyed, stolen or lost, without surrender thereof.

Section 3.07. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of the Series 2005 A Bonds shall be secured forthwith by a lien on the Net Revenues derived from the System, on a parity with the Prior Bonds. The Net Revenues derived from the System, in an amount sufficient to pay the principal of and interest on the Series 2005 A Bonds and the Prior Bonds, and to make the payments as hereinafter provided, are hereby irrevocably pledged to the payment of the principal of and interest on the Series 2005 A Bonds and Prior Bonds as the same becomes due.

Section 3.08. Form of Bonds. Subject to the provisions hereof, the text of the Series 2005 A Bonds and the other details thereof shall be of substantially the following tenor, with such omissions, insertions and variations as may be authorized or permitted hereby or by any ordinance enacted after the date of enactment hereof and prior to the issuance thereof:

(FORM OF BOND)

CITY OF SHINNSTON

WATER REVENUE BONDS, SERIES 2005 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

\$ _____

No. AR-1

Date: _____

FOR VALUE RECEIVED, the CITY OF SHINNSTON (herein called "Borrower") promises to pay to the order of the United States of America (the "Government"), or its registered assigns, at its National Finance Office, St. Louis, Missouri 63103, or at such other place as the Government may hereafter designate in writing, the principal sum of _____ DOLLARS (\$ _____), plus interest on the unpaid principal balance at the rate of _____ % per annum. The said principal and interest shall be paid in the following installments on the following dates: Monthly installments of interest only, commencing 30 days following delivery of the Bond and continuing on the corresponding day of each month for the first 24 months after the date hereof, and \$ _____, covering principal and interest, thereafter on said corresponding day of each month, except that the final installment shall be paid at the end of 40 years from the date of this Bond, in the sum of the unpaid principal and interest due on the date thereof, and except that prepayments may be made as provided herein below. The consideration herefor shall support any agreement modifying the foregoing schedule of payments.

If the total amount of the loan is not advanced at the time of loan closing, the loan shall be advanced to Borrower as requested by Borrower and approved by the Government and interest shall accrue on the amount of each advance from its actual date as shown on the Record of Advances attached hereto as a part hereof.

Every payment made on any indebtedness evidenced by this Bond shall be applied first to interest computed to the effective date of the payment and then to principal.

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of Borrower. Refunds and extra payments, as defined in the regulations of the Government according to the source of funds involved, shall, after payment of interest, be applied to the installments last to become due under this Bond and shall not affect the obligation of Borrower to pay the remaining installments as scheduled herein.

If the Government at any time assigns this Bond and insures the payment thereof, Borrower shall continue to make payments to the Government as collection agent for the holder.

While this Bond is held by an insured lender, prepayments as above authorized made by Borrower may, at the option of the Government, be remitted by the Government to the holder promptly or, except for final payment, be retained by the Government and remitted to the holder on either a calendar quarter basis or an annual installment due date basis. The effective date of every payment made by Borrower, except payments retained and remitted by the Government on an annual installment due date basis, shall be the date of the United States Treasury check by which the Government remits the payment to the holder. The effective date of any prepayment retained and remitted by the Government to the holder on an annual installment due date basis shall be the date of the prepayment by Borrower and the Government will pay the interest to which the holder is entitled accruing between the effective date of any such prepayment and the date of the Treasury check to the holder.

Any amount advanced or expended by the Government for the collection hereof or to preserve or protect any security herefor, or otherwise under the terms of any security or other instrument executed in connection with the loan evidenced hereby, at the option of the Government shall become a part of and bear interest at the same rate as the principal of the debt evidenced hereby and be immediately due and payable by Borrower to the Government without demand. Borrower agrees to use the loan evidenced hereby solely for purposes authorized by the Government.

Borrower hereby certifies that it is unable to obtain sufficient credit elsewhere to finance its actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in or near its community for loans for similar purposes and periods of time.

This Bond, together with any additional bonds ranking on a parity herewith which may be issued and outstanding for the purpose of providing funds for financing costs of acquisition and construction of additions, betterments and improvements to the waterworks system (the "System") of Borrower, is payable solely from and secured by the revenues to be derived from the operation of the System after there have been first paid from such revenues the reasonable current costs of operation and maintenance of the System. This Bond does not in any manner constitute an indebtedness of the Borrower within the meaning of any constitutional or statutory provision or limitation.

Registration of this Bond is transferable by the registered owner hereof in person or by his, her or its attorney duly authorized in writing, at the office of Borrower, as Bond Registrar, but only in the manner, subject to the limitations and upon payment of the charges, if any, provided in the herein defined Ordinance, and upon surrender and

cancellation of this Bond. Upon such transfer a new Bond or Bonds, of authorized denomination or denominations, for the like principal amount, will be issued to the transferee in exchange herefor.

This Bond, under the provisions 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, but may only be transferred by transfer of registration hereof with the Bond Registrar.

This Bond has been issued under and in full compliance with the Constitution and statutes of the State of West Virginia, including, among others, Chapter 8, Article 19 of the West Virginia Code of 1931, as amended (herein called the "Act"), and an Ordinance of Borrower duly enacted on _____, authorizing issuance of this Bond (the "Ordinance").

If at any time it shall appear to the Government that Borrower may be able to obtain a loan from a responsible cooperative or private credit source at reasonable rates and terms for loans for similar purposes and periods of time, Borrower will, at the Government's request, apply for and accept such loan in sufficient amount to repay the Government.

This Bond is given as evidence of a loan to Borrower made or insured by the Government pursuant to the Consolidated Farm and Rural Development Act of 1965, as amended. This Bond shall be subject to the present regulations of the Government and to its future regulations not inconsistent with the express provisions hereof.

THIS BOND IS ISSUED ON A PARITY, AS TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, WITH THE FOLLOWING WATER REVENUE BONDS OF THE BORROWER:

(i) WATER REVENUE BOND, SERIES 1983 (UNITED STATES DEPARTMENT OF AGRICULTURE) DATED SEPTEMBER 1, 1983, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$487,500; AND

(ii) WATER REVENUE BOND, SERIES 1976 (UNITED STATES DEPARTMENT OF AGRICULTURE) DATED JUNE 15, 1978, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$3,454,000.

IN WITNESS WHEREOF, THE CITY OF SHINNSTON has caused this Bond to be executed by its Mayor and City Manager and its corporate seal to be hereunto affixed or imprinted hereon and attested by its City Clerk, all as of the date hereinabove written.

CITY OF SHINNSTON

[CORPORATE SEAL]

(Signature of Executive Official)

Mayor

(Title of Executive Official)

(Signature of Executive Official)

City Manager

(Title of Executive Official)

40 Main Street

(P.O. Box No. or Street Address)

Shinnston, West Virginia 26431

(City, State and Zip Code)

ATTEST:

(Signature of Attesting Official)

City Clerk

(Title of Attesting Official)

APPROVED AS TO CORRECTNESS
AND FORM BY:

City Attorney

(Form of)

RECORD OF ADVANCES

AMOUNT	DATE	AMOUNT	DATE
(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 \$ _____

(Form of Assignment)

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers to _____ 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 Borrower with full power of substitution in the premises.

Dated: _____, _____.

In presence of:

ARTICLE IV

SYSTEM REVENUES AND APPLICATION THEREOF; DISPOSITION OF BOND PROCEEDS; FUNDS AND ACCOUNTS

Section 4.01. Establishment of Funds and Accounts with Depository Bank.

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

- (1) Revenue Fund (established by the Prior Ordinances and continued hereby);
- (2) Depreciation Reserve (established by the Prior Ordinances and continued hereby); and
- (3) Series 2005 A Project Construction Account.

Section 4.02. Establishment of Funds and Accounts with Commission

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

- (1) Series 2005 A Bond Reserve Account.

Section 4.03. Bond Proceeds; Project Construction Account.

The proceeds of sale of the Series 2005 A Bonds shall be deposited upon receipt by the Issuer in the Series 2005 A Project Construction Account. The moneys in the Series 2005 A Project Construction Account in excess of the amount insured by FDIC shall be secured at all times by the Depository Bank by securities or in a manner lawful for the securing of deposits of State and municipal funds under West Virginia law. Moneys in the Series 2005 A Project Construction Account shall be expended by the Issuer solely for the purposes provided herein.

Moneys in the Series 2005 A Project Construction Account shall be used solely to pay the cost of acquisition and construction of the Project upon vouchers and other documentation approved by the Purchaser.

Until completion of acquisition and construction of the Project, the Issuer will additionally transfer from the Series 2005 A Project Construction Account and pay to the Purchaser on or before the due date, such sums as shall be from time to time required to

make the monthly installment payments on the Series 2005 A Bonds if there are not sufficient Net Revenues to make such monthly payment.

Pending application as provided in this Section 4.03, money and funds in the Series 2005 A Project Construction Account shall be invested and reinvested at the direction of the Issuer, to the extent possible in accordance with applicable law, in Qualified Investments.

When acquisition and construction of the Project has been completed and all costs thereof have been paid or provision for such payment has been made, any balance remaining in the Series 2005 A Project Construction Account shall be disposed of in accordance with the regulations of the Purchaser.

Section 4.04. Covenants of the Issuer as to System Revenues and Funds. So long as the Series 2005 A Bonds shall be outstanding and unpaid, or until there shall have been set apart in the Series 2005 A Bonds Reserve Account, a sum sufficient to pay, when due or at the earliest practical prepayment date, the entire principal of the Series 2005 A Bonds remaining unpaid, together with interest accrued to the date of such payment, the Issuer further covenants with the Holder of the Series 2005 A Bonds as follows:

A. REVENUE FUND. The entire Gross Revenues derived from the operation of the System, and all parts thereof, and all Tap Fees received, shall be deposited as collected by the Issuer in the Revenue Fund. The Revenue Fund shall constitute a trust fund for the purposes provided in the Ordinances 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 the Ordinances.

B. DISPOSITION OF REVENUES. All Revenues at any time on deposit in the Revenue Fund shall be disposed of only in the following order and priority, subject to the provisions of the Prior Ordinances not otherwise modified herein:

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

(2) The Issuer shall next, each month, on or before the due date of payment of each installment on the Prior Bonds and the Series 2005 A Bonds, transfer from the Revenue Fund and remit to the National Finance Office, the amounts required to pay the interest on the Prior Bonds and the Series 2005 A Bonds and to amortize the principal of the Prior Bonds and the Series 2005 A Bonds over the respective life of each Bond issue. All payments with respect to principal of and interest on the Prior Bonds and Series 2005 A Bonds shall be made on an equal pro rata

basis in accordance with the respective aggregate principal amounts thereof outstanding and on a parity with each other.

(3) The Issuer shall next, on the first day of each month, or on the date otherwise specified by the Prior Ordinances, transfer from the Revenue Fund and remit (i) to the Depository Bank specified by the Prior Ordinances, for deposit into the Reserve Account, the amount required by the Prior Ordinances; and (ii) beginning on the date specified by the Purchaser, but in any event not later than the 24th monthly anniversary of the Closing Date, and continuing on each monthly anniversary of the Closing Date thereafter, transfer from the Revenue Fund and remit to the Commission for deposit into the Series 2005 A Bonds Reserve Account, 10 % of the monthly payment amount, calculated monthly, until the amount in the Series 2005 A Bonds Reserve Account equals the Minimum Reserve; provided that, no further payments shall be made into the Series 2005 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 Minimum Reserve. Moneys in the Series 2005 A Bonds Reserve Account shall be used solely to make up any deficiency for monthly payments of the principal of and interest on the Series 2005 A Bonds to the National Finance Office as the same shall become due or for prepayment of installments on the Series 2005 A Bonds, or for mandatory prepayment of the Series 2005 A Bonds as hereinafter provided, and for no other purpose; provided, however, that when the Minimum Reserve has been accumulated in the Series 2005 A Bonds Reserve Account, all earnings of investments of moneys therein shall at least annually be transferred to and deposited in the Revenue Fund.

(4) The Issuer shall next, on the first day of each month, or on the date otherwise specified by the Prior Ordinances, transfer from the Revenue Fund and remit to the Depository Bank for deposit in the Depreciation Reserve the amount required by the Prior Ordinances to be deposited therein.

(5) After all the foregoing provisions for use of moneys in the Revenue Fund have been fully complied with, any moneys remaining therein and not permitted to be retained therein, may be used to prepay installments of the Bonds, pro rata, or for any lawful purpose.

Whenever the moneys in the Series 2005 A Bonds Reserve Account shall be sufficient to prepay the Series 2005 A Bonds in full, it shall be the mandatory duty of the Issuer, anything to the contrary herein notwithstanding, to prepay the Series 2005 A Bonds, at the earliest practical date and in accordance with applicable provisions hereof.

The Depository Bank is hereby designated as the Fiscal Agent for the administration of the Depreciation Reserve as herein provided, and all amounts required for the Depreciation Reserve will be deposited therein by the Issuer upon transfers of funds from the Revenue Fund at the times provided herein, together with written directions stating the amount remitted for deposit into each such fund.

The Commission is hereby designated as the Fiscal Agent for the administration of the Series 2005 A Bonds Reserve Account as herein provided, and all amounts required for the Series 2005 A Bonds Reserve Account will be deposited therein by the Issuer upon transfers of funds from the Revenue Fund at the times provided herein. If required by the Purchaser at anytime, the Issuer shall make the necessary arrangements whereby required payments into said account shall be automatically debited from the Revenue Fund and Electronically transferred to the Commission on the dates required hereunder.

The Issuer shall, on the first day of each month (if the first day is not a business day, then the first business day if each month), deposit with the Commission the required reserve account payments with respect to the Series 2005 A Bonds and all such payments shall be remitted to the Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of this Bond Legislation.

All funds provided for in this Article (excluding the Series 2005 A Project Construction Account) shall constitute trust funds and shall be used only for the purposes and in the order provided herein, and until so used, the Purchaser shall have a lien thereon for further securing payment of the Bonds and the interest thereon.

If on any payment date the Revenues are insufficient to make the payments and transfers as hereinabove provided, the deficiency shall be made up in the subsequent payments and transfers in addition to those which would otherwise be required to be made on the subsequent payment dates.

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 2005 A Bonds and the Prior Bonds, in accordance with the respective principal amounts then outstanding.

Subject to the Prior Ordinances, the Commission and the Depository Bank, at the direction of the Issuer, shall keep the moneys in the Series 2005 A Bonds Reserve Account and the Depreciation Reserve invested and reinvested to the fullest extent possible, in accordance with applicable law, and to the extent practicable, in Qualified Investments having maturities consonant with the required use thereof. Investments in any fund or account under this Bond Legislation shall, unless otherwise provided herein or in the Prior Ordinances, or unless otherwise required by law, be valued at the lower of cost or the then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including value of accrued interest and giving effect to the amortization of

discount, or at par if such investment is held by the "consolidated fund" managed by the West Virginia Investment Management Board. Any investment shall be held in and at all times deemed a part of the fund or account in which such moneys were originally held, and interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. Earnings on moneys in the Series 2005 A Bonds Reserve Account so long as the Minimum Reserve is on deposit and maintained therein, shall be returned not less than once each year, by the Commission to the Issuer to be deposited in the Revenue Fund.

C. CHANGE OF DEPOSITORY BANK. The Issuer may designate another bank or trust company insured by FDIC as Depository Bank if the Depository Bank should cease for any reason to serve or if the Governing Body determines by resolution that the Depository Bank or its successor should no longer serve as Depository Bank. Upon any such change, the Governing Body will cause notice of the change to be sent by registered or certified mail to the Purchaser.

D. USER CONTRACTS. The Issuer shall, prior to delivery of the Bonds, provide evidence that there will be at least 2,265 bona fide users upon the System on completion of the Project, in full compliance with the requirements and conditions of the Purchaser.

E. CHARGES AND FEES. The Issuer shall remit from the Revenue Fund to the Commission or the Depository Bank such additional sums as shall be necessary to pay the charges and fees of the Commission or the Depository Bank then due.

F. INVESTMENT OF EXCESS BALANCES. The moneys in excess of the sum insured by FDIC in any of such funds or 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 of West Virginia.

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

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

ARTICLE V

GENERAL COVENANTS

Section 5.01. General Statement. So long as the Series 2005 A Bonds shall be outstanding and unpaid, or until there shall have been set apart in the Series 2005 A Bonds Reserve Account a sum sufficient to prepay the entire principal of the Series 2005 A Bonds remaining unpaid, together with interest accrued and to accrue thereon to the date of prepayment, the covenants and agreements contained herein shall be and constitute valid and legally binding covenants between the Issuer and the Holder of the Series 2005 A Bonds.

Section 5.02. Rates. The Issuer will, in the manner provided in the Act, fix and collect such rates, fees or other charges for the services and facilities of the System, and revise the same from time to time whenever necessary, as will always provide Revenues in each Fiscal Year sufficient to produce Net Revenues equal to not less than 110% of the maximum annual debt service on the Series 2005 A Bonds and the Prior Bonds and sufficient to make the payments required herein into all funds and accounts and all the necessary expenses of operating and maintaining the System during such Fiscal Year and such rates, fees and other charges shall not be reduced so as to be insufficient to provide adequate Revenues for such purposes.

Section 5.03. Sale of the System. The System will not be sold without the prior written consent of the Purchaser so long as the Series 2005 A Bonds are outstanding. Such consent will provide for disposition of the proceeds of any such sale.

Section 5.04. Issuance of Additional Parity Bonds or Obligations. No Parity Bonds shall be issued after issuance of the Series 2005 A Bonds unless the provisions contained in the Prior Ordinances respecting issuance of Parity Bonds have been satisfied. No Parity Bonds shall be issued at any time, however, unless there has been procured and filed with the City Clerk a written statement by the Independent Certified Public Accountants, reciting the conclusion that the Net Revenues for the Fiscal year following the year in which such Parity Bonds are to be issued shall be at least 120% of the average annual debt service requirements on the following:

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

No additional Parity Bonds or obligations payable out of any of the Revenues of the System shall be issued, except with the prior written consent of the Purchaser.

The foregoing limitation may be waived or modified by the written consent of the Holders of the Prior Bonds.

Section 5.05. Insurance and Bonds. The Issuer hereby covenants and agrees that it will, as an expense of construction, operation and maintenance of the System, procure, carry and maintain, so long as the Series 2005 A Bonds remain outstanding, insurance with a reputable insurance carrier or carriers covering the following risks and in the following amounts:

A. FIRE, LIGHTNING, VANDALISM, MALICIOUS MISCHIEF AND EXTENDED COVERAGE INSURANCE, to be procured upon acceptance of any part of the Project from the contractor, and immediately upon any portion of the System now in use, on all above-ground structures of the System and mechanical and electrical equipment in place or stored on the site in an amount equal to the full insurable value thereof. In the event of any damage to or destruction of any portion of the System, the Issuer will promptly arrange for the application of the insurance proceeds for the repair or reconstruction of such damaged or destroyed portion. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance to protect the interests of the Issuer during construction of the Project in the full insurable value thereof.

B. PUBLIC LIABILITY INSURANCE, with limits of not less than \$500,000 for one or more persons injured or killed in one accident to protect the Issuer from claims for bodily injury and/or death, and not less than \$200,000 to protect the Issuer from claims for damage to property of others which may arise from the operation of the System, such insurance to be procured not later than the date of delivery of the Series 2005 A Bonds.

C. VEHICULAR PUBLIC LIABILITY INSURANCE, in the event the Issuer owns or operates any vehicle in the operation of the System, or in the event that any vehicle not owned by the Issuer is operated at any time or times for the benefit of the Issuer, with limits of not less than \$500,000 for one or more persons injured or killed in one accident to protect the Issuer from claims for bodily injury and/or death, and not less than \$200,000 to protect the Issuer from claims for damage to property of others which may arise from such operation of vehicles, such insurance to be procured prior to acquisition or commencement of operation of any such vehicle for the Issuer.

D. WORKERS' COMPENSATION COVERAGE FOR ALL EMPLOYEES OF THE ISSUER ELIGIBLE THEREFOR AND PERFORMANCE AND PAYMENT BONDS, such bonds to be in the amounts of 100% of the construction contract, will be required of each prime contractor, and such payment bonds will be filed with the Clerk of the County Commission of said County prior to commencement of construction of the Project in compliance with West Virginia Code Section 38-2-39. Workers' Compensation coverage will be maintained as provided by law.

E. FLOOD INSURANCE to be procured, to the extent available at reasonable cost to the Issuer; provided, however, if the Issuer is located in a community which has been notified as having special flood or mudslide prone areas, flood insurance must be obtained.

F. FIDELITY BONDS will be provided as to every member of the Governing Body and as to every officer and employee of the Issuer having custody of the Revenue Fund or of any Revenues or other funds of the Issuer in such amount as may be requested by the Purchaser from time to time.

G. Provided, however, and in lieu of and notwithstanding the foregoing provisions of this Section, during construction of the Project and so long as the Series 2005 A Bonds are outstanding, the Issuer will carry insurance and bonds or cause insurance and bonds to be carried for the protection of the Issuer, and during such construction will require each contractor and subcontractor to carry insurance, of such types and in such amounts as the Purchaser may specify, with insurance carriers or bonding companies acceptable to the Purchaser.

Section 5.06. Statutory Mortgage Lien. For the further protection of the Holder of the Series 2005 A Bonds, a statutory mortgage lien upon the System is granted and created by the Act on a parity with the Prior Bonds, which statutory mortgage lien is hereby recognized and declared to be valid and binding and shall take effect immediately upon the delivery of the Series 2005 A Bonds.

Section 5.07. Events of Default. Each of the following events is hereby declared an "Event of Default":

A. Failure to make payment of any monthly amortization installment upon the Series 2005 A Bonds at the date specified for payment thereof; and

B. Failure to duly and punctually observe or perform any of the covenants, conditions and agreements on the part of the Issuer contained in the

Series 2005 A Bonds or herein, or violation of or failure to observe any provision of any pertinent law.

Section 5.08. Enforcement. Upon the happening of any Event of Default specified above, then, and in every such case, the Purchaser may proceed to protect and enforce its rights by an appropriate action in any court of competent jurisdiction, either for the specific performance of any covenant or agreement, or execution of any power, or for the enforcement of any proper legal or equitable remedy as shall be deemed most effectual to protect and enforce such rights. Prior to pursuing any remedy upon the occurrence of an Event of Default, the Purchaser must first provide the Issuer of written notice of its intent to pursue a remedy. The notice must contain a description of the Event of Default and actions intended to be taken as a result of such default.

Upon application by the Purchaser as provided in the Act, such court may, upon proof of such default appoint a receiver for the affairs of the Issuer and the System. The receiver so appointed shall administer the System on behalf of the Issuer, shall exercise all the rights and powers of the Issuer with respect to the System, shall proceed under the direction of the court to obtain authorization to increase rates and charges of the System, and shall have the power to collect and receive all revenues and apply the same in such manner as the court may direct and as provided in the Act.

Section 5.09. Fiscal Year; Budget. While the Series 2005 A Bonds are outstanding and unpaid and to the extent not now prohibited by law, the System shall be operated and maintained on a Fiscal Year basis commencing on July 1 of each year and ending on the following June 30, which period shall also constitute the budget year for the operation and maintenance of the System. Not later than 30 days prior to the beginning of each Fiscal Year, the Issuer agrees to adopt the Annual Budget for the ensuing year, and no expenditures for operation and maintenance expenses of the System in excess of the Annual Budget shall be made during such Fiscal Year unless unanimously authorized and directed by the Governing Body. Copies of each Annual Budget shall be delivered to the Purchaser by the beginning of each Fiscal Year.

If for any reason the Issuer shall not have adopted the Annual Budget before the 1st day of any Fiscal Year, it shall adopt a Budget of Current Expenses from month to month until the adoption of the Annual Budget; provided, however, that no such monthly budget shall exceed the budget for the corresponding month in the next preceding year by more than 10%; and provided further that adoption of a Budget of Current Expenses shall not constitute compliance with the covenant to adopt an Annual Budget unless failure to adopt an Annual Budget be for a reason beyond the control of the Issuer. Each such Budget of Current Expenses shall be mailed immediately to the Purchaser.

Section 5.10. Covenant to Proceed and Complete. The Issuer hereby covenants to proceed as promptly as possible with the acquisition and construction of the

Project to completion thereof in accordance with the plans and specifications prepared by the Consulting Engineer and on file with the City Clerk on the date of enactment hereof, subject to permitted changes.

Section 5.11. Books and Records; Audits. The Issuer will keep books, accounts and records of the System, in accordance with the Act, 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, including, without limitation, the amount of Revenues received from the System, and the Purchaser shall have the right at all reasonable times to inspect the System and all records, accounts and data of the Issuer relating thereto.

The Issuer shall, at least once a year, cause said books, records and accounts of the System to be properly audited by an independent competent firm of certified public accountants, which report of such audit shall be open to the public for inspection at all reasonable times, and the Issuer shall mail a copy of such audit report to the Purchaser. The Issuer shall further comply with the Act with respect to such books, records and accounts.

Section 5.12. Maintenance of System. The Issuer covenants that it will continuously operate, in an economical and efficient manner, and repair and maintain the System as a revenue-producing utility as herein provided so long as the Series 2005 A Bonds are outstanding.

Section 5.13. No Competition. To the extent legally allowable, the Issuer will not permit competition with the System within its boundaries or within the territory served by it and will not grant or cause, consent to or allow the granting of any franchise, permit or other authorization for any person, firm, corporation, public or private body, agency or instrumentality whatsoever to provide any of the services supplied by the System within the boundaries of the Issuer or within the territory served by the System.

ARTICLE VI

RATES, ETC.

Section 6.01. Initial Schedule of Rates and Charges; Rules.

A. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth in the rate ordinance of the Issuer enacted on February 9, 2004, which rate ordinance is incorporated herein by reference as a part hereof.

B. There shall not be any discrimination or differential in rates between customers in similar circumstances.

C. All delinquent fees, rates and charges for services or facilities of the System shall be a lien on the premises served of equal degree, rank and priority with the lien on such premise of state, county, school and municipal taxes, as provided in the Act. The Issuer shall have all remedies and powers provided under the Act and other applicable provisions of law with regard to the collection and enforcement of such fees, rates and charges, including, without limitation, any right and power of foreclosure under the Act and/or such other applicable provisions of law.

D. The Issuer will not render or cause to be rendered any free services of any nature by the System nor any of the facilities; and in the event that the Issuer or any department, agency, officer or employee thereof should avail itself or themselves of the services or facilities of the System, the same fees, rates and charges applicable to other customers receiving like services under similar circumstances shall be charged, such charges shall be paid as they accrue, and revenues so received shall be deposited and accounted for in the same manner as other revenues of the System.

E. The Issuer may require any applicant for any service by the System to deposit a reasonable and equitable amount to insure payment of all charges for the services rendered by the System, which deposit shall be handled and disposed of under the applicable rules and regulations of the Public Service Commission of West Virginia.

F. The Issuer, to the extent permitted by law, will not accept payment of any water bill from a customer served with water and sewer services by the Issuer without payment at the same time of a sewer bill owed by such customer for the same premises. The Issuer shall additionally have such powers as provided under the Act with respect to collection of rates and charges for the System.

G. The fees, rates and charges above provided will be increased whenever such increase is necessary in order to comply fully with all provisions hereof, and

the Issuer shall always be obligated to and shall fix, establish and collect fees, rates and charges for the services and facilities of the System which shall at all times be sufficient to provide revenues to meet its payments and obligations provided hereunder and under the Prior Ordinances, but in any event, not less than 110% of the annual debt service on the Bonds outstanding.

ARTICLE VII

MISCELLANEOUS

Section 7.01. Payment of Bonds; Bonds Not Subject to Defeasance. If the Issuer shall pay or there shall otherwise be paid to the Holder of the Series 2005 A Bonds, the principal of and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Bond Legislation, then with respect to the Series 2005 A Bonds, the pledge of Revenues and other moneys and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owner of the Series 2005 A Bonds, shall thereupon cease, terminate and become void and be discharged and satisfied.

Except through direct payment to the Holder of the Series 2005 A Bonds of the outstanding principal of and accrued interest on the Bonds, the Issuer may not defease the Series 2005 A Bonds or otherwise provide for the payment thereof by escrow or like manner.

Section 7.02. Modification or Amendment. Prior to issuance of the Series 2005 A Bonds, this Ordinance may be amended or supplemented in any way by ordinance or resolution. Following issuance of the Series 2005 A Bonds, no modification or amendment of this Ordinance, or any ordinance or resolution amendatory hereof or supplemental hereto, shall be made without the prior written consent of the Purchaser.

Section 7.03. Delivery of Bonds. The Mayor and City Manager are hereby authorized and directed to cause the Bond, hereby awarded to the Purchaser pursuant to prior agreement, to be delivered to the Purchaser as soon as the Purchaser will accept such delivery.

Section 7.04. Severability of Invalid Provisions. If any one or more of the covenants, agreements or provisions hereof should be held contrary to any express provision of law or contrary to the policy of express law, although not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed severable from the remaining covenants, agreements or provisions hereof, and shall in no way affect the validity of all the other provisions hereof or the Bond.

Section 7.05. Prior Ordinances; Conflicting Provisions Repealed. The Prior Ordinances and all parts thereof not hereby changed shall continue in full force and effect and this Bond Legislation shall be supplemental to the Prior Ordinances.

All ordinances, resolutions and orders, or parts thereof, in conflict with the provisions hereof are, to the extent of such conflicts, hereby repealed; provided that this Section shall not be applicable to the Loan Resolution (Form FmHA 442-47) and the Prior Ordinances.

Section 7.06. Table of Contents and Headings. The Table of Contents and headings of the articles, sections and subsections hereof are for convenience only and shall neither control nor affect in any way the meaning or construction of any of the provisions hereof.

Section 7.07. 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 and enactment of this Ordinance do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Mayor, City Manager, 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.

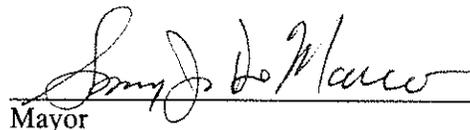
Section 7.08. Effective Time. This Bond Legislation shall take effect following public hearing hereon in accordance with the Act.

Section 7.09. Statutory Notice and Public Hearing. Upon adoption hereof, an abstract of this Bond Legislation, determined by the Council 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 14 consecutive days, with at least 6 full days intervening between each publication, in the The Exponent Telegram, and Times West Virginian, being qualified newspapers of general circulation in the City of Shinnston, no newspaper being published therein, together with a notice stating that this Ordinance has been adopted, that the Issuer contemplates the issuance of the Bond, that any person interested may appear before the Council upon a date certain, not less than 10 days subsequent to the date of the first publication of the said abstract and notice and not prior to the last date of such publication, and present protests, and that a certified copy of the Ordinance is on file with the Council for review by interested persons during the office hours of the Council. At such hearing, all protests and suggestions shall be heard and the Council shall take such action as it shall deem proper in the premises.

Passed on First Reading: August 22, 2005

Passed on Second Reading: August 30, 2005

Passed on Final Reading
Following Public Hearing: September 12, 2005


Mayor

CERTIFICATION

Certified a true copy of an Ordinance duly enacted by the Council of the City of Shinnston on the 12th day of September , 2005, which Ordinance has not been repealed, rescinded, modified, amended or revoked, as witness my hand and the seal of the City of Shinnston on this 17th day of November, 2005.

[SEAL]



City Clerk

11/12/05
818500.00001

CITY OF SHINNSTON

\$3,454,000 Water Revenue Bond,
Series 1976
And Bond Anticipation Notes

BOND ORDINANCE

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CITY OF SHINNSTON

ORDINANCE AUTHORIZING THE ISSUANCE OF A \$3,454,000 WATER REVENUE BOND, SERIES 1976, AND BOND ANTICIPATION NOTES OF THE CITY OF SHINNSTON TO FINANCE IMPROVEMENT OF AND ADDITIONS AND BETTERMENTS TO AN EXISTING WATERWORKS OF THE CITY; DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE BOND AND NOTES; PROVIDING FOR RATES FOR THE SERVICES OF THE WATERWORKS; PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES AND SECURITIES OF THE HOLDERS OF THE BOND AND THE NOTES; AND PROVIDING WHEN THIS ORDINANCE SHALL TAKE EFFECT

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

ARTICLE I

STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01. Authority for This Ordinance. This Ordinance is enacted pursuant to the provisions of Article 19, Chapter 8 of the West Virginia Code and other applicable provisions of law.

Section 1.02. Findings and Determinations. It is hereby found, determined and declared as follows:

(A) The City of Shinnston (the "City"), in the County of Harrison, State of West Virginia, now owns a waterworks and water plant facilities but such waterworks and water plant are no longer adequate for the needs of the public served by the same, and improvement of and betterments thereto are urgently needed.

(B) It is deemed essential, convenient and desirable for the health, welfare, safety, advantage and convenience of the inhabitants of the City, and accordingly, it is hereby ordered that the City improve and extend the existing waterworks by constructing and adding thereto additions to the water plant facility and the waterworks, including additional water lines, a new water treatment plant and six water storage tanks, with all necessary appurtenant facilities (such improvements and additions to the waterworks being called the "Project"), particularly described in and according to the plans and specifications prepared by

the Consulting Engineer and heretofore filed in the office of the Recorder.

(C) It is necessary for the City to issue its revenue bond in the principal amount of \$3,454,000 and the Notes to finance the costs of acquisition and construction of the Project, in the manner hereinafter provided. Such financing will promote the health, welfare and safety of the residents of the City.

(D) The estimated maximum cost of the acquisition and construction of the Project is \$4,652,000, of which \$3,454,000 will be obtained from the proceeds of sale of the Bond herein authorized and \$1,198,000 from a grant by the Government.

(E) The costs of such acquisition and construction of the Project shall be deemed to include, without being limited to, the construction and acquisition of the additions, extensions and improvements for the existing waterworks; the acquisition of any necessary additional property, real or personal, or interest therein; interest on the 1976 Bond and the Notes during and for six months after the estimated completion of such construction or not to exceed three years from the issuance of the Notes, whichever occurs first; engineering and legal expenses; expenses for estimates of costs and revenues; expenses for plans, specifications and surveys; and such other expenses as may be necessary or incidental to the acquisition and construction of the Project and the financing authorized hereby.

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

(G) There are not outstanding any bonds or obligations of the City entitled to any lien on or pledge of any of the revenues of the System.

Section 1.03. Ordinance to Constitute Contract. In consideration of the acceptance of the Bond and the Notes authorized to be issued hereunder by the holder thereof from time to time, this Ordinance shall be deemed to be a contract between the City and such Bondholder, and the covenants and agreements herein set forth to be performed by the City shall be for the benefit, protection and security of the legal holders of the Bond and the Notes.

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

"Act" means Article 19, Chapter 8 of the West Virginia Code.

"Bond" or "Bonds" means the \$3,454,000 Water Revenue Bond, Series 1976, originally authorized to be issued pursuant to this Ordinance, and also includes any additional Bonds hereafter issued on a parity with the 1976 Bond within the terms, restrictions and conditions contained in this Ordinance, and the interest coupons appertaining to such additional parity Bonds, and shall mean and include the Notes unless the context clearly would exclude the Notes.

"City" means the City of Shinnston in Harrison County, West Virginia, and, where appropriate, also means the Common Council thereof and any department, board, agency or instrumentality thereof in control of the management and operation of the System.

"Consulting Engineer" means Hornor Brothers Engineers, Clarksburg, West Virginia, or any qualified engineer or firm of engineers which shall at any time hereafter be retained by the Town as Consulting Engineer for the System.

"Facilities" means all the facilities of the System initially consisting of the existing waterworks as expanded by the Project, and also any facilities which may hereafter be added to the System by any additions, betterments, extensions and improvements thereto and properties, furniture, fixtures or equipment therefor hereafter at any time constructed or acquired.

"Fiscal Year" means each year beginning on July 1 and ending on the succeeding June 30.

"Government" means United States Department of Agriculture, Farmers Home Administration.

"Herein" means in this Ordinance

"Holder of the Bond" or "Bondholder" or any similar term means any person who shall be the bearer or owner of any outstanding Bond or Bonds, unless the context clearly would exclude the Notes, the holder of any such Bond or Bonds.

"Mayor" means the Mayor of the City.

"Net Revenues" means the balance of the gross revenues, as defined herein, remaining after deduction only of operating expenses, as defined herein.

"Notes" means the Bond Anticipation Notes in the amount of \$3,450,000 authorized pursuant to Article IA hereof, and also means any other notes hereafter authorized.

"Operating Expenses" means the current expenses, paid or accrued, of operation and maintenance of the System and its facilities, including, without limiting the generality of the foregoing, insurance, salaries, wages and administrative expenses of the City employees chargeable solely to the System, the accumulation of reserves for charges not annually recurrent but which are reasonably expected to be incurred, and such other operating costs as are normally and regularly included under sound accounting practices.

"Original Purchaser" means the purchaser, directly from the City, of any series of bonds issued pursuant hereto, or any part of any such series, and, so long as the Notes are outstanding, such purchaser of the Notes directly from the City.

"Project" shall have the meaning stated above in Section 1.02(B).

"Revenues" or "gross revenues" means all rates, rents, fees, charges or other income received by the City, or accrued to the City, or any department, board, agency or instrumentality thereof in control of the management and operation of the System, from the operation of the System, and all parts thereof, all as calculated in accordance with sound accounting practices.

"Recorder" means the Recorder of the City.

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

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

ARTICLE I A

BOND ANTICIPATION NOTES

Section 1.01 A. Authorization and General. In order to pay certain costs of the construction of the Project pending the purchase by the Government of the Bond, negotiable Notes of the City shall be issued and sold in the amount of \$3,454,000.

Each Note shall be designated "Bond Anticipation Note", shall be dated on the date of delivery thereof, shall be in denominations which are integral multiples of \$1,000, shall be in bearer form, shall bear interest from the date of delivery at the rate provided in the Resolution hereinafter described, which rate shall not exceed the rate of 4% per annum, payable at maturity, or at periodic intervals to be provided in the Resolution, which maturity shall be not more than three years from such date of delivery, shall be numbered from one upward, may be payable at a New York City Bank and at the principal office of the Trustee named below, as Paying Agents, at the option of the holder, and shall contain the provisions shown in the form of Notes set forth in Section 1.12 A below.

The Notes shall be executed for the City by its Mayor and the seal of the City shall be affixed or imprinted thereon and attested by the signature of the Recorder of the City.

The Notes shall be sold to Lehman Brothers Incorporated (acting on behalf of itself and for Lehman Special Securities Incorporated) and Horner, Barksdale & Co., as Underwriters, pursuant to a Purchase Agreement to be entered into between the City and said Underwriters and shall be sold at the price to be provided in the Resolution.

Section 1.02 A. Deposit of Note Proceeds. A portion of the proceeds received from the sale of the Notes to be specified in the Purchase Agreement shall be deposited on receipt by the City in Bank of Shinnston, Shinnston, West Virginia (the "Trustee"), a member of the Federal Deposit Insurance Corporation (herein called "FDIC"), in the Project Construction Account established by Section 3.01 hereof.

The balance of the proceeds from the sale of the Notes shall be directly deposited on receipt by the City with the Trustee in a special segregated account designated as "City of Shinnston Note Repayment Account", as more particularly described and upon the further terms and conditions of Section 1.06 A hereof.

Section 1.03 A. Security for the Notes. The Notes shall be secured by the pledge by the City of and by a first lien on (i) the obligation of the Government to make the loan to the City in the amount of \$3,454,000 (the "Loan") by purchasing the 1976 Bond, (ii) the proceeds of the sale of the Notes until expended as herein authorized, and said pledge by the City for the benefit of the holders of the Notes to the extent of the aggregate principal amount of the Notes and the interest thereon, is hereby made and granted. The City will execute such financing statements, security agreements and other documents that may be required to perfect such pledge and lien. The Trustee shall act as agent for the holders of the Notes in connection with the execution of all Financing Statements and other instruments necessary under applicable laws in order to fully perfect the interests of the holders of the Notes in the assets pledged hereby, and to receive all notices and respond to all inquiries in connection therewith. The Notes shall also be secured by a statutory mortgage lien on the System as provided in the Act, which statutory mortgage lien shall be on a parity in all respects with the statutory mortgage lien in favor of the Bond.

Section 1.04 A. Payment of Notes. The City will immediately, upon receipt, deposit with the Trustee all proceeds from the sale of the 1976 Bond to the Government, to be placed by the Trustee directly into the Note Repayment Account held by the Trustee. Upon maturity of the Notes, the Trustee will pay to the Paying Agents all principal and interest owing on the Notes, with the balance of moneys in the Note Repayment Account remaining after payment of all such principal and interest on the Notes and the charges of the Trustee to be refunded to the City.

Section 1.05 A. Notes are Limited Obligations. The Notes shall be limited obligations of the City, the interest of which is payable solely

from certain of the proceeds from the sale of the Notes, the principal of which is payable from the sources described in Section 1.03 A above, or, the principal of and interest on which is payable from the net revenues of the City arising from ownership and operation of System in the event that the Government shall not purchase the 1976 Bond in accordance with its agreement to do so.

Section 1.06 A. Trustee; Note Repayment Account. The Trustee shall segregate all funds and securities in the Note Repayment Account separate and apart from other deposits and funds of the Trustee and other deposits and funds of the City, including the Project Construction Account. All moneys in the Note Repayment Account, until payment in full of all principal and interest owing on the Notes at their maturity, shall be held by the Trustee for the holders of the Notes and the City shall have no rights with respect thereto except to receive the balance therein after payment of the Notes and the interest thereon and the charges of the Trustee. All moneys in the Note Repayment Account in excess of the amount insured by FDIC shall be continuously secured by, or invested by the Trustee in direct obligations of, or obligations the principal of and interest on which are guaranteed by, the United States of America, which obligations shall mature at least 1 day prior to the maturity of the Notes. At or prior to the maturity of the Notes, the Trustee shall transfer to the Paying Agents in immediately available funds the total principal of and interest owing on the Notes to their maturity. Upon such transfer the Trustee may refund to the City any excess amounts remaining in the Note Repayment Account. The Trustee is hereby authorized, upon such payment of all principal and interest owing on the Notes, to execute UCC termination statements indicating the termination of the security interest of the holders of the Notes in the assets referred to in Section 1.03 A hereof.

The City shall pay to the Trustee from time to time reasonable compensation for all services rendered by the Trustee under this Ordinance and all reasonable expenses, charges, counsel fees and other disbursements incurred by the Trustee in connection with its performance of its functions

hereunder. The City shall from time to time have the right to appoint a successor Trustee provided that such successor Trustee be a bank or trust company or national banking association insured by the FDIC. The Trustee shall signify its acceptance of the duties and obligations imposed by this Ordinance by executing and delivering to the City a written acceptance thereof.

Section 1.07 A. Paying Agents. Each Paying Agent shall signify its acceptance of the duties and obligations imposed upon it pursuant to this Ordinance by executing and delivering to the City a written acceptance thereof. The City may appoint as successor Paying Agent any bank, trust company or national banking association. The Underwriters shall pay to each Paying Agent from time to time reasonable compensation for all services rendered under this Ordinance and all reasonable expenses, charges, counsel fees, and other disbursements incurred in connection with the performance of its obligations hereunder.

Section 1.08 A. Covenants. The City agrees that prior to the occurrence of any event of default (as hereinafter defined) and until payment in full of the principal and interest owing on the Notes at maturity, the following covenants contained in Article IV for the benefit of the Bondholder shall also inure to the benefit of the holders of the Notes: Sections 4.03, 4.04, 4.05, 4.06, 4.08, 4.10, 4.11, 4.12, 4.13, 4.15 and 4.16. Upon the occurrence of an event of default, the holders of the Notes shall be entitled to the benefit of all covenants contained in Article IV as if the holders of the Notes were the Bondholder.

In addition, the City covenants to issue and sell the 1976 Bond to the Government not later than one day prior to the due date of the Notes, and to take all actions necessary to cause the Government to purchase the Bond not later than such day.

Section 1.09 A. Events of Default and Enforcement. Each of the following events is hereby declared an "Event of Default": (a) failure to make timely payment of all principal and interest owing on the Notes at maturity; and (b) failure duly and punctually to observe or perform any of

the covenants, conditions and agreements on the part of the City for the benefit of the holders of the Notes as hereinabove provided.

On the happening of any Event of Default, then, and in each such case, each Noteholder shall be entitled to proceed against all assets pledged and shall have and is hereby given all further rights and remedies as are granted by this Ordinance to the Bondholder and each holder of the Notes shall be deemed to be a Bondholder upon such default.

In the event that any Note is not paid when due, the interest rate on such Note until payment thereof in full, shall be 6% per annum and the City will pay the holder of every Note not paid when due the principal amount of such Note, together with interest at the rate specified in such Note from the date of such Note until the due date thereof, and at the rate of 6% per annum from the due date of such Note until payment thereof in full.

Section 1.10 A. Defeasance of Notes. Upon deposit by the City with the Trustee into the Note Repayment Account of the \$3,454,000 proceeds of sale of the 1976 Bond, the Notes shall be considered to have been paid in full insofar as this Ordinance is concerned; and the holders of the Notes shall have no further lien on or pledge of any properties or assets whatever of the System or any part of the System or upon any of the revenues of the System; and the holders of the Notes shall, upon such deposit, be entitled to payment of the Notes and the interest thereon solely from the moneys then on deposit in the Note Repayment Account.

Section 1.11 A. Resolution. Following enactment of this Ordinance, and upon receipt of the Purchase Agreement referred to in Section 1.01 A, the City, if it be so advised, will adopt a Resolution approving the Purchase Agreement and ordering the issuance of the Notes pursuant hereto and to the Resolution, which Resolution will provide, among other things, the interest rate or rates on the Notes, the interest payment dates, the maturity date of the Notes, the sale price of the Notes, and such other matters as shall be required or desired in connection with issuance of the Notes.

