

DISTRIBUTION LIST

\$885,000  
City of Spencer  
Water Revenue Bonds  
Series 1998

Issuer

City of Spencer  
207 Court Street  
Spencer, WV 25276  
Honorable Terry A. Williams, Mayor  
David Bowen, Recorder  
(304) 927-1640 Telephone  
(304) 927-4630 Telecopier

Issuer's Counsel

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Spencer, WV 25276  
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Charleston, WV 25328-2107  
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Bond Purchaser

United States of America  
United States Department of  
Agriculture, Rural Utilities Service  
P. O. Box 303  
Parkersburg, WV 26102  
Ney R. Williamson, Jr.,  
District Director  
Gary D. Wilson, Rural Development  
Specialist  
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Accountant

John L. Ford, CPA  
P.O. Box 152  
Ona, WV 25545  
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(304) 623-2919 Telephone

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TRANSCRIPT LIST

\$885,000  
CITY OF SPENCER  
WATER REVENUE BOND, SERIES 1998

Closing: June 5, 1998

A. BASIC

1. Grant Agreements
2. Charter of City of Spencer (the "Issuer")
3. Oaths of Office of Mayor, Recorder and Council Members
4. Bond Ordinance
5. Minutes of Meetings of Council on First and Second Readings of Bond Ordinance
6. Notice and Affidavit of Publication of Public Hearing and Minutes of Public Hearing

B. CERTIFICATES AND RECEIPTS

7. General Certificate of Issuer and Issuer's Counsel on:
  1. Terms
  2. Award of Bond
  3. No Litigation
  4. Governmental Approvals and Bidding
  5. No Adverse Financial Change; Indebtedness
  6. Signatures
  7. Certification of Copies of Documents
  8. Public Service Commission Order; Rates
  9. Incumbency and Official Name
  10. Delivery and Payment
  11. Land and Rights of Way
  12. Meetings
  13. Contractor's Insurance
  14. Connections
  15. Management
  16. Rates and Charges
  17. Conflict of Interest
  18. Compliance with 1970, 1974, 1991 and 1993 Ordinances and Bonds
8. Engineer's Certificate

9. Certified Public Accountant's Certificate
10. Water Tariff
11. Public Service Commission Certificate of Convenience and Necessity
12. Economic Development Administration Consent to Parity Bond
13. RDA Consent to Parity Bond
14. Specimen Bond
15. Financing Statements
16. Non-Arbitrage Certificate

#### C. LEGAL OPINIONS

17. Issuer's Counsel Opinion
18. Non-Arbitrage Opinion
19. Bond Counsel Opinion

#### D. MISCELLANEOUS

20. Bond Registry Form
21. Receipt for Bonds and Transcript
22. IRS Form 8038-G
23. Municipal Bond Commission New Issue Report Form
24. Copy of Statutory Authority

The closing of the sale of \$885,000 in aggregate principal amount of the City of Spencer, Water Revenue Bond, Series 1998 will take place at the First National Bank of Spencer, 216 Market Street, Spencer, West Virginia, at 10:00 a.m., Eastern Time, on June 5, 1998. No transaction shall be deemed to have been completed and no documents shall be deemed to have been delivered unless and until all transactions are complete and all documents are delivered. Any document which references an Exhibit or Schedule to be attached thereto shall be considered completed and attached if the referenced Exhibit or Schedule appears elsewhere in this Transcript.





**APPALACHIAN  
REGIONAL  
COMMISSION**

*A Proud Past.  
A New Vision*

**A**ppalachian  
**R**egional  
**C**ommission

# PROJECT ANNOUNCEMENT

1666 Connecticut Avenue, N.W., Washington, D. C. 20235 Telephone: (202) 884-7660

**Project No. and Title:** Charles Fork Raw Water Transmission, Roane County, West Virginia, WV-12000-95-1-214-0320

**Grantee:** City of Spencer

**Funding:**  
ARC: \$500,000  
Federal: 115,000  
Non-Federal:  
State:  
Local: 885,000  
**Total:** \$1,500,000

JUN 07 1995

**Washington, D. C. --** The Appalachian Regional Commission announced today approval of a \$500,000 grant for the construction of a 1500 gpm raw water pumping station and approximately 13,500 linear feet of 14-inch diameter and 16-inch diameter transmission main lines, repairing three storage tanks and replacing telemetry for the storage tanks.

The planned improvements will provide a virtually loss free conduct for the transfer of water to 1917 customers. The water would be less turbid and the cost for treatment should decrease because the new system will reduce losses.

In addition to the ARC funds, the Rural Development Administration will contribute a \$115,000 grant and an \$885,000 loan for a total project cost of \$1,500,000.

UNITED STATES DEPARTMENT OF AGRICULTURE  
FARMERS HOME ADMINISTRATION

ASSOCIATION WATER OR SEWER SYSTEM GRANT AGREEMENT

THIS AGREEMENT dated Nov. 3, 1994, 19    , between

City of Spencer

a public corporation organized and operating under \_\_\_\_\_  
Chapter 8, Article 19, West Virginia Code  
*(Authorizing Statute)*

herein called "Grantee," and the United States of America acting through the Farmers Home Administration, 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 its jurisdiction at an estimated cost of \$ 1,500,000 and has duly authorized the undertaking of such project.

Grantee is able to finance not more than \$ 1,000,000 of the development costs through revenues, charges, taxes or assessments, or funds otherwise available to Grantee resulting in a reasonable user charge.

Said sum of \$ 1,000,000 has been comitted to and by Grantee for such project development costs.

Grantor has agreed to grant the Grantee a sum not to exceed \$ 500,000 or 80 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.

NOW, THEREFORE, In consideration of said grant by Grantor to Grantee, to be made pursuant to ~~Section 505 of the~~ The Applachian Regional Development Act of 1965, as amended, ~~Consolidated Rural and Rural Development Act~~ for the purpose only of defraying a part not to exceed 80 percent of the development costs, as defined by applicable Farmers Home Administration 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. Comply with any 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.
- D. Comply with all applicable state and federal laws and regulations and manage, operate and maintain the system, including this project if less than the whole of said system, continuously in an efficient and economical manner.
- E. 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~~ ordinance date 6-4, 1998, 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.

Public reporting burden for this collection of information is estimated to average 2 hours 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 Department of Agriculture, Clearance Officer, OIRM, Room 404-W, Washington, D.C. 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB No. 0575-0074), Washington, D.C. 20503.

2. Disposition of nonexpendable property. When the Grantee no longer needs the property as provided in paragraph (a) above, the property may be used for other activities in accordance with the following standards:

(a) Nonexpendable property with a unit acquisition cost of less than \$1,000. The Grantee may use the property for other activities without reimbursement to the Federal Government or sell the property and retain the proceeds.

(b) Nonexpendable personal property with a unit acquisition cost of \$1,000 or more. The Grantee may retain the property 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 of the property. If the Grantee has no need for the property and the property has further use value, the Grantee shall request disposition instructions from the original Grantor agency.

The Grantor agency shall determine whether the property can be used to meet the agency's requirements. If no requirement exists within that agency, the availability of the property 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 property exists in other Federal agencies. The Grantor agency shall issue instructions to the Grantee no later than 120 days after the Grantee request 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 property 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 \$100 or ten percent of the proceeds, whichever is greater, for the Grantee's selling and handling expenses.

(2) If the Grantee is instructed to ship the property elsewhere the Grantee shall be reimbursed by the benefitting 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 property, plus any reasonable shipping or interim storage costs incurred.

(3) If the Grantee is instructed to otherwise dispose of the property, the Grantee shall be reimbursed by the Grantor agency for such costs incurred in its disposition.

3. The Grantee's property management standards for nonexpendable personal property shall also include:

(a) Property records which accurately provide for: a description of the property; manufacturer's serial number or other identification number; acquisition date and cost; source of the property; percentage (at the end of budget year) of Federal participation in the cost of the project for which the property was acquired; location, use and condition of the property 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 property shall be taken and the results reconciled with the property records at least once every two years to verify the existence, current utilization, and continued need for the property.

(c) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft of nonexpendable property shall be investigated and fully documented.

(d) Adequate maintenance procedures shall be implemented to keep the property in good condition.

(e) Proper sales procedures shall be established for unneeded property which would provide for competition to the extent practicable and result in the highest possible return.

*This Grant Agreement covers the following described nonexpendable property (use continuation sheets as necessary).*

None

N. 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.

O. 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 copies 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.

P. Provide information as requested by the Grantor to determine the need for and complete any necessary Environmental Impact Statements.

Q. Provide an audit report prepared in sufficient detail to allow the Grantor to determine that funds have been used in compliance with the proposal, any applicable laws and regulations and this Agreement.

ATTEST:

By Elain Daugherty

Recorder  
(Title)

By Terry A. Williams

Mayor  
(Title)

UNITED STATES OF AMERICA  
FARMERS HOME ADMINISTRATION

By Gary D. Wilson

Rural Development Specialist 6/5/98  
(Title)



36 include not only the issuance of bonds for the purpose of paving  
37 or sewerage, or both, but it may include any other purpose;  
38 provided, such ordinance shall comply with sub-division six of  
39 section forty-nine-b, chapter forty-seven, code of one thousand  
40 nine hundred and thirteen, aforesaid.

## CHAPTER 121.

(Senate Bill No. 246.)

AN ACT to incorporate the city of Spencer, in the county of Roane, state of West Virginia, fixing its corporate limits and prescribing and defining the powers and duties of said city and the officers of same.

[Passed February 20, 1917. In effect ninety days from passage. Became a law without the Governor's approval.]

- SEC.
1. City of Spencer; liability as to debt.
  2. Boundary lines; corporate limits.
  3. Power to enact and enforce ordinances.
  4. Power to construct, condemn, purchase, etc.
  5. May receive bequests, etc.
  6. Extent of legislative, executive and judicial powers.
  7. Ordinances that shall remain in force.
  8. Elective officers and terms.
  9. Qualification of commissioners.
  10. Compensation of commissioners.
  11. Shall take oath of office.
  12. Commissioners to give bond.
  13. Mayor, duties of.
  14. Mayor shall have supervision of health department.
  15. Police judge, duties of.
  16. City clerk.
  17. Board of commissioners.
  18. Each commissioner to engage in actual work of office.
  19. Right of appeal to aggrieved person.
  20. Number and salary of officers, etc.
  21. Selection of appointive officers; who.
  22. Removal from, or forfeiture of office.
  23. City depository.
  24. Deposits to be secured by bond.
  25. Power to acquire and sell property.
  26. Legislative department.
  - 26-a. Restrictions as to granting franchises.
  27. Power to fill vacancy.
  28. Determine rules of procedure.
  29. Time for holding meetings.
  30. Quorum.
  31. Style of ordinances.

- SEC.
32. Ordinance to embrace but one subject.
  33. Ordinances shall take effect.
  34. Provision for emergency ordinances.
  - 34-a. Municipal code.
  35. Judicial department.
  36. Police court.
  37. Ordinance, how enforced.
  38. Fine, imprisonment, work on the streets, etc., to be the property of the city.
  39. Fines, etc., to be the property of the city.
  40. Style of process.
  41. Power of commission to remit fines.
  42. Appeal to circuit court.
  43. Elections.
  44. Revenue.
  45. Licenses may be required.
  46. City taxes, how collected.
  47. Lien on real estate for taxes thereon.
  48. Revenues that may be placed in general fund.
  49. General provisions.
  50. Labor and material to be used.
  51. Prima facie evidence to be used in court.
  52. Claims against city to be approved.
  53. Removal under general law.
  54. Commissioners may administer oaths.
  55. Liability for improper payment.
  56. Conservator of the peace.
  57. Fiscal year.
  58. Term of officers of Spencer and Alford terminate, except.
  59. City to be divided into wards.
  60. This act to be ratified by the voters; form of ballot.
  61. Inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

3 of this act, and their successors, shall be, and they are hereby  
4 made a body politic and corporate, by the name and style of "The  
5 City of Spencer," and as such, and by that name may contract  
6 and be contracted with, sue and be sued, plead and be pleaded,  
7 answer and be answered unto, and make purchase, take, receive,  
8 hold and use goods and chattels, lands and tenements and choses  
9 in action or any interest, right or estate therein, either for the  
10 proper use of said city, or in trust for the benefit of any person  
11 or corporation therein; and the same may grant, sell, convey,  
12 transfer, let and assign, pledge, mortgage, charge and encumber  
13 in any case, and in any manner, in which it would be lawful for a  
14 private individual so to do, subject to the limitations and provisions  
15 of the constitution of the state of West Virginia; and may  
16 have and use a common seal, and alter and remove the same at  
17 pleasure; and generally shall have all the rights, franchises, capacities  
18 and powers appertaining to like corporations in this state,  
19 and shall have and succeed to all powers, franchises and immunities,  
20 ties, rights and privileges, which were conferred upon or belonged  
21 or appertained to the town of Spencer and the town of Alford in  
22 Roane county, by virtue of any act or acts of the legislature of this  
23 state heretofore passed, or which may have been conferred upon  
24 said two towns, or either of them, by the constitution and laws of  
25 this state; and "The City of Spencer" shall have all the rights,  
26 privileges, capacities and powers provided by chapter forty-seven  
27 of the code of West Virginia, as contained in the edition edited  
28 and compiled by Charles E. Hogg, known and cited as "Code  
29 1913," and for which provision is not herein otherwise expressly  
30 made; and "The City of Spencer" shall be liable for all debts and  
31 obligations for which the present corporations known as "The  
32 Town of Spencer" and "The Town of Alford" are now legally  
33 bound.

Sec. 2. The corporate limits of said city shall hereafter be as follows:  
2 Beginning at west end of bridge on Arnoldsburg pike, a  
3 northwest corner, thence S. 51 50' E. 265 feet; to point at east  
4 abutment to said bridge; thence S 35 25' E. 107 feet, to point on  
5 east side of cement road; thence S 10 5' E. 85 feet, to point a  
6 oak tree east side of road; thence S 23 50' W. 137 feet, to point  
7 on east side of road; thence S 28 W. 107 feet, to point on east side  
8 of road; thence S 11 85' E. 44 feet, to point on east side of road  
9 thence S 46 E. 432 feet, to point on east side of road; then S 7

4 usually devolve upon the council of a city, (such board of com-  
 5 missioners shall not grant any franchise to any public service cor-  
 6 poration desiring to operate in said city, for a period of longer  
 7 than ten years); except by unanimous vote of said board of com-  
 8 missioners; and in no case shall said board of commissioners grant  
 9 any franchise to any public service corporation, or person for  
 10 any purpose, for a period of longer than twenty years, unless  
 11 the question of the granting of said franchise shall first be sub-  
 12 mitted to the electors of the city at an election called for that pur-  
 13 pose, the expenses of said election to be paid for by the person or  
 14 public service corporation applying for said franchise, unless said  
 15 election shall be held at the same time as the regular city election  
 16 held annually in said city. And the board of commissioners shall  
 17 have power to fix charges and prices for service or commodities of  
 18 persons or companies operating public service plants or utilities  
 19 by incorporating said prices and charges in any franchise granted;  
 20 provided, the same shall be under the supervision of the public ser-  
 21 vice commission.

Sec. 27. In case of the death, resignation, removal from  
 2 office, or removal from the corporate limits of the city of any com-  
 3 missioner, or when from any cause the office of any member of the  
 4 board may become vacant, the remaining members or member shall  
 5 elect a successor or successors to fill the vacancy, who shall hold of-  
 6 fice and perform the duties pertaining thereto until the next reg-  
 7 ular annual city election, and until a successor is elected by the  
 8 people of the city to fill the unexpired term of said commissioner.

Sec. 28. The board of commissioners shall determine its own  
 2 rules of procedure, may punish its members for disorderly conduct  
 3 and compel their attendance at its meetings; provided, that any  
 4 commissioner who shall fail to attend at least one meeting in  
 5 any month of the board of commissioners shall forfeit his salary  
 6 as such commissioner for said month unless said commissioner shall  
 7 be excused from said attendance by unanimous vote of the board of  
 8 commissioners on account of sickness, physical disability or other  
 9 cause; and provided further, that any commissioner who shall from  
 10 any cause, fail or refuse to perform the duties of his position in-  
 11 cluding attendance at the meetings of the board for a period of  
 12 three months shall lose his office and the same shall be declared va-  
 13 cant by the remaining commissioner or commissioners and said  
 14 vacancy filled as herein provided.

Sec. 29. The regular meetings of the board of commission-

2 ers shall be held on the first Monday after the election of the com-  
 3 missioners and thereafter at least twice a month, and on such a  
 4 day and at such hour as shall be designated by ordinance or resolution  
 5 of the board. Adjourned meetings may be held and special meet-  
 6 ings called at any time by the mayor or by two commissioners  
 7 in circumstances may demand.

Sec. 30. Two members of the board shall constitute a quor-  
 2 um and the affirmative vote of two members shall be necessary to  
 3 adopt any motion, resolution or ordinance, or pass any measure  
 4 unless a greater number is provided for by this charter. Upon  
 5 every motion involving the expenditure of money and for the letting  
 6 of any public contract, and on all ordinances, the ayes and no-  
 7 es shall be taken and recorded, and every ordinance shall be refer-  
 8 red to writing and read before a vote is taken thereon. The chairman  
 9 of the board shall have a vote on all questions, but shall have no  
 10 veto power. Every resolution or ordinance passed by the board  
 11 shall be signed by the chairman or acting chairman, attested by  
 12 the clerk, or acting clerk, and recorded before the same shall  
 13 be in force.

Sec. 31. The style of all ordinances shall be: "Be it ordain-  
 2 ed by the board of Commissioners of the city of Spencer." Such  
 3 caption may be omitted when said ordinances are revised and  
 4 printed under the order of the board, or when published in book  
 5 form.

Sec. 32. Every ordinance shall embrace but one sub-  
 2 ject which shall be clearly expressed in the title. Provided, that if a  
 3 subject matter be embraced in any ordinance contrary to the pro-  
 4 visions of this section, such ordinance shall be void only as to  
 5 much of the ordinance as may not be clearly expressed in the title  
 6 thereof. Such subject may be omitted when ordinances are pub-  
 7 lished in book form.

Sec. 33. All ordinances passed by the board of commis-  
 2 sioners, except emergency ordinances, shall take effect and be-  
 3 come valid and binding at the expiration of thirty days from the date  
 4 of their passage, unless otherwise provided in this charter.

Sec. 34. The board of commissioners, by unanimous vote,  
 2 may pass an emergency ordinance when the public peace, pub-  
 3 lic health or public safety shall, in the judgment of the board, de-  
 4 mand it. Every emergency ordinance must as a part of the title, con-  
 5 tain the words: "And declaring an emergency," and every such



*City of Spencer*

207 COURT STREET  
SPENCER, WEST VIRGINIA 25276

TELEPHONE 304-927-1640

*Terry A. Williams, Mayor*

June 24, 1997

*Copies  
originals are  
in June 97  
Minute  
Book*

To Whom It May Concern

I certify that the enclosed Oaths of Office bearing the signatures of the following persons who were elected to office in the City Election of June 10, 1997 are true and accurate: Mayor Terry A. Williams; Council Members Elsie Daugherty, Patrick Jay Lance, James E. Starcher, Kimberly Ann Frum, and David Neal Bowen.

I further certify the said Oaths were administered by Mayor Terry A. Williams and Recorder Elsie Daugherty who are authorized by law to administer such Oaths.

*Eleneva Kee Southall*

Eleneva Kee Southall  
City Clerk

SEAL

*Terry A. Williams, Mayor*

*City of Spencer*  
207 COURT STREET  
SPENCER, WEST VIRGINIA 25276

Telephone 304-927-1640

# OATH OF OFFICE

State of West Virginia  
County of Roane  
City of Spencer

I, Terry A. Williams, do solemnly swear that I will support, protect and defend the Constitution of the United States, and the Constitution of the State of West Virginia, and the laws and ordinances of the City of Spencer, and that I will discharge the duties of my position as Mayor with fidelity; and that I will not knowingly receive, directly or indirectly, any money or other valuable thing for the performance or non-performance of any act or duty pertaining to my position other than the compensation allowed by law.  
So help me God.