Section 1.12 A. Form of Notes. The Notes shall be in the following form, subject to such changes, insertions and deletions as the Mayor of the City shall agree to by execution of the Notes:

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
CITY OF SHINNSTON
WATER SYSTEM BOND ANTICIPATION NOTE

No.

§

The CITY OF SHINNSTON, a municipal corporation of the State of West Virginia in Harrison County of said State (the "City"), for value received, hereby promises to pay to bearer upon presentation and surrender hereof the sum of _____, without option of prior redemption, on _____, with interest at the rate of _____ per cent (_____%) per year payable _____. Both principal and interest are payable in lawful money of the United States of America at the principal office of Bank of Shinnston, Shinnston, West Virginia, or at the option of the holder, at _____, New York, New York.

This Note is one of a series of _____ Notes in the aggregate principal amount of \$3,454,000 duly authorized by the City and issued in anticipation of the issuance of the Water Revenue Bond, Series 1976 (the "Bond"), of the City in the principal sum of \$3,454,000 for aiding in the construction of additions, extensions and improvements (the "Project") of the existing waterworks (the "System") of the City.

Farmers Home Administration of the United States Department of Agriculture has agreed to purchase the Bond at least one day prior to the due date of the issue of Notes of which this Note is one.

The principal of this Note, and of the issue of Notes of which this Note is one, is payable solely, equally, ratably, and only from the proceeds of sale of the Bond and, if Farmers Home Administration should not purchase the Bond as agreed, from the net revenues of the System defined in the Ordinance mentioned below. The proceeds of sale of the Bond have been pledged to the Noteholders to secure payment of the principal of the Notes.

Moneys from the proceeds of sale of the Notes to pay the interest on the Notes have been deposited with Bank of Shinnston, Shinnston, West Virginia, as Trustee.

The Notes of the issue of which this Note is one are limited and special obligations of the City, and do not and shall not constitute an indebtedness of the City within the meaning of any constitutional or statutory limitations or provisions, and the City shall not be obligated to pay this Note and the Notes of the issue of which this Note is one or the interest thereon except from the proceeds of sale of the said Bond received by the City and the proceeds of the Notes for the interest on the Notes and any other sources which may be provided by the ordinance authorizing issuance of the Notes and the Bond.

The Notes of the issue of which this Note is one have been duly authorized by an Ordinance and a Resolution of the City and pursuant to West Virginia Code, Chapter 8, Article 19.

Every requirement of law relating to the issuance hereof has been duly complied with.

IN WITNESS WHEREOF, CITY OF SHINNSTON has caused this Note to be signed by its Mayor and its seal to be hereto affixed and attested by its Recorder all as of the date above written.

Dated _____.

[SEAL]

CITY OF SHINNSTON

ATTEST:

By _____
Mayor

Recorder

ARTICLE II

AUTHORIZATION, TERMS, EXECUTION,
REGISTRATION AND ISSUE OF BOND

Section 2.01. Authorization of 1976 Bond. Subject and pursuant to the provisions hereof, the Bond of the City to be known as "Water Revenue Bond, Series 1976" is hereby authorized to be issued in the principal amount of not exceeding Three Million Four Hundred Fifty-Four Thousand Dollars (\$3,454,000) for the purpose of financing the costs of the construction and acquisition of the Project.

Section 2.02. Description of 1976 Bond. The 1976 Bond shall be issued in single form, shall be dated on the date of delivery thereof, and shall bear interest from date of delivery at the rate of five per centum (5%) per annum. The price for the 1976 Bond shall be the par value thereof.

The 1976 Bond shall be payable in monthly installments covering principal and interest in accordance with and as shown in the form hereinafter set forth.

The 1976 Bond shall be payable in advance in whole or in part, without premium, at any time, at the option of the City.

The 1976 Bond shall be payable with respect to both principal and interest in lawful money of the United States of America at the National Finance Office of the Farmers Home Administration, United States Department of Agriculture, St. Louis, Missouri 63103, or at such other place as the Government may designate in writing.

Section 2.03. Execution of Bond. The Bond shall be executed in the name of the City by the Mayor and the corporate seal of the City shall be affixed thereto and attested by the Recorder.

Section 2.04. Bonds Mutilated, Destroyed, Stolen or Lost.

In case any Bond shall become mutilated or be destroyed, stolen or lost, the City may, in its discretion, issue and deliver a new Bond of like tenor as the Bond so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the holder's furnishing the City proof of his ownership thereof and complying with such other reasonable regulations and conditions as the City may require. Any Bond so surrendered shall be canceled and held for the account of the City. If any such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the City may pay the same, and, if such Bond be destroyed, stolen or lost, without surrender thereof.

Section 2.05. Bond Secured by Pledge of Revenues and Statutory Mortgage Lien.

The payment of the debt service of the Bond shall be secured forthwith equally and ratably, in addition to the statutory mortgage lien provided by the Act, by a first lien on the revenues derived from the System. The revenues derived from the System, in an amount sufficient to pay the principal of and interest on the Bond, and to make the payments into the Sinking Fund and otherwise as hereinafter provided, are hereby irrevocably pledged to the payment of the principal of and interest on the Bond as the same become due as herein provided.

A statutory mortgage lien is granted by the Act, and the 1976 Bond and the Notes shall be additionally secured thereby.

Section 2.06. Form of 1976 Bond. Subject to the provisions hereof, the text of the 1976 Bond and the other details thereof shall be of substantially the following tenor, with such omissions, insertions and variations as may be authorized or permitted by this Ordinance or any subsequent ordinance or resolution enacted or adopted prior to the issuance thereof:

(Form of Bond)

CITY OF SHINNSTON

WATER REVENUE BOND
SERIES 1976

No. 1

\$3,454,000

Date: _____

FOR VALUE RECEIVED, the CITY OF SHINNSTON (herein called "Borrower") promises to pay to the order of the United States of America, acting through the Farmers Home Administration, United States Department of Agriculture (herein called the "Government") at its National Finance Office, St. Louis, Missouri 63103, or at such other place as the Government may hereafter designate in writing, the principal sum of Three Million Four Hundred Fifty Four Thousand Dollars (\$3,454,000), plus interest on the unpaid principal balance at the rate of five percent (5%) per annum. The said principal and interest shall be paid in the following installments on the following dates: Installments of interest only on the first day of each month for the first twenty-four months after the date hereof and \$16,960, covering principal and interest, on the first day of each month thereafter, except that the final installment shall be paid at the end of forty (40) years from the date of this Bond, and except that prepayments may be made as provided hereinbelow. The consideration herefor shall support any agreement modifying the foregoing schedule of payments.

If the total amount of the loan is not advanced at the time of loan closing, the loan shall be advanced to Borrower as requested by Borrower and approved by the Government and interest shall accrue on the amount of each advance from its actual date as shown on the reverse hereof.

Every payment made on any indebtedness evidenced by this bond shall be applied first to interest computed to the effective date of the payment and then to principal.

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of Borrower. Refunds and extra payments, as defined in the regulations of the Farmers Home Administration according to the source of funds involved, shall, after payment of interest, be applied to the installments last to become due under this bond and shall not affect the obligation of Borrower to pay the remaining installments as scheduled herein.

If the Government at any time assigns this Bond and insures the payment thereof, Borrower shall continue to make payments to the Government as collection agent for the holder.

While this Bond is held by an insured lender, prepayments as above authorized made by Borrower may, at the option of the Government, be remitted by the Government to the holder promptly or, except for final payment, be retained by the Government and remitted to the holder on either a calendar quarter basis or an annual installment due date basis. The effective date of every payment made by Borrower, except payments retained and remitted by the Government on an annual installment due date basis, shall be the date of the United States Treasury check by which the Government remits the payment to the holder. The effective date of any prepayment retained and remitted by the Government to the holder on an annual installment due date basis shall be the date of the prepayment by Borrower, and the Government will pay the interest to which the holder is entitled accruing between the effective date of any such prepayment and the date of the Treasury check to the holder.

Any amount advanced or expended by the Government for the collection hereof or to preserve or protect any security herefor, or otherwise under the terms of any security or other instrument executed in connection with the loan evidenced hereby, at the option of the Government shall become a part of and bear interest at the same rate

as the principal of the debt evidenced hereby and be immediately due and payable by Borrower to the Government without demand. Borrower agrees to use the loan evidenced hereby solely for purposes authorized by the Government.

Borrower hereby certifies that it is unable to obtain sufficient credit elsewhere to finance its actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in or near its community for loans for similar purposes and periods of time.

This Bond, together with any additional bonds ranking on a parity herewith which may be issued and outstanding for the purpose of providing funds for financing costs of construction and acquisition of additions to the waterworks of the Borrower is payable solely from the revenues to be derived from the operation of the waterworks after there have been first paid from such revenues the reasonable current costs of operation and maintenance of the waterworks. This Bond does not in any manner constitute an indebtedness of the Borrower within the meaning of any constitutional or statutory provision or limitation.

This Bond has been issued under and in full compliance with the Constitution and statutes of the State of West Virginia, including, among others, Article 19 of Chapter 8 of the West Virginia Code (herein called the "Act"), and represents the entire Series 1976.

If at any time it shall appear to the Government that Borrower may be able to obtain a loan from a responsible cooperative or private credit source at reasonable rates and terms for loans for similar purposes and periods of time, Borrower will, at the Government's request, apply for and accept such loan in sufficient amount to repay the Government.

This Bond is given as evidence of a loan to Borrower made

or insured by the Government pursuant to the Consolidated Farm and Rural Development Act. This Bond shall be subject to the present regulations of the Farmers Home Administration and to its future regulations not inconsistent with the express provisions hereof.

[CORPORATE SEAL]

CITY OF SHINNSTON

(Name of Borrower)

ATTEST:

(Signature of Executive Official)

Mayor

(Title of Executive Official)

(Signature of Attesting Official)

Municipal Building

(Post Office Box No. or Street Address)

Recorder

(Title of Attesting Official)

Shinnston, West Virginia 26431

(City, State and Zip Code)

RECORD OF ADVANCES

AMOUNT	DATE	AMOUNT	DATE
(1) \$		(6) \$	
(2) \$		(7) \$	
(3) \$		(8) \$	
(4) \$		(9) \$	
(5) \$		(10) \$	

TOTAL _____

Pay to _____

UNITED STATES OF AMERICA
FARMERS HOME ADMINISTRATION

By _____

(Title)

ARTICLE III

NOTE PROCEEDS; REVENUES AND
APPLICATION THEREOF

Section 3.01. Note Proceeds; Project Construction Account. The portion received from the sale of the Notes stated in the Purchase Agreement shall be deposited on receipt by the City with the Trustee in the Note Repayment Account. Any other moneys received by the City for construction of the Project shall be deposited in Bank of Shinnston, Shinnston, West Virginia, a member of FDIC, in a special account hereby now established and designated as "City of Shinnston Waterworks Construction Account" (herein called the "Project Construction Account"). The moneys in the Project Construction Account in excess of the amount insured by FDIC shall be secured at all times by such bank by securities or in a manner lawful for the securing of deposits of State and municipal funds under West Virginia law. Moneys in the Project Construction Account shall be expended by the City solely for the purposes provided herein.

Until completion of construction of the Project, the City will transfer from the Project Construction Account and deposit in the Sinking Fund monthly such sums as shall be from time to time required to pay the monthly interest installments on the 1976 Bond as herein and in the Bond provided.

If the City shall determine at any time that all funds on deposit in the Project Construction Account exceed the estimated disbursements on account of the Project for the ensuing 90 days, the City may invest such excess funds in direct obligations of, or obligations the principal of and interest on which are guaranteed by, the United States of America, which shall mature not later than eighteen months after the date of such investment. All such investments and the income therefrom shall be carried to the credit of the Project Construction Account.

When construction of the Project has been completed and all costs thereof have been paid or provision for such payment has been made, any balance remaining in the Project Construction Account shall be used in accordance with the Regulations of Farmers Home Administration or paid to said National Finance Office as a prepayment on the Bond, but the monthly installments provided in the Bond shall not be reduced as a result thereof.

Section 3.02. Covenants as to Revenues and Funds. So long as the Bond shall be outstanding and unpaid, or until there shall have been set apart in the Sinking Fund and the Reserve Account, hereinafter described, a sum sufficient to pay, when due or at the earliest practical redemption date, the entire principal of the Bonds remaining unpaid together with interest accrued and to accrue thereon, the City further covenants with the holder of the Bond issued pursuant hereto as follows:

(A) Revenue Fund. The entire gross revenues derived from the operation of the System, and all parts thereof, and all tap fees received, except as otherwise provided herein, shall be deposited as collected by the City in a special fund known as the "Revenue Fund", hereby established with the said Bank. The Revenue Fund shall constitute a trust fund for the purposes provided herein, and shall be kept separate and distinct from all other funds of the City and used only for the purposes and in the manner provided herein.

(B) Disposition of Revenues. All revenues at any time on deposit in the Revenue Fund shall be disposed of only in the following order and priority:

(1) The City shall first, each month, pay from the Revenue Fund the costs of operating and maintaining the System for the current month.

(2) The City shall next, each month, remit to the said National Finance Office (the "Sinking Fund") the amount provided in the 1976 Bond to pay the interest on and the principal of the 1976 Bond.

(3) The City shall next, each month, transfer from the Revenue Fund and deposit into the Reserve Account hereby established with the Bank, one-twelfth of one-tenth of the maximum annual aggregate amount of interest and principal which will fall due on the 1976 Bond until the amount in the Reserve Account equals the sum of \$203,520 for the 1976 Bond. After such amount has been accumulated in the Reserve Account, the City shall monthly deposit into the Reserve Account such part of the moneys remaining in the Revenue Fund, after such provision for payment of maturing principal of and interest on the Bond, as shall be required to maintain such amount in the Reserve Account. Moneys in the Reserve Account shall be used solely to make up any deficiency for payment of the installments on the Bond as the same shall become due or for mandatory prepayment of Bonds as hereinafter provided and for no other purpose.

(4) The City shall next, each month, transfer from the Revenue Fund the moneys then remaining in the Revenue Fund and shall deposit the same in the Depreciation Reserve hereby established with the Bank, until there has been accumulated therein the aggregate sum of \$140,000 and thereafter such sums as shall be required to maintain such amount therein. Moneys in the Depreciation Reserve shall be used by the City first to make up any deficiencies in the payment of installments on the Bond as the same become due, and next to restore to the Reserve Account any sum or sums transferred therefrom to the Sinking Fund. Thereafter, and provided that payments into the Sinking Fund and the Reserve Account are current and in accordance with the foregoing provisions, moneys in the Depreciation Reserve may be withdrawn by the City and used for extensions, replacements and improvements of the System, or any part thereof.

(5) After all the foregoing provisions for use of moneys in the Reserve Fund have been fully complied with, any moneys remaining therein may be used to prepay or redeem Bonds outstanding or for any lawful purpose in connection with the System, the City Clerk to handle prepayment of Bonds upon written instructions of the Council.

Whenever the moneys in the Reserve Account shall be sufficient to pay all Bonds outstanding, it shall be the mandatory duty of the City, anything to the contrary in this Ordinance notwithstanding, to direct the City Clerk to arrange payment of all outstanding Bonds at the earliest practical date and in accordance with applicable provisions hereof, any such purchase to be at a price or prices not exceeding the then market price of Bonds so purchased, but in no event exceeding the then redemption price of the Bonds, as to Bonds subject to redemption, and not exceeding the par value of Bonds not subject to redemption but available for purchase or prepayment.

All the funds provided for in this Section shall constitute trust funds and shall be used only for the purposes and in the order provided herein, and until so used, the Bondholders shall have a lien thereon for further securing payment of the Bonds and the interest thereon. The moneys in excess of the sum insured by FDIC in the Revenue Fund, the Reserve Account and the Depreciation Reserve shall at all times be secured, to the full extent thereof in excess of such insured sum, in a manner lawful for securing deposits of State and municipal funds under the laws of the State of West Virginia. The Bank shall not be a trustee, but merely the depository, as to any funds described herein except the Note Repayment Account, but shall be a trustee as to the Note Repayment Account.

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

The City shall keep the moneys in the Reserve Account and the Depreciation Reserve invested and reinvested to the fullest extent practicable in direct obligations of, or obligations the payment of the principal of and interest on which are guaranteed by, the United States of America and having maturities not exceeding two years.

The said Bank is hereby designated as the Fiscal Agent for the administration of the Reserve Account as herein provided.

ARTICLE IV

GENERAL COVENANTS

Section 4.01. General Statement. So long as any of the Bonds shall be outstanding and unpaid, or until there shall have been set apart in the Sinking Fund and the Reserve Account a sum sufficient to pay when due, or redeem or purchase prior to maturity, the entire principal of the Bonds remaining unpaid, together with interest accrued and to accrue thereon and any applicable redemption premiums, the covenants and agreements contained herein shall be and constitute valid and legally binding covenants between the City and the Bondholders.

Section 4.02. Rates. The City will, in the manner provided in the Act, fix and collect such rates, fees or other charges for the services and facilities of the System, and revise the same from time to time whenever necessary, as will always provide revenues in each fiscal year sufficient to produce net revenues equal to not less than 110% of the average annual debt service on all Bonds outstanding and to make the payments required herein to be made into the Sinking Fund, the Reserve Account and the Depreciation Reserve, and such rates, fees and other charges shall not be reduced so as to be insufficient to provide adequate revenues for such purposes.

Section 4.03. Sale of the System. The System will not be sold without the prior written consent of the Government, which consent will cover use of any proceeds of such disposition.

Section 4.04. Covenant Against Encumbrances. The City will not issue any obligations whatsoever payable from the revenues of the System without the prior written consent of the Government.

The City will not create, or cause or permit to be created, any debt, lien, pledge, assignment, encumbrance or any other charge, having priority over or being on a parity with the lien of the Bonds, and the interest thereon, upon any of the income and revenues of the System pledged hereby as security therefor, or upon the System or any part thereof.

Section 4.05. Insurance and Bonds. The City hereby covenants and agrees that so long as any of the Bonds remain outstanding, it will, as an expense of operation and maintenance of the System, procure, carry and maintain insurance with a reputable insurance carrier or carriers covering the following risks and in the following amounts:

(a) Fire, Lightning, Vandalism, Malicious Mischief and Extended Coverage Insurance, to be procured upon acceptance of any part of the Project from the contractor, on all above-ground insurable portions of the System in an amount equal to the actual cost thereof. In the event of any damage to or destruction of any portion of the System, the City will promptly arrange for the application of the insurance proceeds for the repair or reconstruction of such damaged or destroyed portion. The City will itself, or will require each contractor contracting directly with the City to, obtain and maintain builder's risk insurance to protect the interests of the City during construction of the Project in the full insurable value thereof.

(b) Public Liability Insurance, with limits of not less than \$500,000 for one or more persons injured or killed in one accident to protect the City from claims for bodily injury and/or death and not less than \$200,000 from claims for damage to property of others which may arise from the operation of the System, such insurance to be procured at the commencement of construction of the Project.

(c) Vehicular Public Liability Insurance, in the event the City owns or operates any vehicle in the operation of the System, or in the event that any vehicle not owned by the City is operated for the benefit of the City with limits of not less than \$500,000 for one or more persons injured or killed in one accident to protect the City from claims for bodily injury and/or death, and not less than \$200,000 from claims for damage to property of others which may arise from such operation of vehicles, such insurance to be procured prior to acquisition or commencement of operation of any such vehicle.

(d) Workmen's Compensation Coverage for all Employees of or for the System Eligible Therefor; and Performance and Payment Bonds, such bonds to be in the amounts of 100% of the construction contract, will be required of each contractor dealing directly with the City ("prime contractor") and such payment bonds will be filed with the Clerk of the County Commission of said County prior to commencement of construction of the Project in compliance with West Virginia Code, Chapter 38, Article 2, Section 39.

(e) Fidelity Bonds will be provided as to every officer and employee of the City having custody of the Revenue Fund or of any other funds of the System in an amount at least equal to the total funds in the custody of any such person at any one time, and initially in the amount of \$30,000 upon the City Clerk, provided, however, that no bond shall be required insofar as custody of the Project Construction Account is concerned.

Flood Insurance, if National Flood Insurance is available, must be purchased with coverage to the extent available.

(f) Provided, however, and in lieu of and notwithstanding the foregoing provisions of this Section, during construction of the Project and so long as the Government holds any of the Bonds, the City will carry insurance and bonds or cause insurance and bonds to be carried for the protection of the City and during such construction will require each prime contractor to carry insurance, of such types and in such amounts as the Government may specify, with insurance carriers or bonding companies acceptable to the Government.

Section 4.06. Events of Default. Each of the following events is hereby declared an "Event of Default":

(A) Failure to make payment of the principal and interest and, if any premium be due, of such premium, of any of the Bonds either at the date therein specified for their payment or by proceedings for redemption or otherwise;

(B) Failure duly and punctually to observe or perform any of the covenants, conditions and agreements on the part of the City in the Bonds or herein, or violation of or failure to observe any provision of any pertinent law.

Section 4.07. Enforcement. Upon the happening of any Event of Default specified above, then, and in every such case, any Bondholder may proceed to protect and enforce the rights of the Bondholders by an appropriate action in any court of competent jurisdiction, either for the specific performance of any covenant or agreement or execution of any power, or for the enforcement of any proper legal or equitable remedy as shall be deemed most effectual to protect and enforce such rights.

Upon application by such Bondholder, such court may, upon proof of such default, appoint a receiver for the affairs of the City and the System. The receiver so appointed shall administer the System on behalf of the City shall exercise all the rights and powers of the City with respect to the System and shall have the power to collect and receive all revenues and apply the same in such manner as the court may direct.

Section 4.08. No Priority Between Bonds. The Bonds, as herein defined, shall not be entitled to priority one over the other in the application of the revenues of the System or with respect to the securities for their payment, regardless of the time or times of their issuance, it being the intention hereof that there shall be no priority among such bonds, regardless of the fact that they may be actually issued and delivered at different times.

Section 4.09. Fiscal Year; Budget. While any Bonds are outstanding and unpaid and to the extent not now prohibited by law, the System shall be operated and maintained on a fiscal year basis commencing on July 1 of each year and ending on the following June 30, which period shall also constitute the budget year for the operation and maintenance of the System. Not later than thirty days prior to the beginning

of each fiscal year, the City agrees to adopt the Annual Budget for the ensuing year, and no expenditures for operation and maintenance expenses of the System in excess of the Annual budget shall be made during such fiscal year unless unanimously authorized and directed by the Council. Copies of each Annual Budget shall be delivered to the Government, by the beginning of each fiscal year and shall be mailed to those Bondholders who shall have filed their names and addresses with the Recorder for such purpose.

If for any reason the City shall not have adopted the Annual Budget before the first day of any fiscal year, it shall adopt a Budget of Current Expenses from month to month until the adoption of the Annual Budget; provided, however, that no such monthly budget shall exceed the budget for the corresponding month in the year next preceding by more than ten per centum; and provided further, that adoption of a Budget of Current Expenses shall not constitute compliance with the covenant to adopt an Annual Budget unless failure to adopt an Annual Budget be for a reason beyond the control of the City. Each such Budget of Current Expenses shall be delivered and mailed immediately as in the case of the Annual Budget.

Section 4.10. Covenant to Proceed and Complete. The City hereby covenants to proceed as promptly as possible with the construction of the Project to completion thereof in accordance with the plans and specifications prepared by the Consulting Engineer and on file with the City Clerk on the date of enactment hereof, subject to permitted changes.

Section 4.11. Books and Records. The City will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the City in which complete and correct entries shall be made of all transactions relating to the System, and any holder of a Bond or Bonds, his agents and representatives, shall have the right at all reasonable times to inspect the System and all records, accounts and data of the City relating thereto.

The City shall, at least once a year, cause said books, records and accounts of the System to be properly audited by an independent company of certified public accountants, shall mail a copy of such audit report to the Government and shall make available the report of said accountants at all reasonable times to any holder or holders of the Bonds or any customer receiving services from the System, or anyone acting for and in behalf of such Bondholder, Bondholders or customer. The Government, so long as it holds all the Bonds, may permit substitution of a copy of the annual audit report by the office of the State Tax Commission for the copy of annual audit report by a certified public accountant.

Section 4.12. Maintenance of the System. The City covenants that the System shall continuously operate, in an economical and efficient manner, and shall operate the System as a revenue-producing utility as herein provided so long as any of the Bonds are outstanding.

Section 4.13. No Competition. The City will not permit competition with the System within its boundaries or within the territory served by the System and will not grant or cause, consent to, or allow the granting of any franchise, permit or other authorization for any person, firm, corporation, public or private body, agency or instrumentality whatsoever to provide any of the services supplied by the System within the boundaries of the City or within the territory served by the System.

Section 4.14. Concerning Arbitrage. The proceeds of sale of the Bond or any other funds of the City will not be invested in such a way as to violate the operating rules in the regulations of the Internal Revenue Service or of the Treasury Department of the United States of America in connection with the arbitrage provisions of Section 103(c)(2) of the Internal Revenue Code of 1954, as amended. The fiscal agent is hereby expressly instructed not to violate such rules in investing such proceeds.

ARTICLE V

RATES, ETC.

Section 5.01. Initial Schedule of Rates and Charges; Rules.

A. The initial schedule of rates and charges for the services and facilities of the System shall be as follows:

AVAILABILITY OF SERVICE:

Available for general domestic, commercial and industrial service.

METERED RATE PER MONTH PER 1,000 GALLONS USED:

First	2,000 gallons	\$3.30
Next	8,000 gallons	2.70
Next	25,000 gallons	2.00
Next	25,000 gallons	1.50
Next	1,440,000 gallons	1.00
All Over	1 500,000 gallons	.90

MINIMUM CHARGE

No bill will be rendered for less than the following amounts, according to the size of the meter installed, to-wit:

5/8 inch meter	\$ 6.60 per month
3/4 inch meter	9.50 per month
1 inch meter	16.90 per month
1-1/2 inch meter	38.02 per month
2 inch meter	67.52 per month
3 inch meter	152.06 per month
4 inch meter	270.34 per month
6 inch meter	608.26 per month

DELAYED PAYMENT PENALTY

The above tariff is net. On all accounts not paid in full within twenty days of date of bill, 10% will be added to the net amount shown.

If any bill is not paid within thirty days, after date, water service to the customer will be discontinued after twenty-four hours written notice. Water service will not be restored until all past due water bills have been paid in full and all accrued penalties plus a re-connection charge have been paid.

PRIVATE AND PUBLIC FIRE PROTECTION

A flat rate of \$3.50 per month shall be charged for private and public fire protection.

CONNECTION CHARGE

Prior to construction of project adjacent to property of customer \$50.00 (for new users only).

Subsequent to construction of project adjacent to property of customer - there will be a charge for connection to the system of \$150.00.

RECONNECTION CHARGE

\$10.00

B. The City will not render or cause to be rendered any free services of any nature by the System nor any of the facilities; and in the event that the City or any department, agency, officer or employee thereof should avail itself or themselves of the services or facilities of the System, the same fees, rates and charges applicable to other customers receiving like services under similar circumstances shall be charged, such charges shall be paid as they accrue, and revenues so received shall be deposited and accounted for in the same manner as other revenues of the System.

C. The City may require any applicant for any service by the System to deposit a reasonable and equitable amount to insure payment of all charges for the services rendered by the System, which deposit shall be handled and disposed of under the applicable rules and regulations of the Public Service Commission of West Virginia.

D. No allowance or adjustment in any bill for any leakage occurring on the customer's side of any water meter.

E. The City shall not be liable to any customer for any damage resulting from bursting or breakage of any line, main, pipe, valve, equipment or part or from discontinuance of the operation of any part of the System or from failure of any part thereof for any cause whatsoever.

F. In case of emergency, the City shall have the right to restrict the use of any part of the System in any reasonable manner for the protection of the System and the inhabitants of the City.

G. The fees, rates and charges above provided will be increased whenever such increase is necessary in order to comply fully with all provisions hereof, and the City shall always be obligated to and shall fix, establish and collect fees, rates and charges for the services and facilities of the System which shall at all times be sufficient to provide net revenues to meet its obligations hereunder, but not less than 110% of the average annual debt service on all Bonds outstanding.

H. The City will not accept payment of a water or a sewer bill separately, when the customer concerned owes for both water and sewer services. For non-payment of charges for water or sewer services, or both, the City, after notice of discontinuance in accordance with the applicable Public Service Commission rules and regulations, will shut off water service and lock the meter, and will restore service only upon payment of all water and sewer charges, accrued penalties and reconnect charge.

ARTICLE VI

MISCELLANEOUS

Section 6.01. Filing Under Uniform Commercial Code. Contemporaneously with the delivery of the Bond, or sooner, the City shall execute Financing Statements meeting the requirements of the Uniform Commercial Code of West Virginia and promptly thereafter shall file, and refile as required, Financing Statements in the offices of the Secretary of State of the State of West Virginia and of the Clerk of the County Commission of said County.

Section 6.02. Modification or Amendment. No material modification or amendment of this Ordinance, or of any ordinance amendatory hereof or supplemental hereto, may be made without the consent in writing of the Government.

Section 6.03. Award of 1976 Bond. The 1976 Bond is hereby awarded in its entirety to the Government, the 1976 Bond to bear interest at the rate of 5% per annum; provided, that if, prior to delivery of the 1975 Bond, the Government requires public sale thereof, then this award shall be and become void.

Section 6.04. Severability of Invalid Provision. If any one or more of the covenants, agreements or provisions of this Ordinance should be held contrary to any express provision of law or contrary to the policy of express law, although not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements or provisions, and shall in no way affect the validity of all the other provisions hereof or the Bonds or coupons appertaining thereto.

Section 6.05. Conflicting Provisions Repealed. All ordinances, resolutions and orders, or parts thereof, in conflict with the provisions hereof are, to the extent of such conflicts, hereby repealed, except that this Section shall not apply to the Loan Resolution of the City in connec-

tion with financing of the Project by the Government.

Section 6.06. Table of Contents and Headings. The Table of Contents and headings of the articles, sections and subsections hereof are for convenience only and shall neither control nor affect in any way the meaning or construction of any of the provisions hereof.

Section 6.07. Effective Time. This Ordinance shall take effect following public hearing hereon in accordance with the Act.

Section 6.08. Statutory Notice and Public Hearing. Upon adoption hereof, an abstract of this Ordinance determined by the Council to contain sufficient information to give notice of the contents of this Ordinance, shall be published once a week for two successive weeks within a period of fourteen consecutive days, with at least six full days intervening between each publication, in The Shinnston News, a newspaper published and of general circulation in the said City, publication of which abstract of this Ordinance shall be together with a notice stating that this Ordinance has been adopted and that a certified copy of this Ordinance is on file with the Council in the office of the Recorder for review by interested persons during office hours of the Recorder, and that the City contemplates the issuance of the 1976 Bond and the Notes, and that any person interested may appear before the Council upon a date certain, not less than ten days subsequent to the date of the second publication of the said abstract and notice, and present protests. At such hearing, all objections and suggestions shall be heard, and the Council shall take such action as it shall deem proper in the premises.

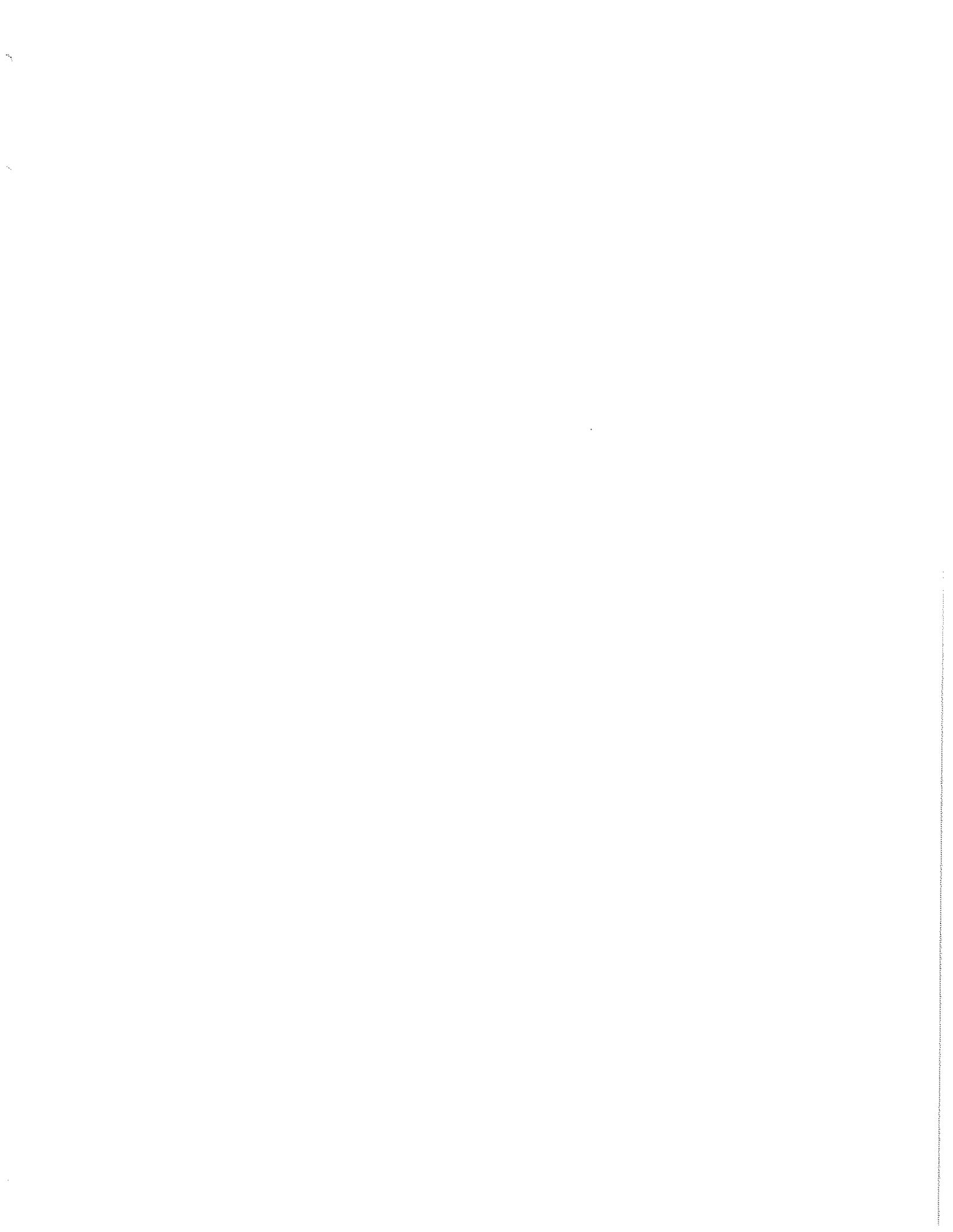
Passed on First Reading JULY 12, 1977

Passed on Final Reading AUGUST 2, 1977

Effective following public hearing held on the date of Final Reading Stated above.

William L. Vincent
Mayor

Ruth Fogel
Recorder



THE CITY OF SHINNSTON

Water Revenue Bond, Series 1983

BOND ORDINANCE

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08/30/83
SHINN1-B

THE CITY OF SHINNSTON

ORDINANCE AUTHORIZING THE ISSUANCE OF \$487,500 WATER REVENUE BOND, SERIES 1983, OF THE CITY OF SHINNSTON ON A PARITY WITH THE 1976 BOND, TO FINANCE ACQUISITION AND CONSTRUCTION OF ADDITIONS AND IMPROVEMENTS FOR ITS EXISTING WATERWORKS SYSTEM AND TO FINANCE THE PAYMENT OF EXISTING INDEBTEDNESS AND COSTS RELATING TO SAID WATERWORKS SYSTEM AND THE 1976 BOND OF THE CITY; DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE BOND; PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES AND SECURITIES OF THE HOLDERS OF THE BOND; AND PROVIDING WHEN THIS ORDINANCE SHALL TAKE EFFECT

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

ARTICLE I

STATUTORY AUTHORITY, FINDINGS
AND DEFINITIONS

Section 1.01. Authority for This Ordinance. This Ordinance is enacted pursuant to the provisions of Article 19, Chapter 8 of the West Virginia Code (the "Act") and other applicable provisions of law. The City of Shinnston (the "Issuer") is a municipal corporation of the State of West Virginia in Harrison County thereof.

Section 1.02. Findings and Determinations. It is hereby found, determined and declared as follows:

A. The Issuer now has a public waterworks system, heretofore financed in part by the issuance of the 1976 Bond, as hereinafter defined, and the Issuer is currently in default under the terms of said 1976 Bond and owes certain amounts in connection with said 1976 Bond and said waterworks system. The Issuer desires to acquire and construct additions and improvements to its existing waterworks system and to pay said amounts due and not yet paid in connection therewith and under the terms of said 1976 Bond (the waterworks as improved by the Project, hereinafter defined, is herein called the "System").

B. It is deemed essential, convenient and desirable for the health, welfare, safety, advantage and convenience of the inhabitants of the Issuer and, accordingly, it is hereby ordered, that there be acquired and constructed additions and improvements to the existing waterworks system of the Issuer consisting of a new tank and surge relief valves, with all necessary appurtenant facilities (the "Project"), particularly described in and according to the plans and specifications prepared by the Consulting Engineer and heretofore filed in the office of the Recording Officer of the Common Council (the "Governing Body") of the Issuer, and that said amounts outstanding, in connection with the System and the 1976 Bond, more particularly set forth hereinafter, be paid. The construction and acquisition of the Project and the financing hereby authorized and provided for are public purposes of the Issuer and are ordered for the purpose of meeting and serving public convenience and necessity.

C. It is necessary for the Issuer to issue its revenue bonds in the aggregate principal amount of \$487,500 to finance a portion of the cost of such construction in the manner hereinafter provided, and to pay said amounts outstanding and not yet paid.

D. The estimated maximum cost of the construction of the Project and payment of said indebtedness is \$666,000 of which \$487,500 will be obtained from the proceeds of sale of the Bond herein authorized and the balance of \$178,500 will be obtained from a grant from the Purchaser. The proceeds of the Bond shall only be applied to the following expenses, in the approximate amounts as follows:

Contracts owed and payable in connection with the System and 1976 Bond	\$163,310
Construction of Project	\$ 43,970
Engineering fees due and owing in connection with System and 1976 Bond and in connection with Project	\$ 8,605
Legal fees in connection with Project and Bond and in connection with System and 1976 Bond	\$ 9,550
Interest on 1976 Bond	\$136,000
Interest on the Bond	\$ 50,000
Miscellaneous expenses relating to System and Project	\$ 59,670

Contingency expenses	\$ 16,395
TOTAL	<u>\$487,500</u>

E. The cost of such construction shall be deemed to include, without being limited to, the construction or acquisition of the Project, the acquisition of any necessary property, real or personal, or interest therein; interest on the Bonds prior to, during and for six months after completion of such construction to the extent that revenues of the System are not sufficient therefor; engineering and legal expenses; expenses for estimates of costs and revenues; expenses for plans, specifications and surveys; and such other expenses as may be necessary or incidental to the construction of the Project and the financing authorized hereby.

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

G. There is an outstanding obligation of the Issuer which will rank on a parity with the Bond as to lien, pledge and source of and security for payment as follows:

Water Revenue Bond, Series 1976, dated June 15, 1978, originally issued in the aggregate principal amount of \$3,454,000, bearing interest at the rate of 5% per annum, the last amortizing payment due 40 years after the date thereof (the "1976 Bond").

H. The Issuer has complied with all requirements of West Virginia law relating to authorization of the construction, acquisition and operation of the Project and issuance of the Bond, or will have so complied prior to issuance of the Bond including, among other things, the obtaining of a Certificate of Convenience and Necessity from the Public Service Commission of West Virginia by final order, the time for rehearing and appeal of which have expired.

Section 1.03. Ordinance to Constitute Contract. In consideration of the acceptance of the Bond by the Purchaser, this Ordinance (the "Bond Legislation") shall be deemed to be and shall constitute a contract between the Issuer and such Bondholder, and the covenants and agreements set forth herein to be performed by the Issuer shall be for the benefit, protection and security of the Purchaser as holder of the Bond.

Section 1.04. Compliance with Requirements of 1976 Ordinance. The issuance of the Bond on a parity with the 1976 Bond

is permitted under the 1976 Ordinance, with the prior written consent of the Purchaser. Such consent, in a form meeting all requirements set forth in the 1976 Ordinance, has been obtained by the Issuer.

Section 1.05. Definitions. The following terms shall have the following meanings herein unless the text otherwise expressly requires:

"Act" means Article 19, Chapter 8 of the West Virginia Code.

"Bond" means the Water Revenue Bond, Series 1983, authorized hereby to be issued pursuant to this Ordinance.

"Bonds" means the Bond and the 1976 Bond hereinafter defined.

"1976 Bond" means The City of Shinnston Water Revenue Bond, Series 1976, dated June 15, 1978, issued in the original principal amount of \$3,454,000.

"Bond Legislation" means this Bond Ordinance and all ordinances and resolutions supplemental hereto.

"Consulting Engineer" means Hornor Brothers Engineers of Clarksburg, West Virginia, or any qualified engineer or firm of engineers which shall at any time hereafter be retained by the Issuer as Consulting Engineer for the System.

"Facilities" or "waterworks facilities" means all the tangible properties of the System and also any tangible properties which may hereafter be added to the System by additions, betterments, extensions and improvements thereto and properties, furniture, fixtures or equipment therefor, hereafter at any time constructed or acquired.

"Fiscal Year" means each year beginning on July 1 and ending on the succeeding June 30.

"Governing Body" means the City Council of the Issuer.

"Government" means United States Department of Agriculture, Farmers Home Administration, and any successor thereof.

"Herein" means in this Bond Legislation.

"Holder of the Bond" or "Bondholder" or any similar term means any person who shall be the registered owner of the Bond.

"Issuer" means The City of Shinnston, in Harrison County, West Virginia, and includes the Governing Body.

"Mayor" means the Mayor of the Issuer.

"Net Revenues" means the balance of the gross revenues, as defined below, remaining after deduction only of operating expenses, as defined below.

"Operating Expenses" means the current expenses, paid or accrued, of operation and maintenance of the System and its facilities, and includes, without limiting the generality of the foregoing, insurance premiums, salaries, wages and administrative expenses of the Issuer relating and chargeable solely to the System, the accumulation of appropriate reserves for charges not annually recurrent but which are such as may reasonably be expected to be incurred, and such other reasonable operating costs as are normally and regularly included under recognized accounting principles and retention of a sum not to exceed one-sixth of the budgeted operating expenses stated above for the current year as working capital.

"1976 Ordinance" means the ordinance of the Issuer enacted August 2, 1977, authorizing the issuance of the 1976 Bonds.

"Project" shall have the meaning stated in Section 1.02(B) above.

"Purchaser" means United States Department of Agriculture, Farmers Home Administration, and any successor thereof.

"Recording Officer" or "Recorder" means the Recorder of the Issuer.

"Registrar" means the Issuer.

"Revenues" or "Gross Revenues" means all rates, rents, fees, charges or other income received by the Issuer, or accrued to the Issuer, or any department, board, agency or instrumentality thereof in control of the management and operation of the System, from the operation of the System, and all parts thereof, all as calculated in accordance with sound accounting practices.

"System" means the complete waterworks system of the Issuer as expanded by the Project and all waterworks facilities owned by the Issuer and all facilities and other property of every nature, real or personal, now or hereafter owned, held or used in connection with the waterworks system; and shall also include any and all additions, extensions, improvements, properties or other

facilities at any time acquired or constructed for the waterworks system after completion of the Project.

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

ARTICLE II

AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND ISSUE OF BONDS

Section 2.01. Authorization of Bonds. Subject and pursuant to the provisions of this Ordinance, the Bond of the Issuer, to be known as "Water Revenue Bond, Series 1983," is hereby authorized to be issued in the aggregate principal amount of not exceeding Four Hundred Eighty-Seven Thousand Five Hundred Dollars (\$487,500) for the purpose of financing a portion of the cost of the construction and acquisition of the Project and financing the payment of the outstanding indebtedness under the terms of and related to the 1976 Bond presently due but not yet paid, as more particularly set forth hereinabove.

Section 2.02. Description of Bonds. The Bond shall be issued in single form, No. R-1, only as a fully registered Bond, and shall be dated on the date of delivery. The Bond shall be in the amount of \$487,500 and shall bear interest from date, payable monthly at the rate of five per centum (5%) per annum, and shall be sold for the par value thereof.

The Bond shall be subject to prepayment of scheduled monthly installments, or any portion thereof, at the option of the Issuer, and shall be payable as provided in the Bond form hereinafter set forth.

The Bond shall be and have all the qualities and incidents of a negotiable instrument under the laws of the State of West Virginia.

Section 2.03. Negotiability, Registration, Transfer and Exchange of Bonds. The Bond shall be and have all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia, but the Bond may only be transferred by transfer of the registration thereof upon the books required to be kept pursuant to Section 2.04 hereof, by the party in whose name it is registered, in person or by attorney duly authorized in writing, upon surrender of the Bond for cancellation, accompanied by delivery of a written instrument of transfer, duly executed in a form acceptable to the Registrar.

Whenever the Bond shall be surrendered for registration of transfer, the Issuer shall execute and deliver a new Bond in authorized denominations, for a like aggregate principal amount. The Registrar shall require the payment by the Bondholder requesting such transfer of any tax or other governmental charge required to be

paid with respect to such transfer, but the Issuer shall pay any other expenses incurred by the Registrar with respect to such transfer.

No registration of transfer of the Bond shall be permitted to be made after the 15th day next preceding any installment payment date on the Bond.