Terry A. Williams  
(Office Holder)

Sworn to and subscribed before me this 24 day of June, A. D. 1997  
Edwin Dougherty

Terry W. Williams, Mayor

City of Spencer  
207 COURT STREET  
SPENCER, WEST VIRGINIA 25276

Telephone 304-927-1640

# OATH OF OFFICE

State of West Virginia  
County of Roane  
City of Spencer

I, David Neal Bowen, do solemnly swear that I will support, protect and defend the Constitution of the United States, and the Constitution of the State of West Virginia, and the laws and ordinances of the City of Spencer, and that I will discharge the duties of my position as Council Member with fidelity; and that I will not knowingly receive, directly or indirectly, any money or other valuable thing for the performance or non-performance of any act or duty pertaining to my position other than the compensation allowed by law.  
So help me God.

  
(Office Holder)

Sworn to and subscribed before me this 24 day of June, A. D. 1997



*Terry W. Williams, Mayor*

*City of Spencer*  
207 COURT STREET  
SPENCER, WEST VIRGINIA 25276

Telephone 304-927-1640

# OATH OF OFFICE

State of West Virginia  
County of Roane  
City of Spencer

I, Elsie Daugherty, do solemnly swear that I will support, protect and defend the

Constitution of the United States, and the Constitution of the State of West Virginia, and the laws and ordinances of the  
City of Spencer, and that I will discharge the duties of my position as Council Member with fidelity; and that

I will not knowingly receive, directly or indirectly, any money or other valuable thing for the performance or non-  
performance of any act or duty pertaining to my position other than the compensation allowed by law.

So help me God.

  
(Office Holder)

Sworn to and subscribed before me this 24 day of June, A. D. 1997



Terry W. Williams, Mayor

City of Spencer  
207 COURT STREET  
SPENCER, WEST VIRGINIA 25276

Telephone 304-927-1640

# OATH OF OFFICE

State of West Virginia  
County of Roane  
City of Spencer

I, Kimberly Ann Frum, do solemnly swear that I will support, protect and defend the

Constitution of the United States, and the Constitution of the State of West Virginia, and the laws and ordinances of the  
City of Spencer, and that I will discharge the duties of my position as Council Member with fidelity; and that

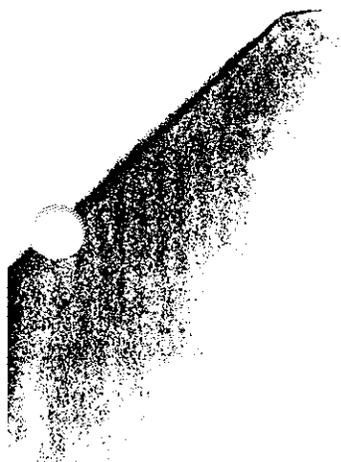
I will not knowingly receive, directly or indirectly, any money or other valuable thing for the performance or non-  
performance of any act or duty pertaining to my position other than the compensation allowed by law.

So help me God.

Kimberly Ann Frum  
(Office Holder)

Sworn to and subscribed before me this 24 day of June, A. D. 1997

Terry W. Williams



*Terry S. Williams, Mayor*

*City of Spencer*  
207 COURT STREET  
SPENCER, WEST VIRGINIA 25276

Telephone 304-927-1640

# OATH OF OFFICE

State of West Virginia  
County of Roane  
City of Spencer

I, Patrick Jay Lance, do solemnly swear that I will support, protect and defend the

Constitution of the United States, and the Constitution of the State of West Virginia, and the laws and ordinances of the

City of Spencer, and that I will discharge the duties of my position as Council Member with fidelity, and that

I will not knowingly receive, directly or indirectly, any money or other valuable thing for the performance or non-

performance of any act or duty pertaining to my position other than the compensation allowed by law.

So help me God.

*Patrick Jay Lance*  
( Office Holder )

Sworn to and subscribed before me this 24 day of June, A. D. 1997

*Jerry A. Jones*



*Garry St. Williams, Mayor*

*City of Spencer*  
207 COURT STREET  
SPENCER, WEST VIRGINIA 25276

Telephone 304-927-1640

# OATH OF OFFICE

State of West Virginia  
County of Roane  
City of Spencer

I, James E. Starcher, do solemnly swear that I will support, protect and defend the

Constitution of the United States, and the Constitution of the State of West Virginia, and the laws and ordinances of the  
City of Spencer, and that I will discharge the duties of my position as Council Member with fidelity; and that

I will not knowingly receive, directly or indirectly, any money or other valuable thing for the performance or non-  
performance of any act or duty pertaining to my position other than the compensation allowed by law.

So help me God.

*James E. Starcher*  
(Office Holder)

Sworn to and subscribed before me this 24 day of June, A. D. 1997

*[Signature]*



\$885,000  
CITY OF SPENCER  
WATER REVENUE BOND, SERIES 1998

BOND ORDINANCE

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CITY OF SPENCER —

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF MUNICIPAL PROPERTIES AND ISSUANCE OF PARITY WATER REVENUE BOND, SERIES 1998, OF THE CITY OF SPENCER, IN THE AMOUNT OF \$885,000, TO FINANCE THE ACQUISITION AND CONSTRUCTION OF IMPROVEMENTS TO A PUBLIC WATER SYSTEM; DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE BOND; PROVIDING FOR INTERIM CONSTRUCTION FINANCING; PLACING LIMIT ON SALE OF SYSTEM; PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES AND SECURITY OF THE HOLDER OF THE BOND; PROVIDING STATUTORY LIEN ON REVENUES AND SYSTEM; PROVIDING FOR THE ADOPTION, RATIFICATION, APPROVAL AND COLLECTION OF RATES AND CHARGES FOR THE PUBLIC WATER SYSTEM; AND PROVIDING GENERAL TERMS AND PROVIDING WHEN THIS ORDINANCE SHALL TAKE EFFECT.

BE IT ORDAINED AND ENACTED BY THE COUNCIL OF CITY OF SPENCER, WEST VIRGINIA:

ARTICLE I

STATUTORY AUTHORITY, FINDINGS  
AND DEFINITIONS

Section 1.01. Authority for this Ordinance. This Ordinance is adopted pursuant to the provisions of Article 19, Chapter 8 of the West Virginia Code, as amended (the "Act") and other applicable provisions of law.

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

A. City of Spencer (the "City" or "Issuer") is a municipal corporation and political subdivision of the State of West Virginia located in Roane County, West Virginia.

B. The Issuer now has a public water system and desires to improve and expand that system and 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 public water system of the Issuer known as the "System" (sometimes referred to herein as the "System") so as to improve the public health, comfort and convenience of residents of the City, including the construction and installation of all necessary appurtenant facilities (the "Project"), and generally described as water line extensions, pumps, pumping stations, water plant improvements and necessary appurtenances particularly described in and according to the plans and specifications prepared by the Consulting Engineer for the Project and heretofore filed in the

office of the Recorder of the City Council (the "Governing Body") of the Issuer. 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 bond in the aggregate principal amounts of \$885,000 to finance a portion of the costs of such construction in the manner hereinafter provided.

D. The estimated maximum cost of the construction of the Project is \$1,500,000, which will be obtained from the proceeds of sale of the Series 1998 Bond herein authorized and from grants to be made by RUS, as hereinafter defined, and by the Appalachian Regional Commission, in the amounts of \$115,000 and \$500,000, respectively. 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 any interest therein; interest on the Bond prior to, during and for six (6) 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.

E. The period of usefulness of the System after completion of the Project is not less than forty (40) years.

F. There are currently outstanding the obligations of the Issuer with which the Bond will rank on a parity as to lien and source of and security for payment as follows:

(i) Waterworks Revenue Bonds of the Issuer, dated January 1, 1970 (the "1970 Bond") issued in the original principal amount of \$1,013,000 secured under the terms of the 1970 Ordinance (hereinafter defined);

(ii) Waterworks System Bond of the Issuer, dated September 30, 1974 (the "1974 Bond") issued in the original principal amount of \$765,000 secured under the terms of the 1974 Ordinance (hereinafter defined);

(iii) Water Revenue Bond of the Issuer, dated December 9, 1991 (the "1991 Bond") issued in the original principal amount of \$365,000 secured under the terms of the 1991 Ordinance (hereinafter defined); and

(iv) Water Revenue Bond of the Issuer, dated March 18, 1993 (the "1993 Bond") issued in the original principal amount of \$300,000 secured under the terms of the 1993 Ordinance (hereinafter defined).

With the exception of the Bonds described above, there are no other outstanding bonds or

obligations of the Issuer which will rank prior to or on a parity with the Bond as to lien, pledge and/or source of and security for payment.

G. The Issuer is not in default under the terms of the 1970 Ordinance, the 1974 Ordinance, the 1991 Ordinance and the 1993 Ordinance 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 waiver thereof.

H. 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 the costs of the operation and maintenance of the System, the principal of and interest on the Bond (as hereinafter defined) and all debt service, reserve fund and other payments provided for herein.

I. 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 imposition of rates and charges, the consent and approval, pursuant to the Act, of the issuance of the Bond by the Public Service Commission of West Virginia by final order.

J. It is in the best interests of the Issuer that the Bond be sold to the United States Department of Agriculture, Rural Utilities Service, acting on behalf of the Rural Utilities Service, successor in interest to the Farmers Home Administration (the "Purchaser" or "RUS"), pursuant to the terms and provisions of a letter of conditions dated October 27, 1994, and all amendments thereto (the "Letter of Conditions").

K. The Issuer has also made arrangements for interim financing as requested by RUS and deems it to be in the best interests of the Issuer to enter into a Credit Agreement and execute a note or notes in the initial amount of \$300,000 payable to any interim construction or financing lender which lender is initially First National Bank of Spencer.

Section 1.03. Ordinance to Constitute Contract. In consideration of the acceptance of the Bond by the Purchaser, this Ordinance (the "Ordinance") shall be deemed to be and shall constitute a contract between the Issuer and the Purchaser, 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 Bond.

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

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

"1998 Bond", "1998 Series Bond" or "Bond" means the \$885,000, City of Spencer Water Revenue Bond, Series 1998, authorized by this ordinance.

"Bonds" means the Bond and the 1970 Bond, the ~~1974~~ Bond, the 1991 Bond and the 1993 Bond.

"1970 Bond" means the outstanding bond of the Issuer dated January 1, 1970, described in Section 1.02 F.(i) herein.

"1974 Bond" means the outstanding bond of the Issuer dated September 30, 1974, described in Section 1.02 F.(ii) herein.

"1991 Bond" means the outstanding bond of the Issuer dated December 9, 1991, described in Section 1.02 F.(iii) herein.

"1993 Bond" means the outstanding bond of the Issuer dated March 18, 1993, described in Section 1.02 F.(iv) herein.

"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 Boyles and Hildreth, Spencer, 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.

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

"Depository Bank" means initially the First National Bank of Spencer, Spencer, West Virginia, a bank or trust company which is a member of FDIC and its successors and assigns or such other qualified bank or trust company designated now or hereafter by Issuer.

"Facilities" or "water facilities" means all the land and tangible properties of the System and also any tangible properties which may hereafter be added to the water system by addition, 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 year beginning on July 1 and ending on the succeeding June 30.

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

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

"Herein" means in this Ordinance.

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

"Issuer" or "City" means City of Spencer, Roane County, West Virginia, and, where appropriate, also means the Governing Body.

"Letter of Conditions" means the Letter of Conditions of Farmers Home Administration, now known as RUS, dated October 27, 1994, and any other amendments thereto.

"Mayor" means the Mayor of the Governing Body.

"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 practices, 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 Bond and into the Reserve Fund and Depreciation Reserve have been made to the last monthly payment date prior to the date of such retention.

"Ordinance" means this Ordinance and all resolutions supplemental hereto.

"1970 Ordinance" means the ordinance providing for the 1970 Bond, adopted March 7, 1970.

"1974 Ordinance" means the ordinance providing for the 1974 Bond, adopted September 30, 1974.

"1991 Ordinance" means the ordinance providing for the 1991 Bond, adopted December 9, 1991.

"1993 Ordinance" means the ordinance providing for the 1993 Bond, adopted March 11, 1993, supplemented by resolution dated March 11, 1993.

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

"Purchaser", "RUS", "Rural Utilities Service", or "Government" means United States of America, United States Department of Agriculture, Rural Utilities Service, and any successor

thereof.

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

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

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

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

"Recorder" means the Recorder of the Governing Body.

"Registrar" or "Bond Registrar" means the Issuer which usually shall act by its Recorder.

"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 principles.

"System" means the Project initially, and all existing water facilities owned by the Issuer and all Facilities and other property of every nature, real or personal, now or hereafter acquired and/or owned, held or used in connection with the System, including mains, hydrants, meters, valves, standpipes, storage tanks, pump tanks, pumping stations, intakes, wells, impounding reservoirs, pumps, machinery, purification plants, softening apparatus and all other facilities necessary, appropriate, useful, convenient or incidental in connection with or to a public water system; and shall also include any and all additions, extensions, improvements, replacements, properties or other facilities at any time acquired or constructed for said water system after completion of the Project.

"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, and words importing persons shall include firms and corporations; words importing the masculine, feminine or neuter genders shall include any other gender; and any requirement for execution, sealing and/or attestation of the Bonds or any certificate or other document by the Recorder shall mean that such Bond certificate or other document may be executed, sealed and/or attested by an Acting Recorder.

## 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 the acquisition and construction of the Project, at an estimated cost of \$1,500,000 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 Bond hereby authorized shall be applied as provided in Article V hereof.

## ARTICLE III

### AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND ISSUANCE OF BOND

Section 3.01. Authorization of Bond. Subject and pursuant to the provisions hereof, the Bond of the Issuer to be known as "City of Spencer, Water Revenue Bond, Series 1998" in the principal amount of \$885,000, is hereby authorized to be issued for the purpose of financing a portion of the cost of the construction and acquisition of the Project.

Section 3.02. Description of Bond. The Bond shall be issued as a single registered form, No. R-1, and shall be dated on the date of delivery. The Bond shall bear interest from date, payable monthly at a maximum rate of four and one half percent (4.50%) per annum or such lower rate that RUS, will make available at closing, and shall be sold for the par value thereof but in no event greater than four and one half percent (4.50%) per annum.

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.

Section 3.03. Execution of Bond. The Bond shall be executed in the name of the Issuer by the Mayor and its corporate seal shall be affixed thereto and attested by the Recorder, and the Mayor and the Recorder are hereby authorized to execute the Bond and such other documents as are necessary to finalize this transaction. In case any one or more of the officers who shall have signed or sealed the Bond shall cease to be such officer of the Issuer before the Bond so signed and sealed have been actually sold and delivered, such Bond may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bond had not ceased to hold such office. Any Bond may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Bond 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 3.04. Negotiability, Registration, Transfer and Exchange of Bond. The Bond shall be and have all the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, but the Bonds may only be transferred by transfer of the registration thereof upon the books required to be kept pursuant to Section 3.05 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. No interest in the Bond shall be transferable except by means of transfer of registration of a Bond representing such interest and delivery of a new Bond or Bonds in exchange therefor in accordance with this Bond Ordinance.

Whenever the Bond 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 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 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 that Bond.

Section 3.05. Registrar. The Issuer shall be the Bond Registrar and will keep or cause to be kept by its agent 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 by its agent, 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 social security numbers of the settlor and beneficiaries 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.

Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case any of the 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, her or its 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 3.07. Bond Secured by Pledge of Revenues. The payment of the debt service of

the Bond shall be secured forthwith by a parity lien with the 1970 Bond, the 1974 Bond, the 1991 Bond and the 1993 Bond on the net revenues derived from the System in addition to the statutory mortgage lien on the System hereinafter provided for. 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.

Section 3.08. 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 any supplemental resolution adopted after the date of adoption hereof and prior to the issuance thereof.

(FORM OF BOND) —  
\$885,000  
CITY OF SPENCER  
WATER REVENUE BOND, SERIES 1998

No. R-1

Date: May \_\_, 1998

FOR VALUE RECEIVED, the CITY OF SPENCER, a municipal corporation and political subdivision of the State of West Virginia, in Roane County of said State (herein called "Issuer"), hereby 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 Eight Hundred Eighty-Five Thousand and 00/100 Dollars (\$885,000.00), plus interest on the unpaid principal balance at the rate of four and one half percent (4.5%) 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 (24) months after the date hereof, and \$4,063.00 covering principal and interest, thereafter 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, 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 Issuer as requested by Issuer 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 and made 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 the principal. Payments shall be made at the office of the Municipal Bond Commission, Charleston, West Virginia, and shall be mailed to the registered owner hereof at the address as it appears on the books of the Issuer in its capacity as Registrar. Provided, however, for so long as the Government remains the owner of this Bond, the Issuer shall remit payments directly to the Government or any agency or department thereof.

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of Issuer. Refunds and extra payments, as defined in the regulations of the Rural Utilities Service, 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 Issuer to pay the remaining installments as scheduled herein.

If the Government at any time assigns this Bond and insures the payment thereof, Issuer 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 Issuer 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 Issuer, 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 Issuer, 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 Issuer to the Government without demand. Issuer agrees to use the loan evidenced hereby solely for purposes authorized by the Government.

Issuer 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 of improvements to a water system (the "System") of the Issuer, 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 Issuer 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 the Issuer, 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 Bond Legislation, 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, Article 19 of Chapter 8 of the West Virginia Code (herein called the "Act").

If at any time it shall appear to the Government that Issuer 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, Issuer 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 Issuer made or insured by the Government pursuant to the Consolidated Farmers Home Rural Development Act, as amended. This Bond shall be subject to the present regulations of the Rural Development Authority and to its future regulations not inconsistent with the express provisions hereof.

THIS BOND IS ON A PARITY AS TO LIEN AND SOURCE OF PAYMENT WITH THE WATERWORKS REVENUE BONDS, SERIES 1970, WATERWORKS SYSTEM BOND, SERIES 1974, WATER REVENUE BOND, SERIES 1991, AND WATER REVENUE BOND, SERIES 1993 OF THE ISSUER DESCRIBED IN THE ORDINANCE ADOPTED WITH RESPECT TO EACH SERIES.

The initial address of Government for purposes of bond registration is P.O. Box 678, Morgantown, WV 26505.

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

CITY OF SPENCER

(SEAL)

By: \_\_\_\_\_  
Mayor  
207 Court Street  
Spencer, WV 25276

ATTEST:

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

(Form Of) \_\_\_\_\_

RECORD OF ADVANCES

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

TOTAL \$ \_\_\_\_\_

(Form of Assignment)

ASSIGNMENT

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

DATED: \_\_\_\_\_

\_\_\_\_\_

In the presence of:

\_\_\_\_\_

## ARTICLE IV

### INTERIM CONSTRUCTION FINANCING

Section 4.01. Authorization and General Terms. In order to pay certain costs of the Project pending receipt of the gross proceeds of the Bond, the Issuer may issue and sell its Note or Notes (the "Notes"), in an aggregate principal amount not to exceed \$885,000. The Notes may be issued as evidence of a line of credit from a commercial bank or other lender, at the discretion of the Issuer, and as shall be set forth in a resolution supplemental hereto. The Notes shall bear interest from the date or dates, at such rate or rates, payable on such date or dates and shall mature on such date or dates and be subject to such prepayment or redemption, all as provided in the supplemental resolution.

Section 4.02. Terms of and Security for Notes. The Notes, if issued, shall be issued with such terms and secured in the manner set forth in a supplemental resolution.

Section 4.03. Notes are Special Obligations. The Notes shall be special obligations of the Issuer payable as to principal and interest solely from the proceeds of the Bond, grant proceeds, surplus revenues, letter of credit proceeds, if any, and other sources. The Notes do not and shall not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions. The general funds of the Issuer are not liable and neither the full faith and credit nor the taxing power, if any, of the Issuer is pledged for the payment of the Notes. The holders of the Notes shall never have the right to compel the forfeiture of any property of the Issuer. The Notes shall not be a debt of the Issuer, nor a legal or equitable pledge, charge, lien or encumbrance upon any property of the Issuer or upon any of its income, receipts or revenues except as set forth in the supplemental resolution.