Section 2.04. Registrar. The Registrar will keep or cause to be kept at its office, sufficient books for the registration and transfer of the Bond, and, upon presentation for such purpose, the Registrar shall, under such reasonable regulations as it may prescribe, register the Bond initially issued pursuant hereto and register the transfer, or cause to be registered, on such books, the transfer of the Bond as hereinbefore provided.

The Registrar shall accept the Bond for registration or transfer only if ownership thereof is to be registered in the name of an individual (including joint ownership), a corporation, a partnership or a trust, and only upon receipt of the social security number of each individual, the federal employer identification number of each corporation or partnership or the social security numbers of the settlor and beneficiaries of each trust, and the federal employer identification number and date of each trust and the name of the trustee of each trust.

Section 2.05. Execution of Bonds. The Bond shall be executed in the name of the Issuer by its Mayor and its corporate seal shall be affixed thereto and attested by its Recording Officer.

Section 2.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case the Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may in its discretion issue and deliver a new Bond of like tenor as the Bond so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the holder's furnishing the Issuer proof of his ownership thereof and complying with such other reasonable regulations and conditions as the Issuer may require. The Bond so surrendered shall be canceled and held for the account of the Issuer. If the Bond shall have matured or be about to mature, instead of issuing a substitute Bond the Issuer may pay the same, and, if such Bond be destroyed, stolen or lost, without surrender thereof.

Section 2.07. Bonds Secured by Pledge of Revenues. The payment of the debt service of the Bond shall be secured forthwith by a first lien on the Net Revenues derived from the System, in addition to the statutory mortgage lien on the System hereinafter provided for, on a parity with the liens in favor of the holder of

the 1976 Bond. The Net Revenues derived from the System in an amount sufficient to pay the principal of and interest on the Bond, and to make the payments as hereinafter provided, are hereby irrevocably pledged to the payment of the principal of and interest on the Bond as the same become due, but on a parity with the pledge in favor of the holder of 1976 Bond.

Section 2.08. Form of Bond. Subject to the provisions hereof, the text of the Bond and the other details thereof shall be of substantially the following tenor, with such omissions, insertions and variations as may be authorized or permitted hereby or by any ordinance adopted after the date of adoption hereof and prior to the issuance thereof:

(Form of Bond)

WATER REVENUE BOND, SERIES 1983

THE CITY OF SHINNSTON

\$487,500

No. R-1

Date: _____

FOR VALUE RECEIVED, THE CITY OF SHINNSTON (herein called "Borrower") promises to pay to the order of the United States of America, acting through the Farmers Home Administration, United States Department of Agriculture (the "Government"), or its registered assigns, at its National Finance Office, St. Louis, Missouri, 63103, or at such other place as the Government may hereafter designate in writing, the principal sum of FOUR HUNDRED EIGHTY-SEVEN THOUSAND FIVE HUNDRED AND 00/100 DOLLARS (\$487,500) plus interest on the unpaid principal balance at the rate of five percent (5%) per annum. The said principal and interest shall be paid in the following installments on the following dates: Monthly installments of interest only, commencing on the 30th day following delivery of the Bond and continuing on the corresponding day of each month for the first twenty-four months after the date hereof, and, thereafter, Two Thousand Three Hundred Ninety-Four Dollars (\$2,394) covering principal and interest, on said corresponding day of each month, except that the final installment shall be paid at the end of forty (40) years from the date of this Bond in the sum of the unpaid principal and interest due on the date thereof, and except that prepayments may be made as provided hereinbelow. The consideration herefor shall support any agreement modifying the foregoing schedule of payments.

If the total amount of the loan is not advanced at the time of loan closing, the loan shall be advanced to Borrower as requested by Borrower and approved by the Government and interest shall accrue on the amount of each advance from its actual date as shown on the reverse hereof.

Every payment made on any indebtedness evidenced by this Bond shall be applied first to interest computed to the effective date of the payment and then to principal.

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of Borrower. Refunds and extra payments, as defined in the regulations of the Farmers

Home Administration according to the source of funds involved, shall, after payment of interest, be applied to the installments last to become due under this Bond and shall not affect the obligation of Borrower to pay the remaining installments as scheduled herein.

If the Government at any time assigns this Bond and insures the payment thereof, Borrower shall continue to make payments to the Government as collection agent for the holder.

While this Bond is held by an insured lender, prepayments as above authorized made by Borrower may, at the option of the Government, be remitted by the Government to the holder promptly or, except for final payment, be retained by the Government and remitted to the holder on either a calendar quarter basis or an annual installment due date basis. The effective date of every payment made by Borrower, except payments retained and remitted by the Government on an annual installment due date basis, shall be the date of the United States Treasury check by which the Government remits the payment to the holder. The effective date of any prepayment retained and remitted by the Government to the holder on an annual installment due date basis shall be the date of the prepayment by Borrower and the Government will pay the interest to which the holder is entitled accruing between the effective date of any such prepayment and the date of the Treasury check to the holder.

Any amount advanced or expended by the Government for the collection hereof or to preserve or protect any security herefor, or otherwise under the terms of any security or other instrument executed in connection with the loan evidenced hereby, at the option of the Government shall become a part of and bear interest at the same rate as the principal of the debt evidenced hereby and be immediately due and payable by Borrower to the Government without demand. Borrower agrees to use the loan evidenced hereby solely for purposes authorized by the Government.

Borrower hereby certifies that it is unable to obtain sufficient credit elsewhere to finance its actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in or near its community for loans for similar purposes and periods of time.

This Bond, together with any additional bonds ranking on a parity herewith, which may be issued and outstanding for the purpose of providing funds for financing costs of construction and acquisition of additions, extensions and improvements to the existing waterworks system (the "System") of the Borrower, is payable solely from the revenues to be derived from the operation of the System after there have been first paid from such revenues the reasonable

current costs of operation and maintenance of the System. This Bond does not in any manner constitute an indebtedness of the Borrower within the meaning of any constitutional or statutory provision or limitation.

Registration of this Bond is transferable by the registered owner hereof in person or by his, her or its attorney duly authorized in writing, at said office of the Registrar, as defined in the Ordinance, herein described, but only in the manner, subject to the limitations and upon payment of the charges, if any, provided in the Ordinance, and upon surrender and cancellation of this Bond. Upon such transfer a new Bond or Bonds, of authorized denomination or denominations, for the like principal amount, will be issued to the transferee in exchange herefor.

This Bond, under the provisions 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, but may only be transferred by transfer of registration hereof with the Registrar.

This Bond has been issued under and in full compliance with the Constitution and statutes of the State of West Virginia, including, among others, Article 19 of Chapter 8 of the West Virginia Code and with an Ordinance of the Borrower duly enacted.

If at any time it shall appear to the Government that Borrower may be able to obtain a loan from a responsible cooperative or private credit source at reasonable rates and terms for loans for similar purposes and periods of time, Borrower will, at the Government's request, apply for and accept such loan in sufficient amount to repay the Government.

This Bond is given as evidence of a loan to Borrower made or insured by the Government pursuant to the Consolidated Farmers Home Rural Development Act. This Bond shall be subject to the present regulations of the Farmers Home Administration and to its future regulations not inconsistent with the express provisions hereof.

(Form of)

RECORD OF ADVANCES

AMOUNT	DATE	AMOUNT	DATE
(1) \$		(6) \$	
(2) \$		(7) \$	
(3) \$		(8) \$	
(4) \$		(9) \$	
(5) \$		(10) \$	
		TOTAL	\$ _____

(Form of)

ASSIGNMENT

Pay to the Order of _____

UNITED STATES OF AMERICA
FARMERS HOME ADMINISTRATION

By _____

(Title)

(No writing on this Bond except by the Registrar)

Date of Registration	In Whose Name Registered	Signature of Registrar
_____	_____	_____
_____	_____	_____
_____	_____	_____

ARTICLE III

BOND PROCEEDS; REVENUES AND APPLICATION THEREOF

Section 3.01. Bond Proceeds; Project Construction Account. The proceeds of sale of the Bond, shall be deposited on receipt by the Issuer in First Bank of Shinnston, formerly Bank of Shinnston, Shinnston, West Virginia, a member of Federal Deposit Insurance Corporation ("FDIC"), in a special account hereby created and designated as "The City of Shinnston Project Construction Account" (herein called the "Project Construction Account"). The moneys in the Project Construction Account in excess of the amount insured by FDIC shall be secured at all times by such bank by securities or in a manner lawful for the securing of deposits of State and municipal funds under West Virginia law. Moneys in the Project Construction Account shall be expended by the Issuer solely for the purposes provided herein.

Until completion of construction of the Project, the Issuer will transfer from the Project Construction Account and pay to the Purchaser on or before the due date thereof, such sums as shall be from time to time required to make the monthly installments on the Bonds if there are not sufficient Net Revenues to make such monthly payment.

Moneys in the Project Construction Account shall be used solely for payment of the cost of acquisition and construction of the Project, upon vouchers and other documentation approved by the Purchaser, and for payment of all outstanding indebtedness set forth in Section 1.02 hereof.

If the Issuer shall determine at any time that all funds on deposit in the Project Construction Account exceed the estimated disbursements on account of the Project and said other expenses for the ensuing 90 days, the Issuer may invest such excess funds in direct obligations of, or obligations the principal of and interest on which are guaranteed by, the United States of America ("Federal Obligations"), which shall mature not later than eighteen months after the date of such investment, or in certificates of deposit or other securities or investments secured by a pledge of Federal Obligations. All such investments and the income therefrom shall be carried to the credit of the Project Construction Account.

When construction of the Project has been completed and all costs thereof and herein provided for have been paid or provision for such payment has been made, any balance remaining in the Project Construction Account shall be disposed of in accordance with the regulations of the Purchaser.

Section 3.02. Covenants of the Issuer as to Revenues and Funds. So long as the Bonds shall be outstanding and unpaid, or until there shall have been set apart in the Reserve Fund herein-after established a sum sufficient to pay, when due or at the earliest practical prepayment date, the entire principal of the Bonds remaining unpaid, together with interest accrued and to accrue thereon, the Issuer further covenants with the holder of the Bonds as follows:

A. REVENUE FUND. The entire Gross Revenues derived from the operation of the System, and all parts thereof, and all tap fees received, except as otherwise provided, shall be deposited as collected by the Issuer in a special fund in a bank or trust company in the State of West Virginia which is a member of FDIC, which fund known as the "Revenue Fund" was initially established with the Bank set forth in Section 3.01 by the 1976 Ordinance and is continued hereby. The Revenue Fund shall constitute a trust fund for the purposes provided herein and in the 1976 Ordinance and shall be kept separate and distinct from all other funds of the Issuer and used only for the purposes and in the manner provided herein.

B. DISPOSITION OF REVENUES. All revenues at any time on deposit in the Revenue Fund shall be disposed of only in the following order and priority:

(1) The Issuer shall first, each month, pay from the moneys in the Revenue Fund the costs of operating and maintaining the System for the current month.

(2) The Issuer shall next, each month, on or before the due date thereof, transfer from the Revenue Fund and pay to the National Finance Office (the "Sinking Fund") designated in the Bonds the amounts required to pay the interest on the Bonds, and to amortize the principal of the Bonds over the life of each Bond issue.

(3) The Issuer shall next, each month, transfer from the Revenue Fund and deposit with the said Bank in the Reserve Account established by the 1976 Ordinance and continued hereby, one-twelfth of one-tenth of the maximum annual aggregate amount of interest and principal which will fall due on the Bonds until the amount in the Reserve Account equals the sum of \$232,245 (such sum being herein called the "Reserve Requirement"). After the Reserve Requirement has been accumulated in the Reserve Account, the Issuer shall monthly deposit into the Reserve Account such part of the moneys remaining in the Revenue Fund, after such provision for payment of monthly installments on the Bonds, and for payment of operating expenses of the

System, as shall be required to maintain the Reserve Requirement in the Reserve Account. Moneys in the Reserve Account shall be used solely to make up any deficiency for monthly payments of the principal of and interest on the Bonds as the same shall become due or for prepayment of installments or for mandatory prepayment of the Bonds, as hereinafter provided, and for no other purpose.

(4) The Issuer shall next, each month, transfer from the Revenue Fund and deposit in the Depreciation Reserve established by the 1976 Ordinance with said Bank and continued hereby, the sum of \$1,445, until there has been accumulated the aggregate sum of \$173,300, and thereafter such sums as shall be required to maintain such amount therein. Moneys in the Depreciation Reserve shall be used first to make up any deficiencies for monthly payments of principal of and interest on the Bonds as the same become due, and next to restore to the Reserve Account any sum or sums transferred therefrom to the Sinking Fund. Thereafter, and provided that payments into the Sinking Fund and Reserve Account are current and in accordance with the foregoing provisions, moneys in the Depreciation Reserve may be withdrawn by the Issuer and used for extraordinary repairs and for replacements of equipment and improvements for the System, or any part thereof.

(5) After all the foregoing provisions for use of moneys in the Revenue Fund have been fully complied with, any moneys remaining therein and not permitted to be retained therein may be used to prepay installments of the Bonds ratably or for any lawful purpose in connection with the System, the Recording Officer to handle prepayment of Bonds upon written instructions of the Governing Body.

Whenever the moneys in the Reserve Fund shall be sufficient to prepay the Bonds outstanding in full, it shall be the mandatory duty of the Issuer, anything to the contrary herein notwithstanding, to direct the Recording Officer to arrange payment of the outstanding Bonds at the earliest practical date and in accordance with applicable provisions hereof any such purchase to be at a price or prices not exceeding the then market price of the Bonds so purchased, but in no event exceeding the then redemption price of the Bonds, as to Bonds subject to redemption, and not exceeding the par value of the Bonds not subject to redemption but available for purchase or repayment.

The aforesaid Bank (and any successor appointed by the Issuer) is hereby designated as the Fiscal Agent for the administration of the Revenue Fund, the Reserve Account and the Depreciation

Reserve as herein provided, and all amounts required therefor will be deposited therein by the Issuer upon transfers of funds from the Revenue Fund at the times provided herein, together with written advice stating the amount remitted for deposit into each such Fund.

All the funds provided for in this Section shall constitute trust funds and shall be used only for the purposes and in the order provided herein, and until so used, the Purchaser shall have a lien thereon for further securing payment of the Bonds and the interest thereon, but the aforesaid Bank shall not be a trustee as to such funds but merely a depository. The moneys in excess of the sum insured by FDIC in any of such funds shall at all times be secured, to the full extent thereof in excess of such insured sum, in a manner lawful for securing deposits of State and municipal funds under the laws of the State of West Virginia.

If on any payment date the revenues are insufficient to make the payments and transfers as hereinabove provided, the deficiency shall be made up in the subsequent payments and transfers in addition to those which would otherwise be required to be made on the subsequent payment dates.

The Fiscal Agent shall keep the moneys in the Reserve Account and the Depreciation Reserve invested and reinvested to the fullest extent practicable in direct obligations of, or obligations the payment of the principal of and interest on which are guaranteed by, the United States of America and having maturities not exceeding two years. Earnings upon moneys in the Reserve Account, so long as the Reserve Requirement is on deposit and maintained therein, shall be paid annually in July into the Revenue Fund by the Fiscal Agent.

C. CHANGE OF FISCAL AGENT. The Issuer may designate another bank insured by FDIC as Fiscal Agent if the aforesaid Bank should cease for any reason to serve or if the Governing Body determines by Ordinance that said Bank or its successor should no longer serve as Fiscal Agent. Upon any such change, the Governing Body will cause notice of the change to be sent by registered or certified mail to the Purchaser.

D. USER CONTRACTS. The Issuer will have, prior to delivery of the Bond, bona fide full time users to be served by the System when the Project is completed and placed in operation, as required for full compliance with the terms and conditions of the Purchaser.

ARTICLE IV

GENERAL COVENANTS

Section 4.01. General Statement. So long as the Bond shall be outstanding and unpaid, or until there shall have been set apart in the Reserve Account a sum sufficient to prepay the entire principal of the Bond remaining unpaid, together with interest accrued and to accrue thereon to the date of prepayment, the covenants and agreements contained herein shall be and constitute valid and legally binding covenants between the Issuer and the Purchaser.

Section 4.02. Rates. The Issuer will, in the manner provided in the Act, fix and collect such rates, fees or other charges for the services and facilities of the System, and revise the same from time to time whenever necessary, as will always provide revenues in each fiscal year sufficient to produce net revenues equal to not less than 110% of the annual debt service on the Bonds and to make the payments required herein into the Reserve Account and the Depreciation Reserve and all the necessary expenses of operating and maintaining the System during such fiscal year and such rates, fees and other charges shall not be reduced so as to be insufficient to provide adequate revenues for such purposes.

Section 4.03. Sale of the System. The System will not be sold without the prior written consent of the Purchaser so long as the Bond is outstanding. Such consent will provide for disposition of the proceeds of any such sale.

Section 4.04. Issuance of Additional Parity Bonds. No additional parity bonds payable out of the revenues of the System shall be issued after the issuance of the Bond pursuant hereto except with the prior written consent of the Purchaser.

Section 4.05. Insurance and Bonds. The Issuer hereby covenants and agrees that it will, as an expense of construction, operation and maintenance of the System, procure, carry and maintain, so long as the Bond remains outstanding, insurance with a reputable insurance carrier or carriers covering the following risks and in the following amounts:

(a) Fire, Lightning, Vandalism, Malicious Mischief and Extended Coverage Insurance, to be procured upon acceptance of any part of the Project from the contractor, and immediately upon any portion of the System now in use, on all above-ground structures of the System in an amount equal to the actual cost thereof. In the

event of any damage to or destruction of any portion of the System, the Issuer will promptly arrange for the application of the insurance proceeds for the repair or reconstruction of such damaged or destroyed portion. The Issuer will itself, or will require each contractor and subcontractor to obtain and maintain builder's risk insurance to protect the interests of the Issuer during construction of the Project in the full insurable value thereof.

(b) Public Liability Insurance, with limits of not less than \$500,000 for one or more persons injured or killed in one accident to protect the Issuer from claims for bodily injury and/or death, and not less than \$200,000 to protect the Issuer from claims for damage to property of others which may arise from the operation of the System, such insurance to be procured not later than the date of delivery of the Bond.

(c) Vehicular Public Liability Insurance, in the event the Issuer owns or operates any vehicle in the operation of the System, or in the event that any vehicle not owned by the Issuer is operated at any time or times for the benefit of the Issuer, with limits of not less than \$500,000 for one or more persons injured or killed in one accident to protect the Issuer from claims for bodily injury and/or death, and not less than \$200,000 to protect the Issuer from claims for damage to property of others which may arise from such operation of vehicles, such insurance to be procured prior to acquisition or commencement of operation of any such vehicle for the Issuer.

(d) Workmen's Compensation Coverage for All Employees of the District Eligible Therefor and Performance and Payment Bonds, such bonds to be in the amounts of 100% of the construction contract, will be required of each prime contractor, and such payment bonds will be filed with the Clerk of the County Commission of said County prior to commencement of construction of the Project in compliance with West Virginia Code Section 38-2-39.

(e) Fidelity Bonds will be provided as to every member of the Governing Body and as to every officer and employee thereof having custody of the Revenue Fund or of any revenues or other funds of the Issuer in an amount at least equal to the total funds in the custody of any such person at any one time, and initially in the amount of \$10,000 upon the treasurer, provided, however, that no bond shall be required insofar as custody of the Project Construction Account is concerned so long as checks thereon require the signature of a representative of the Purchaser.

(f) Provided, however, and in lieu of and notwithstanding the foregoing provisions of this Section, during construction of the Project and so long as the Bonds are outstanding, the Issuer will carry insurance and bonds or cause insurance and bonds to be carried for the protection of the Issuer, and during such construction will require each contractor and subcontractor to carry insurance, of such types and in such amounts as the Purchaser may specify, with insurance carriers or bonding companies acceptable to the Purchaser.

Section 4.06. Statutory Mortgage. For the further protection of the holder of the Bond, 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 and shall take effect as to the Bond immediately upon delivery and on a parity with the 1976 Bond.

Section 4.07. Events of Default. Each of the following events is hereby declared an "Event of Default":

(A) Failure to make payment of any monthly amortization installment upon the Bond at the date specified for payment thereof;

(B) Failure duly and punctually to observe or perform any of the covenants, conditions and agreements on the part of the Issuer contained in the Bond or herein, or violation of or failure to observe any provision of any pertinent law.

Section 4.08. Enforcement. Upon the happening of any Event of Default specified above, then, and in every such case, the

Purchaser may proceed to protect and enforce its rights by an appropriate action in any court of competent jurisdiction, either for the specific performance of any covenant or agreement, or execution of any power, or for the enforcement of any proper legal or equitable remedy as shall be deemed most effectual to protect and enforce such rights.

Upon application by the Purchaser, such court may, upon proof of such default appoint a receiver for the affairs of the Issuer and the System. The receiver so appointed shall administer the System on behalf of the Issuer, shall exercise all the rights and powers of the Issuer with respect to the System, shall proceed under the direction of the court to obtain authorization to increase rates and charges of the System, and shall have the power to collect and receive all revenues and apply the same in such manner as the court may direct.

Section 4.09. Fiscal Year; Budget. While the Bonds are outstanding and unpaid and to the extent not now prohibited by law, the System shall be operated and maintained on a fiscal year basis commencing on July 1 of each year and ending on the following June 30, which period shall also constitute the budget year for the operation and maintenance of the System. Not later than thirty days prior to the beginning of each fiscal year, the Issuer agrees to adopt the Annual Budget for the ensuing year, and no expenditures for operation and maintenance expenses of the System in excess of the Annual Budget shall be made during such fiscal year unless unanimously authorized and directed by the Governing Body. Copies of each Annual Budget shall be delivered to the Purchaser by the beginning of each fiscal year.

If for any reason the Issuer shall not have adopted the Annual Budget before the first day of any fiscal year, it shall adopt a Budget of Current Expenses from month to month until the adoption of the Annual Budget; provided, however, that no such monthly budget shall exceed the budget for the corresponding month in the next year preceding by more than ten per centum; and provided further, that adoption of a Budget of Current Expenses shall not constitute compliance with the covenant to adopt an Annual Budget unless failure to adopt an Annual Budget be for a reason beyond the control of the Issuer. Each such Budget of Current Expenses shall be mailed immediately to the Purchaser.

Section 4.10. Covenant to Proceed and Complete. The Issuer hereby covenants to proceed as promptly as possible with the construction of the Project to completion thereof in accordance with the plans and specifications prepared by the Consulting Engineer and on file with the Recording Officer on the date of adoption hereof, subject to permitted changes.

Section 4.11. Books and Records. The Issuer will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Issuer, in which complete and correct entries shall be made of all transactions relating to the System, and the Purchaser shall have the right at all reasonable times to inspect the System and all records, accounts and data of the Issuer relating thereto.

The Issuer shall, at least once a year, cause said books, records and accounts of the System to be properly audited by an independent competent firm of certified public accountants and shall mail a copy of such audit report to the Purchaser.

Section 4.12. Maintenance of System. The Issuer covenants that it will continuously operate, in an economical and efficient manner, and maintain the System as a revenue-producing utility as herein provided so long as the Bonds are outstanding.

Section 4.13. No Competition. The Issuer will not permit competition with the System within its boundaries or within the territory served by it and will not grant or cause, consent to or allow the granting of any franchise, permit or other authorization for any person, firm, corporation, public or private body, agency or instrumentality whatsoever to provide any of the services supplied by the System within the boundaries of the Issuer or within the territory served by the System.

Section 4.14. Concerning Arbitrage. The proceeds of sale of the Bonds will not be invested in such a way as to violate the regulations of the Internal Revenue Service or of the Treasury Department of the United States of America in connection with the arbitrage provisions of Section 103(c) of the Internal Revenue Code of 1954, as amended.

ARTICLE V

RATES, ETC.

Section 5.01. Initial Schedule of Rates and Charges; Rules. A. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth in Final Order of the Public Service Commission of the State of West Virginia dated July 13, 1983, in Case No. 83-114-W-MA.

B. All delinquent fees, rates and charges for services or facilities of the System shall be liens on the premises served of equal degree, rank and priority with the lien on such premises of state, county, school and municipal taxes, as provided in the Act. When such fees, rates and charges have been delinquent for thirty days, the Issuer shall have power pursuant to the Act forthwith to foreclose the lien on the premises served in the same manner provided by the laws of the State of West Virginia for the foreclosure of mortgages on real property.

C. The Issuer will not render or cause to be rendered any free services of any nature by the System nor any of the facilities; and in the event that the Issuer or any department, agency, officer or employee thereof should avail itself or themselves of the services or facilities of the System, the same fees, rates and charges applicable to other customers receiving like services under similar circumstances shall be charged, such charges shall be paid as they accrue, and revenues so received shall be deposited and accounted for in the same manner as other revenues of the System.

D. The Issuer may require any applicant for any service by the System to deposit a reasonable and equitable amount to insure payment of all charges for the services rendered by the System, which deposit shall be handled and disposed of under the applicable rules and regulations of the Public Service Commission of West Virginia.

E. The Issuer, to the extent permitted by law, will not accept payment of any water bill from a customer served with water and sewer services by the Issuer without payment at the same time of a sewer bill owed by such customer for the same premises.

ARTICLE VI

MISCELLANEOUS

Section 6.01. Modification or Amendment. The Bond Legislation may not be modified or amended after final passage without the prior written consent of the Purchaser.

Section 6.02. Delivery of Bond No. R-1. The Mayor and Recorder are hereby authorized and directed to cause Bond No. R-1, hereby awarded to the Purchaser pursuant to prior agreement, to be delivered to the Purchaser as soon as the Purchaser will accept such delivery.

Section 6.03. Defeasance. This Ordinance and the covenants herein may be defeased only upon prior written consent of the Purchaser or by payment in full of the Bond, acceptance of such payment by the Purchaser and cancellation of the Bond.

Section 6.04. Severability of Invalid Provisions. If any one or more of the covenants, agreements or provisions hereof should be held contrary to any express provision of law or contrary to the policy of express law, although not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements or provisions hereof, and shall in no way affect the validity of all the other provisions hereof or the Bond.

Section 6.05. 1976 Ordinance; Conflicting Provisions Repealed. The 1976 Ordinance and all parts thereof not expressly hereby changed shall continue in full force and effect, and this Ordinance shall be supplemental to the 1976 Ordinance. All provisions of the 1976 Ordinance changed hereby or inconsistent herewith shall be null and void.

Section 6.06. Table of Contents and Headings. The Table of Contents and headings of the articles, sections and subsections hereof are for convenience only and shall neither control nor affect in any way the meaning or construction of any of the provisions hereof.

Section 6.07. Effective Time. This Bond Legislation shall take effect following public hearing and final reading in accordance with the Act.

Section 6.08. Statutory Notice and Public Hearing. Upon adoption hereof, an abstract of this Bond Legislation determined by

the Governing Body to contain sufficient information as to give notice of the contents hereof shall be published once a week for two successive weeks within a period of fourteen consecutive days, with at least six full days intervening between each publication, in the Clarksburg Telegram, a qualified newspaper published in the City of Shinnston, together with a notice stating that this Bond Legislation has been adopted and that the Issuer contemplates the issuance of the Bond, and that any person interested may appear before the City Council upon a date certain, not less than ten days subsequent to the date of the first publication of this Bond Legislation and notice, and present protests, and that a certified copy of the Ordinance is on file with the Governing Body for review by interested persons during office hours of the Governing Body. At such hearing, all objections and suggestions shall be heard and the Governing Body shall take such action as it shall deem proper in the premises.

Passed on First Reading - August 17, 1983

Passed on Second and
Final Reading Following
Public Hearing - August 31, 1983

Thomas J. Aragona
Mayor

Rosalie H. Dolan
Recorder

08/31/83
SHINN1-G





United States Department of Agriculture
Rural Development
West Virginia State Office

November 17, 2005

City of Shinnston
Water Revenue Bonds, Series 2005 A
(United States Department of Agriculture)

TO WHOM IT MAY CONCERN:

The undersigned STATE DIRECTOR of the United States Department of Agriculture, Rural Utilities Service, the present holder of the outstanding Prior Bonds, hereinafter described, (i) hereby consents to the issuance of the Water Revenue Bonds, Series 2005 A (the "Bonds"), by the City of Shinnston (the "Issuer"), in the original aggregate principal amount of \$4,792,000, under the terms of the ordinance authorizing the Bonds (the "Series 2005 A Bond Ordinance"), on a parity as to liens, pledge and source of and security for payment, and in all respects, with the Issuer's Water Revenue Bond, Series 1983, dated September 1, 1983, issued in the original aggregate principal amount of \$487,500, and Water Revenue Bond, Series 1976, dated June 15, 1978, originally issued in the aggregate principal amount of \$3,454,000 (the "Prior Bonds"); (ii) hereby waives any requirements imposed by the Prior Bonds and the ordinances authorizing the Prior Bonds (the "Prior Ordinance"), regarding the issuance of parity bonds which are not met by the Bonds and the Series 2005 A Bond Ordinance; and (iii) hereby consents to any amendments made to the Prior Ordinance by the Series 2005 A Bond Ordinance.

UNITED STATES DEPARTMENT OF
AGRICULTURE – RURAL DEVELOPMENT

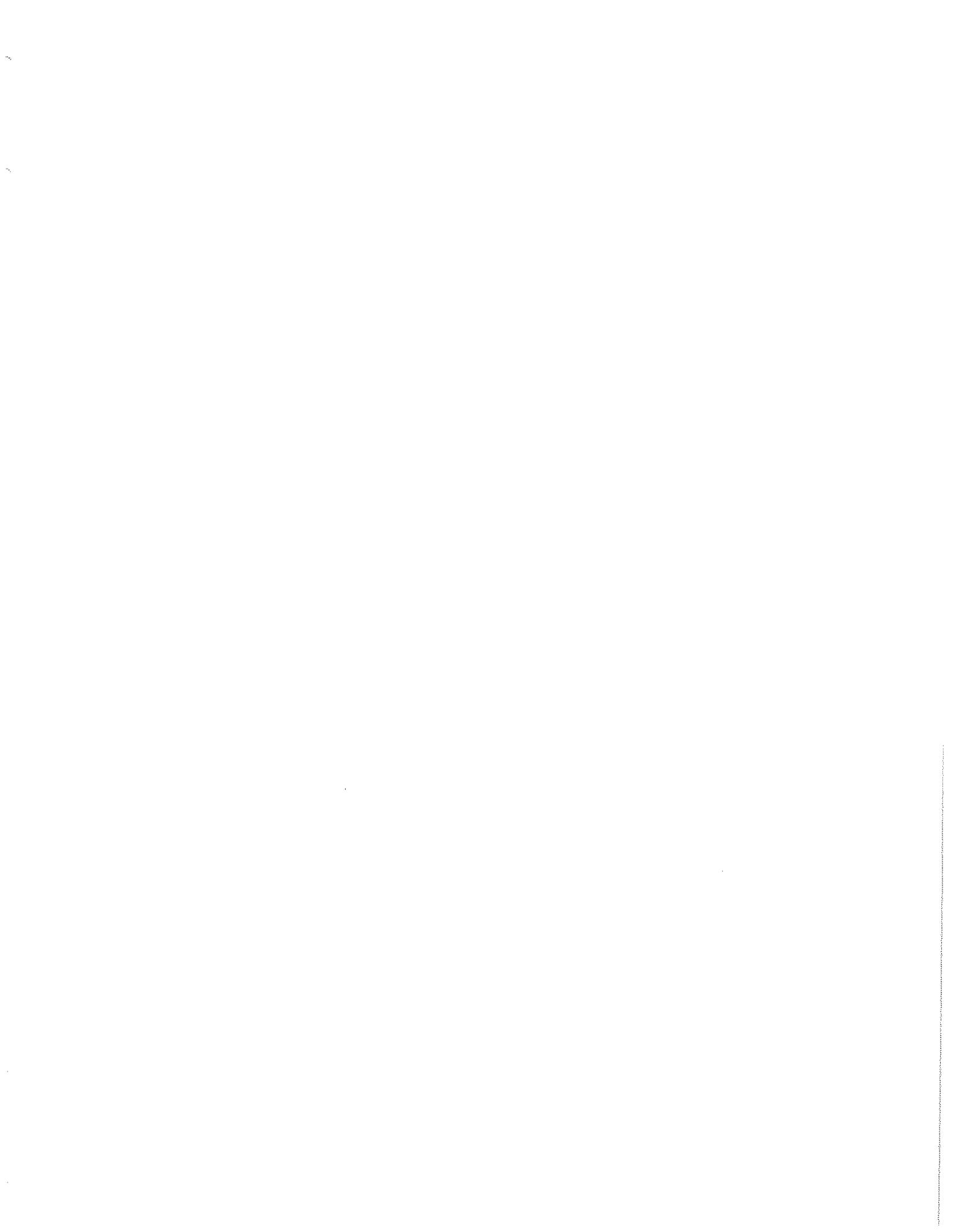
A handwritten signature in black ink, consisting of a series of loops and flourishes, positioned above a horizontal line.

State Director

75 High Street Federal Building • Suite 320 • Morgantown, WV 26505-7500
Phone: (304) 284-4860 • Fax: (304) 284-4893 • TDD: (304) 284-4836 • Web: <http://www.rurdev.usda.gov/wv>

Committed to the future of rural communities.

"USDA is an equal opportunity provider, employer and lender."
To file a complaint of discrimination write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W.,
Washington, DC 20250-9410 or call (800) 795-3272 (voice) or (202) 720-6382 (TDD).



PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

041549alj031005.wpd

Entered: March 10, 2005

CASE NO. 04-1549-W-CN

CITY OF SHINNSTON

Application for a certificate of convenience and necessity to upgrade to provide improvements in the existing deteriorated potable water system, etc.

FINAL

3-30-05

RECOMMENDED DECISION

On September 20, 2004, the City of Shinnston (City or Applicant) filed an application, duly verified, for a certificate to construct certain additions and improvements to its existing potable water system in Harrison and Marion Counties. The City estimated that construction would cost approximately \$5,442,000.00 and proposed that it be financed by a USDA Rural Development (RUS) loan in the amount of \$4,792,000.00 and an RUS grant in the amount of \$650,000.00. The City of Shinnston advised that its resale customers include Bingamon Public Service District, the Town of Worthington, Hutchinson Water Association and Tri-County Water Association.

By Order entered September 20, 2004, the City of Shinnston was directed to provide notice of the filing of the application, by publishing a copy of the September 20, 2004 Order once in newspapers, duly qualified by the Secretary of State, published and of general circulation in Harrison and Marion Counties, making due return to the Commission of proper certification of publication immediately after publication. The notice of filing provided notice to individuals that they could protest or intervene by filing a written protest or notice of intervention within 30 days following the date of the publication unless otherwise modified by Commission Order. All protests and motions to intervene were to briefly state the reason for the protest or intervention. The Notice provided that, if no protests were received within the 30-day protest period, the Commission may waive formal hearing and grant the application based upon its review of the evidence submitted with the application and by Commission Staff.

On October 22, 2004, Staff filed its Initial Joint Staff Memorandum indicating that Staff had identified certain deficiencies regarding the filing of the application. Staff requested that the information be filed by the City as soon as it becomes available. Staff reminded the Applicant that the Commission's decision due date in the proceeding was controlled by statute and that failure to timely file the requested information may result in the recommendation that the case be dismissed

for failure to timely prosecute the application before the Commission. Staff recommended that the case be referred to the Division of Administrative Law Judges for further disposition.

On October 22, 2004, Staff filed its First Set of Interrogatories, Data Requests or Requests for Information from the City of Shinnston.

By Order entered November 4, 2004, this matter was referred to the Division of Administrative Law Judges for a decision to be rendered on or before April 18, 2005.

On November 12, 2004, the City of Shinnston filed additional information regarding its certificate application in response to Staff's letter request.

By Procedural Order issued December 22, 2004, the Applicant was notified that it may not have accomplished all of the Commission's notice requirements relating to this application and that the actions of any protestants or intervenors in this matter may cause this application to be delayed or dismissed. The City of Shinnston was directed to file, no later than January 5, 2005, its affidavits of publication indicating that the Notice of Filing, provided to the Applicant, was published in each of the counties of Marion and Harrison and to verify its compliance with all of the Commission's notice requirements. Staff was directed to file its substantive recommendation in this matter no later than January 10, 2005. The Order further provided that any responses to Staff's substantive recommendation be filed no later than January 20, 2005. Any settlement in this matter was directed to be filed no later than January 26, 2005, for the Administrative Law Judge's review.

On December 30, 2004, Staff filed its Final Joint Staff Memorandum recommending that the application for a certificate of convenience and necessity be approved. Staff believes the City has shown that the project is necessary, as evidenced by the Bureau of Public Health inspection and annual reports. Staff believes the project is convenient because it is a suitable action to mitigate existing water problems experienced by the City. Staff advised that the plans and specifications submitted by the City are in general conformance with the Commission's rules and regulations. Staff recommended approval of the project funding, consisting of an RUS loan in the amount of \$4,792,000 at 4.25% for 40 years and an RUS grant in the amount of \$650,000. Staff believes that the City should notify the Commission and request that the filing be reopened in the event there is any change in the plans, scope or financing for the project and request approval for any necessary project revisions if bids should exceed the estimated construction costs approved in this filing. The City should be required to submit a copy of the certificate of substantial completion when said certificate is available and file a copy of the engineer's certified tabulation of bids, within ten days of the bid opening date, for each construction contract or vendor bid contract to be awarded for the project.

On January 13, 2005, the City advised that it was in receipt of Staff's Final Joint Staff Memorandum and concurs with its recommendation. The City noted that Staff's Current Tariff does not contain the

Commission-authorized reconnection fee and security deposit which were changed in Case NO. 04-0236-W-MA.

On February 1, 2005, the City filed two affidavits of publication indicating that its Notice of Filing was published on January 19, 2005, in the Times West Virginian, a newspaper of general circulation in Marion County, and on January 17, 2005, in The Exponent-Telegram, a newspaper of general circulation in Harrison County. The City also provided four certified mail return receipts evidencing service of the Notice of Filing upon the City's four resale customers

On February 18, 2005, the City advised that it has successfully completed its notice requirements for this application and it requested that the certificate of convenience and necessity be granted, without a hearing.

On February 23, 2005, the City filed a copy of the permit issued by the Office of Environmental Health Services, Permit No. 16,404, for improvements to the City's water system

On March 2, 2005, legal counsel for the City advised the Commission of his new mailing address.

Upon consideration of all of the above, the Administrative Law Judge is of the opinion that the application should be approved, along with the proposed financing. The City has already enacted rates which Staff believes will support this project.

FINDINGS OF FACT

1. On September 20, 2004, the City of Shinnston filed an application, duly verified, for a certificate to construct certain additions and improvements to its existing potable water system in Harrison and Marion Counties. The City of Shinnston advised that its resale customers include Bingamon Public Service District, the Town of Worthington, Hutchinson Water Association and Tri-County Water Association. (See, application).

2. The City's Notice of Filing was published on January 19, 2005, in the Times West Virginian, a newspaper of general circulation in Marion County, and on January 17, 2005, in The Exponent-Telegram, a newspaper of general circulation in Harrison County. The City also provided four certified mail return receipts evidencing service of the Notice of Filing upon the City's four resale customers, prior to February 1, 2005. The protest period has expired, without protests having been filed. (See, affidavits of publication).

3. Many components of the City's water system are very old and deteriorated and either do not function adequately or at all. The City has 35% unaccounted-for water, whereas the Commission's maximum permitted unaccounted-for water level is 15%. A 2002 Bureau of Public Health inspection found numerous violations and deficiencies in the City's system. Further, there are formal complaints pending against the City at the Commission alleging dirty water which stains clothing and appliances.

Staff believes the source of the dirty water is the corrosion from the City's existing water lines. (See, Final Joint Staff Memorandum filed December 30, 2004).

4. The Office of Environmental Health Services issued Permit No. 16,404 to the City of Shinnston to upgrade the City of Shinnston's water system, which confirms the need for the project. (See, Permit filed February 23, 2005).

5. The project will cost \$5,442,000.00 and will be financed by a USDA Rural Development loan in the amount of \$4,792,000.00 at a 4.25% interest rate for a period not to exceed 40 years and an RUS grant in the amount of \$650,000.00. (See, Application; Final Joint Staff Memorandum filed on December 30, 2004).

6. The project will not increase the City's rates inasmuch as the rates necessary for this project were approved by the Commission in Case No. 04-0236-W-MA. (See, Application; Final Joint Staff Memorandum filed on December 30, 2004; City's January 13, 2005 correspondence).

7. Staff recommended that the City's application for a certificate of convenience and necessity be approved, subject to the receipt of all outstanding permits, inasmuch as the City has shown that the project is necessary and convenient. Staff advised that the plans and specifications submitted by the City are in general conformance with the Commission's rules and regulations. Staff recommended approval of the project funding, consisting of an RUS loan in the amount of \$4,792,000 at 4.25% for 40 years and an RUS grant in the amount of \$650,000. (See, Final Joint Staff Memorandum filed December 30, 2004).

8. Staff noted that the proposed rates for this project were approved in Case No. 04-0236-W-MA and are sufficient to cover the additional debt service requirements for the proposed project. The adopted rate increase is to go into effect upon substantial completion of the project and will increase operating revenues by \$287,312, making the project economically feasible. (See, Final Joint Staff Memorandum filed December 30, 2004).

9. Staff recommended that the City be required to notify the Commission and request that the filing be reopened in the event there is any change in the plans, scope or financing for the project; request approval for any necessary project revisions if bids exceed the estimated construction costs approved in this filing; file a copy of the engineer's certified tabulation of bids, within ten days of the bid opening date, for each construction contract or vendor bid contract to be awarded for the project; submit a copy of the certificate of substantial completion of the project when said certificate is available; and maintain its complaint records in accordance with the Commission's Rules and Regulations for the Government of Water Utilities. (See, Final Joint Staff Memorandum filed on December 30, 2004).

10. The City filed a letter with the Commission stating that it concurs with the recommendations contained in Staff's Final Joint Staff Memorandum filed on December 30, 2004. (See, City's January 13, 2005 correspondence).

CONCLUSIONS OF LAW

1. The public convenience and necessity require the proposed project.
2. The project is adequately financed and economically feasible.
3. It is reasonable to grant the certificate application, contingent upon receipt of all outstanding permits; approve the financing consisting of an RUS loan in the amount of \$4,792,000 at 4.25% for 40 years and an RUS grant in the amount of \$650,000; require the City to obtain Commission approval should the scope or financing of the project change; require the City to file 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 bid contract to be awarded for this project; require the submission of a certificate of substantial completion from the City's engineer as soon as it becomes available; and require the City to maintain its complaint records in accordance with the Commission's Rules and Regulations for the Government of Water Utilities.

ORDER

IT IS, THEREFORE, ORDERED that the application filed by the City of Shinnston on September 20, 2004, for a certificate of convenience and necessity to replace, renovate and upgrade deteriorated components of the existing potable water system in Harrison and Marion Counties, be, and hereby is, granted, subject to the receipt of all necessary permits.

IT IS FURTHER ORDERED that the proposed financing, consisting of a USDA Rural Development loan in the amount of \$4,792,000.00 at a 4.25% interest rate for a period not to exceed 40 years and an RUS grant in the amount of \$650,000.00, be, and hereby is, approved.

IT IS FURTHER ORDERED that the City of Shinnston be, and hereby is, directed to maintain its complaint records in accordance with the Commission's Rules and Regulations for the Government of Water Utilities.

IT IS FURTHER ORDERED that the City of Shinnston be, and hereby is, directed to submit a certificate of substantial completion for the project from its engineer as soon as it becomes available.

IT IS FURTHER ORDERED that the City of Shinnston be, and hereby is, directed to file 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 bid contract awarded for this project.

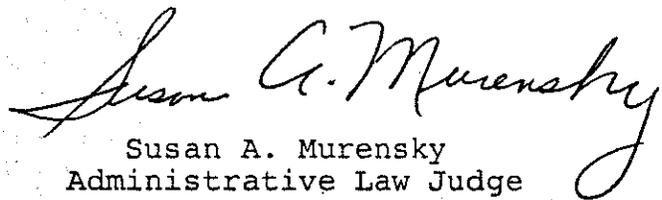
IT IS FURTHER ORDERED that, if there are any changes to the scope, plans or financing of the project, the District obtain Commission approval of such changes prior to commencing construction.

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.


Susan A. Murensky
Administrative Law Judge

SAM:s
041549aa.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 2nd day of November, 2005.

CASE NO. 04-1549-W-CN

CITY OF SHINNSTON

Application for a certificate of convenience and necessity to upgrade to provide improvements in the existing deteriorated potable water system, etc.

COMMISSION ORDER

By Recommended Decision issued March 10, 2005, which became a final order of the Commission on March 30, 2005, the Commission granted the City of Shinnston a certificate of convenience and necessity to construct certain additions and improvements to its existing potable water system in Harrison and Marion Counties. The estimated project costs were \$5,442,000.00 to be financed by a USDA Rural Development (RUS) loan in the amount of \$4,792,000.00 and an RUS grant in the amount of \$650,000.00.

The Order required the City to petition to reopen this case in the event of any change in the plans, scope or financing for the project and request approval for any necessary project revisions if bids should exceed the estimated construction costs approved in this filing.

On October 19, 2005, the City filed a petition to reopen and for expedited treatment. The cover letter to the City's petition noted that it planned a loan closing on October 24, 2005. The petition noted that the City received bids for the project in July 2005, and that all bids exceeded the funding. After inquiring of USDA if additional funds might be available, and learning that they would not, the City decided to reduce the scope of the project to keep it within the limits of the available funding.