Section 4.04. Execution of Documents. The Notes, Credit Agreement and any other documents required to be executed by the commercial bank or other lender shall be executed in the name of the Issuer by the Mayor, and the Mayor and Recorder are hereby authorized to execute any Note, Notes, Credit Agreement or any other documents necessary to secure the interim financing.

## ARTICLE V

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

Section 5.01. Establishment of Funds and Accounts with Depository Bank. The following special funds or accounts are created and established with (or continued if previously established by the 1970 Ordinance), and shall be held by the Depository Bank, separate, distinct and apart from all other funds or accounts of the Depository Bank and from each other:

- (1) Revenue Fund (established by the 1970 Ordinance and continued hereby);
- (2) Project Construction Account;
- (3) Operation and Maintenance Fund (established by the 1970 Ordinance and continued hereby); and
- (4) Depreciation Fund (established by the 1970 Ordinance and continued hereby).

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

- (1) Series 1998 Bond Sinking Fund;
  - (a) Within the Series 1998 Bond Sinking Fund, the Reserve Account.

Section 5.03. Bond Proceeds: Project Construction Account. All moneys received from the sale of the Bond shall be deposited upon receipt by the Issuer in the Depository Bank, a member of Federal Deposit Insurance Corporation (FDIC), in a special account hereby now established and designated as "City of Spencer Water System 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 the construction of the Project, the Issuer will transfer from the 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 Bond if there are not sufficient Net Revenues to make such monthly payment.

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 for the ensuing ninety (90) days, the Issuer may invest such excess funds in Qualified Investments.

Pending application as provided in this Section 5.03, money and funds in the 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 construction of the Project has been completed and all costs thereof have been paid or provision for such payment has been made, any balance remaining in the Project Construction Account shall be promptly transmitted to the Commission with directions that such funds be used immediately to redeem or prepay the 1998 Bond from which construction account the funds derived.

Section 5.04. Covenants of the Issuer as to Revenues and Funds. So long as any of the Bonds shall be outstanding and unpaid, or until there shall have been set apart in the Series 1998 Bond Sinking Fund and the Reserve Account, a sum sufficient to pay, when due or at the earliest practical prepayment date, the entire principal of the Bond remaining unpaid, together with interest accrued and to accrue thereon, the Issuer further covenants with the holder of the Bond 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 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" originally established under the 1970 Ordinance and which is hereby continued hereunder with the Depository 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 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 deposit sufficient moneys from the Revenue Fund into the Operation and Maintenance Fund to pay all current Operating Expenses.

(2) The Issuer shall next, each month, on or before the due date of payment of each installment on the Bonds, transfer from the Revenue Fund and deposit into the Series 1998 Bonds Sinking Fund, if the Bond is no longer owned by RUS, or remit to the holder of the Bond if still held by RUS at the address designated and/or the National Finance Office designated in the Bond (or such other place as may be provided pursuant to the Bond), the amount required to pay the interest on the Bonds, and to amortize the principal of the Bonds over the lives of each Bond issue. All payments with respect to principal of and interest the 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 each date that payment is made as set forth in (2) above, transfer from the Revenue Fund and remit to the Commission for deposit in the Reserve Account herein created 1/12th of 1/10th of the amount, as of the date of calculation, equal to the maximum aggregate amount of principal and interest which will become due on the Bonds in any year until the amount on deposit in the Reserve Account equals such maximum amount (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. Moneys in the Reserve Account shall be used solely to make up any deficiency in monthly payments of the principal of and interest on the Bonds as the same shall become due or

for prepayment of installments on the Bonds, or for mandatory prepayment of the Bonds as hereinafter provided, and for no other purpose, on an equal pro rata basis in accordance with the respective aggregate principal amounts thereof outstanding and on a parity with each other.

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

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

The Commission is hereby designated as the Fiscal Agent for the administration of the Series 1998 Bond Sinking Fund and the Reserve Account, and the Depository Bank is hereby designated as the Fiscal Agent for the administration of the other accounts, herein provided, and all amounts required for the Reserve Account and the other accounts 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 Commission and the Depository Bank shall not be a trustee as to such funds.

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 Commission and the Depository Bank, at the direction of the Issuer, shall keep the moneys in the Reserve Account and the Depreciation Fund, respectively, 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 Ordinance shall, unless otherwise provided herein or 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 State Board of Investments. 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.

(C) Change of Depository Agent and Fiscal Agent. The Issuer may designate another bank or trust company insured by FDIC as Fiscal Agent and Depository Bank 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 or 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 Bond, provide evidence that there will be 1,917 bona fide users of the proposed System when the extension of the System is completed and placed in operation and must obtain user agreements and the user contribution from each new user and deposit in the Project Construction Account all such new user contributions collected.

(E) Charges and Fees. The Issuer shall remit from the Revenue Fund to the Commission and to the Depository Bank such additional sums as shall be necessary to pay the charges and fees of the Commission and the Depository Bank then due.

(F) Investment of Excess Balances. The moneys in excess of the sum insured by the maximum amounts 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, in a lawful manner for securing deposits of state and municipal funds under the laws of the State.

(G) Remittances. All remittances made by the Issuer to the Commission and to 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 VI

### GENERAL COVENANTS

Section 6.01. General Statement. So long as the Bonds 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 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 Purchaser.

Section 6.02. 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 one hundred ten percent (110%) percent of the annual debt service on the Bond and to make the payments required herein into the Reserve

Account and the Depreciation Fund 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 6.03. Sale of the System. The System will not be sold without the prior written consent of the Purchaser so long as the Bonds are outstanding. Such consent will provide for disposition of the proceeds of any such sale.

Section 6.04. Issuance of Additional Parity Bonds or Obligations. No additional parity bonds or obligations payable out of the revenues of the System or any part thereof shall be issued after the issuance of the Bond pursuant hereto except with the prior written consent of the Purchaser or the then holder of or Trustee or agent for the holders of the Bonds.

Section 6.05. Insurance and Bond. 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) Real Property 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 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 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 City Eligible Therefor and Performance and Payment Bonds, such bonds to be in the amounts of one hundred percent (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 Roane County prior to commencement of construction of the Project in compliance with West Virginia Code Section 38-2-39. Workers' compensation insurance will be maintained as required by the laws of the State of West Virginia.

(e) Fidelity Bonds will be provided as to every member of the Governing Body and every officer and employee of the City having custody of the Revenue Fund or of any revenues or other funds of the System in an amount at least equal to the total annual debt service requirements for all outstanding RUS loans.

(f) Flood Insurance to be procured, to the extent available at reasonable cost to the Issuer.

(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 Bond is 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 6.06. Statutory Mortgage. For the further protection of the holders 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 immediately upon delivery of the Bonds.

Section 6.07. 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 at the date specified for payment thereof and/or;

(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 or of this Bond Ordinance.

Section 6.08. 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 and shall have all rights prescribed by the Act, W. Va. Code and other applicable law.

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 6.09. Fiscal Year; Budget. While the Bond is outstanding and unpaid and to the extent not now prohibited by law, the System shall be operated and maintained on a fiscal year basis commencing on July 1 of each year and ending on the following June 30, which period shall also constitute the budget year for the operation and maintenance of the System. Not later than thirty (30) days prior to the beginning of each fiscal year, the Issuer agrees to adopt an 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 an 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 an 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 percent (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 6.10. Compensation of Members of Governing Body. The Issuer hereby covenants and agrees that no compensation for policy direction shall be paid to the members of the Governing Body in excess of the amount permitted by the Act. Payment of any compensation to any such member for policy direction shall not be made if such payment would cause the Net Revenues to fall below the amount required to meet all payments provided for herein, nor when there is default in the performance of or compliance with any covenant or provision hereof.

Section 6.11. 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 Recorder on the date of adoption hereof, subject to permitted changes.

Section 6.12. Books and Records; Audits. 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. The Issuer further covenants to comply with the Act with respect to such books, records and accounts.

Section 6.13. 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 6.14. 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.

Section 6.15. Tax Covenants as to Tax Exempt Status of Bonds.

1. The Issuer covenants that (a) it shall not permit or cause to be done any act or thing which would result in the loss of exemption from tax of interest on the Bond under Section 103(a) of the Internal Revenue Code and the regulations thereunder, or under any successor or similar provision of the Internal Revenue Code hereinafter enacted and applicable to the Bond and regulations thereunder; (b) it shall not invest or otherwise use or permit or cause to be invested or used, any of the proceeds of the Bond, or moneys deemed to be proceeds of the Bond under the Internal Revenue Code, directly or indirectly, in any manner which would result in such Bonds being classified as an "arbitrage bond" within the meaning of Section 148 of the Internal Revenue Service Code or regulations thereunder, and each shall comply with the requirements of such Section and (c) no part of the proceeds of the Bond or any funds held under the Ordinance shall at any time be used directly or indirectly for any purpose for which would cause the Bond to be subject to treatment as a "private activity bond" under the Internal Revenue Code or regulations thereunder and to that end the Issuer will comply with the applicable law as long as the Bond is outstanding.

2. The Issuer hereby further covenants and agrees as follows:

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

Bond or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for said private business use or in payments in respect of property used or to be used for the Issuer, in respect of property or borrowed money used or to be used for said private business use, then said excess over said five percent (5%) of Net Proceeds of the Bonds used for a private business use shall be used for a Private Business Use related to the governmental use of the Project, or if the Bonds are for the purpose of financing more than one project, a portion of the Project, and shall not exceed the proceeds used for the governmental use of that portion of the Project to which such private business use is related.

B. PRIVATE LOAN LIMITATION. The Issuer shall assure that not in excess of five percent (5%) of the Net Proceeds of the Bonds are used, directly or indirectly, to make or finance a loan (other than loans constituting Nonpurpose Investments) to persons other than state or local government units.

C. FEDERAL GUARANTEE PROHIBITION. The Issuer shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Bond to be "federally guaranteed" within the meaning of Section 149 (b) of the Code and Regulations promulgated thereunder.

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

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

## ARTICLE VII

### RATES, RULES, COVENANTS, ETC.

#### Section 7.01. Initial Schedule of Rates and Charges.

A. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth in a Tariff on file with the Public Service Commission effective August 5, 1996, which Tariff is incorporated herein by reference and is made a part hereof.