The City attached a summary of the project modifications/contract reductions to its petition, and that summary is attached to this Order as Attachment 1. The summary explains that the reductions to Contract 1A and 1B consist of reducing the quantity of

small diameter line replacement. The City represented that none of the reductions apply to water lines that have been the subject of Commission formal complaint filings or orders. The reductions to Contract 2 consist of eliminating certain planned improvements and replacements in the water treatment plant. The City explained that some of these eliminated improvements could be addressed by the City in regular maintenance. None of the eliminated improvements would adversely affect the water treatment process. Finally, Contract 5, which was to have been painting of a water storage tank, has been eliminated. The City plans to paint this tank at a later date.

The City will save \$570,115 on Contract 1A; \$335,430 on Contract 1B; \$347,100 on Contract 2; and \$118,000 on Contract 5.

On November 1, 2005, Commission Staff (Staff) filed an Initial and Final Joint Staff Memorandum on Petition to Reopen. Staff recommended that the Commission reopen this case and approve the revised scope of the project.

DISCUSSION

Upon review of the City's petition, and proposed reductions in the scope of this project, the Commission finds that the petition should be granted; this proceeding be reopened; and the proposed modifications approved. *See Attachment 1 hereto.*

FINDINGS OF FACT

1. The City represents that all bids it received regarding the certificated project were higher than the authorized funding.
2. The City represents that no additional loan funds from USDA RUS are available.
3. The City seeks authority to reduce the scope of its certificated project to meet funding constraints.
4. The proposed reductions in scope are attached to the City's October 19, 2005, petition.
5. Staff recommends that the Commission reopen this case and approve the reductions in project scope.

CONCLUSION OF LAW

Upon review of the City's petition, and proposed reductions in the scope of this project, the Commission finds that the petition should be granted; this proceeding be reopened; and the proposed modifications, described on Attachment 1 hereto, should be approved.

ORDER

IT IS, THEREFORE, ORDERED that the City's petition to reopen and for expedited treatment filed on October 19, 2005, is hereby granted.

IT IS FURTHER ORDERED that the City is hereby authorized to reduce the scope of this project as described on Attachment 1 to this Order.

IT IS FURTHER ORDERED that except as modified herein, the order which became a final order on March 30, 2005, remains in full force and effect.

IT IS FURTHER ORDERED that, if there are any further changes to the scope, plans or financing of the project, the District obtain Commission approval of such changes prior to commencing construction.

IT IS FURTHER ORDERED that upon entry hereof, this case shall be removed from the Commission's docket of open cases.

IT IS FURTHER ORDERED that the Commission's Executive Secretary serve a copy of this order upon the City of Shinnston by telefax, upon all parties of record by United States Certified Mail, and upon Commission Staff by hand delivery.

A True Copy, Teste:



Sandra Squire
Executive Secretary

JML/ljm
041549ca.sca



City of Shinnston Water Improvement Project

Proposed Additional Contract Reductions

CONTRACT 1A & 1B

The scope reductions to contract 1A and 1B include an overall reduction in the quantity of small diameter line replacement. The work identified for reduction is in areas of lesser importance to the overall scope of the project. Eliminating these areas of the project will not adversely affect the proposed improvements expected in water quality and operation of the system. Contract 1A additional reductions total approximately \$570,115. The reductions include the reduction in the quantity of 1", 2" and 4" line replacement in the Gypsy Hallow Road area, Route 20 area, Stadium Drive area, Downtown area, and the East Shinnston area. Contract 1B additional reductions total approximately \$335,430. These reductions also include the elimination of some 1", 2" and 4" line replacement as well as some items that can be taken care of with some basic maintenance by the owner. The reductions in Contract 1B include areas of Willard and Adamsville Road, Enterprise, and Monongah. No larger diameter lines (6", 8", and 10") are proposed for additional cuts in either Contract 1A or 1B. None of the proposed reductions include lines that are part of any PSC complaint or order.

Contract 1A	\$2,655,930
Additional Reductions	<u>\$ (570,115)</u>
Total Contract Cost	\$2,085,815

Contract 1B	\$1,674,205
Additional Reductions	<u>\$ (335,430)</u>
Total Contract Cost	\$1,338,775

CONTRACT 2

The scope reductions to contract 2 include an overall reduction in proposed improvements to the water treatment plant. Contract 2 reductions total approximately \$347,100. The additional reductions include the elimination of the rehabilitation of the interior lighting in the filter room, the chemical storage building, and the raw water pump station. The additional reductions also include the elimination of the replacement of the chemical feed metering pumps and miscellaneous improvements to the spill containment system, the elimination of the miscellaneous improvements to the existing Filter Building including the replacement of existing laboratory counter tops, installation of a new eyewash station, the rehabilitation of new roof drain system, and the removal and replacing of existing tile floor, the elimination of the miscellaneous improvements to the existing chlorine containment room including the replacement of the dual ton chlorine scale, the replacement of the electric hoist, and the installation of a Chlorine Institute Emergency kit, and the elimination of miscellaneous upgrades to the electrical service



including the installation of a 480 Volt surge protector at the treatment plant, the replacement of existing electrical outlets with GFCI outlets at the treatment plant, and repairs and upgrades to the electrical system at the raw water intake. The contract will also see the elimination of the interior and exterior painting, the repair of existing fencing around the plant, and the removal of the lead base paint abatement. Many of the proposed cuts will be corrected by the owner as basic maintenance items. None of the proposed cuts will adversely affect the proposed improvements in the water treatment process.

Contract 2	\$ 862,600
Additional Reductions	<u>\$ (347,100)</u>
Total Contract Cost	\$ 515,500

CONTRACT 3

No additional reductions.

CONTRACT 4

No additional reductions.

CONTRACT 5

Contract 5 will be eliminated from the project. Contract 5 was the painting of the East Shinnston Water Storage Tank. The East Shinnston Tank which is need of repainting, is not in eminent danger of failure. The owner agrees that the tank painting can be delayed to a later date when funds may be available.

Contract 5	\$ 118,000
Additional Reductions	<u>\$ (118,000)</u>
Total Contract Cost	\$ 0



LOAN RESOLUTION
(Public Bodies)

A RESOLUTION OF THE Town Council

COPY

OF THE City of Shinnston

AUTHORIZING AND PROVIDING FOR THE INCURRENCE OF INDEBTEDNESS FOR THE PURPOSE OF PROVIDING PORTION OF THE COST OF ACQUIRING, CONSTRUCTING, ENLARGING, IMPROVING, AND/OR EXTENDING ITS Water System Improvements Project

FACILITY TO SERVE AN AREA LAWFULLY WITHIN ITS JURISDICTION TO

WHEREAS, it is necessary for the City of Shinnston
(Public Body)

(herein after called Association) to raise a portion of the cost of such undertaking by issuance of its bonds in the principal amount of

FOUR MILLION SEVEN HUNDRED NINETY-TWO THOUSAND AND XX / 100 DOLLARS

pursuant to the provisions of Chapter 8, Article 13 of the West Virginia Code ; and

WHEREAS, the Association intends to obtain assistance from the United States Department of Agriculture, (herein called the Government) acting under the provisions of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) in the planning, financing, and supervision of such undertaking and the purchasing of bonds lawfully issued, in the event that no other acceptable purchaser for such bonds is found by the Association:

NOW THEREFORE, in consideration of the premises the Association hereby resolves:

1. To have prepared on its behalf and to adopt an ordinance or resolution for the issuance of its bonds containing such items and in such forms as are required by State statutes and as are agreeable and acceptable to the Government.
2. To refinance the unpaid balance, in whole or in part, of its bonds upon the request of the Government if at any time it shall appear to the Government that the Association is able to refinance its bonds by obtaining a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time as required by section 333(c) of said Consolidated Farm and Rural Development Act (7 U.S.C. 1983(c)).
3. To provide for, execute, and comply with Form RD 400-4, "Assurance Agreement," and Form RD 400-1, "Equal Opportunity Agreement," including an "Equal Opportunity Clause," which clause is to be incorporated in, or attached as a rider to, each construction contract and subcontract involving in excess of \$10,000.
4. To indemnify the Government for any payments made or losses suffered by the Government on behalf of the Association. Such indemnification shall be payable from the same source of funds pledged to pay the bonds or any other legally permissible source.
5. That upon default in the payments of any principal and accrued interest on the bonds or in the performance of any covenant or agreement contained herein or in the instruments incident to making or insuring the loan, the Government at its option may (a) declare the entire principal amount then outstanding and accrued interest immediately due and payable, (b) for the account of the Association (payable from the source of funds pledged to pay the bonds or any other legally permissible source), incur and pay reasonable expenses for repair, maintenance, and operation of the facility and such other reasonable expenses as may be necessary to cure the cause of default, and/or (c) take possession of the facility, repair, maintain, and operate or rent it. Default under the provisions of this resolution or any instrument incident to the making or insuring of the loan may be construed by the Government to constitute default under any other instrument held by the Government and executed or assumed by the Association, and default under any such instrument may be construed by the Government to constitute default hereunder.
6. Not to sell, transfer, lease, or otherwise encumber the facility or any portion thereof, or interest therein, or permit others to do so, without the prior written consent of the Government.
7. Not to defease the bonds, or to borrow money, enter into any contractor agreement, or otherwise incur any liabilities for any purpose in connection with the facility (exclusive of normal maintenance) without the prior written consent of the Government if such undertaking would involve the source of funds pledged to pay the bonds.
8. To place the proceeds of the bonds on deposit in an account and in a manner approved by the Government. Funds may be deposited in institutions insured by the State or Federal Government or invested in readily marketable securities backed by the full faith and credit of the United States. Any income from these accounts will be considered as revenues of the system.
9. To comply with all applicable State and Federal laws and regulations and to continually operate and maintain the facility in good condition.
10. To provide for the receipt of adequate revenues to meet the requirements of debt service, operation and maintenance, and the establishment of adequate reserves. Revenue accumulated over and above that needed to pay operating and maintenance, debt service and reserves may only be retained or used to make prepayments on the loan. Revenue cannot be used to pay any expenses which are not directly incurred for the facility financed by USDA. No free service or use of the facility will be permitted.

- 11. To acquire and maintain such insurance and fidelity bond coverage as may be required by the Government.
- 12. To establish and maintain such books and records relating to the operation of the facility and its financial affairs and to provide for required audit thereof as required by the Government, to provide the Government a copy of each such audit without its request, and to forward to the Government such additional information and reports as it may from time to time require.
- 13. To provide the Government at all reasonable times access to all books and records relating to the facility and access to the property of the system so that the Government may ascertain that the Association is complying with the provisions hereof and of the instruments incident to the making or insuring of the loan.
- 14. That if the Government requires that a reserve account be established, disbursements from that account(s) may be used when necessary for payments due on the bond if sufficient funds are not otherwise available and prior approval of the government is obtained. Also, with the prior written approval of the Government, funds may be withdrawn and used for such things as emergency maintenance, extensions to facilities, and replacement of short lived assets.
- 15. To provide adequate service to all persons within the service area who can feasibly and legally be served and to obtain USDA's concurrence prior to refusing new or adequate services to such persons. Upon failure to provide services which are feasible and legal, such person shall have a direct right of action against the Association or public body.
- 16. To comply with the measures identified in the Government's environmental impact analysis for this facility for the purpose of avoiding or reducing the adverse environmental impacts of the facility's construction or operation.
- 17. To accept a grant in an amount not to exceed \$ 650,000.00

under the terms offered by the Government; that Mayor

and City Clerk of the Association are hereby authorized and empowered to take all action necessary or appropriate in the execution of all written instruments as may be required in regard to or as evidence of such grant; and to operate the facility under the terms offered in said grant agreement(s).

The provisions hereof and the provisions of all instruments incident to the making or the insuring of the loan, unless otherwise specifically provided by the terms of such instrument, shall be binding upon the Association as long as the bonds are held or insured by the Government or assignee. The provisions of sections 6 through 17 hereof may be provided for in more specific detail in the bond resolution or ordinance; to the extent that the provisions contained in such bond resolution or ordinance should be found to be inconsistent with the provisions hereof, these provisions shall be construed as controlling between the Association and the Government or assignee.

Yeas 5 Nays 0 Absent 2

IN WITNESS WHEREOF, the Town Council of the

City of Shinnston has duly adopted this resolution and caused it

to be executed by the officers below in duplicate on this 14th day of July 2003

City of Shinnston

(SEAL)

By Sammy DeMarco

Attest: Dena Heath

Title Mayor

Title CITY CLERK

CERTIFICATION TO BE EXECUTED AT LOAN CLOSING

I, the undersigned, as Mayor of the City of Shinnston

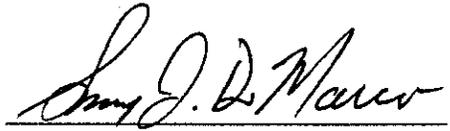
hereby certify that the Town Council of such Association is composed of

7 members, of whom 4 constituting a quorum, were present at a meeting thereof duly called and

held on the 14th day of July, 2003; and that the foregoing resolution was adopted at such meeting

by the vote shown above, I further certify that as of November 17, 2005, the date of closing of the loan from the United States Department of Agriculture, said resolution remains in effect and has not been rescinded or amended in any way.

Dated, this 17th day of November, 2005



Title Mayor City of Shinnston

CITY OF SHINNSTON

Water Revenue Bonds, Series 2005 A
(United States Department of Agriculture)

RECEIPT FOR BOND

The undersigned, authorized representative of the United States Department of Agriculture, Rural Utilities Service, for and on behalf of the United States of America (the "Purchaser"), hereby certifies as follows:

1. On the 15th day of November, 2005, at Shinnston, West Virginia, the undersigned received for the Purchaser the single, fully registered City of Shinnston Water Revenue Bonds, Series 2005 A, No. AR-1 (the "Bond"), in the principal amount of \$4,792,000, dated as of the date hereof, bearing interest at the rate of 4.25% per annum, and payable in monthly installments as stated in the Bond. The Bond represents the entire above-captioned Bond issue.

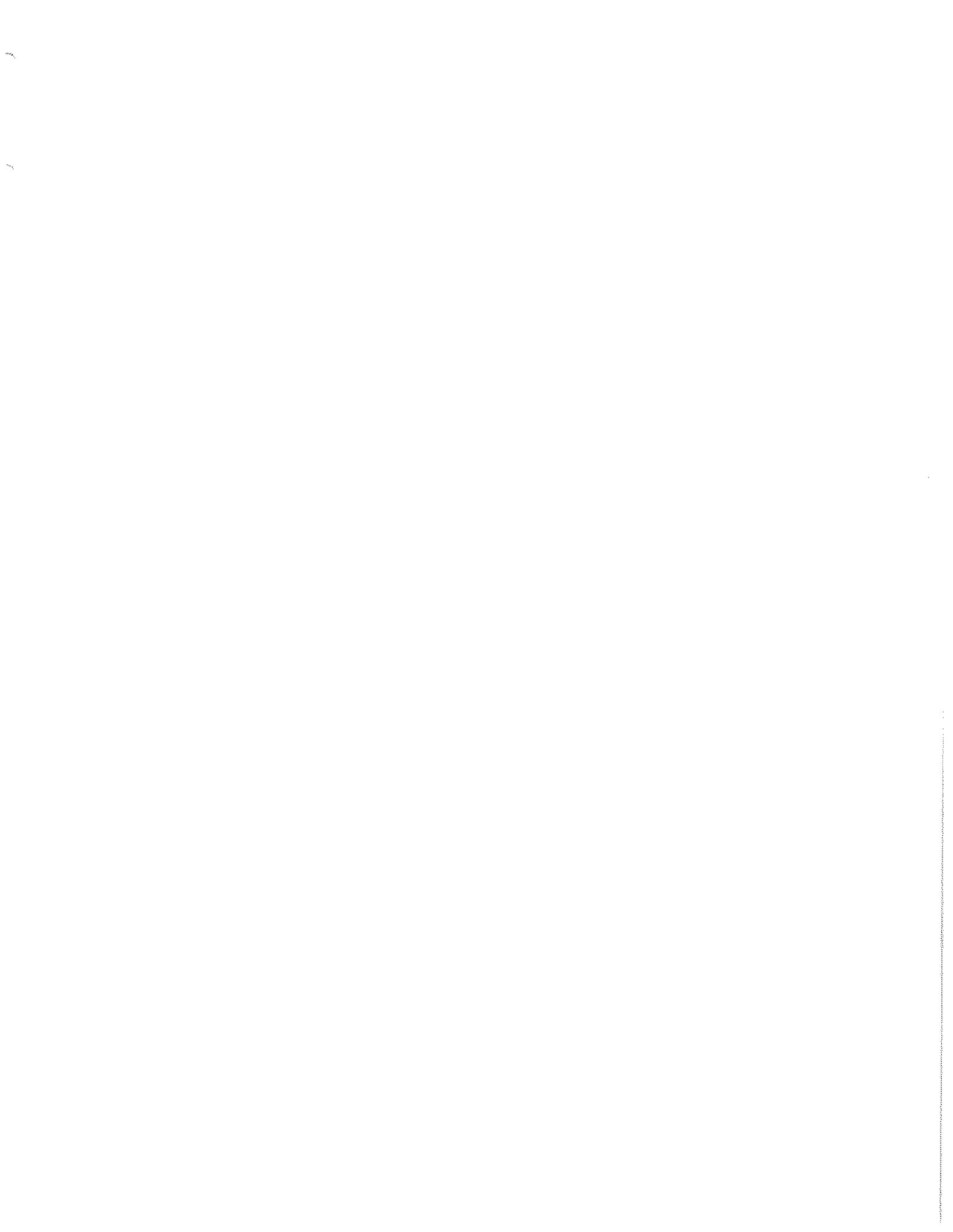
2. At the time of such receipt, the Bond had been executed and sealed by the designated officials of the City of Shinnston (the "Issuer").

3. At the time of such receipt, there was paid to the Issuer the sum of \$403,100, being a portion of the principal amount of the Bond. The balance of the principal amount of the Bond will be paid to the Issuer as acquisition and construction of the Project progresses.

WITNESS my signature on this 17th day of November, 2005.


Authorized Representative

11/12/05
818500.00001



SPECIMEN

91-06 WATER
LOAN

COPY

CITY OF SHINNSTON

WATER REVENUE BONDS, SERIES 2005 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

\$4,792,000

No. AR-1

Date: November 17, 2005

FOR VALUE RECEIVED, the CITY OF SHINNSTON (herein called "Borrower") promises to pay to the order of the United States of America (the "Government"), or its registered assigns, at its National Finance Office, St. Louis, Missouri 63103, or at such other place as the Government may hereafter designate in writing, the principal sum of FOUR MILLION SEVEN HUNDRED NINETY TWO THOUSAND DOLLARS (\$4,792,000), plus interest on the unpaid principal balance at the rate of 4.25% per annum. The said principal and interest shall be paid in the following installments on the following dates: Monthly installments of interest only, commencing 30 days following delivery of the Bond and continuing on the corresponding day of each month for the first 24 months after the date hereof, and \$21,229, covering principal and interest, thereafter on said corresponding day of each month, except that the final installment shall be paid at the end of 40 years from the date of this Bond, in the sum of the unpaid principal and interest due on the date thereof, and except that prepayments may be made as provided herein below. The consideration herefor shall support any agreement modifying the foregoing schedule of payments.

If the total amount of the loan is not advanced at the time of loan closing, the loan shall be advanced to Borrower as requested by Borrower and approved by the Government and interest shall accrue on the amount of each advance from its actual date as shown on the Record of Advances attached hereto as a part hereof.

Every payment made on any indebtedness evidenced by this Bond shall be applied first to interest computed to the effective date of the payment and then to principal.

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of Borrower. Refunds and extra payments, as defined in the regulations of the Government according to the source of funds involved, shall, after payment

of interest, be applied to the installments last to become due under this Bond and shall not affect the obligation of Borrower to pay the remaining installments as scheduled herein.

If the Government at any time assigns this Bond and insures the payment thereof, Borrower shall continue to make payments to the Government as collection agent for the holder.

While this Bond is held by an insured lender, prepayments as above authorized made by Borrower may, at the option of the Government, be remitted by the Government to the holder promptly or, except for final payment, be retained by the Government and remitted to the holder on either a calendar quarter basis or an annual installment due date basis. The effective date of every payment made by Borrower, except payments retained and remitted by the Government on an annual installment due date basis, shall be the date of the United States Treasury check by which the Government remits the payment to the holder. The effective date of any prepayment retained and remitted by the Government to the holder on an annual installment due date basis shall be the date of the prepayment by Borrower and the Government will pay the interest to which the holder is entitled accruing between the effective date of any such prepayment and the date of the Treasury check to the holder.

Any amount advanced or expended by the Government for the collection hereof or to preserve or protect any security herefor, or otherwise under the terms of any security or other instrument executed in connection with the loan evidenced hereby, at the option of the Government shall become a part of and bear interest at the same rate as the principal of the debt evidenced hereby and be immediately due and payable by Borrower to the Government without demand. Borrower agrees to use the loan evidenced hereby solely for purposes authorized by the Government.

Borrower hereby certifies that it is unable to obtain sufficient credit elsewhere to finance its actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in or near its community for loans for similar purposes and periods of time.

This Bond, together with any additional bonds ranking on a parity herewith which may be issued and outstanding for the purpose of providing funds for financing costs of acquisition and construction of additions, betterments and improvements to the waterworks system (the "System") of Borrower, is payable solely from and secured by the revenues to be derived from the operation of the System after there have been first paid from such revenues the reasonable current costs of operation and maintenance of the System. This Bond does not in any manner constitute an indebtedness of the Borrower within the meaning of any constitutional or statutory provision or limitation.

Registration of this Bond is transferable by the registered owner hereof in person or by his, her or its attorney duly authorized in writing, at the office of Borrower, as Bond Registrar, but only in the manner, subject to the limitations and upon payment of the charges, if any, provided in the herein defined Ordinance, and upon surrender and cancellation of this Bond. Upon such transfer a new Bond or Bonds, of authorized denomination or denominations, for the like principal amount, will be issued to the transferee in exchange herefor.

This Bond, under the provisions 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, but may only be transferred by transfer of registration hereof with the Bond Registrar.

This Bond has been issued under and in full compliance with the Constitution and statutes of the State of West Virginia, including, among others, Chapter 8, Article 19 of the West Virginia Code of 1931, as amended (herein called the "Act"), and an Ordinance of Borrower duly enacted on September 12, 2005, authorizing issuance of this Bond (the "Ordinance").

If at any time it shall appear to the Government that Borrower may be able to obtain a loan from a responsible cooperative or private credit source at reasonable rates and terms for loans for similar purposes and periods of time, Borrower will, at the Government's request, apply for and accept such loan in sufficient amount to repay the Government.

This Bond is given as evidence of a loan to Borrower made or insured by the Government pursuant to the Consolidated Farm and Rural Development Act of 1965, as amended. This Bond shall be subject to the present regulations of the Government and to its future regulations not inconsistent with the express provisions hereof.

THIS BOND IS ISSUED ON A PARITY, AS TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, WITH THE FOLLOWING WATER REVENUE BONDS OF THE BORROWER:

(i) WATER REVENUE BOND, SERIES 1983 (UNITED STATES DEPARTMENT OF AGRICULTURE) DATED SEPTEMBER 1, 1983, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$487,500; AND

(ii) WATER REVENUE BOND, SERIES 1976 (UNITED STATES DEPARTMENT OF AGRICULTURE) DATED JUNE 15, 1978, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$3,454,000.

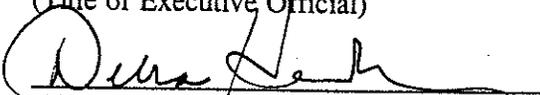
IN WITNESS WHEREOF, the CITY OF SHINNSTON has caused this Bond to be executed by its Mayor and its City Manager and its corporate seal to be hereunto affixed or imprinted hereon and attested by its City Clerk, all as of the date hereinabove written.

CITY OF SHINNSTON

[CORPORATE SEAL]


(Signature of Executive Official)

Mayor
(Title of Executive Official)


(Signature of Executive Official)

City Manager
(Title of Executive Official)

40 Main Street
(P.O. Box No. or Street Address)

Shinnston, West Virginia 26431
(City, State and Zip Code)

ATTEST:


(Signature of Attesting Official)

City Clerk
(Title of Attesting Official)

APPROVED AS TO FORM AND CORRECTNESS:


City Attorney

RECORD OF ADVANCES

AMOUNT	DATE	AMOUNT	DATE
(1) \$ 403,100	November 17, 2005	(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 \$ _____

ASSIGNMENT

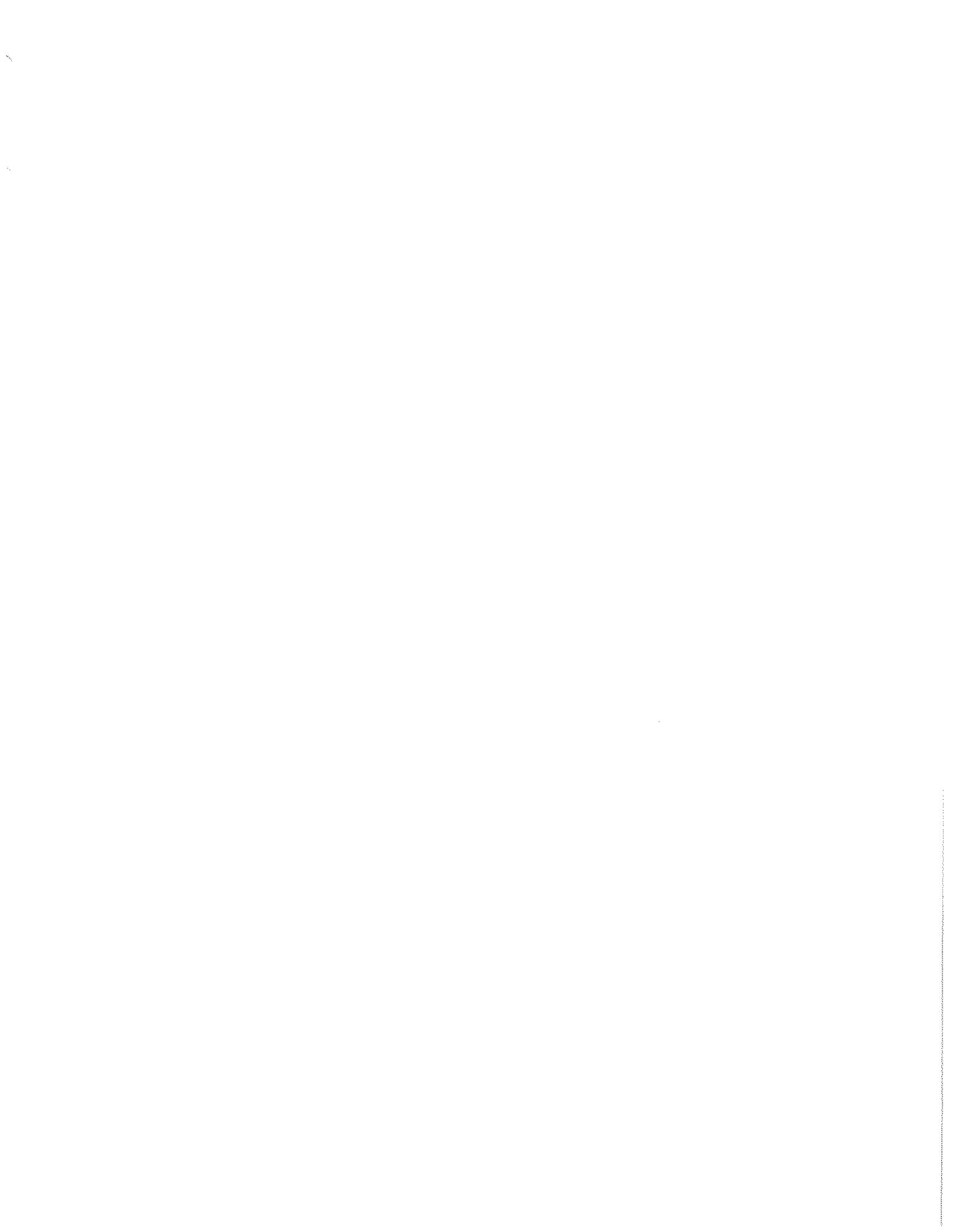
FOR VALUE RECEIVED, the undersigned sells, assigns and transfers to

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 Borrower with full power of substitution in the
premises.

Dated: _____, _____.

In presence of:

11/12/05
818500.00001



November 17, 2005

City of Shinnston
Water Revenue Bonds, Series 2005 A
(United States Department of Agriculture)

City of Shinnston
Shinnston, West Virginia

United States Department of Agriculture
Elkins, West Virginia

Ladies and Gentlemen:

We have served as bond counsel in connection with the issuance by the City of Shinnston, in Harrison County, West Virginia (the "Issuer"), of its \$4,792,000 Water Revenue Bonds, Series 2005 A, dated the date hereof (the "Bond"), pursuant to Chapter 8, Article 19 of the West Virginia Code of 1931, as amended (the "Act"), and a bond ordinance of the Issuer duly enacted on September 12, 2005 (the "Bond Legislation"). We have examined the law and such certified proceedings and other papers as we deem necessary to render this opinion.

As to questions of fact material to our opinion, we have relied upon the representations of the Issuer contained in the Bond Legislation and in the certified proceedings and other certifications of public officials furnished to us without undertaking to verify the same by independent investigation.

Based upon the foregoing, we are of the opinion, under existing law, as follows:

1. The Issuer is duly created and validly existing as a municipal corporation and political subdivision of the State of West Virginia with full power and authority to adopt and enact the Bond Legislation, perform the agreements on its part contained therein and issue and sell the Bond, pursuant to the provisions of the Act and other applicable provisions of law.

2. The Bond Legislation has been duly adopted and enacted by the Issuer and constitutes a valid and binding obligation of the Issuer enforceable upon the Issuer.

3. Pursuant to the Act, the Bond Legislation creates a valid lien on the funds pledged by the Bond Legislation for the security of the Bond on a parity with the Issuer's Water Revenue Bond, Series 1983, dated September 1, 1983, issued in the original aggregate principal amount of \$487,500, and Water Revenue Bond, Series 1976, dated June 15, 1978, issued in the original aggregate principal amount of \$3,454,000 (collectively, the "Prior Bonds"), but subject to no other lien granted under the Act.

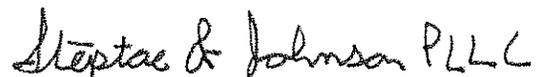
4. The Bond has been duly authorized, executed and delivered by the Issuer and is a valid and binding special obligation of the Issuer, payable solely from the sources provided therefor in the Bond Legislation.

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

6. The Bond is, under the Act, exempt from all taxation by the State of West Virginia, and the other taxing bodies of said State, and interest on the Bond is exempt from personal and corporate net income taxes imposed directly thereon by the State of West Virginia.

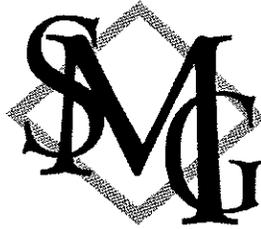
It is to be understood that the rights of the holder of the Bond and the enforceability of the Bond, the Bond Legislation and the liens and pledges set forth therein may be subject to and limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights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

Very truly yours,



STEPTOE & JOHNSON PLLC

11/12/05
818500.00001



Smith, McMunn & Glover, PLLC
Attorneys at Law

G. Thomas Smith
D. Andrew McMunn
David C. Glover

516 West Main Street
Clarksburg, WV 26301

Telephone: (304) 326-6000
Facsimile: (304) 326-4000
Writer's Email: davidglover@aol.com

November 17, 2005

City of Shinnston
Water Revenue Bonds, Series 2005 A
(United States Department of Agriculture)

City of Shinnston
Shinnston, West Virginia

United States Department of Agriculture
Elkins, West Virginia

Steptoe & Johnson PLLC
Clarksburg, West Virginia

Ladies and Gentlemen:

We are counsel to the City of Shinnston, a municipal corporation and political subdivision of the State of West Virginia in Harrison County of said State (the "issuer"). As such counsel, we have examined a copy of the approving opinion of Steptoe & Johnson PLLC, as bond counsel, a bond ordinance of the Issuer duly enacted on September 12, 2005 (the "Bond Legislation"), and other documents and papers relating to the Issuer and the above-captioned Bond of the Issuer (the "Bond"). Terms used in the Bond Legislation and not otherwise defined herein shall have the same meanings as in the Bond Legislation when used herein.

We are of the opinion that:

1. The Issuer is duly created and validly existing as a municipal corporation and a political subdivision of the State of West Virginia.
2. The Mayor, interim City Manager, City Clerk and members of the Council of the Issuer have been duly, lawfully and properly elected or appointed, as applicable, have taken the requisite oaths, and are authorized to as in their respective capacities on behalf of the Issuer.

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

4. The execution and delivery of the Bond and the consummation of the transactions contemplated by the Bond 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 agreement, document or instrument to which the Issuer is a party or by which the Issuer or its properties are bound or any existing law, regulation, rule, order or decree to which the Issuer is subject.

5. All permits, licenses, approvals, consents, certificates, orders, exemptions and authorizations necessary for the creation and existence of the Issuer, the issuance of the Bond, the acquisition and construction of the Project, the operation of the System and the imposition of rates and charges have been entered and/or received, including, without limitation, all requisite orders, certificates, consents and approvals from the Public Service Commission of West Virginia, and the Issuer has duly taken any other action required for the imposition of such rates and charges, including, without limitation, the enactment of an ordinance prescribing such rates and charges, the time for appeal of which has expired prior to the date hereof without successful appeal.

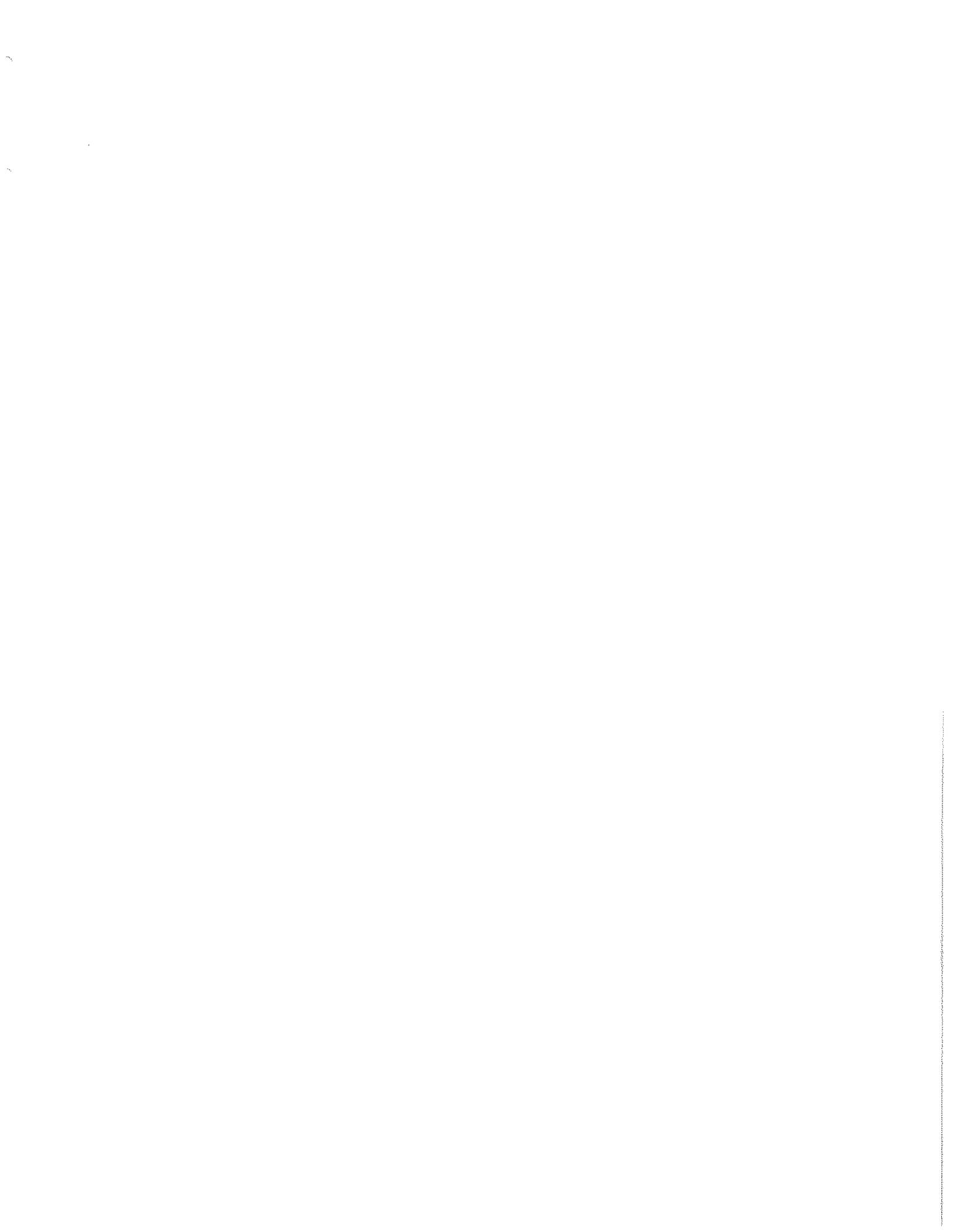
6. To the best of our knowledge, there is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body, pending or threatened, wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by the Bond and the Bond Legislation, the acquisition and construction of the Project, the operation of the System, or the validity of the Bond, or the collection or pledge of the Net Revenues therefor.

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

Very truly yours,

A handwritten signature in cursive script that reads "David C. Glover".

David C. Glover



CITY OF SHINNSTON

Water Revenue Bonds, Series 2005 A
(United States Department of Agriculture)

COMBINED CERTIFICATE OF ISSUER AND ATTORNEY ON:

1. AUTHORIZATION AND AWARD OF BOND
2. NO LITIGATION
3. GOVERNMENTAL APPROVALS
4. PUBLICATION AND NO PROTEST
5. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS
6. SIGNATURES, ETC.
7. CERTIFICATION OF COPIES OF DOCUMENTS
8. INCUMBENCY AND OFFICIAL NAME, ETC.
9. DELIVERY AND PAYMENT AND USE OF PROCEEDS
10. LAND AND RIGHTS OF WAY
11. MEETINGS; PUBLICATION AND POSTING OF NOTICES, ETC.
12. CONTRACTORS' INSURANCE, ETC.
13. CONNECTIONS, ETC.
14. MANAGEMENT
15. ADDITIONAL FUNDING
16. CONSENT OF PRIOR BONDHOLDERS
17. RATE FILING WITH PSC
18. CONFLICT OF INTEREST
19. PROCUREMENT OF ENGINEERING SERVICES

We, the undersigned MAYOR, CITY MANAGER and CITY CLERK of the City of Shinnston, in Harrison County, West Virginia (the "Issuer"), and the undersigned COUNSEL to the Issuer, acting for the Issuer and in its name, hereby state and certify in connection with the City of Shinnston Water Revenue Bonds, Series 2005 A, No. AR-1, fully registered, dated the date hereof, in the principal amount of \$4,792,000, and bearing interest at the rate of 4.25 % per annum (the "Bond"), as follows:

1. AUTHORIZATION AND AWARD OF BOND: The undersigned are authorized to execute this certificate on behalf of the Issuer and are knowledgeable with respect to the matters set forth herein. The entire issue of the Bond has been duly awarded to the United States of America, acting by the United States Department of Agriculture, Rural

Utilities Service (the "Purchaser"), pursuant to a Letter of Conditions from the Purchaser, as amended, and as appears in Section 7.03 of the Bond Ordinance duly enacted on September 12, 2005, authorizing issuance of the Bond (the "Ordinance" or "Bond Ordinance"). Terms used herein and not otherwise defined herein shall have the same meaning as defined in the Bond Ordinance when used herein. The Bond is being issued on this date to permanently finance a portion of the acquisition and construction of the Project located within the boundaries of the Issuer.

2. **NO LITIGATION:** No controversy or litigation of any nature is now pending, or, to the knowledge of any of the undersigned, threatened, restraining, enjoining or affecting the issuance and delivery of the Bond or receipt of any grant moneys committed for the System; nor questioning the proceedings and authority by which the Issuer authorized the issuance and sale of the Bond; nor in any way questioning or affecting the validity of the grants committed for the System or the Bond, or any provisions made or authorized for the payment thereof, including, without limitation, the pledge or application of any moneys or security therefor; nor questioning the existence, powers or proceedings of the Issuer or the Council of the Issuer (the "Governing Body") or the title of the members and officers thereof to their respective offices; nor questioning the operation of the waterworks system of the Issuer (the waterworks, as improved and expanded by the Project, as defined in the Ordinance, is herein called the "System") or the acquisition and construction of the Project being financed in part out of the proceeds of sale of the Bond; nor questioning the rates and charges provided for services of the System.

3. **GOVERNMENTAL APPROVALS:** All applicable and necessary approvals, permits, authorizations, registrations, exemptions, consents and certificates required by law for the acquisition and construction of the Project, the operation of the System, including, without limitation, the imposition of rates and charges, and the issuance of the Bond have been duly and timely obtained and remain in full force and effect, the time for appeal of which or rehearing having expired. Competitive bids for the acquisition and construction of the Project have been solicited in accordance with Chapter 5, Article 22, Section 1 of the Official West Virginia Code of 1931, as amended, which bids remain in full force and effect.

The Issuer has received the Recommended Decision of the Public Service Commission of West Virginia entered on March 10, 2005, in Case No. 04-1549-W-CN, granting to the Issuer a certificate of public convenience and necessity for the Project, and approving the financing for the Project. The Issuer has also received the Commission Order entered November 2, 2005, in said case, approving a revised scope for the Project.

The Issuer enacted water rates on February 9, 2004, which will go into effect upon substantial completion of the Project, which rates have been approved by the Public Service Commission in Case No. 04-0236-W-MA.

4. PUBLICATION AND NO PROTEST: Notice of public hearing upon the Bond Ordinance finally adopted and enacted September 12, 2005, was duly published as required by law.

There was not any protest to the passage of the Bond Ordinance, oral or written, and the Bond Ordinance became fully effective on October 12, 2005, thirty (30) days following such public hearing, and remains in full force and effect.

5. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS: There has been no adverse change in the financial condition of the Issuer or the System since the approval by the Purchaser of a loan to assist in acquisition and construction of the Project.

There are outstanding obligations of the Issuer which will rank on a parity with the Bond as to liens, pledge and source of and security for payment, being the Water Revenue Bond, Series 1983, of the Issuer, dated September 1, 1983, issued in the original aggregate principal amount of \$487,500, and Water Revenue Bond, Series 1976, dated June 15, 1978, issued in the aggregate principal amount of \$3,454,000 (the "Prior Bonds"). The Prior Bonds are currently held by the Purchaser. Other than the Prior Bonds, there are no other bonds or obligations of the Issuer outstanding which are secured by or payable from any revenues and/or assets of the System.

The Issuer is not in default under the terms of the Prior Bonds, the ordinance and resolution authorizing the Prior Bonds or any document in connection therewith, and has complied with all requirements of all the foregoing with respect to the issuance of the Bond, or has obtained a sufficient and valid consent or waiver thereof.

6. SIGNATURES, ETC.: The undersigned Mayor, City Manager, and City Clerk did, for the Issuer on the date hereof, officially execute and seal the Bond with the official corporate seal of the Issuer, an impression of which seal is on this certificate above our signatures and said officers are the duly elected or appointed (as applicable), qualified and serving officers as indicated by the official titles opposite their signatures below, and are duly authorized to execute and seal the Bond for the Issuer.

7. 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, supplemented or changed in any way unless modification appears from later documents also listed below.

City Charter

Resolution on Open Governmental Proceedings

Oaths of Office of Officers and Council Members

Bond Ordinance

1983 Bond Ordinance

1976 Bond Ordinance

Specimen Bond

Rate Ordinance

Affidavit of Publication on Rate Ordinance

Minutes on Adoption and Enactment of Rate Ordinance

Affidavit of Publication on Bond Ordinance

Minutes on Adoption and Enactment of Bond Ordinance

United States Department of Agriculture Grant Agreement

United States Department of Agriculture Loan Resolution

United States Department of Agriculture Letter of Conditions and Closing Instructions

Consent of USDA to Issuance of Parity Bonds

Public Service Commission Orders

Receipt of Depository Bank

8. INCUMBENCY AND OFFICIAL NAME, ETC.: The proper corporate title of the Issuer is "City of Shinnston" and it is a municipal corporation and political subdivision of the State of West Virginia in Harrison County of said State. The governing body of the Issuer is its City Council presently consisting of 7 members, including

a Mayor and Vice-Mayor, all duly elected, qualified and serving, whose names and dates of commencement and termination of current terms of office are as follows:

<u>Name</u>	<u>Date of Commencement of Term of Office</u>	<u>Date of Termination of Term of Office</u>
Sammy J. DeMarco, Mayor	7/01/2002	6/30/2006
Robert Burnett, Vice-Mayor	7/01/2004	6/30/2008
Vaughn Haggerty	7/01/2002	6/30/2006
David Signorelli	7/01/2004	6/30/2006
Mary Ann Ferris	7/01/2004	6/30/2008
Derek McIntyre	9/26/2005	6/30/2006
Salvatore Ayers	7/01/2004	6/30/2008

The duly appointed and acting City Clerk of the Issuer is Debra Herndon and the duly appointed interim City Manager of the Issuer is also Debra Herndon. The duly appointed and acting Counsel to the Issuer is Smith, McMunn & Glover, PLLC, Clarksburg, West Virginia.

9. DELIVERY AND PAYMENT AND USE OF PROCEEDS: On the date hereof, the Bond was delivered to the Purchaser at Shinnston, West Virginia, by the undersigned Mayor and City Manager for the purposes herein set forth, and at the time of such delivery, the Bond had been duly and fully executed and sealed on behalf of the Issuer in accordance with the Bond Ordinance.

At the time of delivery of the Bond, the amount of \$403,074.48 was received by the undersigned Mayor and City Manager, being a portion of the principal amount of the Bond, the balance to be paid as acquisition and construction of the Project progresses.