B. The Issuer hereby modifies and enacts to the extent necessary the rates and charges as set out in the above-referenced order and to be included on a tariff sheet to be filed with the Public Service Commission which rates and conditions are as follows:

RATE I (LOW LEVEL)

Applicable throughout entire service territory except such territories as served through Booster Stations.

Availability of Service

Available for general domestic, commercial, industrial service.

Rate

First	2,000	gallons used per month	-\$4.24 per 1,000 gallons
Next	3,000	gallons used per month	-\$4.09 per 1,000 gallons
Next	25,000	gallons used per month	-\$3.36 per 1,000 gallons
Next	70,000	gallons used per month	-\$1.36 per 1,000 gallons
All			
	Over 100,000	gallons used per month	-\$1.23 per 1,000 gallons

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 or less	\$ 8.48 per month
3/4 inch meter	\$ 12.71 per month
1 inch meter	\$ 21.20 per month
1-1/4 inch meter	\$ 30.94 per month
1-1/2 inch meter	\$ 42.41 per month
2 inch meter	\$ 67.83 per month
3 inch meter	\$127.22 per month
4 inch meter	\$212.04 per month
6 inch meter	\$424.08 per month
8 inch meter	\$678.53 per month

Delayed Payment Charge

The above tariff is net. On all current usage billings not paid in full within twenty (20) days, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate. No bill shall be considered delinquent any sooner than thirty (30) days from the billing date.

Service Connection Fee (Tap Fee)

Three hundred sixty-four dollars (\$364.00).

Reconnection Charge

A reconnection charge of fifteen dollars (\$15.00) shall be made to restore discontinued service.

RATE II (BOOSTER LEVEL)

Applicable to territory served by Spencer Plant through Booster Stations.

Availability of Service

Available for general domestic, commercial, industrial service.

Rate

First	2,000	gallons used per month	-\$4.66 per 1,000 gallons
Next	3,000	gallons used per month	-\$4.54 per 1,000 gallons
Next	25,000	gallons used per month	-\$3.70 per 1,000 gallons
Next	70,000	gallons used per month	-\$1.50 per 1,000 gallons
All			
	Over 100,000	gallons used per month	-\$1.35 per 1,000 gallons

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 or less	\$ 9.32 per month
3/4 inch meter	\$ 14.01 per month
1 inch meter	\$ 23.31 per month
1-1/4 inch meter	\$ 34.04 per month
1-1/2 inch meter	\$ 46.62 per month
2 inch meter	\$ 74.59 per month
3 inch meter	\$139.87 per month
4 inch meter	\$233.12 per month
6 inch meter	\$466.24 per month
8 inch meter	\$745.98 per month

Delayed Payment Charge

The above tariff is net. On all current usage billings not paid in full within twenty (20) days, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate. No bill shall be considered delinquent any sooner than thirty (30) days from the billing date.

Service Connection Fee (Tap Fee)

Three hundred sixty-four dollars (\$364.00).

Reconnection Charge

A reconnection charge of fifteen dollars (\$15.00) shall be made to restore discontinued service.

RATE III (RIPLEY ROAD LOW LEVEL AND ROUTE 119)

Applicable throughout U.S. Route 33 West, Steel Hollow Road, Nancy's Run Road and U.S. Route 119 South, Speed Road and Missouri Fork Road, except ones served through Booster Stations.

Availability of Service

Available for general domestic, commercial, industrial service.

Rate

First	2,000	gallons used per month	-\$8.56 per 1,000 gallons
Next	3,000	gallons used per month	-\$8.31 per 1,000 gallons
Next	25,000	gallons used per month	-\$7.81 per 1,000 gallons
Next	70,000	gallons used per month	-\$2.73 per 1,000 gallons
All			
	Over 100,000	gallons used per month	-\$2.46 per 1,000 gallons

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 or less	\$ 17.11 per month
3/4 inch meter	\$ 25.67 per month
1 inch meter	\$ 42.78 per month
2 inch meter	\$136.88 per month
3 inch meter	\$256.65 per month

Delayed Payment Charge

The above tariff is net. On all current usage billings not paid in full within twenty (20) days, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate. No bill shall be

considered delinquent any sooner than thirty (30) days from the billing date.

Service Connection Fee (Tap Fee)

Three hundred sixty-four dollars (\$364.00).

Reconnection Charge

A reconnection charge of fifteen dollars (\$15.00) shall be made to restore discontinued service.

RATE IV (RIPLEY ROAD PROJECT BOOSTER LEVEL)

Applicable throughout U.S. Route 33 West, Steel Hollow Road, Nancy's Run Road and Colt Ridge Road served by Spencer Plant through Booster Stations.

Availability of Service

Available for general domestic, commercial, industrial service.

Rate

First	2,000	gallons used per month	-\$9.42 per 1,000 gallons
Next	3,000	gallons used per month	-\$9.18 per 1,000 gallons
Next	25,000	gallons used per month	-\$8.37 per 1,000 gallons
Next	70,000	gallons used per month	-\$3.04 per 1,000 gallons
All			
Over	100,000	gallons used per month	- \$2.70 per 1,000 gallons

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 or less	\$ 18.84 per month
3/4 inch meter	\$ 28.26 per month
1 inch meter	\$ 47.10 per month
2 inch meter	\$150.72 per month
3 inch meter	\$282.60 per month

Delayed Payment Charge

The above tariff is net. On all current usage billings not paid in full within twenty (20) days, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate. No bill shall be

considered delinquent any sooner than thirty (30) days from the billing date.

Service Connection Fee (Tap Fee)

Three hundred sixty-four dollars (\$364.00).

Reconnection Charge

A reconnection charge of fifteen dollars (\$15.00) shall be made to restore discontinued service.

PRIVATE FIRE PROTECTION SERVICE

Applicable in entire territory served by the Spencer Plant.

Availability of Service

Available for private fire protection service.

Rate

Where connections, hydrants, sprinklers, etc., on private property are maintained by consumer.

- 2 inch Service Line with hydrants, sprinklers and/or hose connections - \$3.06 per month
- 3 inch Service Line with hydrants, sprinklers and/or hose connections - \$3.68 per month
- 4 inch Service Line with hydrants, sprinklers and/or hose connections - \$4.91 per month
- 6 inch Service Line with hydrants, sprinklers and/or hose connections - \$11.04 per month
- 8 inch Service Line with hydrants, sprinklers and/or hose connections - \$19.62 per month
- 10 inch Service Line with hydrants, sprinklers and/or hose connections - \$30.65 per month
- 12 inch Service Line with hydrants, sprinklers and/or hose connections - \$44.14 per month

Where connections and hydrants on private property are maintained by City:

Each fire hydrant-----\$12.77 per month

These terms are payable monthly in advance

Prompt Payment Discount

The above schedule is subject to a discount of five percent (5%) if accounts are paid in full at the office of the City on or before twenty (20) days from date of bill.

Section 7.02. Further Covenants

The Issuer hereby further covenants and agrees as follows:

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

B. 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.

C. 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.

D. 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. The Issuer shall have such remedies and powers as are provided under the Act and other applicable provisions of law with regard to the collection and enforcement of such fees, rates and charges.

E. 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.

## ARTICLE VIII

### MISCELLANEOUS

Section 8.01. Defeasance of Bond. If the Issuer shall pay or there shall otherwise be paid, to the Holder of the Bond, the principal of and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Bond Ordinance, then with respect to the Bond, the pledge of Net Revenues and other moneys and securities pledged under this Bond Ordinance and all covenants, agreements and other obligations of the Issuer to the Registered Owner of the Bond, shall thereupon cease, terminate and become void and be discharged and satisfied.

Section 8.02. Filing Under Uniform Commercial Code. Contemporaneously with the delivery of the Bond, the Issuer shall execute Financing Statements meeting the requirements of the Uniform Commercial Code of West Virginia and promptly thereafter shall file such Financing Statements in the offices of the Secretary of State of West Virginia and of the Clerk of the County Commission of Roane County.

Section 8.03. Delivery of Bond. The Mayor and Recorder of the Governing Body are hereby authorized and directed to cause the Series 1998 Bond, numbered 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 8.04. Severability of Invalid Provision. 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 Bonds.

Section 8.05. Conflicting Provisions Repealed. All ordinances 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 Ordinance (Form FmHA 442-47).

Section 8.06. 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 8.07. Modification or Amendment. The Bond Ordinance may not be modified or amended in any material manner after final passage without the prior written consent of the Purchaser and/or holder of the Bond.

Section 8.08. Covenant of Due Procedure, Etc. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the adoption of this Ordinance do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State applicable thereto; and that the Mayor, Recorder and members of the Governing Body were at all times when any actions in connection with this Ordinance occurred and are duly in office and duly qualified for such office.

Section 8.09. Supplemental Resolutions. The Issuer may pass such supplemental resolutions, if necessary, to effectuate the purposes and intent of this Ordinance.

Section 8.10. Effective Time. This Ordinance shall take effect immediately upon its adoption.

Section 8.11 Statutory Notice and Public Hearing. Upon adoption hereof, an abstract of this Bond Ordinance determined by the Governing Body to contain sufficient information as to give notice of the contents hereof shall be published once a week for two (2) successive weeks within a period of ten (10) consecutive days, with at least six (6) full days intervening between each publication, in a qualified newspaper published and of general circulation in the City of

Spencer, together with a notice stating that this Bond Ordinance 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 (10) days subsequent to the date of the first publication of such abstract of this Bond Ordinance 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 – April 30, 1998.

Passed on Second Reading – May 7, 1998.

Passed on Final Reading  
Following Public Hearing – June 4, 1998.

CITY OF SPENCER

By:   
Mayor

[SEAL]

Attest:

By:



Recorder

CERTIFICATION —

I, David Bowen, Recorder of the City of Spencer, hereby certify that the foregoing is a true and correct copy of an Ordinance approved on second reading at a meeting of the City Council of the City of Spencer held on May 7, 1998, and considered at a public hearing held on June 4, 1998. I further hereby certify that the action of said City Council set forth therein remains in full force and effect and has not been amended or repealed.

WITNESS my signature on this 5th day of June 1998.