The Bond is dated the date hereof and interest on advances thereon at the rate of 4.25% per annum is payable from the date of each respective advance.

The Bond and the entire proceeds thereof will be used for the purposes herein set forth and for no other purposes.

10. LAND AND RIGHTS OF WAY: All land in fee simple and all rights of way and easements necessary for the acquisition and construction of the Project, the operation and maintenance of the System have been acquired or can and will be acquired by purchase, or, if necessary, by condemnation by the Issuer and are adequate for such purposes and are not or will not be subject to any liens, encumbrances, reservations or exceptions which would adversely affect or interfere in any way with the use thereof for such purposes.

The costs thereof, including costs of any properties which may have to be acquired by condemnation, are, in the opinion of all the undersigned, within the ability of the Issuer to pay for the same without jeopardizing the security of or payments on the Bond.

11. MEETINGS; PUBLICATION AND POSTING OF NOTICES, 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 acquisition, construction, operation and financing of the Project and the System were authorized, enacted or adopted at meetings of the Governing Body of the Issuer duly and regularly called and held pursuant to the Charter of the Issuer and any 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 published and/or posted were so published and/or posted.

12. CONTRACTORS' INSURANCE, ETC.: All contractors will be required to maintain Workers' Compensation, public liability and property damage insurance, and builder's risk insurance where applicable, in accordance with the Letter of Conditions and Commitment of the Purchaser, as amended, and the Bond Ordinance.

13. CONNECTIONS, ETC.: The Issuer will serve at least 2,265 bona fide full time users of the System, upon completion of the Project, in full compliance with the requirements of the Purchaser.

14. MANAGEMENT: The Issuer has heretofore delivered to the Purchaser a plan concerning operation and management of the System, which plan was found to be acceptable by the Purchaser.

15. ADDITIONAL FUNDING: As of the date hereof, the grant from the Purchaser in the total amount of \$650,000 is committed and in full force and effect.

16. CONSENT OF PRIOR BONDHOLDERS: The Issuer has obtained consent from the Prior Bondholder to issue the Bonds on a parity with the Prior Bonds.

17. RATE FILING WITH PSC: Pursuant to West Virginia Code Section 24-2-4b, the Issuer has filed the rates and rules contained in the ordinance or ordinances authorizing such rates and rules with the Public Service Commission of West Virginia.

18. CONFLICT OF INTEREST: No 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 Bond, the Bond Ordinance and/or the Project, including, without limitation, with respect to the Depository Bank, as defined in the Bond Ordinance. 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.

19. PROCUREMENT OF ENGINEERING SERVICES: The Issuer has complied in all respects with the requirements of Chapter 5G, Article 1 of the West Virginia Code of 1931, as amended, in the procurement of engineering services to be paid from proceeds of the Bonds.

WITNESS our signatures and the official corporate seal of the CITY OF SHINNSTON on this 17th day of November, 200~~6~~₅.

[CORPORATE SEAL]

SIGNATURE

OFFICIAL TITLE

Luigi D. Marco

Mayor

Dwain DeLoach

City Manager

Dwain DeLoach

City Clerk

David C. Allen

Counsel to Issuer

11/03/05
818500.00001



CITY OF SHINNSTON

Water Revenue Bond, Series 2005 A
(United States Department of Agriculture)

ENGINEER'S CERTIFICATE

I, Steven A. Cain, Registered Professional Engineer, West Virginia License No. 15264, of Greenhorne & O'Mara, Inc., Fairmont, West Virginia, hereby certify that my firm is the engineer for the acquisition and construction of improvements and extensions to the existing waterworks system (the "Project") of the City of Shinnston (the "Issuer"), to be acquired and constructed in Harrison and Marion Counties, West Virginia, which acquisition and construction are being financed in part by the above-captioned revenue bond of the Issuer.

I further certify that the Project will, to the best of my knowledge, be constructed in accordance with plans and specifications prepared by my firm and that such system and Project are situate wholly or chiefly within the boundaries of the Issuer.

I further certify that the Project is adequate for the purposes for which it was designed and that all necessary governmental approvals, consents, authorizations, certificates and permits for the acquisition and construction thereof have been obtained or can and will be obtained.

WITNESS my signature on this 17th day of November, 2006.

GREENHORNE & O'MARA, INC.



Steven A. Cain, P.E.

West Virginia License No. 15264



11/03/05
818500.00001

CHARTER
OF THE CITY OF
SHINNSTON, WEST VIRGINIA

EDITOR'S NOTE: The Shinnston Charter was enacted on
June 28, 1998.

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CHARTER
OF THE CITY OF
SHINNSTON, WEST VIRGINIA

SECTION 1. INCORPORATION; SUCCESSION; NUMBER OF WARDS

The inhabitants of the City of Shinnston, Harrison County, West Virginia, within the corporate limits thereof as now established or as may hereafter be established in the manner provided by law, shall be and continue in perpetuity to be a municipal body politic and corporate, under the name of the "City of Shinnston," with all the powers of self-government granted by the constitution and laws of the state.

The City of Shinnston, as successor in interest of the present municipal corporation of the same name, shall succeed to, own, possess and enjoy all the property and all the rights, titles and interest of every kind and nature vested in or belonging to such municipal corporation at the time this Charter becomes effective, shall be subject to all existing liabilities shall be bound by and through the appropriate agency shall pay all existing debts, and shall faithfully perform all present duties and discharge all present obligations of such corporation.

The territory embraced within said City shall be divided into four wards as now established, or as may hereafter be established, and the Council of said City may change the boundaries of said wards, or create additional ones, as may appear to said Council to be proper or necessary; but no change shall be made in the boundaries of said wards, or any new ward created, less than sixty days before the holding of a general election for said City.

SECTION 2. FORM OF GOVERNMENT

There is established by this Charter the "Manager Plan" form of municipal government as prescribed in Plan IV of section two, article three, chapter eight of the Official Code of West Virginia, as amended. Except as otherwise provided in this Charter, the Council shall be the governing authority of the City, and shall appoint the City Manager who shall execute the laws and administer the government of the City, except as otherwise provided herein.

SECTION 3. POWERS OF THE CITY

The City shall have all the powers specifically provided for in this Charter, and shall also have all the powers now or hereafter granted to municipal corporations and to cities of this class by the constitution and general laws of the state, together with all the implied powers necessary and proper to carry into execution the powers so granted. The enumeration herein of particular powers shall not be deemed exclusive, but the City shall have and may exercise all the powers which under the constitution and laws of the state might properly be specifically enumerated in this Charter.

SECTION 4. THE COUNCIL; QUALIFICATIONS, TERMS OF OFFICE, AND SALARY OF MEMBERS; SELECTION OF MAYOR

The Council shall consist of seven members, one from each of the four wards established by the qualified voters of the City for terms of four years beginning on the first day of July following their election, except that of the seven Council members elected at the first election held under the provisions of the Charter, the three Council members elected at large shall be elected for terms of two years.

In order to determine the ward representatives of Council of the first administration under the first provisions of this Charter, all candidates for Council in the first election under this Charter shall file and declare by the ward in which they reside. Eligible voters shall be able to vote for all seven Council positions in the first election under this Charter. The person receiving the highest number of votes in that candidate's ward shall be the ward representative. The three persons receiving the highest number of votes after all four wards are represented shall be the at large Council members.

At each regular election thereafter, either three or four Council members, as the case may be, shall be elected to succeed the incumbent members whose terms of office expire on the thirtieth day of June following the election. The terms of all Council members in office on the date this Charter is adopted shall continue until the close of business on the 30th day of June following the first regular election held hereunder.

Council members shall be qualified voters of the City, shall be residents of the City, shall hold no other public office except that of notary public or member of the National Guard or naval or military reserve, and shall not be employed by the City in any capacity. If a Council member shall cease to be qualified or shall be convicted of treason, felony, or bribery in any election, their office shall immediately become vacant. To file for Council, a candidate must present the appropriate form and pay a \$10.00 filing fee. The first election under this Charter shall be held on June 9, 1998. Subsequent elections shall be held on the first Tuesday in June in even numbered years thereafter.

A special meeting of the Council shall be held at 12:00 noon on the 1st day of July following each regular City election. If the former Mayor has been re-elected to Council and is present, the former Mayor shall preside as temporary chairperson. Otherwise, the person receiving the highest number of votes shall preside. Then, newly elected Council members shall be inducted into office. The Council shall then elect one of its members to serve as Mayor for a term of two years. The Mayor shall preside at meetings of the Council and shall be recognized as the head of the City government for all ceremonial and military purposes, but shall have no regular administrative duties unless otherwise provided herein or directed by Council. The Council shall elect from among its members a Vice-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 compensation of the Mayor and members of Council shall be set by ordinance.

SECTION 5. CITY COUNCIL - 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 Council member shall hold any other City office or employment during the terms 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 7 of this Charter, 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 Shinnston, in any matter to be acted upon in any way by Council, shall divulge that interest to the City Council and shall have no vote on such matter, nor shall he/she 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 6. VACANCIES; FORFEITURE OF OFFICE; REMOVAL FROM 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, or (2) while holding such office is convicted of treason, felony, or bribery in any election.

(c) Removal from Office. A Council member shall be subject to removal from office in the manner provided for the removal of municipal officers in section seven, article six, chapter six of the official Code of West Virginia, as amended, if the Council member (1) violates any express prohibition of this Charter, (2) is convicted of a crime involving moral turpitude, or (3) fails to attend three consecutive regular meetings of the Council without being excused by the Council.

(d) 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 municipal election, the appointee will remain in the office the remainder of the unexpired term of the Council member. If the Council fails to appoint someone to fill the vacancy within 45 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. A special

election shall be held within 40 days, following all other efforts to fill a Council vacancy, if those efforts are unsuccessful in filling the vacancy with a qualified replacement. If a special election does not fill the vacancy, then the Mayor shall appoint a qualified person to fill the vacancy.

(e) Appointments and/or Elections. Appointments and/or elections to fill any vacancy on Council shall be done in such a manner to keep intact the respective ward and at-large representation of the electorate.

SECTION 7. CITY COUNCIL - 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 the power to subpoena witnesses, administer oaths and require the production of evidence. The City Clerk shall notify a member charged with conduct constituting grounds for forfeiture of office by certified mail.

If the member desires a public hearing, he/she must notify the City Council within ten days. The public hearing must be heard no later than twenty days after the receipt of the request for 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 8. POWERS OF THE COUNCIL; APPOINTMENT AND TENURE OF THE CITY MANAGER

Subject to any limitations imposed by the constitution and general laws of the state, all powers of the City shall be vested in and exercised by the Council, except such powers as are by this Charter specifically vested in the sanitary board and such powers as are by general law vested in the other boards or commissions provided for in this Charter or hereafter created by Council pursuant to general law. No franchise granted by the Council may be transferred in whole or in part without the written consent of Council.

The Council shall appoint a City Manager to serve for an indefinite term, and may at any time remove him/her from office by the affirmative vote of not less than four of its members. At least thirty days before such removal shall become effective, the Council shall adopt a preliminary resolution stating the reasons for his/her removal, and specifying the date on which his/her removal shall become final. At any time within ten days after the adoption of such resolution, upon the written request of the Manager, he/she shall be afforded an opportunity to be heard at a public meeting of the Council, which shall be held no earlier than ten nor later than twenty days after the request was made, and at a time and place to be fixed by Council. After such public hearing if one is requested, after full consideration, the Council by the affirmative vote of four of its members may adopt a final resolution of removal. By the preliminary resolution the Council may suspend the Manager with pay for a period not to exceed thirty days, and may designate some other person to perform the duties of the Manager during the period of his/her suspension.

The City Manager shall be a person of proved executive and administrative ability, preferably with experience and training in the field of City management. At the time of his/her appointment he/she need not be a resident of the City or state, but during his/her tenure of office shall reside within the State of West Virginia. No Council member, during his/her term and for a year thereafter, shall be eligible for appointment as City Manager.

Neither the Council nor any of its members shall direct or in any manner interfere with or obstruct the appointment or removal of any City officer or employee by the City Manager or by any of his/her subordinates. Except for the purpose of inquiry, the Council and its members shall deal with the administrative service solely through the City Manager and neither the Council nor any member thereof shall give orders to any subordinates of the City Manager, either publicly or privately. If any Council member shall violate the provisions of this section, he/she shall be subject to removal from office pursuant to section seven, article six, chapter six of the official code of West Virginia, as provided by Section 6, Subsection (c) of this Charter.

Except as otherwise provided by this Charter, and within the limitations imposed by the constitution and general laws of the state, the Council may determine the powers and duties of City officers, and subject to the requirements of general law may regulate the number, method of selection, qualifications, tenure, and compensation of City officers and employees, including the establishment of civil service for such employees.

SECTION 9. POWERS AND DUTIES OF CITY MANAGER

Except as otherwise provided in the Charter, the City Manager shall be the head of the administrative branch of the City government. He/she shall be responsible to the Council for the proper and efficient administration of all affairs of the City under his/her authority, and to that end, except as otherwise provided in this Charter, he/she shall have the power and shall be required to:

- (1) Appoint and, when he/she deems it necessary or advisable, remove all officers and employees of the City except as otherwise provided by this Charter or by general law, and except as he/she may authorize the head of a department or office to appoint and remove subordinates in such department or office.
- (2) Prepare the annual budget, submit it to the Council for adoption, and be responsible for its administration after adoption.
- (3) Prepare and submit to the Council as of the end of each fiscal year a complete report on the finances and administrative activities of the City for the preceding year.
- (4) Advise the Council with respect to future plans and physical needs, and keep it informed concerning the current financial condition of the City.
- (5) Require the chief of police and the chief of the fire department to establish for their respective departments a course of training designed to promote the more efficient and safe operation of their departments.
- (6) Execute on behalf of the City all legal and other written documents requiring execution by the chief executive officer of the City, acknowledge the same if necessary, and perform all other acts and duties required of the chief executive officer of the City.
- (7) Perform such other duties as may be required of him/her by this Charter, by general law, or by order of the Council not inconsistent with this Charter or with general law.

The Manager may by letter filed with the City Clerk designate some qualified administrative officer of the City to perform the duties of the Manager during his/her temporary absence or disability. If the Manager fails to make such designation, the Council may by resolution appoint an officer of the City to act for the Manager during his/her absence or disability.

SECTION 10. CITY CLERK

The Council shall appoint a resident of the City to serve as City Clerk at the will and pleasure of the Council. Except as otherwise provided in this Charter and subject to the supervision of the City Manager, the Clerk shall have the power and it shall be his/her duty to:

- (1) Give notice of and attend all meetings of the Council, keep the journal of its proceedings, authenticate by his/her signature and record in full in a book kept for the purpose all ordinances and resolutions of the Council, prepare and keep up to date an index of all such ordinances and resolutions, and keep all such records available for public inspection when not in use.
- (2) Make and certify copies of any ordinance, resolution or order of the Council whenever required to do so, and affix the corporate seal of the City to any paper required to be sealed and to any certified copy of any paper, order or proceeding which he/she may make.
- (3) Prepare and cause to be served all notices required to be given to any person, firm or corporation, and after the proper service and return of any notice he/she shall file and preserve the same.
- (4) Have custody of and keep available for public inspection the permanent records of the City and file and properly index all records of such City officers and departments as the City Manager may direct.
- (5) Perform such other duties as may be required of him/her by this Charter, by general law, or by City ordinance or order of the City Manager not inconsistent with this Charter or with general law.

SECTION 11. RECALL OF A MEMBER OF COUNCIL

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 a ward for a ward Council member or of the City for an at-large member 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/her office and the Council shall appoint a successor to such office following the provisions in Section 6 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 preceding any regular Council election. Not more than one recall election shall be held with respect to an officer during his/her term of office.

SECTION 12. CITY COUNCIL - 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 13. MEETINGS OF COUNCIL; RULES OF PROCEDURE; JOURNAL AND VOTING

(a) Meeting. The Council shall meet on the second Monday of each month at 7:00 p.m. Special meetings may be held on the call of the mayor or of three 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. (Amended 1-31-00)

(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 Clerk. 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. The Mayor shall be entitled to vote on all matters before the Council. The Council shall by resolution adopt by-laws prescribing its own rules, procedure, and order of business, and shall keep a journal of all its proceedings, which shall be available for public inspection.

(d) Agenda. The City Manager shall make a preliminary agenda available to each Council member, the City Attorney, the media, and interested citizens no later than the close of business on the Thursday preceding the regularly scheduled meeting of the Council, and a final agenda at the start of the meeting itself.

SECTION 14. ACTION REQUIRING 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 any City department, office or agency;
- (2) Provide for a fine or other penalty or 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 agreements with other jurisdictions;
- (13) Provide for the purchase of private property by the municipality or for the sale of property belonging to the municipality; and
- (14) Amend or repeal any ordinance previously adopted.

Acts other than those referred to in the preceding sentence may be done either by ordinance or by resolution.

SECTION 15. 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 Shinnston 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 Clerk 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 Clerk 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 five 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 if 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 practicable after adoption, the Clerk shall have the ordinance and a notice of its adoption, published and available at a reasonable price.

(c) Effective Date. Except as 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 16. 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 3. 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 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 its 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 3, 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 an 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 17. 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 permanent record in the office of the Clerk, 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 18. AUTHENTICATION AND RECORDING; CODIFICATION; PRINTING

(a) Authentication and Recording. The City Clerk 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 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 the 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 Shinnston 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 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 Shinnston 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.

SECTION 19. ADMINISTRATIVE OFFICES AND DEPARTMENTS

There shall be in the City government a police department, a fire department, a department of public works, and such other administrative departments as may by ordinance be created by the Council. The City Manager shall appoint as the head of each department, except the fire department, so long as it remains a volunteer entity, a chief, supervisor or director, who shall be responsible for the efficient administration of the department, subject to the supervision and control of the Manager. Except as otherwise provided by this Charter or by general law, the head of a department need not be a resident of the City or state at the time of his/her appointment, but within six months of his/her appointment to office shall become a resident of and shall reside in Harrison County, West Virginia.

The Council may by ordinance create, combine, change or abolish offices, departments or agencies, other than those established by this Charter. Except as otherwise provided in this Charter, the Council may assign additional functions or duties to any office, department or agency created by it or by this Charter, but may not discontinue or transfer any function or duty assigned by this Charter to any particular office, department or agency.

(Amended 1-31-00)

SECTION 20. FIRE DEPARTMENT; SERVICE FEES

Pursuant to West Virginia Code 8-15-1 et seq., the Shinnston Volunteer Fire Department shall be designated to provide the City with fire protection services for the City of Shinnston, so long as it is a viable, operating department. If it shall cease to be operational, then the City shall provide fire protection by establishing a fire department in accordance with Section 19 of this Charter.

SECTION 21. 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 offices and agencies, including but not limited to any pay plans, examinations, force reduction, removals, working conditions, provisional and exempt appointments, in-service training, grievances and relationships with employee organizations.

SECTION 22. CITY ATTORNEY

The City attorney shall be a member in good standing of the West Virginia State Bar. He/she shall be appointed by the City Manager to serve for an indefinite term, only with the consent and ratification of Council. The City Attorney shall be a contracted employee. He/she shall perform all duties and exercise all powers which shall be conferred upon him/her by any ordinance or resolution of the Council and, except as otherwise provided in this Charter, he/she shall have the power and it shall be his/her duty to:

- (1) Act as legal adviser and counsel for the City Council and for all administrative boards and officers thereof with respect to their official duties. Upon request, he/she shall furnish to the City Council or to such officers a written opinion upon any question concerning their respective powers and duties.
- (2) Prosecute and defend all suits for or against the City, and prepare all ordinances and all contracts, bonds or other writings in which the City is concerned, and endorse on each his/her approval of the form and correctness thereof.
- (3) Prosecute all cases brought before or appealed from the police court, and perform the same duties so far as they are applicable thereto as are required by law of prosecuting attorneys.

Whenever the exigencies of the business of the City require such action, the City Manager shall have the right to employ special counsel to assist the City attorney.

SECTION 23. 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 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/her 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 eight, Article twenty-four of the official Code of West Virginia.

SECTION 24. POLICE JUDGE

There shall be a police judge appointed by the City Manager, only with the consent and ratification of Council. He/she shall have criminal jurisdiction over the violation of all ordinances of the City. He/she shall hold Police Court at such times and places as may be determined by him/her. He/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/her in his/her official capacity.

SECTION 25. CHIEF OF POLICE

The City Manager shall appoint a qualified individual to the office of chief of police.

SECTION 26. BOARD OF PARKS AND RECREATION

With the concurrence of Council, the City Manager will appoint five residents of the City to serve on a Board of Parks and Recreation. The first appointments under this Charter shall be as follows: two members will be appointed for two year terms, two members will be appointed for four year terms and one member will be appointed for a six year term. Thereafter, each member will serve for a six 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/her office if he/she fails attend three consecutive regularly scheduled meetings of the Board without being excused by the City Manager.

SECTION 27. 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 City Manager, a municipal engineer or building inspector, and one member at large to be selected by and to serve at the will and pleasure of the City Manager. 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.

SECTION 28. BUDGET AND BUDGET MESSAGE; PUBLIC HEARING; ADOPTION AND REVISION

The fiscal and budget year of the City shall begin on the 1st day of July and shall end on the 30th day of June of each calendar year. The budget for each succeeding fiscal year submitted and amended as provided in this section, shall be adopted by the Council not later than the 28th day of March of the then current fiscal year.

Not later than the 1st day of March of each year, the City Manager shall submit to the Council a budget for the next fiscal year, together with a budget message which shall contain an outline of the proposed financial operation of the City for the coming year, shall describe the important features of the budget plan, and shall set forth the reasons for the salient changes from the previous year in cost and revenue items. In respect to proposed appropriations for capital improvements, there shall be included in the budget message, or attached thereto, a program and schedule of capital projects recommended by the City Planning Commission for the next five fiscal years. A copy of the budget and budget message, and all supporting documents, shall at the same time the budget is submitted to the Council be filed with the City Clerk as a public record, and shall be available for inspection by any interested person.

The budget shall provide a complete financial plan for the budget year, including any estimate of any anticipated surplus at the beginning of the year, an estimate of anticipated revenues from all sources during the year, and a detailed estimate of proposed appropriations for expenditure during the year by each office, department, and agency of the City. The total of appropriations of the budget as submitted by the Manager or as adopted by the Council shall not exceed the sum of estimated revenues and surplus.

At a regular or special meeting of Council between the 7th and 28th days of March of each year, there shall be a public hearing on the proposed budget, at which time all interested persons shall be given an opportunity to be heard for or against any estimate of revenue or any item of appropriation contained therein. At said meeting, Council shall ascertain the fiscal condition of the corporation, and make an itemized statement setting forth:

- (1) The amount due and the amount that will become due and collectible from every source during the current fiscal year except from the levy of taxes to be made for the year;
- (2) The interest, sinking fund and amortization requirements for the fiscal year of bonded indebtedness, legally incurred upon a vote of the people as provided by law, prior to the adoption of the tax limitation amendment;
- (3) Other contractual indebtedness, not bonded, legally incurred prior to the adoption of the tax limitation amendment, owing by the Municipality;
- (4) All other expenditures to be paid out of the receipts of the Municipality for the current fiscal year with proper allowance for delinquent taxes, exonerations, and contingencies;
- (5) The total amount necessary to be raised by the levy of taxes for the current fiscal year;
- (6) The proposed rate of levy in cents on each one hundred dollars assessed valuation of each class of property; and
- (7) The separate and aggregate assessed valuations of real, personal and public utility property in each class in the Municipality.

The City Clerk of the Municipality shall forward immediately a certified copy of the statement to the Tax Commissioner, and shall publish the statement forthwith. The session shall then stand adjourned until the 3rd Tuesday in April, at which time it shall reconvene.

The Council shall, when it reconvenes upon the 3rd Tuesday in April, hear and consider any objections made orally or in writing by the City Attorney, by the Tax Commissioner or his/her representative, or by any taxpayer of the City, to the estimate and proposed levy, or to any item thereof. Council shall enter of record any objections so made and the reasons and grounds therefor. The Council, after hearing objections, shall reconsider the proposed original estimate and proposed rates of levy, and if the objections are well taken, shall correct the estimate and levy. No such estimate and levy, however, shall be entered until the same shall have first been approved, in writing, by the Tax Commissioner. When the same shall have been approved by the Tax Commissioner, the Clerk shall then enter the estimate and levy, together with the order of the Council approving them and the written approval of the Tax Commissioner thereof, in the proper record book.

In addition to the provisions set forth herein, Council shall be subject to the requirements contained in section one, article eight, chapter eleven, et seq. of the Official Code of West Virginia, as amended, as the same may apply to municipal corporations.

After the beginning of the fiscal year, the Council shall make only such changes in the budget as may be required because of action taken by the State Tax Commissioner in respect to the proposed tax levy of the City or as may be permitted or required by general law. Thereafter, the Council shall make no other changes in the budget unless permitted or required to do so by general law. After the final adoption of the budget, the several amounts stated therein as proposed appropriation shall be appropriated to the specified objects and purposes. Except as otherwise provided by general law, the City Manager may at any time transfer any unencumbered appropriation balance of an appropriated line item from that line item to another line item with the same account category established by the State Tax Commissioner, subject to the approval of City Council. No transfers from one account category to another may be made without revision of the budget and approval by the Tax Commissioner pursuant to Chapter 11, Article 8, Section 1, et seq.

For the purposes of accounting for the budget, the modified accrual basis of accounting will be used, or any other basis of accounting required by the State Tax Commissioner. The ending unencumbered balance at the end of the fiscal year shall be the starting unencumbered balance for the new fiscal year.

In addition to the foregoing, Council and the City Manager shall comply with all applicable federal and state laws which in any way relate to the governing of the financial affairs of a municipal corporation. (Amended 1-31-00)

SECTION 29. PROHIBITIONS - GENERAL

(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 or proposed 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. Further, 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 30. CHARTER AMENDMENTS

Amendments to this Charter shall be made in accordance with the general laws of the State of West Virginia.

SECTION 31. SANITARY BOARD

The Sanitary Board of the City in existence on the date this Charter Board is adopted shall be continued. The Sanitary Board shall have the powers and shall perform the duties prescribed by general law with respect to the construction, operation and maintenance of sewage disposal facilities. The Sanitary Board shall be composed of the City Manager, who shall be the Chairman of the Board, two other persons appointed by the Council.
(Amended 1-31-00)

SECTION 32. DISCRIMINATORY PRACTICES PROHIBITED

No person holding any appointive office or employment in the service of the City, or seeking appointment thereto, shall be appointed, promoted, demoted or removed, or in any way favored or discriminated against because of political opinions or affiliations, or because of race, color or religious beliefs, or gender, handicap, or country of origin.

SECTION 33. SOCIAL SECURITY

The City Council, the sanitary board, and every other board or commission provided for in this Charter, or hereafter created by Council pursuant to general law, shall in the manner prescribed by law provide social security coverage for all eligible City officers and employees.

SECTION 34. OATH OR AFFIRMATION OF OFFICE

Before taking office every officer of the City and the head of each administrative department shall take the oath or affirmation required by section five, article four of the constitution of the state.

SECTION 35. EFFECT OF CHARTER ON EXISTING ORDINANCES AND ADMINISTRATIVE RULES AND REGULATIONS

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 36. REFERENCE TO GENERAL LAW

A reference contained in this Charter to a provision of general law shall be construed to mean the provision as it now exists or as it may hereafter be amended. Where additional sections are added to the subject matter of a provision of general law referred to in this Charter, the reference shall include such additional sections.

SECTION 37. MEETINGS AND OTHER ACTS ON LEGAL HOLIDAYS

Whenever under the provisions of this Charter it is required that a meeting be held or that an act be done on a date which is a legal holiday, the meeting shall be held or the act shall be done on the next day not a legal holiday.

SECTION 38. SEPARABILITY

The provisions of this Charter shall be construed as severable, and should any provision be held unconstitutional, or for any other reason invalid, such holding shall in no way affect any other provision thereof.

SECTION 39. ELECTIONS

The City Clerk shall prepare and furnish printed forms for certificates of announcement substantially in the form set forth and authorized by ordinance of the City Council. The certificate of announcement is defined as and shall be the form on which qualified persons make official such person's candidacy for Council in the next City election.

Regular City elections shall be held on the 9th day of June, one thousand nine hundred ninety-eight, and on the first Tuesday in June of every second year thereafter. Special elections shall be held at such times as may be fixed by the Council in accordance with the provisions of this Charter and of general law.

The ballot to be used in City elections shall be prepared by the Council and shall have set forth thereon a division the names of all properly nominated candidates for election to membership on the Council by ward, and at-large, as is provided hereunder. In the printing of the ballots, the position of the names of the candidates shall be in like manner as is provided by general law for the printing of official primary ballots. The ballots shall state that the election is non-partisan and shall clearly indicate the number of candidates for each office for whom the voter is entitled to vote. At least ten days before the election a sample ballot showing the names of all properly nominated candidates shall be published once in two newspapers circulated in the City in the same manner as is provided by law for the publication of the list of nominations in a general election.

Except as otherwise provided in this Charter, City elections shall be conducted and the result determined and certified in accordance with the provisions of general law with respect to primary, general and special elections, so far as they are applicable, except that the duties devolving upon the county court and the Clerk thereof under the general laws for conducting elections shall be performed by the City Council and the City Clerk. The Council shall appoint three commissioners and two Clerks to serve as election officials in each precinct in the City. At least three days before the date of the election the City Clerk shall procure from the Clerk of the county court the necessary registration records and other election supplies and shall deliver them together with the ballots to the election officials. The election officials shall as soon as possible after the closing of the polls on election day return to the City Clerk the ballots, tally sheets, certificates of the result of the election, registration records, ballot boxes and other election supplies. On the first Monday following the election the Council shall canvass the returns of the election and declare the result. In the case of a contest the Council shall be the judge of the election and qualifications of all City officials.

The cost incurred for such election shall be paid out of the general City revenues. The costs of conducting special elections shall be paid out of general City revenues.

In the event any candidate requests a recount of the votes in any election, such recount is to be paid by the person making such request, and the cost of such recount is to be set by Council prior to each election according to state law.

SECTION 40. EFFECTIVE DATE OF CHARTER

For the purposes of extending the terms of office of present elective officers, of the election of new officers under this Charter, and the operation of all other provisions of Section 41 hereof, this Charter shall be in effect from and after the date of its adoption by the voters of the City. For all other purposes it shall be in effect on and after the first day of July next following the first election held under its provisions.

SECTION 41. TRANSITION

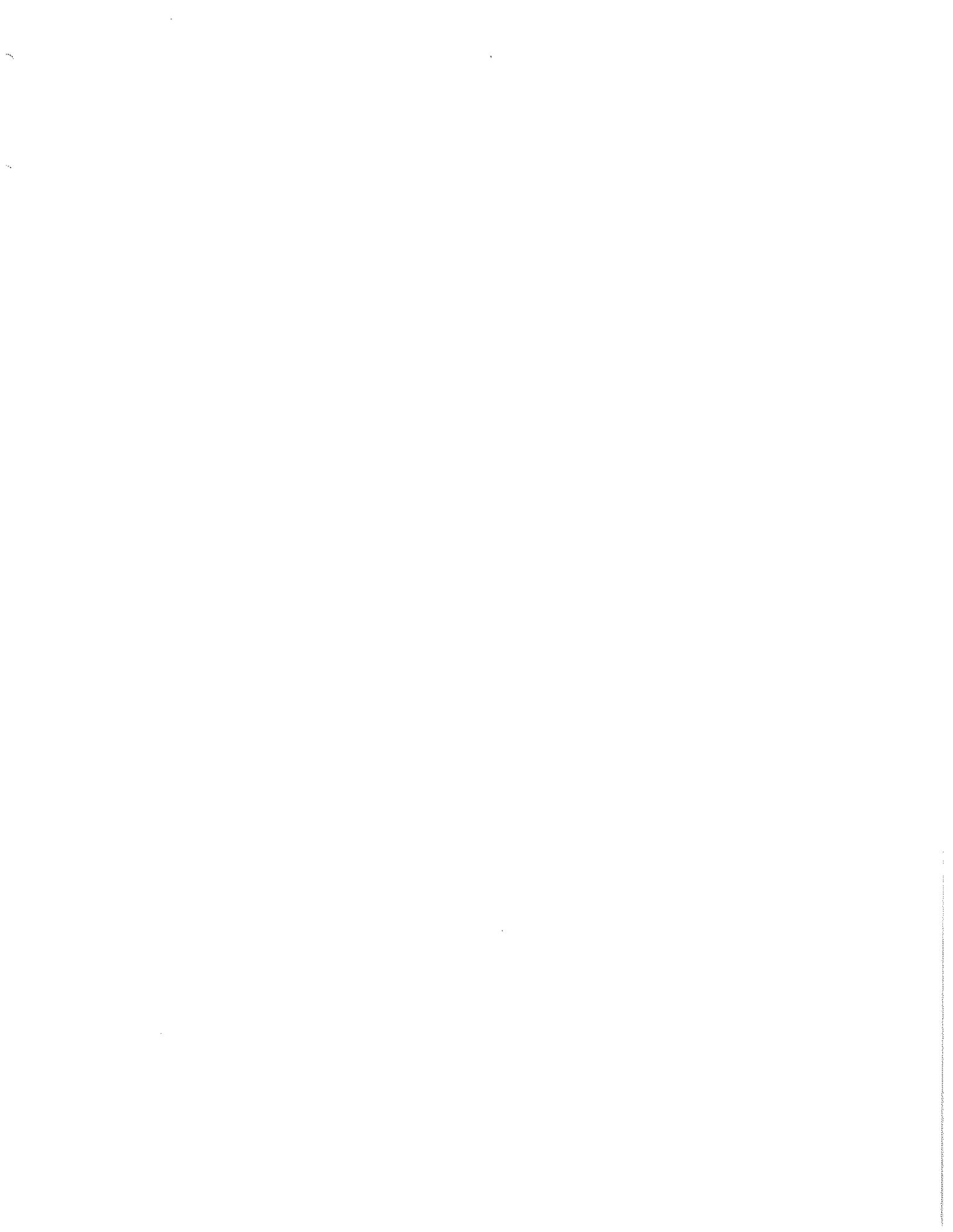
(a) Schedule. The first election of officers under this Charter shall be held on June 9, 1998 in conjunction with the election regarding the approval of this Charter. Members of Council elected on June 9, 1998 shall take office on July 1, 1998 as specified in Section 4 of this Charter.

(b) 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 and a newspaper of general circulation in Harrison County, West Virginia. At the first regular meeting of City Council under this Charter, on July 1, 1998, City Council shall appoint an interim City Manager. Thereafter, City Council shall scrutinize resumes, interview candidates and select the most qualified individual for the position of City Manager. City Council shall appoint a City Manager by August 1, 1998.

(c) Continuance of Office or Employment. No City administrative officer shall continue in office after the effective date of this Charter, unless such office is continued or provided for by this Charter. Except with respect to the position of City Clerk, no non-elected City employee shall lose their position of employment solely as a result of the adoption of this Charter unless such position is specifically eliminated hereby. Nothing contained herein shall prohibit the Council from contracting with or employing former City officers or employees, on a temporary basis, to provide for the orderly and efficient transfer of duties under, and implementation of, this Charter. Such contract or employment shall not constitute a conflict of interest.

(d) City Clerk. The non-elected position of City Clerk under the previous Charter is materially distinguishable from the position of City Clerk under this Charter. Therefore, the position of City Clerk under the previous Charter is specifically eliminated and the position of City Clerk under this Charter is considered a new position. City Council shall appoint an interim City Clerk by July 1, 1998. City Council shall appoint a City Clerk by August 1, 1998.

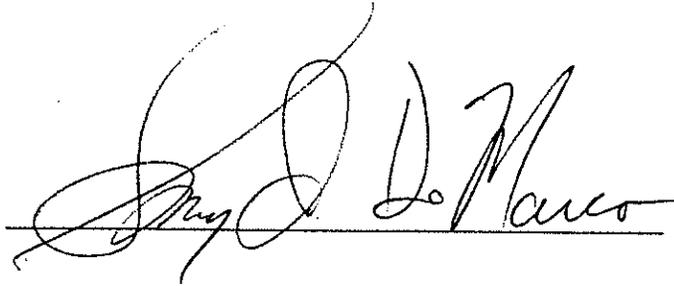
(e) Former Elected Officers. The members of Council representing the first, second, third and fourth wards and the Mayor and Recorder elected in June, 1996 shall serve until their successors are elected and qualified and take office on July 1, 1998.



OATH OF OFFICE

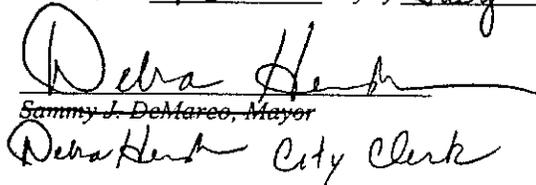
I, Sammy J. DeMareo, do solemnly swear or affirm that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and all the laws and ordinances of the City of Shinnston, now in effect, and those that may be placed into effect, and perform the duties of Council Member to the best of my ability and judgement.

So help me God.



A handwritten signature in cursive script, reading "Sammy J. DeMareo", written over a horizontal line.

Subscribed and acknowledged to before
me this, the 1st day of July, 2004.



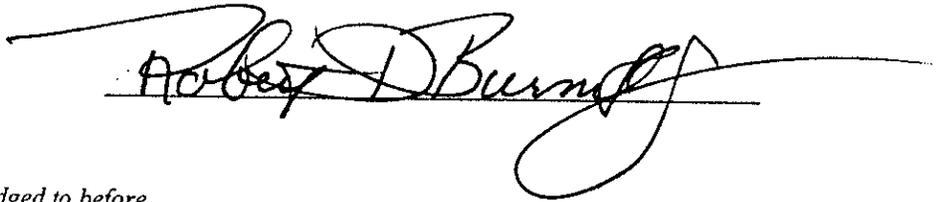
Two handwritten signatures in cursive script. The first signature is "Debra Hunt" written over a horizontal line. Below it, the name "Debra Hunt" is written again, followed by "City Clerk".

Debra Hunt
Sammy J. DeMareo, Mayor
Debra Hunt City Clerk

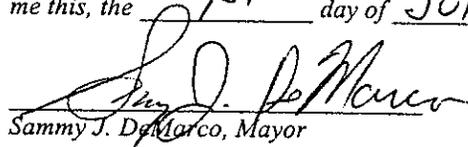
OATH OF OFFICE

I, Robert D Burnett Jr do solemnly swear or affirm that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and all the laws and ordinances of the City of Shinnston, now in effect, and those that may be placed into effect, and perform the duties of Council Member to the best of my ability and judgement.

So help me God.

A large, stylized handwritten signature in black ink, reading "Robert D Burnett Jr". The signature is written over a horizontal line.

Subscribed and acknowledged to before
me this, the 1st day of July, 2004.

A handwritten signature in black ink, reading "Sammy J. DeMarco". The signature is written over a horizontal line.

Sammy J. DeMarco, Mayor

OATH OF OFFICE

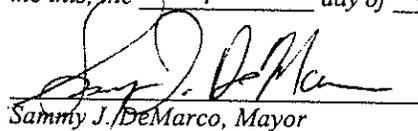
I, VAUGHN HUGBERT do solemnly swear or affirm that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and all the laws and ordinances of the City of Shinnston, now in effect, and those that may be placed into effect, and perform the duties of Council Member to the best of my ability and judgement.

So help me God.



A handwritten signature in cursive script, appearing to read "Vaughn Hugbert", is written over a horizontal line.

Subscribed and acknowledged to before
me this, the 1st day of July, 2004.



A handwritten signature in cursive script, appearing to read "Sammy J. DeMarco", is written over a horizontal line.

Sammy J. DeMarco, Mayor

OATH OF OFFICE

I, David Signorelli, do solemnly swear or affirm that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and all the laws and ordinances of the City of Shinnston, now in effect, and those that may be placed into effect, and perform the duties of Council Member to the best of my ability and judgement.

So help me God.

David Signorelli

*Subscribed and acknowledged to before
me this, the 20th day of May, 2005.*

Debra Herndon

Debra Herndon, City Clerk

OATH OF OFFICE

I, Mary Ann Ferris⁵ do solemnly swear or affirm that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and all the laws and ordinances of the City of Shinnston, now in effect, and those that may be placed into effect, and perform the duties of Council Member to the best of my ability and judgement.

So help me God.

Mary Ann Ferris

Subscribed and acknowledged to before
me this, the 1st day of July, 2004
Sammy J. DeMarco
Sammy J. DeMarco, Mayor

OATH OF OFFICE

I, Derek McIntyre, do solemnly swear or affirm that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and all the laws and ordinances of the City of Shinnston, now in effect, and those that may be placed into effect, and perform the duties of Council Member to the best of my ability and judgement.

So help me God.



Subscribed and acknowledged to before

me this the 26th day of September, 2005.



Sammy J. DeMarco, Mayor

OATH OF OFFICE

I, Salvatore Ayers do solemnly swear or affirm that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and all the laws and ordinances of the City of Shinnston, now in effect, and those that may be placed into effect, and perform the duties of Council Member to the best of my ability and judgement.

So help me God.

Salvatore Ayers

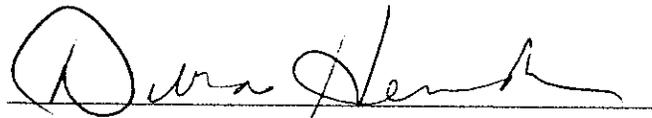
Subscribed and acknowledged to before
me this, the 25th day of July, 2004.

Sammy J. DeMarco
Sammy J. DeMarco, Mayor

OATH OF OFFICE

I, Debra Herndon, do solemnly swear or affirm that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and all the laws and ordinances of the City of Shinnston, now in effect, and those that may be placed into effect, and perform the duties of City Clerk to the best of my ability and judgement.

So help me God.



A handwritten signature in cursive script, reading "Debra Herndon", written over a horizontal line.

Subscribed and acknowledged to before me this, the 20th day of April, 1999.



A handwritten signature in cursive script, reading "Sammy J. DeMarco", written over a horizontal line.

Sammy J. DeMarco, Mayor

OATH OF OFFICE

I, Richard Janus, do solemnly swear or affirm that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and all the laws and ordinances of the City of Shinnston, now in effect, and those that may be placed into effect, and perform the duties of City Manager to the best of my ability and judgement.

So help me God.

Richard Janus

Subscribed and acknowledged to before
me this, the 18th day of August, 2003.

Sammy J. DeMarco
Sammy J. DeMarco, Mayor

CITY OF SHINNSTON
ORGANIZATIONAL MEETING
JULY 1, 2004
NOON

The organizational meeting of July 1, 2004 was called to order by Mayor Sammy J. DeMarco at noon in Council Chambers. Council Members present were Robert Burnett and Vaughn Haggerty as well as Council Members-elect Salvatore Ayers and Mary Ann Ferris. Absent were Matthew Clark and David Signorelli. Also present were City Manager Richard Janus and City Clerk Debra Herndon.

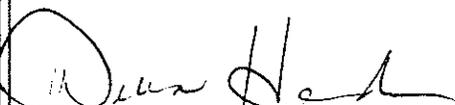
Mrs. Herndon administered the oath of office for all Council Members present.

Mayor DeMarco opened the floor for nominations for mayor. Motion to name Sammy J. DeMarco as Mayor for the 2004-2006 term - Burnett/ Haggerty. Carried. Mr. Burnett stated that Mayor DeMarco has done a good job.

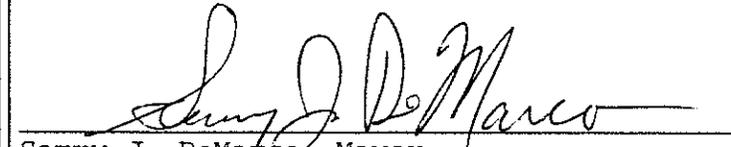
Motion to name Robert Burnett as Vice-Mayor - Haggerty/ Ferris. Carried.

Motion to accept minutes of public hearing and special meeting of 6/28/04 - Burnett/ Haggerty. Carried with 4 votes; Council Member Ayers abstaining.

Motion to adjourn - Burnett/ Haggerty. Carried.


Debra Herndon, City Clerk

Date accepted by Council 7-12-04


Sammy J. DeMarco, Mayor

CITY OF SHINNSTON

RESOLUTION ON OPEN GOVERNMENTAL PROCEEDINGS RULES

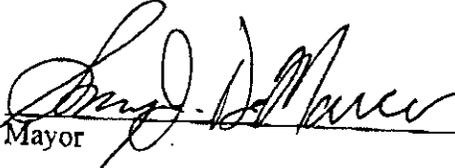
Pursuant to Chapter 6, Article 9A, Section 3 of the West Virginia Code, the Council of the City of Shinnston does hereby adopt the following rules to make available, in advance, the date, time, place and agenda of all regularly scheduled meetings of the Council, and the date, time, place and purpose of all special meetings of the Council to the public and news media (except in the case of an emergency requiring immediate action) as follows:

1. Regular Meetings. A notice shall be posted and maintained by the City Clerk at the front door or bulletin board of the City Hall of the date, time and place fixed and entered of record by Council for the holding of regularly scheduled meetings. In addition, a copy of the agenda for each regularly scheduled meeting shall be posted at the same location by the City Clerk not less than 72 hours before such regular meeting is to be held. If a particular regularly scheduled meeting is canceled or postponed, a notice of such cancellation or postponement shall be posted at the same location as soon as feasible after such cancellation or postponement has been determined.

2. Special Meetings. A notice shall be posted by the City Clerk at the front door or bulletin board of the City Hall not less than 72 hours before a specially 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 canceled, a notice of such cancellation shall be posted at the same location as soon as feasible after such cancellation has been determined.

These rules regarding notice of meetings shall replace any and all previous rules heretofore adopted by Council.

Adopted this 27 day of JUNE, 2005.



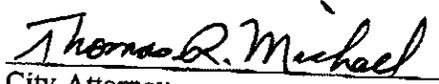
Mayor

ATTEST:



City Clerk

APPROVED AS TO FORM AND CORRECTNESS:



City Attorney

06/02/05
818500.00001

RECEIVED
UTILITIES DIVISION
SPECIAL STUDIES SECTION

Public Service Commission
of W. VA. Tariff Office

2004 AUG 12 PM 9:12

AUG 12 2004

Special Studies Section

P.S.C. W. Va. No. 11
Canceling P.S.C. W. Va. No. 10

CITY OF SHINNSTON, a municipal corporation

OF

SHINNSTON, WEST VIRGINIA

RATES, RULES AND REGULATIONS FOR FURNISHING

WATER

at Shinnston, Harrison County, West Virginia

Filed with THE PUBLIC SERVICE COMMISSION
of
WEST VIRGINIA

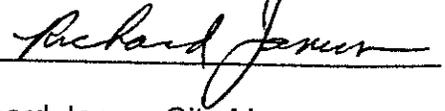
Issued July 23, 2004

Effective for all service rendered on or after July 23, 2004
or as otherwise provided herein.

Issued by authority of an Order of the
Public Service Commission of West Virginia
in Case No. 04-0236-W-MA Final
July 13, 2004 or as otherwise provided herein.

Issued by CITY OF SHINNSTON, a municipal corporation

BY:



Richard Janus, City Manager

Title

RULES AND REGULATIONS

- I. Rules and Regulations for the Government of Water Utilities, adopted by the Public Service Commission of West Virginia, and now in effect, and all amendments thereto and modifications thereof hereafter made by said Commission.

APPLICABILITY

Applicable within the entire territory served

AVAILABILITY

Available for general domestic, public, commercial, industrial and wholesale water service

(I, C) RATES (Customers with metered water supply)

First	2,000 gallons used per month	\$5.75 per 1,000 gallons
Next	3,000 gallons used per month	\$4.76 per 1,000 gallons
Next	5,000 gallons used per month	\$3.76 per 1,000 gallons
Next	90,000 gallons used per month	\$2.76 per 1,000 gallons
All over	100,000 gallons used per month	\$2.56 per 1,000 gallons

(I,C) MINIMUM CHARGE

No bill will be rendered for less than \$11.50 per month which is equivalent of 2,000 gallons or:

5/8 inch meter	\$ 11.50 per month
3/4 inch meter	\$ 17.25 per month
1 inch meter	\$ 28.75 per month
1 - 1/2 inch meter	\$ 57.50 per month
2 inch meter	\$ 92.00 per month
3 inch meter	\$172.50 per month
4 inch meter	\$287.50 per month
6 inch meter	\$575.00 per month

(I, C) RESALE RATE

All water for resale to Bingamon Public Service District, Town of Worthington, Hutchinson Water Association and Tri-County Water Association will be billed in accordance with the approved rate of \$2.14 per 1,000 gallons used per month.

(C) DELAYED PAYMENT PENALTY

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

PRIVATE AND PUBLIC FIRE PROTECTION

Fire Hydrants	\$25.00 per month
Fire Sprinkler System Tap	\$12.50 per month

(I) Indicates increase

(C) Indicates change in text

(C) TAP FEE

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

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 service.

(C) RECONNECTION - \$20.00

To be charged whenever the supply of water is turned off for violations of rules and/or non-payment of bills

(I,C) RETURNED CHECK CHARGE

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

(D,C) LEAK ADJUSTMENT

\$0.58 per 1,000 gallons is to be used when the bill reflects unusual consumption which can be attributed to eligible leakage on customer's side of the meter. This rate shall be applied to all such consumption above customer's historical average usage.

(N) SECURITY DEPOSIT

Not to exceed one twelfth (1/12) of the annual estimated charge for residential service or one-sixth (1/6) of annual estimated charge for commercial service.

- (I) Indicates increase
- (C) Indicates change in text
- (N) Indicates new

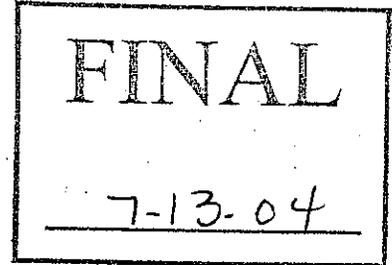
PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

Entered: June 23, 2004

CASE NO. 04-0236-W-MA

CITY OF SHINNSTON,
a municipal utility.

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



RECOMMENDED DECISION

On February 9, 2004, the City of Shinnston (Respondent or City) adopted an ordinance which increased water rates for service to the customers of the City to become effective upon substantial completion of an improvement project proposed for the City's water system. The proposed project had not yet been filed with the Public Service Commission, but is expected to be completed in November 2005.

On February 11, 2004, the Town of Worthington, by its attorney, James A. Liotta, filed a letter protesting the proposed rate increase on the grounds that it was not cost based and was discriminatory. The Town of Worthington is a resale water customer of the City of Shinnston.

By a Commission Order entered February 17, 2004, the Public Service Commission invoked its jurisdiction in this matter under West Virginia Code §24-2-4b. That order made the City of Shinnston, a municipal corporation, respondent to this proceeding and, pending investigation, hearing and decision thereon, suspended and deferred the use of said increased rates until 12:01 a.m., July 23, 2004, unless otherwise ordered by the Commission. The Order referred this municipal rate appeal to the Division of Administrative Law Judges for further proceedings with a decision due date of June 23, 2004. Commission Staff was required to file its report in this matter on or before May 10, 2004, and the Executive Secretary was required to provide public legal notice of this appeal by publication of a copy of the Commission's Order once in a newspaper of general circulation in the City of Shinnston.

On March 8, 2004, the Bingamon Public Service District, also a resale customer of the City of Shinnston, filed petitions signed by many of its customers in protest of the proposed rate increase. The cover letter transmitting these petitions also complained of a recent service outage on part of the system, a lack of fire protection and another recent rate increase.

On March 9, 2004, the City of Shinnston filed certificates of publication demonstrating publication of a Public Notice of Change in Water Rates on February 11 and 18, 2004, in The Exponent-Telegram (Harrison County), and the Times West Virginian (Marion County), and on February 12 and 18, 2004, in The Shinnston News & Harrison County Journal, newspapers duly qualified by the Secretary of State, published and of general circulation in the Respondent's service territory. The City also filed copies of a press release prepared and circulated in this matter.

On March 12, 2004, Monongahela Power Company and Allegheny Energy Power Supply Company, LLC (Allegheny or Intervenors), filed a formal motion to intervene in this proceeding. In support of this motion, the Intervenors stated that the Harrison Power Station is owned by Allegheny and is the largest commercial/industrial customer of the City of Shinnston's water system and, thus, Allegheny has a direct economic interest in this proceeding.

On March 15, 2004, the Respondent filed working copies of the Preliminary Engineering Report for the water improvement project underlying the proposed rate increase.

On March 16, 2004, Bingamon Public Service District filed additional signatures of customers protesting this rate increase.

On March 19, 2004, Commission Staff filed its Initial Joint Staff Memorandum in this matter. Staff stated that its review and investigation was continuing and that a final report would be filed in a timely manner. However, due to the fact that only incomplete plans and specifications for the proposed project were available at this time, the possibility existed that the statutory deadline in this case may need to be tolled.

On March 23, 2004, the City of Shinnston, by its attorney, David C. Glover, filed a formal Motion to Dismiss the Petitions of the Town of Worthington and Bingamon Public Service District. In support of its motion, the Respondent stated that the Town of Worthington and Bingamon Public Service District had failed to provide any evidence of discrimination with their filings in this matter, as required by Code §24-2-4b(1)(2). Bingamon's filing did not even allege discrimination. The rate increase proposed for resale (36%) is much less than the increase proposed for the City of Shinnston's own customers (55%), which does not support any inference of discrimination. Consequently, these protests must be dismissed.

On March 29, 2004, Bingamon Public Service District responded to the City's motion to dismiss by stating that it was not alleging discrimination, but, rather, was basing its petition on the "25% rule."

Also on March 29, 2004, the Town of Worthington filed its response to the Respondent's motion to dismiss. The Town stated that the Public Service Commission is obligated, in part, to insure that rates are based primarily on the costs of providing these services, and that its letter

of the Public Service Commission was present and represented by Staff Attorney C. Terry Owen. On May 27, 2004, an accurate transcript consisting of seventy-five (75) pages of testimony was filed with the Executive Secretary. Pursuant to the briefing schedule, the Intervenors filed an initial brief on June 4, 2004.

EVIDENCE

At hearing, statements of public protest were taken. Robert W. Waugh, the owner of the Shinnston Dairy Queen, stated that his operation was one of the largest water users in Shinnston. His ice cream freezers use fresh water constantly in the cooling process, and he pays between \$3,000 and \$4,000 for water per year under current rates. He strongly opposes any increase. (Tr. pp. 9-10).

Ronald W. Meredith produced a filter cartridge from his whole-house water filter. The filter, and the water surrounding it, were heavy with rusty-red sediment. This resulted from only two weeks of use. Mr. Meredith believes that Shinnston must improve its water system if the Town is going to progress. (Tr. pp. 10-12).

Long-term Shinnston resident Lawrence Costelac stated that he was concerned about the historical use of asbestos-concrete pipe in the raw water portion of the Shinnston system. He believes that no improvement project should be undertaken which does not address replacement of this pipe. (Tr. pp. 13-14).

By agreement of counsel, the City of Shinnston presented its case first. Counsel for the City stated that the City concurred with the Staff Report in large part, but had testimony about several areas of concern. Richard Janus, City Manager for the City of Shinnston, testified first for the City. Mr. Janus explained that the City's rate ordinance was passed in contemplation of a large water system improvement project, to become effective when the project is complete. He has reviewed the Staff report and believes that it is detailed and comprehensive. However, several matters have occurred since Staff compiled the information used in its report. The City is having trouble making its current budget, and has been drawing down reserve accounts in order to make its payments to the Rural Utility Service (RUS). Additionally, the City's backhoe has become completely unusable. The City will require a replacement tractor as soon as possible, and any resulting debt service needs to be included in rates. Mr. Janus believes a backhoe will cost in the range of \$55,000 to \$60,000. The depleted bond reserves need to be restored also. The deficiency is currently \$77,000. Actual chemical costs are running higher than the Staff estimate by \$5,000 per year. The City is concerned that its current financial problems will affect the proposed RUS funding for the proposed project. (Tr. pp. 15-23).

Under cross-examination by counsel for the Town of Worthington, Mr. Janus confirmed that, under Staff's recommended interim rates, resale customers will experience a four cent (\$0.04) decrease in rates. The

of protest specifically stated that the proposed rate increase was "not cost based and therefore discriminatory." That allegation was sufficient to allow the Public Service Commission to invoke its jurisdiction in this case so as to allow the determination that the proposed increased rates are, in fact, based on the costs of providing service to the Town of Worthington.

On April 13, 2004, Commission Staff filed its response to the City of Shinnston's Motion to Dismiss and to the Motion to Intervene. Staff stated that it had no objection to the Motion to Intervene filed by Monongahela Power Company and Allegheny Energy Supply Company, LLC. Staff recommended that the Petition of Protest filed by Bingamon Public Service District should be dismissed, but, under Commission precedent and routine practice, the Town of Worthington's petition should not be dismissed and that a sufficient allegation of rate discrimination had been presented.

On April 14, 2004, a Procedural Order was entered which scheduled this case for hearing to be held on May 20, 2004, in Shinnston, West Virginia. This Order also granted the Motion to Intervene filed by Monongahela Power Company and Allegheny Energy Supply Company, LLC. The Motion to Dismiss filed by the Respondent, City of Shinnston, was denied as it related to the Town of Worthington, but was granted as to the Bingamon Public Service District, which was dismissed as a party to this municipal appeal. A post-hearing briefing schedule was also established in this Order.

On May 10, 2004, Commission Staff filed its Staff Report in this matter including a Class Cost of Service Study for the fiscal year ending June 30, 2003. The rate increase giving rise to this municipal appeal was passed in order to fund a proposed construction project. During the audit, Staff became aware that the City was also having difficulty maintaining day-to-day operations. The City was operating at a current cash flow deficit of \$151,283, with a debt service coverage factor of 54.42%. As a result, the City is in technical default of its bond covenants. To resolve this situation, Staff recommended an increase in rates and charges to go into effect immediately upon entry of a final order in this case. These increased Level One rates will result in a cash surplus of \$40,202, with debt service coverage of 137.03%. Staff also recommended approval of increased Level Two rates, to become effective upon the substantial completion of the contemplated project. Staff's Level Two rates represent an across-the-board increase of 29.1% over the Staff-recommended Level One rates and will generate a post-construction cash surplus of \$40,520 with a debt coverage of 124.57%. Staff also calculated an incremental charge for leak adjustments of \$0.58 per thousand gallons.

The hearing convened as scheduled on May 20, 2004, with all parties in attendance. The Respondent, City of Shinnston, was present and represented by its attorney, David C. Glover. The Petitioner, Town of Worthington, was present and represented by its attorney, Jarrod DeVault. The Intervenors, Allegheny Energy Supply Company and Monongahela Power Company, were present and represented by attorney Gary Jack. The Staff

resale rate will decrease from \$2.02 to \$1.98 per thousand gallons. (Tr. pp. 23-24).

Under cross-examination by counsel for the Intervenor, Mr. Janus explained that the Staff-recommended Level One rate is based on current operations while the second level increase is based on post-project expenses. The project is intended to upgrade the treatment plant, tanks and some lines, many of which are 100 years old. The project will also increase system capacity. The project will cost around five and one-half million dollars and take 12 to 18 months to complete. The project will require Public Service Commission approval and the issuance of a certificate of convenience and necessity. An application for the certificate should be filed within 30 to 45 days. If the project is fully funded, it will be constructed as planned. If the project cannot be fully funded, it will be scaled back. Rates will not be decreased, however. Mr. Janus gets complaints almost every day about water quality. During the winter, the system averages a line leak almost every other day. No major improvement projects have been attempted for at least 20 years. (Tr. pp. 24-31).

Under cross-examination by the Staff Attorney, Mr. Janus confirmed that the project includes significant replacement of distribution lines. It is hoped this line replacement will reduce the current 40% unaccounted-for water loss. The City does not currently have a regular, on-going line flushing program. If the City buys a new backhoe, it will do so under a lease-purchase arrangement at 4.3% interest. (Tr. pp. 31-33).

The City of Shinnston called its Office Supervisor, Debra Herndon, as its next witness. Ms. Herndon stated that the City's 1976 loan has a remaining balance of \$2,139,425, as of June 30, 2003. The 1983 loan has a balance of \$355,755. The required bond reserve on these loans is currently deficient by \$77,416. The depreciation reserve is short by \$94,396, for a total shortage of \$171,812.64. Increased rates to address those deficiencies must be in place before the RUS will approve funding for the proposed project. (Tr. pp. 34-36).

Under cross-examination by counsel for the Intervenor, Ms. Herndon confirmed that the project would increase the City's indebtedness to seven and a half million dollars. She also confirmed that the increased rates proposed by Staff have taken this into consideration. The City considered a smaller project, but the age and condition of the system did not allow it. (Tr. pp. 37-38).

The City then called its project engineer, Steven Cain, as a witness. Mr. Cain is also a resident of Shinnston and has been involved in planning the proposed project for about three years. He briefly described the age and condition of the City's water system and the need for upgrade. Allegheny's Harrison Power Station, the City's biggest customer, can draw nearly 350 gallons of water per minute from the City's system. Such usage will drain the tank for that portion of the system in eight hours. That must be corrected. The City's rates are low compared to other area utilities, so the project must be predominantly loan

funded. Little grant money is available. Many of the system's cast iron lines are badly corroded and occluded. These lines also produce the rust and sediment. All proposed improvements will benefit existing customers, including Allegheny. Shinnston draws its raw water from the Tygart River, but its largest customer, Allegheny, is located fifteen miles away at the other end of the system. That creates a long system to pull water through. In reality, the City could use ten million dollars worth of water improvements. All improvements in this project will benefit Allegheny and the Town of Worthington. The engineer then reiterated the planning process for a project like this, and the ratemaking process as well. (Tr. pp. 39-49).

Under cross-examination from counsel for the Intervenors, Mr. Cain confirmed that, if unaccounted-for water decreases, production expenses will decrease. However, it is impossible to predict how much the unaccounted-for water will decrease as a result of the project. Not all lines will be replaced. Eventually, the City's system will reach the 15 to 20 percent range. The asbestos concrete pipe mentioned by the Protestant, Mr. Costelac, is not a health or safety concern. The cast iron pipe is a bigger maintenance concern. (Tr. pp. 49-53).

The testimony of Mr. Cain concluded the City's case. Neither the Town of Worthington nor Allegheny presented separate witnesses.

Commission Staff called its Utilities Analyst, Charles Knurek, as its first witness. Mr. Knurek is a highly experienced utility analyst and prepared the financial portion of Staff's report in this case. He briefly explained Staff's involvement in this municipal appeal. Pursuant to its review of the City's water operations and a class cost of service study, Staff has recommended a two-step rate increase for the City. The City is currently operating at a substantial cash flow deficit. That situation must be addressed before the project funding can be processed further. Staff's recommended rates will address the immediate deficit and provide for the post-project revenue requirement. The City needs an immediate revenue increase of approximately twenty-five percent (25%) and an additional revenue increase of approximately twenty-nine percent (29%) when the project is substantially complete. The initial increase will allow the City to meet all current expenses including the funding of the reserve accounts. Due to the City's current cash flow deficit and insufficient debt coverage factor of fifty-four percent (54%), it is in technical violation of its bond covenants. Staff's recommended increase will address that problem, both in the short run and post-construction. Mr. Knurek then detailed some of the accounting adjustments and billing analysis. A customer using 4,500 gallons per month currently pays \$15.58. Under Staff's recommended Level One rates, that bill will increase to \$23.67. (Tr. pp. 55-65).

Under cross-examination by the City's attorney, Mr. Knurek reiterated that the Staff recommended Level One rate increase will be sufficient for current revenue requirements and to initiate the restoration of the reserve funds. Full restoration will take some time. He also believes Staff's post-construction rates are sufficient. Staff's recommendation that the resale rate be slightly decreased during the

interim period is based solely on the cost of service justification. This rate will increase to \$2.57 per thousand gallons, post-construction. (Tr. pp. 65-68).

Under cross-examination by counsel for the Intervenor, Mr. Knurek explained that the post-project rates will become effective upon substantial completion of the project as certified by the project engineer. This is a standard determination in the utility field. (Tr. pp. 69-70).

On redirect by the Staff Attorney, Mr. Knurek confirmed that Staff would have allowed funds to capitalize the purchase of a new backhoe in this case, if it had known the City's backhoe was going to fail. (Tr. pp. 70-71).

Staff called its Technical Analyst, James Spurlock, as its next witness. Mr. Spurlock worked with Mr. Knurek on this case and prepared the cost allocation factors for the class cost of service study. He explained what cost allocation factors are, and how they are used to arrive at non-discriminatory revenue requirements for each class of customer. Mr. Spurlock also determined the average annual capital expenditures of this utility to be used by Mr. Knurek. (Tr. pp. 71-74).

Staff then marked as an exhibit and moved admission of the Staff report filed in this matter on May 10, 2004. There were no objections to its admission and it was admitted as Staff Exhibit No. 1. This concluded the testimony at hearing.

On June 3, 2004, the City of Shinnston filed a Post-Hearing exhibit consisting of quotes and specifications on various tractors to replace the City's backhoe.

On June 8, 2004, Commission Staff filed its Second Final Joint Staff Memorandum and an amended class cost of service study in order to correct a mistake in the original exhibit.

On June 16, 2004, Staff filed its Third Final Joint Staff Memorandum in this matter. Contained in this filing were amended financial schedules reflecting revenues and expenses concerning the City's efforts to obtain a new backhoe. Staff recommended approval for the City to finance the backhoe in an amount not to exceed \$67,200, at an annual rate not to exceed 4.6% for a period of six (6) years. Annual debt service for the backhoe should be allocated on a 50-50 basis between water and sewer operations.

DISCUSSION

In contemplation of an apparently long overdue large improvement project, the City of Shinnston initiated and adopted an increased municipal water rate ordinance. The Town of Worthington, a resale customer of the City of Shinnston, then petitioned under West Virginia Code §24-2-4b for a Commission review of the proposed increased rates. Commission Staff has now completed a comprehensive review of the

operations and finances of the City's water system, including a Class Cost of Service Study. All parties to this municipal appeal have accepted Staff's work as accurate and complete, and have not produced any evidence to refute Staff's findings, revenue requirements or recommended rate structure. Consequently, the Staff-recommended two-tier rate increase is reasonable and necessary and will be adopted in resolution of this municipal appeal.

Several other issues remain outstanding. The City's backhoe-loader completely failed and became unserviceable after Staff completed its initial work in this case. There is no single piece of equipment more necessary to the operation and maintenance of an aging water system than an adequate and reliable backhoe-loader. In recognition of this, Staff has amended its cash flow statement and revenue requirement to include debt service for the purchase of a new backhoe. This recommendation is more than reasonable under the circumstances and will also be adopted. However, the additional expenses detailed by the City Manager in his direct testimony should be covered by Staff's recommended cash flow surplus and will not be separately provided for.

Allegheny, operator of the Harrison Power Plant and the City's largest single customer, has made a valid point that approval of a post-construction rate this far in advance of the actual certificate case is troublesome under traditional concepts of utility rate practice. However, the financing of public construction projects is a long and cumbersome process, with many procedural and technical hurdles. That process, when taken in consideration of the fact that the Public Service Commission lacks primary jurisdiction over the rates of municipal utilities leads to this problem. Only the Legislature can change the current process. Until the Legislature deems to act, we are left with the current, somewhat backward, process. However, in the case at hand, the City made no effort to have its increased rates become effective until the long-planned project was substantially complete. Lastly, many elements of this proposed project will inure to the immediate and direct benefit of Allegheny and the Town of Worthington in the form of increased supply and reliability.

For these reasons, the Staff-recommended increased rates and Class Cost of Service Study contained in the Staff report filed May 10, 2004, as amended by the Second Final Joint Staff Memorandum filed June 8, 2004, and the Third Final Joint Staff Memorandum filed June 16, 2004, shall be adopted in resolution of this municipal appeal.

FINDINGS OF FACT

1. On February 9, 2004, the City of Shinnston adopted an ordinance which increased water rates for service to the customers of the City to become effective upon substantial completion of an improvement project proposed for the City's water system. The proposed project has not yet been filed with the Public Service Commission, but is expected to be completed in November 2005. (See, ordinance adopted February 9, 2004).

2. On February 11, 2004, the Town of Worthington, by its attorney James A. Liotta, filed a letter protesting the proposed rate increase on the grounds that it was not cost based and was discriminatory. The Town of Worthington is a resale water customer of the City of Shinnston. (See, letter filed February 11, 2004).

3. By a Commission Order entered February 17, 2004, the Public Service Commission invoked its jurisdiction in this matter under West Virginia Code §24-2-4b. That order made the City of Shinnston, a municipal corporation, respondent to this proceeding and, pending investigation, hearing and decision thereon, suspended and deferred the use of said increased rates until 12:01 a.m., July 23, 2004, unless otherwise ordered by the Commission. (See, Commission Order entered February 17, 2004).

4. On March 9, 2004, the City of Shinnston filed certificates of publication demonstrating publication of a Public Notice of Change in Water Rates on February 11 and 18, 2004, in The Exponent-Telegram (Harrison County), and the Times West Virginian (Marion County), and on February 12 and 18, 2004, in The Shinnston News & Harrison County Journal, newspapers duly qualified by the Secretary of State, published and of general circulation in the Respondent's service territory. The City also filed copies of a press release prepared and circulated in this matter. (See, certificates of publication filed March 9, 2004).

5. At hearing, the City of Shinnston filed duly executed certificates of publication demonstrating publication for public legal notice of a prepared Notice of Hearing on April 29 and May 6, 2004, in the Times West-Virginian (Marion County) and on those same dates in The Exponent-Telegram (Harrison County), all in compliance with the Procedural Order entered April 14, 2004. (See, certificates of publication filed May 20, 2004).

6. Pursuant to its review of the accounts, records and operations of the City of Shinnston's water operation for the test year ending June 30, 2003, Commission Staff has determined that the City is operating with a current cash flow deficit of \$151,283, and a debt service coverage factor of 54.42% annually. The City has been drawing down reserve funds to meet its bond payments and the bond reserve is deficient in the approximate amount of \$77,000. These conditions place the City in technical violation of its bond covenants. (See, Staff report filed May 10, 2004; Tr. pp. 55-65).

7. Pursuant to its review of the projected borrowing, resulting debt service and operations and maintenance expenses for the City's proposed construction project, Commission Staff has recommended an increase of 29.1% over and above the interim or Level One increased rates to fund said project. (See, Tr. pp. 55-65).

8. Commission Staff has recommended approval of immediate increased rates to address the current operational shortfall of the City. These interim or Level One rates will produce a cash flow surplus of \$40,202, with a debt coverage factor of 137.03%. The City's bond reserve

and depreciation reserve will be serviced by these rates as well. (See, Staff report filed May 10, 2004; Tr. pp. 55-65).

9. At hearing, the City of Shinnston essentially agreed with the Staff report and the Staff-recommended rates. (See, Tr. pp. 15-23).

10. Subsequent to Staff's initial work in this case, the City's backhoe became completely unserviceable and must be replaced. (See, Tr. pp. 15-23).

11. Staff has recommended that the City replace its backhoe and has amended its recommended rates to allow for inclusion of the expected debt service in its revenue requirement. (See, Third Final Joint Staff Memorandum filed June 16, 2004; Tr. pp. 70-71).

12. The Staff-prepared class cost of service study determines the required and appropriate revenue from each customer class. Staff's recommended increased rates, for both Level One and post-construction periods, are sufficient to fund ongoing operations, debt service and reserves. (See, Staff report filed May 10, 2004; Third Final Joint Staff Memorandum filed June 16, 2004).

CONCLUSIONS OF LAW

1. The Staff-recommended Level One rates are sufficient, but not more than sufficient, to cover the City's reasonable operating expenses, routine plant additions and debt service requirements.

2. The Staff-recommended Level Two rates are sufficient, but not more than sufficient, to cover the reasonable increased expenses and debt service associated with the City's planned water system improvement project.

3. Under the facts and circumstances of this case and the recommendation of Commission Staff, it is reasonable to disapprove the increased water rates and charges contained in the most recent water rate ordinance adopted by the City of Shinnston on February 9, 2004, and to substitute therefore and approve the Staff-recommended Level One increased rates, attached hereto as Appendix A, for all service rendered by the City of Shinnston, on and after 12:01 a.m., July 23, 2004.

4. It is also reasonable to substitute therefor and approve the Staff-recommended Level Two post-construction rates, attached hereto as Appendix B, for all service rendered by the City of Shinnston on and after the date that its project engineer certifies its contemplated improvement project as substantially complete.

ORDER

IT IS, THEREFORE, ORDERED that the municipal water rate ordinance adopted by the City of Shinnston on February 9, 2004, shall be disap-

proved and stricken from the records of the Public Service Commission. The Staff-recommended rates and charges, attached hereto as Appendix A, shall be approved for all service rendered on and after 12:01 a.m., July 23, 2004, unless otherwise ordered by the Commission.

IT IS FURTHER ORDERED that the Staff-recommended rates and charges, attached hereto as Appendix B, shall be approved for all service rendered by the City of Shinnston on and after the date its project engineer certifies its contemplated improvement project as substantially complete.

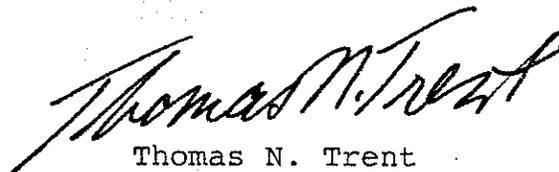
IT IS FURTHER ORDERED that the City of Shinnston shall file an original and five (5) copies of its actual tariffs, as amended by this decision, within thirty (30) days from the date of first use of the rates authorized herein and, further, that this matter shall be removed from the Commission's docket 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.

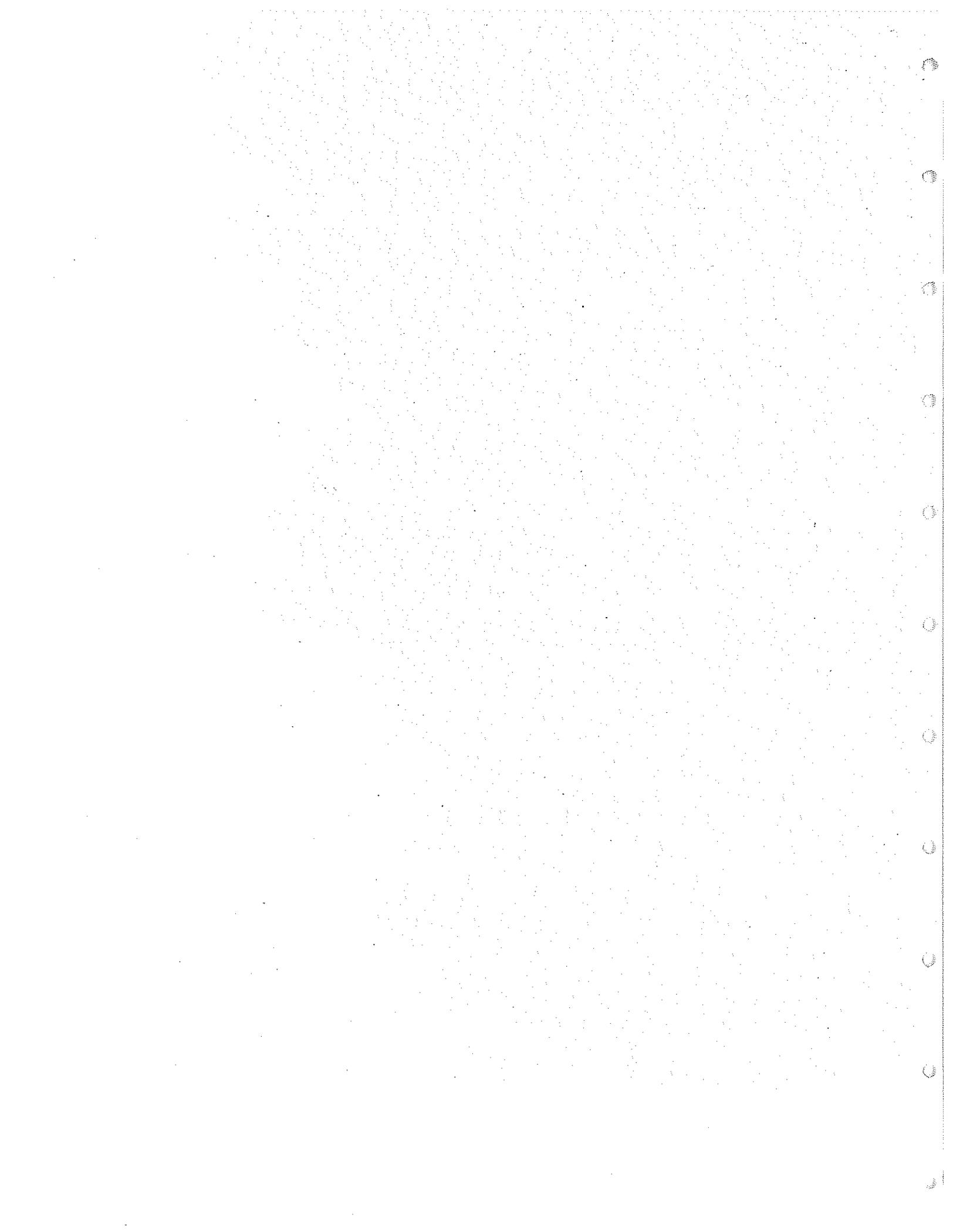
If no exceptions are so filed this order shall become the order of the Commission, without further action or order, five (5) days following the expiration of the aforesaid fifteen (15) day time period, unless it is ordered stayed or postponed by the Commission.

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.



Thomas N. Trent
Administrative Law Judge

TNT:mal
040236ab.wpd



CITY OF SHINNSTON
CASE NO. 04-0236-W-MA
APPROVED RATES

(To become effective immediately upon the Final Order issued by the Administrative Law Judge)

APPLICABILITY

Applicable within the entire territory served.

AVAILABILITY

Available for general domestic, commercial and industrial service.

RATES (customers with metered water supply)

First	2,000 gallons used per month	\$5.75 per M gallons
Next	3,000 gallons used per month	\$4.76 per M gallons
Next	5,000 gallons used per month	\$3.76 per M gallons
Next	90,000 gallons used per month	\$2.76 per M gallons
All over	100,000 gallons used per month	\$2.56 per M gallons

MINIMUM CHARGE

No bill will be rendered for less than \$11.50 per month which is equivalent of 2,000 gallons or

5/8-inch meter	\$ 11.50 per month
3/4-inch meter	\$ 17.25 per month
1 -inch meter	\$ 28.75 per month
1-1/2-inch meter	\$ 57.50 per month
2 -inch meter	\$ 92.00 per month
3 -inch meter	\$172.50 per month
4 -inch meter	\$287.50 per month
6 -inch meter	\$575.00 per month

RESALE RATE

All water for resale to Bingamon Public Service District, Town of Worthington, Hutchinson Water Association and Tri-County Water Association will be billed in accordance with the approved rate of \$2.14 per 1,000 gallons used per month.

DELAYED PAYMENT PENALTY

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

PRIVATE AND PUBLIC FIRE PROTECTION

Fire Hydrants	\$25.00 per month
Fire Sprinkler System Tap	\$12.50 per month

TAP FEE

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

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 service.

RECONNECTION - \$20.00

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

RETURNED CHECK CHARGE

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

LEAK ADJUSTMENT

\$0.58 per 1,000 gallons is to be used when the bill reflects unusual consumption which can be attributed to eligible leakage on customer's side of the meter. This rate shall be applied to all such consumption above customer's historical average usage.

SECURITY DEPOSIT

Not to exceed one-twelfth (1/12) of the annual estimated charge for residential service or one-sixth (1/6) of annual estimated charge for commercial service.

CITY OF SHINNSTON
CASE NO. 04-0236-W-MA
APPROVED RATES

(Effective upon completion of project)

APPLICABILITY

Applicable within the entire territory served.

AVAILABILITY

Available for general domestic, commercial and industrial service.

RATES (customers with metered water supply)

First	2,000 gallons used per month	\$7.41 per M gallons
Next	3,000 gallons used per month	\$6.13 per M gallons
Next	5,000 gallons used per month	\$4.84 per M gallons
Next	90,000 gallons used per month	\$3.55 per M gallons
All over	100,000 gallons used per month	\$3.30 per M gallons

MINIMUM CHARGE

No bill will be rendered for less than \$14.82 per month which is equivalent of 2,000 gallons or

5/8-inch meter	\$ 14.82 per month
3/4-inch meter	\$ 22.25 per month
1 -inch meter	\$ 37.05 per month
1-1/2-inch meter	\$ 74.10 per month
2 -inch meter	\$118.60 per month
3 -inch meter	\$222.30 per month
4 -inch meter	\$370.50 per month
6 -inch meter	\$741.00 per month

RESALE RATE

All water for resale to Bingamon Public Service District, Town of Worthington, Hutchinson Water Association and Tri-County Water Association will be billed in accordance with the approved rate of \$2.76 per 1,000 gallons used per month.

DELAYED PAYMENT PENALTY

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

PRIVATE AND PUBLIC FIRE PROTECTION

Fire Hydrants	\$25.00 per month
Fire Sprinkler System Tap	\$12.50 per month

TAP FEE

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

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 service.

RECONNECTION - \$20.00

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

RETURNED CHECK CHARGE

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

LEAK ADJUSTMENT

\$0.58 per 1,000 gallons is to be used when the bill reflects unusual consumption which can be attributed to eligible leakage on customer's side of the meter. This rate shall be applied to all such consumption above customer's historical average usage.

SECURITY DEPOSIT

Not to exceed one-twelfth (1/12) of the annual estimated charge for residential service or one-sixth (1/6) of annual estimated charge for commercial service.

Legals

NOTICE OF PUBLIC HEARING CITY OF SHINNSTON BOND ORDINANCE

A public hearing will be held on the following-named Ordinance at a regular meeting of the Council of the city of Shinnston (the "City") to be held Monday, September 12, 2005, at 7:00p.m. in the Council Chambers at Shinnston City Hall, 40 Main Street, Shinnston West Virginia, and at such hearing any person interested may appear before the Council and present protests, and all protests and suggestions shall be heard by the Council and it shall take such actions as it shall deem proper in the premises upon Ordinance entitled:

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN ADDITIONAL BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC WATERWORKS FACILITIES OF THE CITY OF SHINNSTON AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$7,250,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2005, A UNITED STATES DEPARTMENT OF AGRICULTURAL DESIGNING AND DESCRIBING THE TERMS AND PROVISIONS OF THE BONDS, PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES OF ANY SECURITY FOR THE HOLDER OF THE BONDS, AND PROVIDING WHEN THIS ORDINANCE SHALL TAKE EFFECT.

The above-named Ordinance was approved by the Council of August 30, 2005. The above-named Ordinance, as described generally, the contents thereof and the purpose 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 to provide permanent financing of the costs of acquisition and construction of betterments, additions, and improvements to the waterworks system of the City and to pay certain costs of issuance of the Bonds and related costs. The Bonds are payable solely from revenues to be derived from the ownership and operation of the waterworks system of the City. No taxes may at anytime be levied for the payment of the Bonds or the interest thereon.

A certified copy of the above-named Ordinance is on file with the Council in the Office of the City Clerk and is available for public review by interested parties during regular office hours. Following the public hearing, the Council intends to enact this Ordinance upon final reading. Dated August 30, 2005. /s/ Debra Herndon, City Clerk, Times August 31, Sep 2005.

AFFIDAVIT OF PUBLICATION

005456

State of West Virginia

County of Marion, to wit:

I, Beverly A. Miller, being first duly sworn upon my oath,

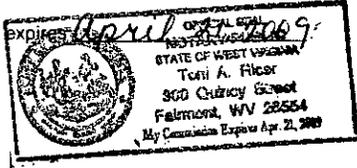
do dispose and say that I am Legal Clerk of the **TIMES WEST VIRGINIAN** a corporation, publisher of the newspaper entitled the **TIMES WEST VIRGINIAN** an Independent newspaper:

that I have been duly authorized by the board of directors of such corporation to execute this affidavit of publication; that such newspaper has been published for more than one year prior to publication of the annexed notice described below, that such newspaper is regularly published daily except Saturday and Sunday, for at least fifty weeks during the calendar year, in the Municipality of Fairmont, Marion County, West Virginia; that such newspaper is a newspaper of "general circulation," as that term is defined in article three, chapter fifty-nine of the Code of West Virginia, 1931, as amended, within the publication area or areas of the aforementioned municipality and Marion County; that such newspaper averages in length four or more pages, exclusive of any cover, per issue; that such newspaper is circulated to the general public at a definite price or consideration; that such newspaper is a newspaper to which the general public resorts for passing events of a political, religious, commercial or social nature, and for current happenings, announcements, miscellaneous reading matter, advertisements and other notices.

that the annexed notice of Public Hearing was duly published in said newspaper once Week for 2 successive weeks (Class II), commencing with the issue of the 31 day of August, 2005, and ending with the issue of the 7 day of September, 2005, and was posted at the front door of the Marion County Courthouse on the 31 day of August, 2005; that said annexed notice was published on the following dates: August 31, September 7, 2005

and the cost of publishing said annexed notice as aforesaid was \$ 124.24

Taken, subscribed and sworn to before me in said county this 31 day of September, 2005

My commission 

Toni A. Rice
Notary Public of Marion County, West Virginia

NOTICE OF PUBLIC HEARING ON CITY OF SHINNSTON BOND ORDINANCE

A public hearing will be held on the following entitled Ordinance at a regular meeting of the Council of the City of Shinnston (the "City") to be held on Monday, September 12, 2005, at 7:00 p.m. in the Council Chambers at the Shinnston City Hall, 40 Main Street, Shinnston, West Virginia, and at such hearing any person interested may appear before the Council and present protests, and all protests and suggestions shall be heard by the Council and it shall then take such actions as it shall deem proper in the premises upon an Ordinance entitled:

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC WATERWORKS FACILITIES OF THE CITY OF SHINNSTON, AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED THEREOF, THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$7,292,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2005 A (UNITED STATES DEPARTMENT OF AGRICULTURE); DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE BONDS; PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE HOLDER OF THE BONDS; AND PROVIDING WHEN THIS ORDINANCE SHALL TAKE EFFECT.

The above entitled Ordinance was approved by the Council on August 30, 2005. 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 to provide permanent financing of the costs of acquisition and construction of betterments, additions and improvements to the waterworks system of the City and to pay certain costs of issuance of the Bonds and related costs. The Bonds are payable solely from revenues to be derived from the ownership and operation of the waterworks system of the City. No taxes may at any time be levied for the payment of the Bonds or the interest thereon.

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

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

Dated: August 30, 2005.

/s/ Debra Herndon
City Clerk



My Commission Expires July 21, 2009

SOCIAL SEAL
ANY PUBLIC
WEST VIRGINIA
SHELLEY F. RIFFLE
Clarksburg Publishing Co.
PO Box 2000, 324 Hawes Ave.
Clarksburg, WY 26302-2000

PUBLISHER'S CERTIFICATE

vs.

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

NOTICE OF PUBLIC HEARING

was published in said THE EXPONENT-TELEGRAM once a week

for 2 successive weeks,

commencing on the 31 day of August 2005

and ending on the 7 day of September 2005

The publisher's fee for said publication is \$ 86.91

Given under my hand this 13 day of September
2005

Sara V. Shingleton

Classified Manager of The Exponent-Telegram



Subscribed and sworn to before me this 13 day of
September, 2005

Shelley F. Riffle
Notary Public in and for Harrison County, WV

My commission expires on the 21 day of July 2009

1
2 CITY OF SHINNSTON
3 PUBLIC HEARING
4 AUGUST 22, 2005
5 7:00 P.M.

6 The Public Hearing of August 22, 2005 was called to order by
7 Mayor Sammy J. DeMarco at 7:00 p.m. in Council Chambers. Council
8 Members present were Robert Burnett, Vaughn Haggerty, David Signorelli
9 and Mary Ann Ferris. Absent were Salvatore Ayers and Matthew Clark.
10 Also present were City Manager Richard Janus and City Clerk Debra
11 Herndon.

12 The purpose of the Public Hearing was to gather public comment on
13 "ORDINANCE PROVIDING FOR THE ABANDONMENT OF A PORTION OF LAND ABUTTING A 40 FOOT WIDE
14 STREET KNOWN AS EAST PIKE STREET AND AUTHORIZING A QUITCLAIM DEED TO LAWRENCE DALE
15 MARTIN AND MELBA RUTH MARTIN." Due to an error in publication the public
16 hearing was rescheduled and publication will take place on August
17 25th.

18 CITY OF SHINNSTON
19 SPECIAL MEETING
20 AUGUST 22, 2005
21 7:05 P.M.

22 The Special Meeting of August 22, 2005 was called to order by
23 Mayor Sammy J. DeMarco at 7:05 p.m. in Council Chambers. Council
24 Members present were Robert Burnett, Vaughn Haggerty, David
25 Signorelli, and Mary Ann Ferris. Absent were Salvatore Ayers and
26 Matthew Clark. Also present were City Manager Richard Janus and City
27 Clerk Debra Herndon.

28 Motion to table the ordinance to abandon a portion of land (see
29 public hearing above) due to misprint in publication - DeMarco /
30 Burnett. Carried.

31 Motion to hold public hearing and second reading of "ORDINANCE
32 PROVIDING FOR THE ABANDONMENT OF A PORTION OF LAND ABUTTING A 40 FOOT WIDE STREET
33 KNOWN AS EAST PIKE STREET AND AUTHORIZING A QUITCLAIM DEED TO LAWRENCE DALE MARTIN AND
34 MELBA RUTH MARTIN" on August 30, 2005 beginning at 7:00 p.m. - DeMarco /
35 Ferris. Carried.

36 Motion to read by title only "ORDINANCE AUTHORIZING THE AQUISITION AND
37 CONSTRUCTION OF CERTAIN ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC
38 WATERWORKS FACILITIES OF THE CITY OF SHINNSTON, AND THE FINANCING OF THE COST, NOT
39 OTHERWISE PROVIDED THEREOF, THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN
40 \$7,292,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2005 A (UNITED
STATES DEPARTMENT OF AGRICULTURE); DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS
OF THE BONDS; PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE
HOLDER OF THE BONDS; AND PROVIDING WHEN THIS ORDINANCE SHALL TAKE EFFECT." -
Haggerty / Ferris. Carried. Mrs. Herndon read title.

Motion to accept above (water bond) ordinance for first reading -
Haggerty / Ferris. Carried.

1 Motion to hold second reading of above (water bond) ordinance at
2 the Special Meeting of August 30, 2005 - Ferris / Haggerty. Carried.

3 Motion to hold Public Hearing for above (water bond) ordinance on
4 September 12th at 7:00 p.m. and take up the third reading of the
5 ordinance at the Regular Meeting immediately following the Public
6 Hearing - DeMarco / Ferris. Carried.