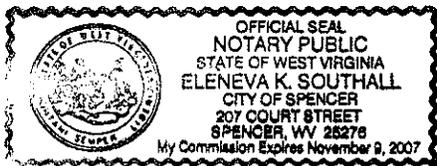
  
Recorder

STATE OF WEST VIRGINIA,

COUNTY OF ROANE, to-wit:

The foregoing instrument was acknowledged before me this 5th day of June, 1998, by Terry A. Williams, the Mayor of the City of Spencer, a municipal corporation and a political subdivision of the State of West Virginia, on behalf of said municipality.

My commission expires November 9 2007



Eleneva K. Southall  
NOTARY PUBLIC

\$885,000  
CITY OF SPENCER  
WATER REVENUE BOND, SERIES 1998

ABSTRACT OF MINUTES ON FIRST READING OF BOND ORDINANCE

I, David Bowen, Recorder of the City of Spencer (the "Issuer"), hereby certify that the following is a true and correct excerpt of the minutes of a meeting of the City Council of the Issuer:

\*\*\*\*\*

The City Council of the Issuer met in Special Session, pursuant to notice duly given, on April 30, 1998, at Spencer, West Virginia, at 4:00 p.m.

Present were Mayor Terry A. Williams; Recorder David Bowen; and Council Members Elsie Daugherty, David Bowen, Patrick Lance, Kimberly Frum, and James Starcher. No members were absent.

Mayor Terry A. Williams presided, and David Bowen acted as Recorder.

The Mayor announced that a quorum of Council was present and that the meeting was open for any business properly before it. He stated that the proposed Bond Ordinance should be considered on first reading.

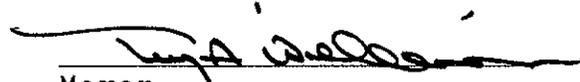
The Mayor thereupon stated that it would be in order to consider said Bond Ordinance on first reading, and the Mayor presented said Bond Ordinance in writing entitled:

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF MUNICIPAL PROPERTIES AND ISSUANCE OF PARITY TAXABLE WATER REVENUE BOND, SERIES 1998, OF THE CITY OF SPENCER, IN THE AMOUNT OF \$885,000, TO FINANCE THE ACQUISITION AND CONSTRUCTION OF IMPROVEMENTS TO A PUBLIC WATER SYSTEM; DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE BOND; PROVIDING FOR INTERIM CONSTRUCTION FINANCING; PLACING LIMIT ON SALE OF SYSTEM; PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES AND SECURITY OF THE HOLDER OF THE BOND; PROVIDING STATUTORY LIEN ON REVENUES AND SYSTEM; PROVIDING FOR THE ADOPTION, RATIFICATION, APPROVAL AND COLLECTION OF RATES AND CHARGES FOR THE PUBLIC WATER SYSTEM; AND PROVIDING GENERAL TERMS AND PROVIDING WHEN THIS ORDINANCE SHALL TAKE EFFECT.

and caused the same to be read and there was discussion. Thereupon, on motion of Elsie Daugherty and seconded by James Starcher, it was unanimously ordered that said Bond Ordinance be approved on first reading.

There being no further business to come before the meeting, the meeting was declared adjourned.

  
Recorder

  
Mayor

\*\*\*\*\*

I further hereby certify that the foregoing action of said City Council remains in full force and effect and has not been amended, rescinded, superseded, repealed or changed.

WITNESS my signature on this 5 day of June 1998.

  
Recorder

\$885,000  
CITY OF SPENCER  
WATER REVENUE BOND, SERIES 1998

ABSTRACT OF MINUTES ON SECOND READING OF BOND ORDINANCE

I, David Bowen, Recorder of the City of Spencer (the "Issuer"), hereby certify that the following is a true and correct excerpt of the minutes of a meeting of the City Council of the Issuer:

\*\*\*\*\*

The City Council of the Issuer met in Regular Session, pursuant to notice duly given, on May 07, 1998, at Spencer, West Virginia, at 6:00 p.m.

Present were Mayor Terry A. Williams; Recorder David Bowen; and Council Members Elsie Daugherty, David Bowen, Patrick Lance, Kimberly Frum, and James Starcher. No members were absent.

Mayor Terry A. Williams presided, and David Bowen acted as Recorder.

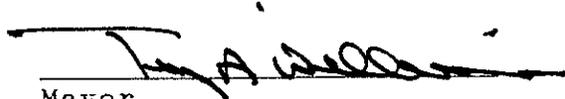
The Mayor announced that a quorum of Council was present and that the meeting was open for any business properly before it. He stated that the proposed Bond Ordinance should be considered on second reading.

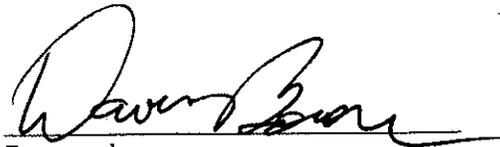
The Mayor thereupon stated that it would be in order to consider said Bond Ordinance on second reading, and the Mayor presented said Bond Ordinance in writing entitled:

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF MUNICIPAL PROPERTIES AND ISSUANCE OF PARITY TAXABLE WATER REVENUE BOND, SERIES 1998, OF THE CITY OF SPENCER, IN THE AMOUNT OF \$885,000, TO FINANCE THE ACQUISITION AND CONSTRUCTION OF IMPROVEMENTS TO A PUBLIC WATER SYSTEM; DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE BOND; PROVIDING FOR INTERIM CONSTRUCTION FINANCING; PLACING LIMIT ON SALE OF SYSTEM; PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES AND SECURITY OF THE HOLDER OF THE BOND; PROVIDING STATUTORY LIEN ON REVENUES AND SYSTEM; PROVIDING FOR THE ADOPTION, RATIFICATION, APPROVAL AND COLLECTION OF RATES AND CHARGES FOR THE PUBLIC WATER SYSTEM; AND PROVIDING GENERAL TERMS AND PROVIDING WHEN THIS ORDINANCE SHALL TAKE EFFECT.

and caused the same to be read and there was discussion. Thereupon, on motion of David Bowen and seconded by Patrick Lance, it was unanimously ordered that said Bond Ordinance be approved on second reading, with a public hearing thereon to be scheduled, advertised and conducted.

There being no further business to come before the meeting, on motion duly made and seconded, it was unanimously ordered that the meeting be adjourned.

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
Recorder

\*\*\*\*\*

I further hereby certify that the foregoing action of said City Council remains in full force and effect and has not been amended, rescinded, superseded, repealed or changed.

WITNESS my signature on this 5 day of June 1998.

  
\_\_\_\_\_  
Recorder

\$885,000  
CITY OF SPENCER  
WATER REVENUE BOND, SERIES 1998

ABSTRACT OF MINUTES ON ENACTMENT OF BOND ORDINANCE  
FOLLOWING PUBLIC HEARING

I, David Bowen, Recorder of the City of Spencer (the "Issuer"), hereby certify that the following is a true and correct excerpt of the minutes of a Public Hearing of the City Council of the Issuer:

\*\*\*\*\*

The City Council of the Issuer conducted a Public Hearing, pursuant to notice duly given, on June 4, 1998, at Spencer, West Virginia, at 6:00 p.m.

Present were Mayor Terry A. Williams; Recorder David Bowen; and Council Members Elsie Daugherty, David Bowen, Patrick Lance, Kimberly Frum, and James Starcher. No members were absent.

Mayor Terry A. Williams presided, and David Bowen acted as Recorder.

The Mayor announced that a quorum of Council was present and that the meeting was open for any business properly before it. He stated that the proposed Bond Ordinance heretofore passed on first and second readings would be subject to protests and suggestions from any interested person at this time in accordance with the publication of an abstract of said Bond Ordinance and Notice of Public Hearing which publication has been duly made and the Mayor called for protests and suggestions as to said Bond Ordinance and all persons desiring to protest said Bond Ordinance or to make any suggestions with reference thereto were heard.

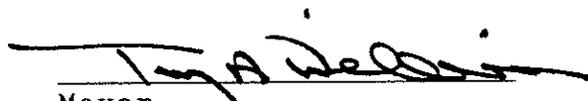
There being no protests or suggestions made as to said Bond Ordinance, the Mayor thereupon stated that it would be in order to consider said Bond Ordinance for final enactment, and the Mayor presented said Bond Ordinance in writing entitled:

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF MUNICIPAL PROPERTIES AND ISSUANCE OF PARITY TAXABLE WATER REVENUE BOND, SERIES 1998, OF THE CITY OF SPENCER, IN THE AMOUNT OF \$885,000, TO FINANCE THE ACQUISITION AND CONSTRUCTION OF IMPROVEMENTS TO A PUBLIC WATER SYSTEM; DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE BOND; PROVIDING FOR INTERIM CONSTRUCTION FINANCING; PLACING LIMIT ON SALE OF SYSTEM; PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES AND SECURITY OF THE HOLDER OF THE

BOND; PROVIDING STATUTORY LIEN ON REVENUES AND SYSTEM;  
PROVIDING FOR THE ADOPTION, RATIFICATION, APPROVAL AND  
COLLECTION OF RATES AND CHARGES FOR THE PUBLIC WATER  
SYSTEM; AND PROVIDING GENERAL TERMS AND PROVIDING WHEN  
THIS ORDINANCE SHALL TAKE EFFECT.

and caused the same to be read and there was discussion.  
Thereupon, on motion of David Bowen and seconded by Elsie  
Daugherty, it was unanimously ordered that said Bond  
Ordinance be finally enacted and be in full force and  
effect on and from the date hereof.

There being no further business to come before the  
meeting, on motion duly made and seconded, it was  
unanimously ordered that the meeting be adjourned.

  
Mayor

  
Recorder

\*\*\*\*\*

I further hereby certify that the foregoing action of said  
City Council remains in full force and effect and has not  
been amended, rescinded, superseded, repealed or changed.

WITNESS my signature on this 5 day of June 1998.