7 Motion to close Special Meeting - Haggerty / Ferris. Carried.

8 CITY OF SHINNSTON
9 WORK SESSION
10 AUGUST 22, 2005
11 7:10 P.M.

12 The Work Session of August 22, 2005 was called to order by Mayor
13 Sammy J. DeMarco at 7:10 p.m. in Council Chambers. Council Members
14 present were Robert Burnett, Vaughn Haggerty, David Signorelli, and
15 Mary Ann Ferris. Absent were Salvatore Ayers and Matthew Clark. Also
16 present were City Manager Richard Janus and City Clerk Debra Herndon.

17 Kathleen Panek updated the Council on the wine-tasting event
18 which raised money for the Christmas lights. Mrs. Panek reported that
19 she had exceeded her goal and the total raised was \$1,080.

20 City Manager Janus presented a written report (attached). Mayor
21 DeMarco asked about the status of agreements with Riverdale Estates.
22 Mr. Janus reported that no agreement had been reached with the
23 developer. Ken Yost, representative of Riverdale Estates was present
24 and stated that their attorney was in contact with the City Attorney.
25 Mr. Janus reported that letters had gone out this week to freeholders
26 of the area Council wished to annex.

27 Discussion of the resignation of Matthew Clark from Council.
28 Replacement must be from Ward II. Mr. Janus will place a notice in
29 the paper asking that interested persons respond by September 1, 2005.

30 Discussion of plans for the joint Lumberport, Shinnston and
31 Harrison County Development Authority meeting scheduled for August
32 25th. Meeting will be held in the cafeteria area and Mr. Janus will
33 introduce elected officials. Rodney Strait, Chairman of the Planning
34 and Zoning Commission updated Council on the Commission's progress and
35 outlined information that will be shared at the August 25th meeting.
36 Mrs. Ferris suggested that one important concern to share with the
37 Development Authority was the lack of good access roads.

38 Mayor DeMarco expressed his concern that the City was not using
39 local vendors as often as it should. Discussion. Staff will endeavor
40 to use local vendors whenever appropriate.

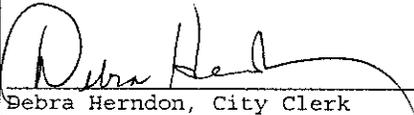
41 Mayor DeMarco asked that the City Manager develop a contact list
42 for emergencies and an emergency procedure policy.

43 Council reviewed a proposal from Fibernet for phone service which
44 showed substantial savings over the current carrier. Council was in
45 favor of the City Manager making this change.

1 Council reviewed the West Virginia Municipal League Revenue
2 Enhancement Program for increased collection of B&O taxes. Mr. Janus
3 will keep the Council informed.

4 Mr. Burnett was concerned about vehicles being parked on the City
5 sidewalks. He asked that the police department give warning tickets
6 for a while to re-educate the citizens about this violation.

7 Council adjourned.

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9 _____
10 Debra Herndon, City Clerk

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12 Date accepted by Council 9/12/05

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15 _____
16 Sammy J. DeMarco, Mayor

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Public Hearing

August 30, 2005

7:00 p.m.

The Public Hearing of August 30, 2005 was opened by Vice-Mayor Robert Burnett at 7:00 pm. Present were Council Members Vaughn Haggerty, Salvatore Ayers and Mary Ann Ferris. Also present were City Manager Richard Janus and Thomas Aman, Esq., attorney at Steptoe and Johnson.

The purpose of the Public Hearing was to hear public comment regarding an ordinance allowing for the abandonment of a portion of land abutting East Pike Street. There being no citizens in attendance, public hearing was closed at 7:02 pm.

Special Meeting

August 30, 2005

7:03 p.m.

The Special Meeting was called to order by Vice-Mayor Robert Burnett at 7:03 p.m. in Council Chambers. Also present were Council Members Vaughn Haggerty, Bud Ayers, Mary Ann Ferris. Also present were Richard Janus, City Manager and Thomas Aman, Esq., attorney at Steptoe and Johnson. A quorum of Council was present.

Motion by Haggerty to read by title only the ordinance providing for the abandonment of a portion of land abutting East Pike Street. Second by Ferris. Passed unanimously.

City Manager read ordinance by title: "ORDINANCE PROVIDING FOR THE ABANDONMENT OF A PORTION OF LAND ABUTTING A 40 FOOT WIDE STREET KNOWN AS EAST PIKE STREET AND AUTHORIZING A QUITCLAIM DEED TO LAWRENCE DALE MARTIN AND MELBA RUTH MARTIN." Motion by Haggerty to approve Ordinance. Second by Ferris. Passed unanimously.

Motion by Haggerty to read by title only the proposed bond ordinance. Second by Ayers. Passed unanimously.

City Manager read ordinance by title: "ORDINANCE AUTHORIZING THE AQUISITION AND CONSTRUCTION OF CERTAIN ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC WATERWORKS FACILITIES OF THE CITY OF SHINNSTON, AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED THEREOF, THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$7,292,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2005 A (UNITED STATES DEPARTMENT OF AGRICULTURE); DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE BONDS; PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE HOLDER OF THE BONDS; AND PROVIDING WHEN THIS ORDINANCE SHALL TAKE EFFECT."

Thomas Aman addressed Council regarding the proposed bond ordinance. He explained the role of the bond counsel was to prepare the ordinance, attend the closing and ensure that all aspects of the bond process were followed correctly. He said two publications of the Notice of Public Hearing would precede the public hearing set for Sept.12. At the regular Council meeting on the same date, the third and final

2 new loan or grant money from an agency other than Rural Development (Department of
3 Agriculture) was allocated to the water improvements project, then we would have to
4 start the bond ordinance all over again.

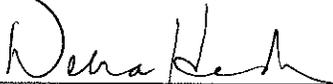
5 Motion by Haggerty to approve the second reading of the proposed bond
6 ordinance. Second by Ayers. Passed unanimously.

7 Vice-Mayor Burnett stated that Mr. Nuzum agrees that the money he donated for
8 the park amphitheater could be used to asphalt the road in the park. Burnett
9 suggested asking the Voc Tech center to allow their students to lay the donation
10 bricks in the park.

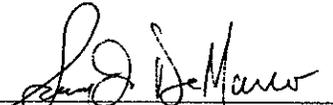
11 Haggerty suggested the city check state bids for a pickup truck with a snow
12 plow.

13 Motion by Haggerty to adjourn. Second by Ferris. Passed unanimously.

14 Meeting adjourned at 7:20 pm.

15 
16 _____
17 Debra Herndon, City Clerk

18
19 Date accepted by Council 9/12/05

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21 _____
22 Sammy J. DeMarco, Mayor
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CITY OF SHINNSTON
PUBLIC HEARING
September 12, 2005
7:00 P.M.

The Public Hearing of September 12, 2005 was called to order by Mayor Sammy J. DeMarco at 7:00 p.m. in Council Chambers. Council Members present were Robert Burnett, Vaughn Haggerty, Salvatore Ayers, Mary Ann Ferris, and David Signorelli. Absent was Matthew Clark. Also present were City Manager Richard Janus and City Clerk Debra Herndon.

The purpose of the Public Hearing was to gather public comment on the proposed bond ordinance for the water project which has been in developmental stages for several years. Kathleen Panek spoke in favor of the project and ordinance. Also present were Kenneth Yost and Mark Southern. There being no further comment Mayor DeMarco closed the Public Hearing at 7:10.

CITY OF SHINNSTON
REGULAR MEETING
September 12, 2005
7:10 P.M.

The Regular Meeting of September 12, 2005 was called to order by Mayor Sammy J. DeMarco at 7:10 p.m. in Council Chambers. Council Members present were Robert Burnett, Vaughn Haggerty, Salvatore Ayers, Mary Ann Ferris, and David Signorelli. Absent was Matthew Clark. Also present were City Manager Richard Janus and City Clerk Debra Herndon.

Invocation was given by Vaughn Haggerty.

Motion to approve minutes of Regular Meeting 8/8/05; Public Hearing, Special Meeting and Work Session 8/22/05; and Public Hearing and Special Meeting 8/30/05 - Burnett / Haggerty. Carried.

PETITIONS OF CITIZENS

Mark Southern and Ken Yost were present to request that the City approved a plat of Riverdale Estates. WV State Code requires the approval of the municipality. The City's Attorney had recommended language to be used in the motion. Mayor DeMarco explained that, according to the Open Meetings Act, the Council could not move on this matter as it had not been included in time to be a part of the posted agenda. Motion to hold a special meeting on September 26, 2005 preceding the regular work session to consider this matter - Haggerty / Ayers. Carried.

EXECUTIVE REPORTS

Mayor DeMarco reported that he had sent letters to Senators Rockefeller and Byrd to request assistance with funding of the water project.

City Manager Janus provided a written report (attached). Mr. Janus also reported that Allegheny Power can let the City have cinders whenever needed and will be presenting a check to the Fire Department tomorrow evening at the CAP meeting. Vice-Mayor Burnett will be there to accept it. High Street bid opening had been delayed, but will happen tomorrow. When asked if Pike Street would be

1 connected through Riverdale Estates, Yost and Southern expressed
2 concerns about speeding; they are considering a circle within the
3 development to keep the discourage speeding. Vaughn Haggerty asked
4 about closing procedures at the pool. Mr. Janus explained what had
5 been done at the end of the season. Vaughn Haggerty recommended that
6 steps be taken to enforce demolition on the foundation of a house at
7 the bottom of Drain Hill. The owner had indicated the DOH might be
8 interested in the property. Mark Southern complained that a water tap
9 he had applied for a month ago had not been done. Mr. Haggerty found
10 the delay unacceptable.

11 BOARD AND COMMISSION REPORTS

12 Annexation meeting will be held this Thursday. Planning and
13 Zoning will meet with the focus group the 19th. Museum Board did not
14 have a quorum in August, but the only bid on renovating the building
15 was three times the architect's estimate and Alan Ice of Wesbanco
16 Insurance met with those present to talk about liability issues.

17 AGENDA ITEMS

18 UNFINISHED BUSINESS

19 Motion to read by title only a Proposed Bond Ordinance providing
20 for the Issuance of Water Revenue Bonds, Series 2005 A to (i) pay a
21 portion of the costs of acquisition and construction of additions,
22 improvements and betterments to the existing public waterworks
23 facilities of the City, and (ii) pay certain costs of issuance of the
24 Bonds - Haggerty / Ferris. Carried.

25 Mrs. Herndon read title.

26 Motion to accept ordinance for third and final reading - Burnett
27 / Haggerty. Carried.

28 Bond Council Vince Collins was present to answer questions
29 regarding the bond. As bids are due to expire October 26th, he
30 recommended asking the contractors for a bid extension about two weeks
31 prior to that date, if funding isn't set. Mr. Haggerty asked that
32 there be a plan in place by the October meeting for proceeding. Mr.
33 Janus explained that Steve Cain would be at the September work session
34 to recommend a course of action. Mr. Haggerty suggested that the tank
35 and improvements along Saltwell could be cut out to be a separate
36 project later.

37 Motion to accept the resignation from Council of Matthew Clark -
38 DeMarco / Haggerty. Carried.

39 Motion to name Derek McIntyre as Council Member representing the
40 Second Ward Haggerty / DeMarco. Mr. Haggerty explained he was
proposing Mr. McIntyre as he was a young person with fresh ideas who
represented the future of the community. Mrs. Ferris explained that
she would be backing Kathleen Panek since Mrs. Panek had been to
almost every Council meeting and was involved in many activities for
the betterment of the community. Motion Carried 4-2 with Ferris and
Signorelli voting no.

1 Motion to enter into the West Virginia Municipal League Revenue
2 Enhancement Program - Haggerty / Ferris. Discussion. Motion
3 rescinded by first and second. Motion to direct City Manager to look
4 into the monetaryt and labor costs of being part of the WVML Revenue
5 Enhancement Program and pursue if feasible. Also add matter to the
6 special meeting of September 26, 2005 - Ferris / Haggerty. Carried.

6 NEW BUSINESS

7 Discussion of 06LEDA0096 grant. Grant was given for amphitheater
8 but could be used for paving. Burnett will meet with Park Board to
9 get their feelings. Motion to table - DeMarco / Haggerty. Carried.

10 Discussion of 06LEDA0330 grant for Veterans' Memorial. Mr. Janus
11 explained that if the Veterans group does not have 501 3c status, then
12 the City must be the recipient. Janus also explained that the way the
13 group wanted to use the money (maintenance and insurance) was not
14 permissible for this type of grant. Motion to table - DeMarco /
15 Ferris. Carried.

16 Discussion of the Bureau of Public Health Inspection Report on
17 Shinnston Water System. Mr. Janus explained that ads for a water
18 plant operator had produced no interest. One solution might be an
19 operator in training position.

19 Financial report for August was presented.

20 Mr. Haggerty stated that by the work session, council members
21 should pick out a date for the legislative breakfast and start
22 developing issues for that event.

23 Mr. Ayers asked if there had been progress in buying a truck for
24 public works.

25 Motion to go into executive session for personnel reasons -
26 Haggerty / DeMarco. Carried.

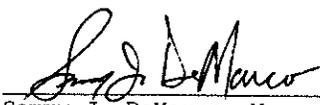
26 Motion to return to regular session - Burnett / Ayers.

27 Council asked that Chief Secreto be asked to come to the work
28 session.

29 Motion to adjourn - Signorelli / Ferris. Carried.

30 
31 Debra Herndon, City Clerk

34 Date accepted by Council

35 
36 Sammy J. DeMarco, Mayor

WV MUNICIPAL BOND COMMISSION
 8 Capitol Street
 Suite 500, Terminal Building
 Charleston, WV 25301
 (304) 558-3971

NEW ISSUE REPORT FORM

Date of Report: November 17, 2005

ISSUE: City of Shinnston, Water Revenue Bonds, Series 2005 A (United States Department of Agriculture)

ADDRESS: 40 Main Street, P.O. Box 1865, Shinnston, WV 26431 COUNTY: Harrison

PURPOSE OF ISSUE: New Money: X
 Refunding: _____ REFUNDS ISSUE(S) DATED: N/A

ISSUE DATE: November 17, 2005 CLOSING DATE: November 17, 2005

ISSUE AMOUNT: \$ 4,792,000 RATE: 4.25 %

1ST DEBT SERVICE DUE: N/A 1ST PRINCIPAL DUE: N/A

1ST DEBT SERVICE AMOUNT: N/A PAYING AGENT: Issuer

BOND COUNSEL: Stephoe & Johnson PLLC UNDERWRITERS COUNSEL: _____
 Contact Person: Vincent A. Collins, Esquire Contact Person: _____
 Phone: (304) 598-8161 Phone: _____

CLOSING BANK: WesBanco Bank, Inc. - Shinnston ESCROW TRUSTEE: _____
 Contact Person: Cathy Faber Contact Person: _____
 Phone: (304) 592-5700 ext 11 Phone: _____

KNOWLEDGEABLE ISSUER CONTACT OTHER: United States Department of Agriculture
 Contact Person: Debra Herndon Contact Person: Joe Crickenberger
 Position: City Clerk Function: Rural Development Specialist
 Phone: (304) 592-5631 Phone: (304) 636-2158

DEPOSITS TO MBC AT CLOSE: _____
 By: _____ Wire _____ Accrued Interest: \$ _____
 _____ Check _____ Capitalized Interest: \$ _____
 _____ Reserve Account: \$ _____
 _____ Other: \$ _____

REFUNDS & TRANSFERS BY MBC AT CLOSE
 By: _____ Wire _____ To Escrow Trustee: \$ _____
 _____ Check _____ To Issuer: \$ _____
 _____ IGT _____ To Cons. Invest. Fund: \$ _____
 _____ To Other: _____ \$ _____

NOTES: Monthly debt service payments will be made by the City directly to the National Finance Office. The Municipal Bond Commission will hold the Series 2005 A Bonds Reserve Account. Payments into the Reserve Account will commence within 24 months of November 17, 2005.

FOR MUNICIPAL BOND COMMISSION USE ONLY:
 DOCUMENTS REQUIRED: _____
 TRANSFERS REQUIRED: _____

The purpose of the NEW ISSUE REPORT FORM is to provide the WV Municipal Bond Commission with an early warning of three basic facts no later than the day of closing on any issue for which the Commission is to act as fiscal agent. These are:

1. Formal notification that a new issue is outstanding.
2. Date of first action or debt service.
3. Contact people should we lack documents, information, or funds needed to administer the issue by the date of the first action or debt service.

The commission recognizes that as bond transcripts become increasingly long and complex, it has become more difficult to assemble and submit them to the Commission within the 30 days specified by the West Virginia Code 13-3-8. This notice is not intended to provide all the information needed to administer an issue, but to alert the Commission and ensure that no debt service payments are missed due to delays in assembling bond transcripts. If, at the time of closing, documents such as the ordinance and all supplements, debt service schedules, and a specimen bond or photostat are available and submitted with this form, it will greatly aid the Commission in the performance of its duties. These documents are needed to set up the proper accounts and to advise the issuer of monthly deposit requirements as far in advance of the first debt service as possible.

It is not necessary to complete all items if they are not pertinent to your issue. Indicate the County of the issuer. With PSDs that overlap more than one county, indicate the county of their business office. Complete "Rate" only if the issue has only one rate. Please complete a separate form for each series of an issue. Other important information can be recorded under "Notes."

Again, please submit this form on each new issue on the day of closing. If fund transfers into or out of the Commission at closing are required, please submit this form before closing. If no significant facts change by closing, no resubmission at closing is required. If, however, there are changes, please submit an updated form, with changes noted, at closing.

If you should have any questions concerning this form, please call the Commission.

11/14/05
818500.00001



United States
Department of
Agriculture

Rural
Development

ENGINEER
Federal Building
75 High Street, Room 320
Morgantown, WV 26505-7500
Phone (304) 264-4888
FAX (304) 264-4892
TTY/TDD (304) 264-4836

July 14, 2003

The Honorable Sammy DeMarco
Mayor, City of Shinnston
P.O. Box 1865
Shinnston, WV 26431

Dear Mayor DeMarco:

This letter, with Attachments 1 through 11 and enclosures, establishes conditions which must be understood and agreed to by you before further consideration may be given to your application. The loan and grant will be administered on behalf of the Rural Utilities Service (RUS) by the State and Area staff of USDA, Rural Development. Any changes in project cost, source of funds, scope of services, or any other significant changes in the project or applicant must be reported to and approved by USDA, Rural Development, by written amendment to this letter. Any changes not approved by Rural Development shall be cause for discontinuing processing of the application.

The docket may be completed on the basis of an RUS loan in the amount of \$4,792,000, and an RUS grant in the amount of \$650,000, for a total project cost of \$5,442,000.

The loan will be considered approved on the date a signed copy of Form RD 1940-1, "Request for Obligation of Funds," is mailed to you. The interest rate will be the lower of the rate in effect at the time of loan approval or the time of loan closing.

Extra copies of this letter are being provided for use by your engineer, attorney, bond counsel and accountant. The enclosures and attachments listed below are attached to the copies as noted. Enclosed are the following:

- Attachment No. 1 - Project Construction Budget (All Copies)
- Attachment No. 2 - Water and Waste Processing Checklist for the City of Shinnston (All Copies)
- Attachment No. 3 - RUS Instruction 1780, Subparts A and B (Applicant Copy)
- Attachment No. 4 - RUS Instruction 1780, Subpart C (Engineer Copy)
- Attachment No. 5 - RUS Instruction 1780, Subpart D (Attorney and Bond Counsel Copies)

- Attachment No. 6 - RUS Supplemental General Conditions (Engineer Copy)
Attachment No. 7 - RUS Bulletin 1780-26, "Guidance for the Use of EJCDC
Standard Documents on Water and Waste Project with RUS Financial Assistance"
Attachment No. 8 - Government Auditing Standards (Revision 1994) (Accountant
Copy)
Attachment No. 9 - RUS Bulletin 1780-30, "Water Programs Audit Guide and
Compliance Supplement"
Attachment No. 10 - RUS Bulletin 1780-31, "Water Programs Compliance
Supplement for OMB Circular A-133 Audits"
Attachment No. 11 - Various other RD Forms as identified on Attachment No. 2

Your documents concerning the creation of your authority are administratively acceptable; however, they will be further reviewed by our Office of the General Counsel at the time your file is forwarded for closing instructions. Any changes required by our Office of the General Counsel will be included in the closing instructions.

The conditions referred to above are as follows:

1. Loan Repayment - The loan will be scheduled for repayment over a period of 40 years. The payments due the first 24 months will consist of interest only. Payments for the remaining 456 months will be equal amortized monthly installments. For planning purposes use a 4.25% interest rate and a monthly amortization factor of .00443, which provides for a monthly payment of \$21,229. You have the option of participating in the PREAUTHORIZED DEBIT (PAD) payment process. It will allow for your payment to be electronically debited from your account on the day your payment is due. Your authority must establish and fund monthly a debt service reserve account, which equals 10% of your monthly payment each month until you accumulate the equivalent of one annual installment on your loan.

You are reminded that your authority may be required to refinance (graduate) the unpaid balance of its RUS loan, in whole or in part, upon the request of RUS if at any time it shall be determined the authority is able to obtain a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time.

2. Security - The loan must be secured by a statutory lien of equal priority with the City's existing revenue bonds, a pledge of the system's revenues and other agreements between you and RUS as set forth in the bond ordinance which must be properly adopted and executed by the appropriate officials of your organization. Additional security requirements are contained in RUS Bulletin 1780-12 and RUS Bulletin 1780-27 which are mentioned later.

3. Users - This conditional commitment is based upon you providing evidence that there will be at least 2,265 bona fide users on the proposed system when it has been completed and is placed in operation. This evidence will consist of a certification from you that identifies and attests to the number of users that are actually connected to the City's existing water system which is to be partially replaced by the new system, at the time you request authorization to advertise the project for construction bids.

Before RUS can agree to the project being advertised for construction bids, you must provide evidence that the total required number of bona fide users has been acquired and currently using the system.

4. Bond Counsel - The services of a recognized bond counsel are required. The bond counsel will prepare the form of ordinance to be used, in accordance with Subpart D of RUS Instruction 1780. You should immediately provide your bond counsel with a copy of this letter of conditions, its attachments and enclosures.
5. Engineering Services - It will be necessary for you to obtain the services of an engineer. EJCDC No. 1910-1-FA, "Standard Form of Agreement between Owner and Engineer for Professional Services" (Funding Agency Edition) should be used to obtain the services of an engineer. The EJCDC document is issued under copyright and cannot be provided by RUS.

Prior to loan [and grant] closing, you must provide RUS with documentation that the West Virginia Public Service Commission has reviewed and approved the engineering agreement.

6. Legal Services - It will be necessary for you to obtain the services of a local attorney. For your convenience RUS Bulletin 1780-7, "Legal Services Agreement" is enclosed for your use.
7. Accounting Services - It will be necessary for you to obtain the services of a qualified accountant. The accountant must agree to develop and provide the following:
- a. All necessary accounting material required by the Public Service Commission of West Virginia (Rule 42 Exhibit).
 - b. Prior to the advertisement of bids, your accountant must certify that the accounts and records as required by your bond ~~[resolution]~~ [ordinance] have been established and are operational.

The Accountant's Agreement should be submitted to RUS for review. Compensation in the contract should include only those services identified above and not include payment for construction management services from the accountant unless RUS concurrence is obtained.

RUS regulations (Attachment No. 3) outline requirements for the submission of management reports and audits. Appropriate state statutes place certain audit requirements on your City. The attached booklets, "Government Auditing Standards (Revised 1994)" (Attachment No. 8), and RUS Bulletins 1780-30 1780-31 (Attachment Nos. 9 & 10) outline audit requirements.

You are reminded that certain provisions of the Office of Management and Budget Circular A-133 are applicable to any public body or nonprofit association that expends \$300,000 or more in federal funds in any one fiscal year. You must enter into an agreement annually with an accountant (or the State Tax Department) to perform the audit. The agreement must be in accordance with the requirements of the State Tax Commissioner of West Virginia. Compensation for preparation of the A-133 audit or your annual audit are not included in project funds and should be paid from the operational revenues generated from your system operation.

8. Facility Control - Prior to advertisement for construction bids, you must furnish satisfactory evidence that you have or can obtain adequate continuous and valid control over the lands and rights needed for the project. Such evidence must be in the following form:
 - a. A right-of-way map showing clearly the location of all lands and rights needed for the project. The map must designate public and private lands and rights and the appropriate legal ownership thereof.
 - b. A copy of deeds, contracts or options for any lands needed other than rights-of-way, along with a preliminary title opinion covering such lands. Form RD 1927-9, "Preliminary Title Opinion" may be used. In the case of your existing system or where the City already acquired real property (land or facilities), a preliminary title opinion(s) concerning all such property(s) will be provided.
 - c. A narrative opinion from your attorney concerning all permits, certifications and other items necessary to show that all legal requirements can be met and stating how they will be met. This narrative should also identify any condemnation proceedings that are anticipated and state how they will be handled.
 - d. A certification and legal opinion relative to title to rights-of-way and easements. Form RD 442-22, "Opinion of Counsel Relative to Rights-of-Way," may be used. This form may contain a few exceptions such as properties that must be condemned; however, prior to the start of construction or loan closing, whichever occurs first, a new Form RD 442-22, must be provided which does not provide for any exceptions.

- e. On the day of loan closing, the City's attorney must furnish final title opinions on all land(s) being acquired. Form RD 1927-10, "Final Title Opinion" may be used. In the case of your existing system or where the City has already acquired real property(s) (land or facilities), the City's attorney will provide a separate final title opinion(s) covering such property(s) on the day of loan closing.
9. Permits - Copies of all permits needed for the project must be provided for review prior to advertisement for construction bids. Such permits will include but are not limited to the following:
- West Virginia Department of Highways
 - Railroads
 - State Department of Health
 - Department of Environmental Protection
 - Corps of Engineers
 - Public Land Corporation
10. Public Service Commission Approvals - You must obtain the following from the Public Service Commission of West Virginia:
- a. A Certificate of Convenience and Necessity.
 - b. Approval of user charges that are acceptable to you and the Rural Utilities Service.
 - c. Approval of financing for the project's proposed financing arrangements.
- The "Rule 42" Exhibit to be attached to the Public Service Commission application must contain at least the information shown in Attachment No. 1. A copy of the Public Service Commission application and its "Rule 42" Exhibit must be provided for review.
11. Insurance and Bonding Requirements - Prior to preliminary loan closing, you must acquire the following insurance and bond coverage:
- a. Liability Insurance - Personal Liability - \$500,000; Property Damage - \$200,000 - \$200,000. The limits of liability coverage noted herein should be considered as suggested amounts only. RUS recommends that you consider analyzing your actual needs in detail before you obtain coverage in a specific amount.
 - b. Workers' Compensation - In accordance with appropriate State laws.
 - c. Position Fidelity Bond(s) - All positions occupied by persons entrusted with

the receipt and/or disbursement of funds must be bonded. As a good business practice you will probably wish to have each position bonded in an amount equal to the maximum amount of funds to be under the control of that position at any one time. The minimum coverage acceptable to RUS will be for each position to be bonded for an amount at least equal to one annual installment on your loan(s).

- d. National Flood Insurance - In addition to meeting the requirements for the type of assistance requested, the following requirements must be met for financial assistance for acquisition and/or construction in designated special flood or mudslide prone areas:

- (1) If flood insurance is available, you must purchase a flood insurance policy at the time of loan closing.
- (2) Applicants whose buildings, machinery or equipment are to be located in a community which has been notified as having special flood or mudslide prone areas will not receive financial assistance where flood insurance is not available.

- e. Real Property Insurance - Prior to the acceptance of the facility from the contractor(s), you must obtain real property insurance (fire and extended coverage) on all above-ground structures, to include machinery and equipment housed therein. This does not apply to water reservoirs, standpipes, elevated tanks or noncombustible materials used in treatment plants, clearwells, filters and the like.

12. Contract Documents, Final Plans and Specifications -

- a. The contract documents should consist of the following:

- (1) EJCDC Document No. 1910-8-A-1-FA, 1997 Edition, "Standard Form of Agreement between Owner and Contractor on the Basis of Stipulated Price" and EJCDC Document No. 1910-8-FA, "Standard General Conditions of the Construction Contract – Funding Agency Edition" and Attachments. The EJCDC document is issued under copyright and cannot be provided by RUS.
- (2) "RUS Supplemental General Conditions."

RUS Bulletin 1780-26, "Guidance for the Use of EJCDC Standard Documents on Water and Waste Projects with RUS Financial Assistance," is enclosed for use by your engineer in the preparation of the contract documents (Attachment No. 7).

b. The contract documents must provide, as a minimum, the following insurance:

- (1) Liability Insurance - Personal Liability - \$500,000; Property Damage - \$200,000 - \$200,000. This coverage must include indemnification of the City and its engineer. RUS Bulletin 1780-13, Attachment 9, suggests certain limits of liability for insurance coverage. Those limits should be considered as minimum requirements only. It is recommended you consider increasing the given limits of liability after analyzing your specific needs.
- (2) Builder's Risk Insurance - On all structures and mechanical and electrical equipment in place or stored on the site to the full insurable value thereof.
- (3) Workers' Compensation - In accordance with applicable State laws.

c. The contract documents and final plans and specifications must be submitted to RUS for approval.

d. The project must be designed in compliance with Section 504 of the Rehabilitation Act of 1973.

13. Disbursement of Funds - The RUS funds will be advanced as they are needed in the amount(s) necessary to cover the RUS proportionate share of any disbursements required of your City, over 30 day periods. Any grant funds not disbursed immediately upon receipt must be deposited in an interest bearing account.

Public Bodies - Interest earned on grant funds in excess of \$100 per year will be submitted to RUS at least quarterly as required in 7 CFR 3016.

The City must assure that all project funds are expended only for the eligible items included in the final project budget or as may be later approved by RUS.

14. Water Purchase Contract - You propose to purchase treated water from the City of Clarksburg; therefore, you must enter into a Water Purchase Contract. Form RD 442-30 must be used unless you receive an exception from RUS.

15. At a properly called meeting, you must adopt and properly execute the following forms, and minutes showing the adoption must be provided:

- Form RD 442-7 - "Operating Budget"
- Form RD 1940-1 - "Request for Obligation of Funds"
- RUS Bulletin 1780-12 - "Water or Waste System Grant Agreement"
- RUS Bulletin 1780-27 - "Loan Resolution (Public Bodies)"

Form RD 400-1 - "Equal Opportunity Agreement"
 Form RD 400-4 - "Assurance Agreement"
 Form AD 1047 - "Certification Regarding Debarment - Primary"
 Form AD 1049 - "Certification Regarding Drug-Free Workplace"
 Form RD 1910-11 - "Applicant Certification, Federal Collection Policies"
 FmHA Instruction 1940-Q, Exhibit A-1, "Certification for Contracts, Grants and Loans"
 Standard Form LLL - "Disclosure of Lobbying Activities" (If Applicable)
 Certification of Compliance
 Form RD 1942-46, "Letter of Intent to Meet Conditions"

16. The enclosed Water and Waste Processing Checklist (Attachment No. 2) outlines the items needed to complete the loan and grant docket. All the items listed must be included in the loan and grant docket when it is forwarded to the USDA - Rural Development State Office with a request for loan closing instructions to be issued.
17. Upon receipt of the loan and grant docket, which contains all the items required above, RUS may authorize you to advertise the project for construction bids. Such advertisement must be in accordance with appropriate State statutes. Immediately after bid opening you must provide RUS with (a) a bid tabulation, (b) recommendations from you and your engineer as to the acceptability of the bids received, and (c) your recommendations for contract awards. If all parties then agree the construction bids received are acceptable, it is determined that adequate funds are available to cover the total facility costs, and that all the administrative conditions of loan approval have been satisfied, loan closing instructions will be issued. The closing instructions, a copy of which will be forwarded to you, will set forth any further requirements that must be met before the loan can be closed.

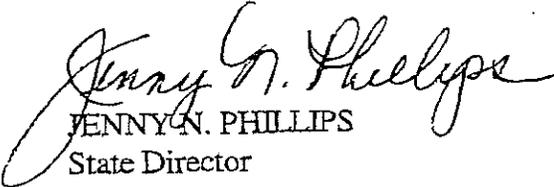
When all parties agree that the closing requirements can be met, a mutually acceptable date for the loan closing will be scheduled.

After providing for all authorized costs, any remaining RUS project funds will be considered to be RUS grant funds and refunded to RUS. If the amount of unused RUS project funds exceeds the RUS grant, that part would be RUS loan funds.

If the conditions set forth in this letter are not met within twelve (12) months from the date hereof, RUS reserves the right to discontinue processing of the application. In the event the project has not advanced to the point of loan closing within the twelve-month period and it is determined the authority still wishes to proceed, it will be necessary that the proposed budget be reviewed again in detail. If during that review, it is determined the budget is no longer current and/or adequate, RUS reserves the right to require that it be revised or replaced.

We believe the information herein clearly sets forth the actions which must be taken; however, if you have any questions, please do not hesitate to contact me.

Sincerely yours,


JENNY N. PHILLIPS
State Director

Enclosures

cc: Rural Development Specialist
Elkins, WV

Tetrick & Bartlett
P.O. Box 1916
Clarksburg, WV 26302

Step toe & Johnson, PLLC
P.O. Box 2190
Clarksburg, WV 26302

Greenhorne & O'Mara, Inc.
12 Moran Circle
Fairmont, WV 26554

Project Construction Budget

<u>PROJECT COST</u>	<u>RUS LOAN</u>	<u>RUS GRANT</u>	<u>TOTAL</u>
CONSTRUCTION	\$ 3,696,350	\$ 590,800	\$ 4,287,150
CONST. CONTINGENCY	\$ 260,000	\$ 40,000	\$ 300,000
LAND & RIGHTS	\$ 15,000		\$ 15,000
LEGAL FEES	\$ 16,800	\$ 4,200	\$ 21,000
BOND COUNSEL	\$ 25,500		\$ 25,500
ACCOUNTING	\$ 4,500		\$ 4,500
ENGINEERING FEES	\$ 600,200		\$ 600,200
Study and Report Phase - \$58,000			
Prelim. Design Phase - \$71,440			
Final Design Phase - \$178,600			
Bidding/Negotiation - \$35,720			
Construction Phase - \$53,580			
Post Construction - \$17,860			
Resident Project Rep. - \$185,000			
INTEREST	\$ 103,500		\$ 103,500
PROJECT CONTG.	\$ 70,150	\$ 15,000	\$ 85,150
TOTAL	\$ 4,792,000	\$ 650,000	\$ 5,442,000

Rates

Available for general domestic, commercial, and industrial service.

First	2,000	gallons @	\$ 7.46	per M gallons
Over	2,000	gallons @	\$ 3.71	per M gallons

Resale - Flat Rate of \$2.65 per thousand gallons used.

Minimum Charge

No bill shall be rendered for less than the following amounts according to the size of meter installed.

5/8" x 3/4"	meter	\$ 14.92	per month
3/4"	meter	\$ 22.38	per month
1"	meter	\$ 37.30	per month
1 1/2"	meter	\$ 74.60	per month
2"	meter	\$ 119.36	per month
3"	meter	\$ 223.80	per month
4"	meter	\$ 373.00	per month
6"	meter	\$ 746.00	per month

Minimum Monthly Bill \$14.92 for 2,000 gallons

Delayed Payment Penalty

The above tariff is net. On all accounts not paid in full within twenty (20) days of date of bill, ten percent (10%) will be added to net amount shown.

If any bill is not paid within sixty (60) days after date, water service to the customer will be discontinued. Water service will not be restored until all past due water bills have been paid in full and all accrued penalties plus a reconnection charge have been paid.

Connection Charge

After the start of construction, there shall be a charge of \$300.00 for connection to the system.

Reconnection Charge

\$25.00

Use and Income Analysis - See Attached

Cash Flow Analysis - See Attached

Attachment No. 1 to Letter of Conditions
 For: The City of Shinnston
 Date: July 14, 2003

City of Shinnston - Water
USE AND INCOME ANALYSIS
EXISTING SYSTEM - PROPOSED RATES

Blocking	Cust.	Gal/ Mo.	Minimum Bills	First 2,000	All Over 2,000	TOTAL REVENUE
0 - 2,000	915	1,068.8	915			
Over 2,000	1,345	14,290		2690	11600	
Monthly Total	<u>2,260</u>	<u>15,358.8</u>	915	2690	11600	
Proposed Rates			<u>\$ 14.92</u>	<u>\$ 7.46</u>	<u>\$ 3.71</u>	
Monthly Revenues			<u>\$ 13,651.80</u>	<u>\$ 20,067.40</u>	<u>\$ 43,036.00</u>	<u>\$ 76,755.20</u>
Annual Revenues			<u>\$ 163,821.60</u>	<u>\$ 240,808.80</u>	<u>\$ 516,432.00</u>	<u>\$ 921,062.40</u>

\$24.20 per 4,500 gallons

CITY OF SHINNSTON
 USE AND INCOME ANALYSIS
 Bulk Users - New Rates

Blocking	Cust.	Gal/ Mo.	FIRST	TOTAL REVENUE
Resale Cust.	5	6,980	6,980	
Monthly Total	5	6,980	6,980	
Proposed Rates			\$ 2.65	
Monthly Revenues			\$ 18,497.00	\$ 18,497.00
Annual Revenues			\$ 221,964.00	\$ 221,964.00

CITY OF SHINNSTON
OPERATING BUDGET

OPERATING INCOME		
Metered Sales	\$ 1,143,026	
Other Income	\$ 12,499	
TOTAL OPERATING INCOME		<u>\$ 1,155,525</u>
NON OPERATING INCOME		
Interest income	\$ 13,071	
TOTAL NON OPERATING INCOME		<u>\$ 13,071</u>
TOTAL INCOME		<u>\$ 1,168,596</u>
EXPENSES		
O & M	\$ 577,908	
Taxes	\$ 29,092	
TOTAL EXPENSES		<u>\$ 607,000</u>
INCOME AVAILABLE FOR D/S (A)		<u>\$ 561,596</u>
DEBT SERVICE		
Existing Bond P & I (B)	\$ 232,247	
Proposed Bond P & I (B)*	\$ 254,748	
TOTAL DEBT SERVICE		<u>\$ 486,995</u>
DEBT SERVICE RESERVE		
Debt Service Reserve	\$ 48,700	
TOTAL DEBT SERVICE RESERVE		<u>\$ 48,700</u>
SURPLUS (DEFICIT)		<u>\$ 25,901</u>
DEBT COVERAGE (A/B)		\$ 1.15

*Proposed bond is based on a RUS loan of \$4,792,000 at 4.25% for 38 years.



United States Department of Agriculture
Rural Development
Elkins Area Office

November 2, 2005

The Honorable ~~Sammy DeMarco~~
Mayor, City of Shinnston
40 Main Street
Shinnston, WV 26431

COPY

Dear Mayor DeMarco:

This letter is to confirm that the pre-closing meeting for the USDA Rural Utilities Service (RUS) loan and grant on the upcoming City of Shinnston Water Project will be held on November 15, 2005 at 10:00 a.m. in the Shinnston Fire Hall located at 37 Bridge Street in the City of Shinnston. A pre-construction conference will follow at 11:00 a.m. The official loan closing date for the City's project will be November 17, 2005. The project attorney should attend the pre-closing meeting and the project accountant should be available for consultation if needed.

Reference is made to the RUS Letter of Conditions dated July 14, 2003. All of the requirements of this letter must be met and the loan must be closed in accordance with RUS Instruction 1780. Many of the aforementioned items have already been addressed. Those items remaining to be satisfied prior to loan closing include:

1. The Certification on the Loan Resolution will be completed at pre-closing.
2. The RUS Grant Agreement will be signed and dated at pre-closing.
3. The City's attorney will need to provide Form RD 442-22, Opinion of Counsel Relative to Rights-of-Way, showing no exceptions. This form should be dated November 17, 2005, and it should include an attached list of all of the rights-of-way needed for the project. The list should indicate which rights-of-way have been obtained and recorded.

Randolph Center Building • 1200 Harrison Avenue, Suite 150 • Elkins, West Virginia 26241
Phone: (304) 636-2158 • Fax: (304) 636-5902 • TDD: (304) 264-4836 • Web: <http://www.rurdev.usda.gov/wv>

Committed to the future of rural communities.

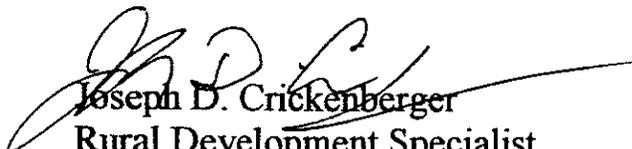
"USDA is an equal opportunity provider, employer and lender."
To file a complaint of discrimination write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W.,
Washington, DC 20250-9410 or call (800)795-3272(voice) or (202) 720-6382 (TDD).

4. The City's attorney must furnish a Form RD 1927-10, Final Title Opinion, on all land(s) being acquired. In addition, the attorney must provide a separate final title opinion(s) covering all existing property owned by the City. The opinion(s) should be dated November 17, 2005, and they should include legal descriptions (and plats if they are available).
5. In accordance with Item 8(c) of the letter of conditions, the City's attorney must furnish a narrative opinion addressing all permits, certifications, and other items necessary to show that all legal requirements can be met and stating how they will be met prior to the closing date. The narrative should also identify any condemnation proceedings that are anticipated and state how they will be handled. At minimum, a "right of entry" must be obtained for all properties before the pre-closing.
6. In accordance with the Legal Services Agreement, the project attorney should be on hand during the pre-construction conference to review construction contracts, and contracting procedure, as well as surety and contractual bonds in connection with the project.
7. No later than the date of the pre-closing meeting, the City must provide written evidence that all insurance and position fidelity bond coverage has been obtained in accordance with Item 11 of the Letter of Conditions. USDA RUS is requesting that the City carry at least \$300,000 in fidelity bond coverage during the construction phase of the project. The fidelity bond should cover all individuals who will have access to project funds.
8. The permit from the West Virginia Department of Highways must be on hand at the closing. The City should proceed to obtain the necessary bond and forward it to the WVDOH with a request that the permit be issued if this has not already been done.
9. All applicable Public Service Commission certificates and/or approvals must be obtained prior to closing, and a copy submitted to RUS.
10. The City must provide RUS with a current copy of their Workers' Compensation Certificate.
11. The Contractors involved in the construction of the project will need to complete Form AD 1048, "Certification Regarding Debarment - Lower Tier Covered Transactions".
12. Please be prepared to have a properly called meeting of the City Council in case it becomes necessary for the Counsel to make decisions in connection with your project. Also please have the City's official seal on hand to use for authenticating documents. (It is my understanding that the City has opted to approve and execute the necessary items ahead of time. This may be acceptable as long as no unforeseen problems arise.)

13. Nancy Taylor, our Rural Development Technician, is planning to complete a Civil Rights Compliance Review with the City at the pre-closing. This is normally in the format of an informal interview to help her gather the information for the review.

Thank you for doing business with USDA Rural Development. If you have any questions regarding these or any other matters pertaining to your loan and grant, please contact our office at your earliest convenience.

Sincerely,


Joseph D. Crickenberger
Rural Development Specialist

CC: State Director
USDA- Rural Development

Vince Collins, John Stump & Tom Aman
Steptoe & Johnson
Bond Counsel

David Glover
Smith, McMunn & Glover
Attorney at Law

Steven Cain
Greenhorne & O'Mara
Consulting Engineers

Julie Nice
Tetrick & Bartlett
Certified Public Accountant

WATER OR WASTE SYSTEM GRANT AGREEMENT
UNITED STATES DEPARTMENT OF AGRICULTURE
RURAL UTILITIES SERVICE

COPY

THIS AGREEMENT dated November 17, 2005 between
City of Shinnston

a public corporation organized and operating under

Chapter 8, Article 13 of the West Virginia Code

(Authorizing Statute)

herein called "Grantee," and the United States of America acting through the Rural Utilities Service, Department of Agriculture, herein called "Grantor," WITNESSETH:

WHEREAS

Grantee has determined to undertake a project of acquisition, construction, enlargement, or capital improvement of a (water) (sewer) system to serve the area under jurisdiction at an estimated cost of \$ 5,442,000.00 and has duly authorized the undertaking of such project.

Grantee is able to finance not more than \$ 4,792,000.00 of the development cost through revenues, charges, taxes or assessments, or funds otherwise available to Grantee resulting in a reasonable user charge

Said sum of \$ 4,792,000.00 has been committed to and by Grantee for such project development costs.

Grantor has agreed to grant the Grantee a sum not to exceed \$ 650,000.00 or 11.94% percent of said development costs, whichever is the lesser, subject to the terms and conditions established by the Grantor. Provided, however, that the proportionate share of any grant funds actually advanced and not needed for grant purposes shall be returned immediately to the Grantor. The Grantor may terminate the grant in whole, or in part, at any time before the date of completion, whenever it is determined that the Grantee has failed to comply with the conditions of the grant.

As a condition of this grant agreement, the Grantee assures and certifies that it is in compliance with and will comply in the course of the agreement with all applicable laws, regulations, Executive orders and other generally applicable requirements, including those set out in 7 CFR 3015.205(b), which hereby are incorporated into this agreement by reference, and such other statutory provisions as are specifically set forth herein.

NOW, THEREFORE, In consideration of said grant by Grantor to Grantee, to be made pursuant to Section 306 (a) of the Consolidated Farm and Rural Development Act the purpose only of defraying a part not to exceed 11.94% percent of the development costs, as defined by applicable Rural Utilities Service Instructions.

GRANTEE AGREES THAT GRANTEE WILL:

A. Cause said project to be constructed within the total sums available to it, including said grant, in accordance with the project plans and specifications and any modifications thereof prepared by Grantee and approved by Grantor.

B. Permit periodic inspection of the construction by a representative of Grantor during construction.

C. Manage, operate and maintain the system, including this project if less than the whole of said system, continuously in an efficient and economical manner.

D. Make the services of said system available within its capacity to all persons in Grantee's service area without discrimination as to race, color, religion, sex, national origin, age, marital status, or physical or mental handicap (possess capacity to enter into legal contract for services) at reasonable charges, including assessments, taxes, or fees in accordance with a schedule of such charges, whether for one or more classes

of service, adopted by resolution dated _____, as may be modified from time to time by Grantee. The initial rate schedule must be approved by Grantor. Thereafter, Grantee may make such modifications to the rate system as long as the rate schedule remains reasonable and nondiscriminatory.

E. Adjust its operating costs and service charges from time to time to provide for adequate operation and maintenance, emergency repair reserves, obsolescence reserves, debt service and debt service reserves.

F. Expand its system from time to time to meet reasonably anticipated growth or service requirements in the area within its jurisdiction.

G. Provide Grantor with such periodic reports as it may require and permit periodic inspection of its operations by a representative of the Grantor.

H. To execute any agreements required by Grantor which Grantee is legally authorized to execute. If any such agreement has been executed by Grantee as a result of a loan being made to Grantee by Grantor contemporaneously with the making of this grant, another agreement of the same type need not be executed in connection with this grant.

I. Upon any default under its representations or agreements set forth in this instrument, Grantee, at the option and demand of Grantor, will repay to Grantor forthwith the original principal amount of the grant stated herein above with the interest at the rate of 5 percentum per annum from the date of the default. Default by the Grantee will constitute termination of the grant thereby causing cancellation of Federal assistance under the grant. The provisions of this Grant Agreement may be enforced by Grantor, at its option and without regard to prior waivers by it previous defaults of Grantee, by judicial proceedings to require specific performance of the terms of this Grant Agreement or by such other proceedings in law or equity, in either Federal or State courts, as may be deemed necessary by Grantor to assure compliance with the provisions of this Grant Agreement and the laws and regulations under which this grant is made.

J. Return immediately to Grantor, as required by the regulations of Grantor, any grant funds actually advanced and not needed by Grantee for approved purposes.

K. Use the real property including land, land improvements, structures, and appurtenances thereto, for authorized purposes of the grant as long as needed.

1. Title to real property shall vest in the recipient subject to the condition that the Grantee shall use the real property for the authorized purpose of the original grant as long as needed.

2. The Grantee shall obtain approval by the Grantor agency for the use of the real property in other projects when the Grantee determines that the property is no longer needed for the original grant purposes. Use in other projects shall be limited to those under other Federal grant programs or programs that have purposes consistent with those authorized for support by the Grantor.

3. When the real property is no longer needed as provided in 1 and 2 above, the Grantee shall request disposition instructions from the Grantor agency or its successor Federal agency. The Grantor agency shall observe the following rules in the disposition instructions:

(a) The Grantee may be permitted to retain title after it compensates the Federal Government in an amount computed by applying the Federal percentage of participation in the cost of the original project to the fair market value of the property.

(b) The Grantee may be directed to sell the property under guidelines provided by the Grantor agency. When the Grantee is authorized or required to sell the property, proper sales procedures shall be established that provide for competition to the extent practicable and result in the highest possible return.

[Revision 1, 04/17/1998]

(c) The Grantee may be directed to transfer title to the property to the Federal Government provided that in such cases the Grantee shall be entitled to compensation computed by applying the Grantee's percentage of participation in the cost of the program or project to the current fair market value of the property.

This Grant Agreement covers the following described real property (use continuation sheets as necessary).

All real property associated with the City of Shinnston's water treatment and distribution system.

L. Abide by the following conditions pertaining to equipment which is furnished by the Grantor or acquired wholly or in part with grant funds. Equipment means tangible, non-expendable personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. A Grantee may use its own definition of equipment provided that such definition would at least include all equipment defined above.

[Revision 1, 04/17/1998]

1. Use of equipment.

(a) The Grantee shall use the equipment in the project for which it was acquired as long as needed. When no longer needed for the original project, the Grantee shall use the equipment in connection with its other Federally sponsored activities, if any, in the following order of priority:

(1) Activities sponsored by the Grantor.

(2) Activities sponsored by other Federal agencies.

(b) During the time that equipment is held for use on the project for which it was acquired, the Grantee shall make it available for use on other projects if such other use will not interfere with the work on the project for which the equipment was originally acquired. First preference for such other use shall be given to Grantor sponsored projects. Second preference will be given to other Federally sponsored projects.

2. Disposition of equipment. When the Grantee no longer needs the equipment as provided in paragraph (a) above, the equipment may be used for other activities in accordance with the following standards:

(a) Equipment with a current per unit fair market value of less than \$5,000. The Grantee may use the equipment for other activities without reimbursement to the Federal Government or sell the equipment and retain the proceeds.

(b) Equipment with a current per unit fair market value of \$5,000 or more. The Grantee may retain the equipment for other uses provided that compensation is made to the original Grantor agency or its successor. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the original project or program to the current fair market value or proceeds from sale of the equipment. If the Grantee has no need for the equipment and the equipment has further use value, the Grantee shall request disposition instructions from the original Grantor agency.

The Grantor agency shall determine whether the equipment can be used to meet the agency's requirements. If no requirement exists within that agency, the availability of the equipment shall be reported, in accordance with the guidelines of the Federal Property Management Regulations (FPMR), to the General Services Administration by the Grantor agency to determine whether a requirement for the equipment exists in other Federal agencies. The Grantor agency shall issue instructions to the Grantee no later than 120 days after the Grantee requests and the following procedures shall govern:

(1) If so instructed or if disposition instructions are not issued within 120 calendar days after the Grantee's request, the Grantee shall sell the equipment and reimburse the Grantor agency an amount computed by applying to the sales proceeds the percentage of Federal participation in the cost of the original project or program. However, the Grantee shall be permitted to deduct and retain from the Federal share ten percent of the proceeds, for Grantee's selling and handling expenses.

(2) If the Grantee is instructed to ship the equipment elsewhere the Grantee shall be reimbursed by the benefiting Federal agency with an amount which is computed by applying the percentage of the Grantee participation in the cost of the original grant project or program to the current fair market value of the equipment, plus any reasonable shipping or interim storage costs incurred.

(3) If the Grantee is instructed to otherwise dispose of the equipment, the Grantee shall be reimbursed by the Grantor agency for such costs incurred in its disposition.

3. The Grantee's property management standards for equipment shall also include:

(a) Records which accurately provide for: a description of the equipment; manufacturer's serial number or other identification number; acquisition date and cost; source of the equipment; percentage (at the end of budget year) of Federal participation in the cost of the project for which the equipment was acquired; location, use and condition of the equipment and the date the information was reported; and ultimate disposition data including sales price or the method used to determine current fair market value if the Grantee reimburses the Grantor for its share.

(b) A physical inventory of equipment shall be taken and the results reconciled with the equipment records at least once every two years to verify the existence, current utilization, and continued need for the equipment.

(c) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft of the equipment. Any loss, damage, or theft of equipment shall be investigated and fully documented.

(d) Adequate maintenance procedures shall be implemented to keep the equipment in good condition.

(e) Proper sales procedures shall be established for unneeded equipment which would provide for competition to the extent practicable and result in the highest possible return.

This Grant Agreement covers the following described equipment (use continuation sheets as necessary).

N/A

M. Provide Financial Management Systems which will include:

1. Accurate, current, and complete disclosure of the financial results of each grant. Financial reporting will be on an accrual basis.
2. Records which identify adequately the source and application of funds for grant-supported activities. Those records shall contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income.
3. Effective control over and accountability for all funds, property and other assets. Grantees shall adequately safeguard all such assets and shall assure that they are used solely for authorized purposes.
4. Accounting records supported by source documentation.

N. Retain financial records, supporting documents, statistical records, and all other records pertinent to the grant for a period of at least three years after grant closing except that the records shall be retained beyond the three-year period if audit findings have not been resolved. Microfilm or photo copies or similar methods may be substituted in lieu of original records. The Grantor and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Grantee's government which are pertinent to the specific grant program for the purpose of making audits, examinations, excerpts and transcripts.

O. Provide information as requested by the Grantor to determine the need for and complete any necessary Environmental Impact Statements.

P. Provide an audit report prepared in accordance with Grantor regulations to allow the Grantor to determine that funds have been used in compliance with the proposal, any applicable laws and regulations and this Agreement.

Q. Agree to account for and to return to Grantor interest earned on grant funds pending their disbursement for program purposes when the Grantee is a unit of local government. States and agencies or instrumentality's of states shall not be held accountable for interest earned on grant funds pending their disbursement.

R. Not encumber, transfer or dispose of the property or any part thereof, furnished by the Grantor or acquired wholly or in part with Grantor funds without the written consent of the Grantor except as provided in item K above.

S. To include in all contracts for construction or repair a provision for compliance with the Copeland "Anti-Kick Back" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR, Part 3). The Grantee shall report all suspected or reported violations to the Grantor.

T. To include in all contracts in excess of \$100,000 a provision that the contractor agrees to comply with all the requirements of the Clean Air Act (42 U.S.C. §7414) and Section 308 of the Water Pollution Control Act (33 U.S.C. §1318) relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in Section 114 of the Clean Air Act and Section 308 of the Water Pollution Control Act and all regulations and guidelines issued thereunder after the award of the contract. In so doing the Contractor further agrees:

[Revision 1, 11/20/1997]

1. As a condition for the award of contract, to notify the Owner of the receipt of any communication from the Environmental Protection Agency (EPA) indicating that a facility to be utilized in the performance of the contract is under consideration to be listed on the EPA list of Violating Facilities. Prompt notification is required prior to contract award.

2. To certify that any facility to be utilized in the performance of any nonexempt contractor subcontract is not listed on the EPA list of Violating Facilities pursuant to 40 CFR Part 32 as of the date of contract award.

[Revision 1, 11/20/97]

3. To include or cause to be included the above criteria and the requirements in every nonexempt subcontract and that the Contractor will take such action as the Government may direct as a means of enforcing such provisions.

As used in these paragraphs the term "facility" means any building, plan, installation, structure, mine, vessel or other floating craft, location, or site of operations, owned, leased, or supervised by a Grantee, cooperator, contractor, or subcontractor, to be utilized in the performance of a grant, agreement, contract, subgrant, or subcontract. Where a location or site of operation contains or includes more than one building, plant, installation, or structure, the entire location shall be deemed to be a facility except where the Director, Office of Federal Activities, Environmental Protection Agency, determines that independent facilities are co-located in one geographical area.

Grantor Agrees That It:

A. Will make available to Grantee for the purpose of this Agreement not to exceed \$ 650,000.00 which it will advance to Grantee to meet not to exceed 11.9% percent of the project development costs of the project in accordance with the actual needs of Grantee as determined by Grantor.

B. Will assist Grantee, within available appropriations, with such technical assistance as Grantor deems appropriate in planning the project and coordinating the plan with local official comprehensive plans for sewer and water and with any State or area plans for the area in which the project is located.

C. At its sole discretion and at any time may give any consent, deferment, subordination, release, satisfaction, or termination of any or all of Grantee's grant obligations, with or without valuable consideration, upon such terms and conditions as Grantor may determine to be (1) advisable to further the purpose of the grant or to protect Grantor's financial interest therein and (2) consistent with both the statutory purposes of the grant and the limitations of the statutory authority under which it is made.

Termination of This Agreement

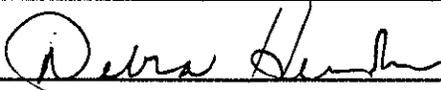
This Agreement may be terminated for cause in the event of default on the part of the Grantee as provided in paragraph I above or for convenience of the Grantor and Grantee prior to the date of completion of the grant purpose. Termination for convenience will occur when both the Grantee and Grantor agree that the continuation of the project will not produce beneficial results commensurate with the further expenditure of funds.

In witness whereof Grantee on the date first above written has caused these presence to be executed by its duly authorized

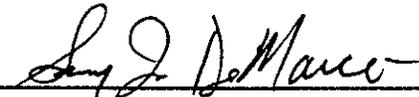
Mayor

and attested and its corporate seal affixed by its duly authorized

Attest:

By: 

(Title) CITY CLERK

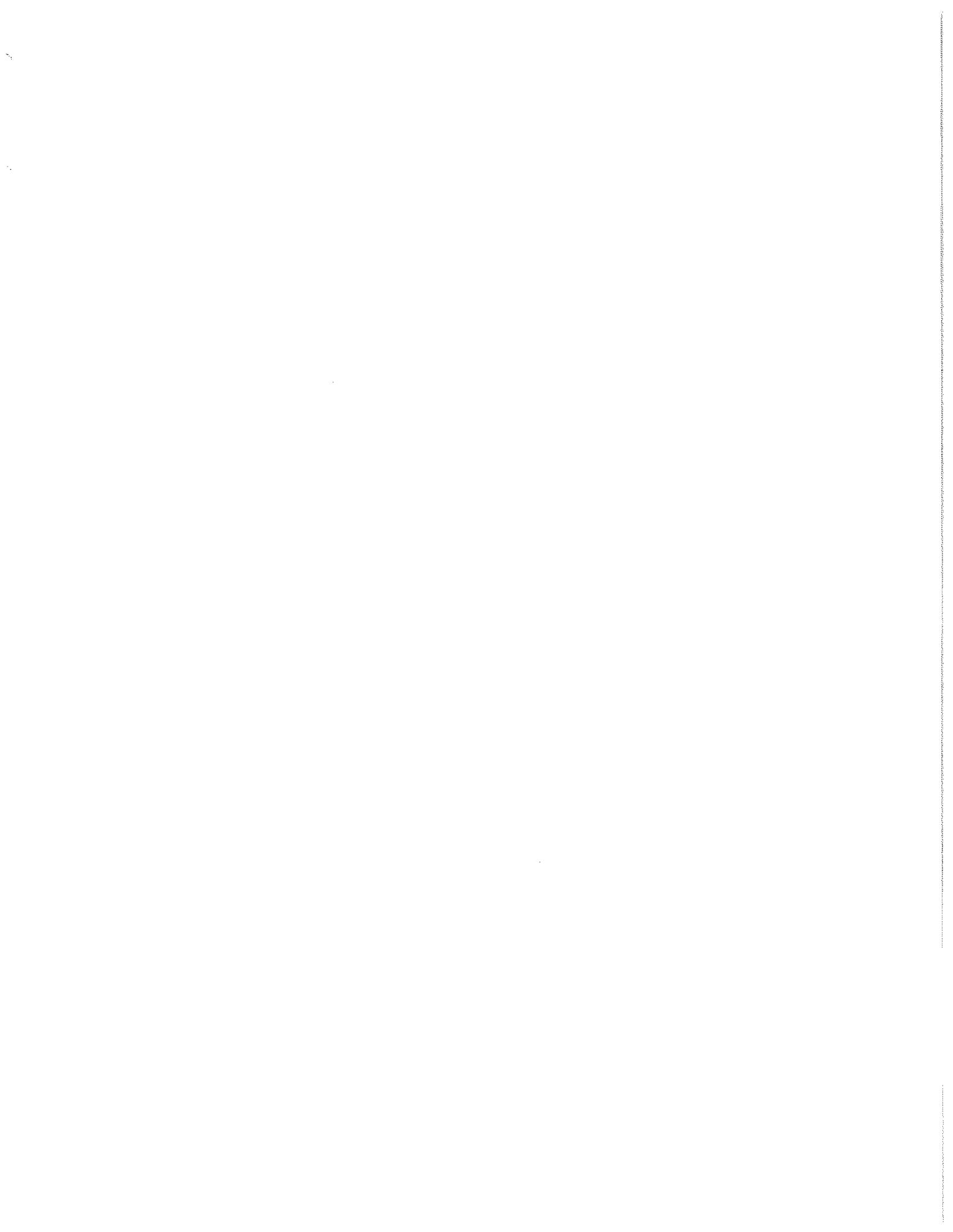
By: 
Sammy DeMarco

(Title) Mayor

UNITED STATES OF AMERICA

RURAL UTILITIES SERVICE

By:  Rural Development Specialist
(Title)



CITY OF SHINNSTON

Water Revenue Bonds, Series 2005 A
(United States Department of Agriculture)

RECEIPT OF DEPOSITORY BANK

I, the undersigned duly authorized representative of WesBanco Bank, Inc., Shinnston Branch, Shinnston, West Virginia (the "Bank"), hereby certify that on November 17, 2005, the Bank received an automated clearinghouse transfer in the amount of \$403,074.48, to the credit of the Project Construction Account, Account Number 2733509751, for the Series 2005 A Bonds.

403100.00
↓
2733509031

WITNESS my signature on this 11-17-05.

WesBanco Bank, Inc., Its Production
Office at Shinnston, West Virginia

By: Christy A. Jahn, Br. Manager
Its: Authorized Officer

11/03/05
818500.00001

THIS AGREEMENT, made and executed in duplicate originals this the 77th day of AUGUST, 1990, by and between the CITY OF SHINNSTON, a municipal corporation, hereinafter sometimes called "Shinnston", party of the first part and BINGAMON PUBLIC SERVICE DISTRICT, hereinafter sometimes called "Bingamon", party of the second part.

WITNESS, WHEREAS, Bingamon and Shinnston jointly petitioned the Public Service Commission of West Virginia to allow Bingamon to assume water service to 5 customers heretofore served by Shinnston; and

WHEREAS, by Order entered May 24, 1989 the Public Service Commission approved the transfer of said customers to Bingamon provided the customers not be required to bear any of the costs incident to said transfer.

NOW, THEREFORE, in consideration of the premises, Bingamon and Shinnston, in order to comply with the Order of the Public Service Commission, mutually agree as follows:

1. Shinnston, incident to the transfer of said 5 customers from its water system to Bingamon's, shall provide:
 - a. Three 3/4" corporation stops.
 - b. Two 6" saddles.
 - c. Its backhoe to dig up to 150 feet of ditches.
 - d. Testing of five residential meters.
2. Bingamon, incident to the transfer of said five customers from Shinnston's water system to Bingamon shall:
 - a. Use the existing and in place service line and this agreement shall act and be construed as a bill of sale whereby Shinnston conveys all of its right, title, claim and interest in and to said service line and the rights of ways in which said line is laid to Bingamon and Shinnston shall execute any assignments, deeds and other documents necessary to convey

the same to Bingamon upon Bingamon's request.

b. Return to Shinnston its 1" water meter.

WITNESS the following signatures:

THE CITY OF SHINNSTON, a municipal corporation

By: Tom F. Kell
Its: Mayor

Atteste:

Rosalie H. Dolan
Recorder

BINGAMON PUBLIC SERVICE DISTRICT

By: Ernest E. Wagner
Its: manager

Atteste:

Patricia A. Andrew

STATE OF WEST VIRGINIA,
COUNTY OF HARRISON, TO-WIT:

The foregoing instrument was acknowledged before me this 7th day of August, 1990, by James S. Jackson, Mayor of The City of Shinnston, a municipal corporation, for and in behalf of said corporation.

Patricia A. Andrew
Notary Public

My commission expires:

October 24, 1993

STATE OF WEST VIRGINIA,
COUNTY OF HARRISON, TO-WIT:

The foregoing instrument was acknowledged before me this 10th day of August, 1990, by Ernest E. Wagner, of Bingamon Public Service District, a corporation, for and in behalf of said corporation.

Patricia A. Andrew
Notary Public

My commission expires:

October 24, 1993

This instrument was prepared by:
John S. Kaull
WEST & JONES
360 Washington Avenue
P. O. Box 2348
Clarksburg, West Virginia 26302-2348

THIS AGREEMENT, made this 26 day of March, 1949,

by and between the TOWN OF WORTHINGTON, a municipal corporation of Marion County, West Virginia, party of the first part, and the CITY OF SHINNSTON, a municipal corporation of Harrison County, West Virginia, party of the second part.

WITNESSETH:

That in consideration of the covenants and agreements hereinafter contained to be kept and performed by said party of the second part, said party of the first part does hereby grant to said party of the second part an easement or right of way to lay, maintain, operate, repair, replace and remove a ten inch (10") water pipe line over, across, under and along Water Street in the said Town of Worthington, in Marion County, West Virginia, from a point beginning at the intersection of U. S. Route No. 19 and said Water Street and extending thence in a westerly direction along the upper or northerly side of said Water Street to the westerly edge of Bridge Street at the property line of E. H. Stevens' Heirs, or the Penzoil Company, in the discretion of the party of the second part.

In consideration of the aforesaid grant and of the mutual advantages to the parties hereto, it is hereby covenanted and agreed by and between the parties hereto as follows:

1 - That said water pipe line shall be laid along and as near to the northerly side of the paved portion of said Water Street as may be reasonably practicable and be buried not less than thirty (30) inches below the surface of the ground in trenches.

2 - That upon laying and thereafter upon repairing, replacing or removing said water pipe line, said party of the second part shall, at its own cost, restore the surface of said Water Street, and the embankments and ditches thereof, to their original condition, and, should the surface thereof thereafter settle or sink by reason of the laying, repairing, replacing or removing of said pipe line, said party of the second part shall, at its own cost, make such further restorations as shall be required to put said street, embankments and ditches in as good condition as they were before said work was done by said party of the second part. Said party of the first part may itself make said restorations, should said party of the second part fail or neglect to do so promptly upon request, and said party of the second part shall be chargeable with all the necessary costs thereof.

3 - That said party of the second part shall interfere as little as possible with the traffic in said street while laying and thereafter while repairing, replacing or removing said water pipe line, and said party of the second part shall, and it hereby covenants and agrees, to indemnify and save the party of the first part harmless from any and all liability resulting from loss or damage sustained by anyone from the construction, operation and maintenance of said pipe line in said street.

4 - That it is understood by the parties hereto that there are certain water, gas and sewer pipe lines already laid and extending along and across said Water Street, and said party of the second part hereby agrees to relocate at its own cost such of said lines as the

construction of its water pipe line shall necessitate, and to take all necessary measures to protect said lines against injury or damage, and the party of the second part agrees to save the party of the first part harmless from all liability arising from any damage to said water, gas and sewer pipe lines as a result of the construction, operation and maintenance of its water pipe line.

5 - That said party of the second part shall install an emergency tap on its water pipe line within the corporate limits of the Town of Worthington for the benefit of said party of the first part, and, whenever said party of the first part shall desire to purchase water from said party of the second part and make request therefor, said party of the second part shall install without cost, ~~two~~ additional water taps at such places on its line as said party of the first part shall indicate and thereafter sell water from its pipe line to the party of the first part in such quantities as is desired, at rates to be established by the Public Service Commission of West Virginia. That said party of the second part shall furnish and maintain a water meter for one of said water taps and the party of the first part shall furnish and maintain water meters for the other two of said water taps. That the quantity of water taken by said party of the first part from the line of said party of the second part through said taps and measured by said meters, and the rates applicable thereto shall be determined and computed on the same basis as though taken from one tap and measured through one meter, it being intended that said party of the first part shall have all the benefits of the reduced rates applicable to the purchase of said water in wholesale quantities.

6 - Said party of the second part shall supply water from its pipelines to the Western-Maryland Railway Company, the Hutchinson Water Company, any utility organized for the purpose of operating a public water supply system, and such persons in Marion County whom it has obligated itself to serve in order to obtain rights of way for its pipeline; but when said party of the first part shall take and purchase all its water from the party of the second part, as provided in the preceding paragraph hereof, the persons, firms and corporations in Marion County serviced with water by said party of the second part, except said Western Maryland Railway Company, said Hutchinson Water Company and any public utility engaged in operating a public water supply system, shall thereafter be serviced by the said party of the first part. Public utility as used herein shall not apply to the Town of Worthington, which is recognized as a public utility engaged in operating a public water supply system.

7 - If at any time the Town of Worthington should take over the water distribution system in Hutchinson, now owned by the Hutchinson Water Company, then in that event, the Town of Worthington would be entitled to purchase water from the City of Shinnston as its consumer, succeeding to all its rights and privileges of the Hutchinson Water Company as a purchaser of water from the City of Shinnston.

8 - That it is understood that said party of the second part shall obtain its water supply from the Town of Monongah under contract, and that this agreement is subject to the limitations, restrictions and conditions thereof in so far as the same may be applicable hereto.

THIS AGREEMENT IS EXECUTED IN DUPLICATE, one counterpart thereof being retained by each of the parties hereto.

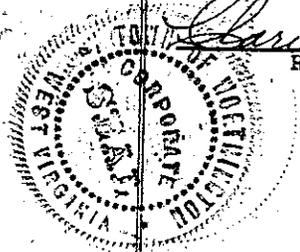
IN WITNESS WHEREOF, the parties hereto have caused their corporate names to be signed hereto by their respective Mayors, and their

corporate seals to be hereto affixed by their respective Recorders,
pursuant to the authority of their respective councils duly given,
all as of the date and year first hereinabove written.

TOWN OF WORTHINGTON

By Severin Day
Mayor

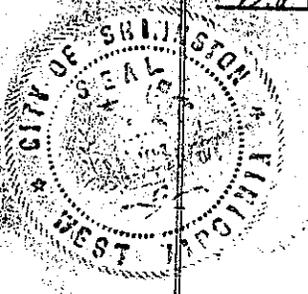
Attest:
Carroll L. Stum
Recorder



CITY OF SHANNONSTON

By W. H. ...
Mayor

Attest:
W. H. ...
Recorder



STATE OF WEST VIRGINIA,

COUNTY OF MARION, TO-WIT:

I, Harvey Fostney, a Notary Public in
and for the county and state aforesaid, do certify that H. M. FOX,
who signed the writing hereto annexed, bearing date on the
26 day of ~~February~~ March, 1949, for the TOWN OF WORTHINGTON, a municipal
corporation, has this day in my said county, before me, acknowledged
the said writing to be the act and deed of said corporation.

Given under my hand this the 26 day of ~~February~~ March, 1949.

Harvey Fostney
Notary Public.

My commission expires

July 16, 1955

STATE OF WEST VIRGINIA,

COUNTY OF HARRISON, TO-WIT:

I, Blyss H. High, a Notary Public in and for the county and state aforesaid, do certify that W. S. HURSEY, who signed the writing hereto annexed, bearing date on the 26th day of March, 1949, for the CITY OF SHINNSTON, a municipal corporation, has this day in my said county, before me, acknowledged the said writing to be the act and deed of said corporation.

Given under my hand this the 5th day of April, 1949.

Blyss H. High
Notary Public.

My commission expires March 27, 1950



WEST VIRGINIA, TO-WIT:

Be it remembered that on the 19 day of January, 19 50, the foregoing instrument of writing, bearing date on the 26 day of March, 19 49, with Revenue Stamps duly cancelled, was presented to me, Maria H. Clark, Clerk of the County Court of Marion County, in my office and together with the certificate thereto annexed was admitted to record at 10:52 o'clock A. M.

Teste: Maria H. Clark
Clerk.

AGREEMENT

THIS AGREEMENT, made this 12th day of December, 1994, by and between THE SANITARY BOARD OF THE TOWN OF WORTHINGTON, a municipal corporation, and ~~THE WATER BOARD OF~~ THE CITY OF SHINNSTON, a municipal corporation.

WITNESSETH: THAT WHEREAS, The Sanitary Board of the Town of Worthington, a municipal corporation, (hereinafter sometimes referred to "Sewer Authority"), is currently acquiring, constructing, and establishing a sanitary sewer system and will be engaged in supplying sanitary sewer service to the citizens and residents within its service area; and,

WHEREAS, The ~~Water Board of~~ the City of Shinnston, a municipal corporation, (hereinafter sometimes referred to as "Water Authority"), is the owner and operator of a water distribution system servicing some of the customers of the Sewer Authority, under the applicable Rules and Regulations of the Public Service Commission of West Virginia (hereinafter sometimes referred to as "P.S.C."); and,

WHEREAS, the Sewer Authority has requested the Water Authority to provide it with certain information regarding water usage and sewer usage so that the Sewer Authority may bill its customers, and the Sewer Authority further desires to obtain the assistance of the Water Authority in the collection of delinquent sewer fees; and,

WHEREAS, the Water Authority is required by law, at the request and direction of the Sewer Authority and with the approval of the P.S.C., to terminate the supply of water from its system to any customer or premises with regard to which the fees and charges for sewer service supplied thereto by the Sewer Authority are delinquent; and,

WHEREAS, the Water Authority has at its disposal certain data processing capabilities and service labor and equipment, and is willing to cooperate and assist the Sewer Authority in providing information to the Sewer Authority regarding sewage usage of its customers and in cooperating and assisting the Sewer Authority in the collection of delinquent accounts, all upon the terms hereinafter set forth.

NOW, THEREFORE, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which are hereby acknowledged, and the covenants and agreements hereinafter set forth, the parties hereto do hereby mutually covenant and agree as follows:

1. Upon receipt by the Water Authority of a written request by the Sewer Authority for termination of water service to a specified customer or premises with regard to which the fees and charges for sewer service provided by the Sewer Authority have not been paid for a period of not less than thirty (30) days from the due date thereof, the Water Authority will, within three (3) regular working days following receipt of said

written request, and except as otherwise provided below, discontinue the supply of water from its system to such customer or premises until it is advised in writing by the Sewer Authority either that (i) all delinquent fees (for which the customer's water service may be terminated under this Agreement), together with any interest thereon or other permissible fees or charges pertaining thereto, have been paid, or (ii) a satisfactory payment plan has been initiated pursuant to Rule 4.08 of the P.S.C.'s Rules and Regulations for the Government of Water Utilities, or (iii) until the Sewer Authority otherwise directs. It is expressly understood and agreed that the three (3) day termination response period set forth above may be extended at the sole discretion of the Water Authority to a maximum of five (5) days when and if necessary due to a large number of termination requests or for other scheduling problems. The Water Authority shall not terminate water service to any customer or premises pursuant to this Agreement (i) prior to the expiration of the notice period required by the terms of Rule 4.08(1) of the P.S.C. Rules and Regulations for the Government of Water Utilities, or (ii) on a Friday, Saturday, Sunday, or day prior to a legal holiday or if an emergency exists. All disconnections of water service shall be performed between the hours of 8:00 a.m. and 4:00 p.m. Any disconnection of water service must comply with all rules, regulations, and orders of the P.S.C.

2. The Sewer Authority shall pay to the Water Authority, within thirty (30) days after delivery of the aforesaid written request for discontinuance of water service, a disconnection fee for each water service terminated, said fee to be in the amount of Twenty-five Dollars (\$25.00). In addition, the Sewer Authority shall also pay to the Water Authority, within thirty (30) days of a request for restoration of a water service previously terminated at the Sewer Authority's request, a reconnection fee in the amount of Twenty-five Dollars (\$25.00), for each water service restored by the Water Authority. The Water Authority will upon written request by the Sewer Authority reconnect the customer on the next working day following the receipt of the written request. It is understood and agreed that the aforesaid fees for termination and restoration of water services shall automatically increase without any further notice or action by the Water Authority, upon an increase in such corresponding fees as may now or hereafter be approved by the P.S.C. and set forth in the Water Authority's tariffs. The customer shall reimburse the Sewer Authority for any termination and reconnection fees, or other costs previously paid by the Sewer Authority with regard to such customer, provided said customer is notified in writing pursuant to Water Rule 4.08 that in the event water service is terminated, the customer will be responsible for such fees charged to the Sewer Authority by the Water Authority and that these fees and charges

be specifically expressed in the termination notice.

3. The aforesaid written request from the Sewer Authority to the Water Authority for termination of water service shall contain the following information:

(a) That the delinquent sewer fees upon which the Sewer Authority's request for termination of water service is based were incurred by the present occupant of the premises or a member of the same household or that someone other than the occupant of the premises is liable for the payment of the delinquent sewer fees, such as an owner of real property or a landlord, pursuant to West Virginia Code §8-18-23; and

(b) That the Sewer Authority has given written notice to one or more persons liable for the payment of the delinquent sewer fees and charges, pursuant to the aforesaid Rule 4.08(1) of the P.S.C.'s Rules and Regulations, of the Sewer Authority's intention to request termination of water service, a copy of which notice shall be attached to the written request for termination of water service.

4. The Water Authority shall not be liable for any loss, damage, or other claim asserted by the owner or occupant of the premises, the Sewer Authority's customer, the Water Authority's customer, or any other person or corporation, including the Sewer Authority, based on or arising out of the termination of such supply of water, and the Sewer Authority

does hereby indemnify and hold harmless the Water Authority, its agents, officers, servants, and employees, from any such loss, damage, or claim, except to the extent that any such loss, damage, or claim, or any portion thereof, is the result of the negligence, omissions, or willful acts of the Water Authority, its agents, officers, servants, and employees. In this regard, the Sewer Authority and the Water Authority further agree as follows:

(a) The Sewer Authority shall provide the Water Authority the number of a working telephone to which customer inquiries resulting from termination of water service at the request of the Sewer Authority for delinquent sewer bills may be referred.

(b) The Sewer Authority shall be responsible for promptly answering all complaints, either verbal or written, lodged with the P.S.C., or received by or directed to the Water Authority, due to termination of water service at the request of the Sewer Authority for delinquent sewer bills. The Water Authority shall promptly forward any such complaints received by it to the Sewer Authority.

(c) The Sewer Authority shall be responsible for collection of all delinquent sewer bills, except that the Water Authority shall attempt to collect the delinquent sewer bills in accordance with Water Rule 4.08, as amended. As set forth in said Water Rule 4.08, as amended, the Water Authority shall

attempt personal contact with the customer immediately before termination of water service for the delinquent sewer bill, and the Water Authority shall accept payment at the customer's premises in lieu of discontinuing service for the delinquent sewer bill. In the event the Water Authority collects delinquent sewer bills, it shall forthwith remit said sums to the Sewer Authority and shall charge the Sewer Authority an administrative fee, which fee is in the sum of Twenty-five Dollars (\$25.00).

5. This Agreement shall become effective upon execution hereof by both parties and shall continue thereafter for a period of one (1) year and shall automatically be renewed for like successive periods unless and until terminated as hereinafter provided. This Agreement may be terminated at any time by order of the P.S.C. or by either party hereto upon written notice in the event of legislative enactments, court rulings, or administrative rulings which render all or any of the terms hereof null, void, or unenforceable. It is also understood and agreed by the between the parties hereto that this Agreement shall be submitted to the P.S.C. for approval, as required by law.

6. It is understood and agreed by and between the parties hereto that the Water Authority may be required to comply with any existing or future regulations of the P.S.C. relating to notice of termination of service, in addition to any

other notice that might be required under this contract or any applicable statute or ordinance. It is further understood and agreed by the parties hereto that the Water Authority is under no obligation to the Sewer Authority to investigate, verify, or make any inquiry regarding any notice submitted to the Water Authority by the Sewer Authority.

7. The Water Authority shall utilize its personnel and equipment to read meters and provide to the Sewer Authority the water and sewage usage amounts and information regarding the customers of the Sewer Authority which are customers of the Water Authority, to enable the Sewer Authority to render prompt bills to its customers for sewer service fees and charges. The Sewer Authority shall be responsible for rendering bills to its customers and for the collection of the bills for sewer service fees and charges, except as provided herein. The Water Authority shall provide such water and sewage usage information to the Sewer Authority within two (2) working days after the water and sewage usage figures and information are obtained and compiled by the Water Authority. To compensate the Water Authority for such services, the Sewer Authority shall pay to the Water Authority, within thirty (30) days of the receipt of an invoice for the same, a fee in the sum of one percent (1%) of the amount of the water bill for each customer of the Sewer Authority which is also served by the Water Authority.

8. The Sewer Authority shall deliver all written

requests, statements, fees, notices, and other documents or payments called for or permitted by the terms of this Agreement to the Water Authority at the following address:

Wanda F. Ashcraft, Mayor
~~Water Board of the City of Shinnston~~
The City of Shinnston
P. O. Box 1865
Shinnston, West Virginia 26431

9. The Water Authority shall deliver all statements, notices, written requests, billing information, and other documents called for or permitted by the terms of this Agreement to the Sewer Authority at the following address:

Sanitary Board of the Town of Worthington
The Town of Worthington
P. O. Box 265
Worthington, West Virginia 26591

10. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Upon execution by both parties hereto, one counterpart of this Agreement shall be filed with the P.S.C. by the Sewer Authority.

IN WITNESS WHEREOF, the parties hereto have executed or caused to be executed by their duly authorized officials, this Agreement in duplicate, as of the day and year first above written.

THE SANITARY BOARD OF THE
TOWN OF WORTHINGTON,
a municipal corporation

By:

Beverly J. Falowski
Its Chairperson

ATTEST:

Edgar R. Burley
Title: BOARD MEMBER

~~THE WATER BOARD OF THE~~
CITY OF SHINNSTON,
a municipal corporation

By: Wanda F. Ashcraft
Its Mayor

ATTEST:

Debra Hendon
Title: Recorder

FILE COPY

WATER PURCHASE CONTRACT

This contract for the sale and purchase of water is entered into as of the 31st day of August, 2005

~~XX~~, between the City of Shinnston, 43 Bridge Street, Shinnston, WV 26431,

(Address)
hereinafter referred to as the "Seller" and the Bingamon Public Service District, P.O. Box 87,
Wyatt, WV 26463

(Address)
hereinafter referred to as the "Purchaser",

WITNESSETH:

Whereas, the Purchaser is organized and established under the provisions of Article 13A of Chapter 16 of the Code of West Virginia, as amended, for the purpose of constructing and operating a water supply distribution system serving water users within the area described in plans now on file in the office of the Purchaser and to accomplish this purpose, the Purchaser will require a supply of treated water, and

Whereas, the Seller owns and operates a water supply distribution system with a capacity currently capable of serving the present customers of the Seller's system and the estimated number of water users to be served by the said Purchaser as shown in the plans of the system now on file in the office of the Purchaser, and

Whereas, by Resolution No. _____ enacted on the _____ day of _____, ~~19~~ 2005, by the Seller, the sale of water to the Purchaser in accordance with the provisions of the said Resolution was approved, and the execution of this contract carrying out the said Resolution by the City Manager, and attested by the Secretary, was duly authorized, and

Whereas, by Resolution of the Public Service Board of the Purchaser, enacted on the 19th day of September, ~~19~~ 2005, the purchase of water from the Seller in accordance with the terms set forth in the said Resolution was approved, and the execution of this contract by the Chairman, and attested by the Secretary was duly authorized;

Now, therefore, in consideration of the foregoing and the mutual agreements hereinafter set forth,

A. The Seller Agrees:

1. (Quality and Quantity) To furnish the Purchaser at the point of delivery hereinafter specified, during the term of this contract or any renewal or extension thereof, potable treated water meeting applicable purity standards of the West Virginia Department of Health

in such quantity as may be required by the Purchaser not to exceed 8.0 million gallons per month.

Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to U.S. Department of Agriculture, Clearance Officer, STOP 7602, 1400 Independence Avenue, S.W., Washington, D.C. 20250-7602. Please DO NOT RETURN this form to this address. Forward to the local USDA office only. You are not required to respond to this collection of information unless it displays a currently valid OMB control number.

2. (Point of Delivery and Pressure) That water will be furnished at a reasonably constant pressure calculated at 100 psi from an existing six (6") inch main supply at a point located

Shinnston to Bingamon Master Meter
If a greater pressure than that normally available at the point of delivery is required by the Purchaser, the cost of providing such greater pressure shall be borne by the Purchaser. Emergency failures of pressure or supply due to main supply line breaks, power failure, flood, fire and use of water to fight fire, earthquake or other catastrophe shall excuse the Seller from this provision for such reasonable period of time as may be necessary to restore service.

3. (Metering Equipment) To furnish, install, operate, and maintain at its own expense at point of delivery, the necessary metering equipment, including a meter house or pit, and required devices of standard type for properly measuring the quantity of water delivered to the Purchaser and to calibrate such metering equipment whenever requested by the Purchaser but not more frequently than once every twelve (12) months. A meter registering not more than two percent (2%) above or below the test result shall be deemed to be accurate.

The previous readings of any meter disclosed by test to be inaccurate shall be corrected for the twelve (12) months previous to such test in accordance with the percentage of inaccuracy found by such tests. If any meter fails to register for any period, the amount of water furnished during such period shall be deemed to be the amount of water delivered in the corresponding period immediately prior to the failure, unless Seller and Purchaser shall agree upon a different amount. The metering equipment shall be read on monthly periods. An appropriate official of the Purchaser at all reasonable times shall have access to the meter for the purpose of verifying its readings.

4. (Billing Procedure) To furnish the Purchaser at the above address not later than the _____ day of each month, with an itemized statement of the amount of water furnished the Purchaser during the preceding month.

B. The Purchaser Agrees:

1. (Rates and Payment Date) To pay the Seller, not later than the 20th day of each month, for water delivered in accordance with the following schedule of rates:

- a. \$ N/A for the first _____ gallons, which amount shall also be the minimum rate per month.
- b. \$ N/A cents per 1000 gallons for water in excess of _____ gallons but less than _____ gallons.
- c. \$ N/A cents per 1000 gallons for water in excess of _____ gallons.

Resale Rate: \$2.14 per 1000 gallons, or such other resale rate as may become a part of Shinnston Water Department's tariff as approved by the West Virginia Public Service Commission

2. (Connection Fee) To pay as an agreed cost, a connection fee to connect the Seller's system with the system of the Purchaser, the sum of no (\$0.00) dollars which shall cover any and all costs of the Seller for installation of the metering equipment and _____

C. It is further mutually agreed between the Seller and the Purchaser as follows:

1. (Term of Contract) That this contract shall extend for a term of forty (40) years from the date of the initial delivery of any ~~water as shown by the first bill submitted by the Seller to the Purchaser~~ this contract and, thereafter may be renewed or extended for such term, or terms, as may be agreed upon by the Seller and Purchaser.

2. (Delivery of Water) That N/A days prior to the estimated date of completion of construction of the Purchaser's water supply distribution system, the Purchaser will notify the Seller in writing the date for the initial delivery of water.

3. (Water for Testing) When requested by the Purchaser the Seller will make available to the contractor at the point of delivery, or other point reasonably close thereto, water sufficient for testing, flushing, and trench filling the system of the Purchaser during construction, irrespective of whether the metering equipment has been installed at that time, at a flat charge of \$ N/A which will be paid by the contractor or, on his failure to pay, by the Purchaser.

4. (Failure to Deliver) That the Seller will, at all times, operate and maintain its system in an efficient manner and will take such action as may be necessary to furnish the Purchaser with quantities of water required by the Purchaser. Temporary or partial failures to deliver water shall be remedied with all possible dispatch. In the event of an extended shortage of water, or the supply of water available to the Seller is otherwise diminished over an extended period of time, the supply of water to Purchaser's consumers shall be reduced or diminished in the same ratio or proportion as the supply to Seller's consumers is reduced or diminished.

5. (Modification of Contract) That the provisions of this contract pertaining to the schedule of rates to be paid by the Purchaser for water delivered are subject to modification at the end of every one (1) year period. Any increase or decrease in rates shall be based on a demonstrable increase or decrease in the costs of performance hereunder, but such costs shall not include increased capitalization of the Seller's system. Other provisions of this contract may be modified or altered by mutual agreement.

6. (Regulatory Agencies) That this contract is subject to such rules, regulations, or laws as may be applicable to similar agreements in this State and the Seller and Purchaser will collaborate in obtaining such permits, certificates, or the like, as may be required to comply therewith.

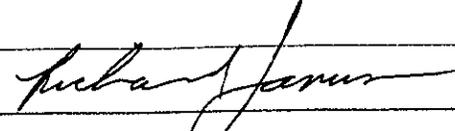
7. (Miscellaneous) That the construction of the water supply distribution system by the Purchaser is being financed by a loan made or insured by, and/or a grant from, the United States of America, acting through Rural Development of the United States Department of Agriculture, and the provisions hereof pertaining to the undertakings of the Purchaser are conditioned upon the approval, in writing, of the State Director of Rural Development.

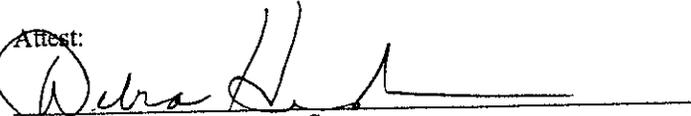
8. (Successor to the Purchaser) That in the event of any occurrence rendering the Purchaser incapable of performing under this contract, any successor of the Purchaser, whether the result of legal process, assignment, or otherwise, shall succeed to the rights of the Purchaser hereunder.

9. (Prior Agreements) This Agreement shall supersede and replace any prior agreements between the parties.

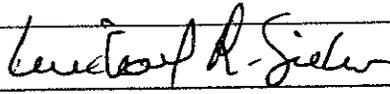
In witness whereof, the parties hereto, acting under authority of their respective governing bodies, have caused this contract to be duly executed in three (3) counterparts, each of which shall constitute an original.

Seller: CITY OF SHINNSTON

By 
Title City Manager

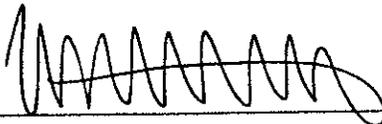
Attest: 
Secretary

Purchaser: BINGAMON PUBLIC SERVICE DISTRICT
a public corporation

By 
Title Chairman

Attest: 
Secretary

This contract is approved on behalf of Rural Development this _____ day of _____, 2005
~~19x~~ _____.

By 
Title STATE DIRECTOR

MEMORANDUM

To: Financing Team
From: Thomas L. Aman, Jr.
Date: November 30, 2005
Re: Closing Memo - City of Shinnston Water Revenue Bonds, Series 2005 A

1. DISBURSEMENTS TO THE CITY OF SHINNSTON

Payor: United States Department of Agriculture
Amount: \$403,100
Form: ACH transfer
Payee: City of Shinnston
Bank: WesBanco Bank, Inc. - Shinnston Branch
Routing #: 043400036
Account #: 2733509031
Contact: Cathy Faber (304.592.5700 ext. 11)
Account: Series 2005 A Project Construction Account

11/30/05
818500.00001