  
Recorder



NOTICE TO RESIDENTS OF THE CITY OF SPENCER, ROANE COUNTY, WEST VIRGINIA, AND OTHER PERSONS INTERESTED IN ORDINANCE FOR PROPOSED ISSUANCE OF \$885,000 WATER REVENUE BOND, SERIES 1998

Pursuant to the provision of West Virginia Code Chapter 8, Article 19, as amended you hereby notified that at a meeting of the City Council (the "Council") of the City of Spencer, West Virginia (the "City"), held on the 7th day of May, 1998, the Council passed and adopted on second reading an Ordinance entitled "Ordinance Authorizing the Acquisition and Construction of Municipal Properties and Issuance of Parity Water Revenue Bond, Series 1998, of City of Spencer, in the Amount of \$885,000, to Finance the Acquisition and Construction of Improvements to a Public Water System, Defining and Prescribing the Terms and Provisions of the Bond; Providing for Interim Construction Financing; Placing Limit on Sale of System; Providing Generally for the Rights and Remedies and Security of the Holder of the Bond; Providing Lien on Revenues and System; Providing for Adoption, Ratification, Approval and Collection of Rates and Charges for the Public Water System; and Providing General Terms and Providing When this Ordinance Shall Take Effect" (the "Ordinance") authorizing the issuance of Water Revenue Bond, Series 1998 (the "Bond"), of the City in the amount of \$885,000. The Bond will provide a portion of the funds to finance the cost of the acquisition and construction of betterments and improvements for the existing water system of the City including the construction of new and replacement lines and other improvements with the City.

The entire amount of the principal of and interest on the Bond will be paid solely and only from the revenues received from operation of the water system of the City to be amortized over a period of 38 years. The Bond shall be on a parity with the existing 1970, 1974, 1991 and 1993 Bonds described in the Ordinance. The Ordinance provides provisions with respect to the final interest rate which may be but cannot exceed 4.50% per annum which may be finally determined therein or by supplemental resolution.

A certified copy of the Ordinance and a copy of the plans and specifications of the proposed project are available for examination by any interested person at the Mayor's Office during regular office hours of such office which are 9:00 a.m. to 4:00 p.m. Monday through Friday.

A public hearing will be held before the Council of the Spencer Community Building on the 4th day of June, 1998, at 6:00 p.m., and any person or persons interested may appear before the Council and be heard as to whether or not the Ordinance shall be put into effect. All suggestions, protests and objections to the issuance of the Bond will be heard by the Council.

Dated this 21st day of May, 1998.

THE CITY OF SPENCER  
Roane County  
West Virginia

Terry A. Williams, Mayor  
David Bowen, Recorder  
(421283)



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INVOICE NBR	538557001

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ISSUE DATE	AD TYPE	PUB	DESCRIPTION	AD NUMBER	AD SIZE	RATE	GROSS AMOUNT	NET AMOUNT
05/25	LEGE	GZ	SPENCER CITY COUNCIL	L421283	1X1013	6.19	62.71	62.71
06/01	LEGR	GZ	SPENCER CITY COUNCIL		1X1013	6.19	62.71	62.71
			LEGAL DISCOUNT 25%				15.68-	47.03
			TOTAL INVOICE AMOUNT					109.74

State of West Virginia, **AFFIDAVIT OF PUBLICATION**

I, Deanna Hogg of

THE CHARLESTON GAZETTE, A DAILY DEMOCRATIC NEWSPAPER, published in the city of Charleston, Kanawha County, West Virginia, do solemnly swear that the annexed notice of SPENCER CITY COUNCIL

was duly published in said paper(s) during the dates listed below, and was posted at the front door of the court house of said Kanawha County, West Virginia, on the 26TH day of MAY 1998. Published during the following dates: 05/25/98-06/01/98  
Subscribed and sworn to before me this 4 day of June 1998.

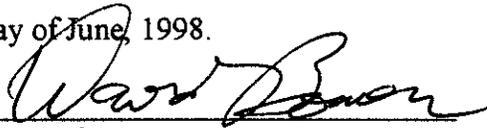
Ann R. Fielder  
Notary Public of Kanawha County, West Virginia



AFFIDAVIT

I, David Bowen, Recorder of the City of Spencer, hereby certify that notice of a public hearing on the issuance of water revenue bonds to be held on Thursday, June 4, 1998, at 6:00 p.m., was given and posted as required by statute.

WITNESS my signature on this 5th day of June, 1998.

  
Recorder

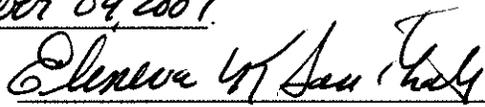
STATE OF WEST VIRGINIA,

COUNTY OF ROANE, to-wit:

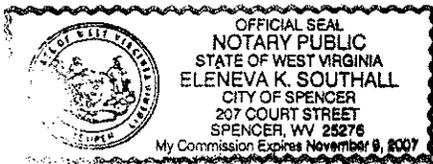
I, Eleneva K. Southall a Notary Public in and for said county and state, hereby certify that David Bowen, who signed the foregoing Affidavit as Recorder of the City of Spencer, has this day acknowledged said writing to be his free act and deed.

Dated this 5th day of June, 1998.

My commission expires November 09, 2007.

  
Notary Public

(Notary Seal)



**NOTICE TO RESIDENTS OF  
THE CITY OF SPENCER, ROANE COUNTY, WEST VIRGINIA,  
AND OTHER PERSONS INTERESTED IN ORDINANCE FOR  
PROPOSED ISSUANCE OF \$885,000 WATER REVENUE BOND,  
SERIES 1998**

Pursuant to the provisions of West Virginia Code Chapter 8, Article 19, as amended, you hereby notified that at a meeting of the City Council (the "Council") of the City of Spencer, West Virginia (the "City"), held on the 7th day of May, 1998, the Council passed and adopted on second reading an Ordinance entitled "Ordinance Authorizing the Acquisition and Construction of Municipal Properties and Issuance of Parity Water Revenue Bond, Series 1998, of City of Spencer, in the Amount of \$885,000, to Finance the Acquisition and Construction of Improvements to a Public Water System; Defining and Prescribing the Terms and Provisions of the Bond; Providing for Interim Construction Financing; Placing Limit on Sale of System; Providing Generally for the Rights and Remedies and Security of the Holder of the Bond; Providing Statutory Lien on Revenues and System; Providing for the Adoption, Ratification, Approval and Collection of Rates and Charges for the Public Water System; and Providing General Terms and Providing When this Ordinance Shall Take Effect" (the "Ordinance") authorizing the issuance of Water Revenue Bond, Series 1998 (the "Bond"), of the City in the amount of \$885,000. The Bond will provide a portion of the funds to finance the cost of the acquisition and construction of betterments and improvements for the existing water system of the City including the construction of new and replacement lines and other improvements within the City.

The entire amount of the principal of and interest on the Bond will be paid solely and only from the revenues received from operation of the water system of the City to be amortized over a period of 38 years. The Bond shall be on a parity with the existing 1970, 1974, 1991 and 1993 Bonds described in the Ordinance. The Ordinance provides provisions with respect to the final interest rate which may be but cannot exceed 4.50% per annum which may be finally determined therein or by supplemental resolution.

A certified copy of the Ordinance and a copy of the plans and specifications of the proposed project are available for examination by any interested person at the Mayor's Office during regular office hours of such office which are 9:00 a.m. to 4:00 p.m., Monday through Friday.

A public hearing will be held before the Council at the Spencer Community Building on the 4th day of June, 1998, at 6:00 p.m., and any person or persons interested may appear before the Council and be heard as to whether or not the Ordinance shall be put into effect. All suggestions, protests and objections to the issuance of the Bond will be heard by the Council.

Dated this 21st day of May, 1998.

THE CITY OF SPENCER  
Roane County, West Virginia

Terry A. Williams, Mayor  
David Bowen, Recorder

PUBLISH AS CLASS II NOTICE ON MAY 25 AND JUNE 1, 1998

**PUBLIC HEARING**

Spencer City Council will hold a Public Hearing at the Community Building on Thursday, June 4, 1998, at 6:00 p.m. Any person interested may appear and be heard as to whether or not an ordinance for the proposed issuance of a water revenue bond in the amount of \$885,000 should be put into effect. All suggestions, protests, and objections to the issuance of the bond will be heard by the Council.

The ordinance is available for review in the Mayor's Office, 207 Court Street, Spencer, WV. Ph: 304-927-1640.

Terry A. Williams  
Mayor



\$885,000  
CITY OF SPENCER  
WATER REVENUE BOND, SERIES 1998

GENERAL CERTIFICATE

1. TERMS
2. AWARD OF BOND
3. NO LITIGATION
4. GOVERNMENTAL APPROVALS AND BIDDING
5. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS
6. SIGNATURES
7. CERTIFICATION OF COPIES OF DOCUMENTS
8. PUBLIC SERVICE COMMISSION ORDER; RATES
9. INCUMBENCY AND OFFICIAL NAME
10. DELIVERY AND PAYMENT
11. LAND AND RIGHTS OF WAY
12. MEETINGS
13. CONTRACTORS' INSURANCE
14. CONNECTIONS
15. MANAGEMENT
16. RATES AND CHARGES
17. CONFLICT OF INTEREST
18. COMPLIANCE WITH 1970, 1974, 1991 AND 1993 ORDINANCES AND BONDS

We, the undersigned MAYOR and the undersigned RECORDER of the CITY OF SPENCER, Roane County, West Virginia (the "Issuer"), and the undersigned ATTORNEY for the Issuer, hereby certify in connection with the City of Spencer, Water Revenue Bond, Series 1998, No. R-1, in the principal amount of \$885,000, bearing interest at the rate of 4.50% per annum, and dated on the date hereof (the "Bond"):

1. **TERMS:** All capitalized words and terms used in this General Certificate and not otherwise defined herein shall have the same meaning as in the Ordinance adopted by the City Council of the Issuer (the "Council") on first and second readings and enacted and effective after a public hearing held on June 4, 1998 (the "Ordinance").

2. **AWARD OF BOND:** The entire issue of the Bond has been duly awarded to the Rural Utilities Service (the "Purchaser"), pursuant to a Letter of Commitment from the Purchaser and the Bond Ordinance.

3. **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, nor questioning the proceedings and authority by which the Issuer authorized the issuance and sale of the Bond, nor affecting the validity of the Bond or any provisions made or authorized for the payment thereof; nor questioning the existence of the Issuer or the Council or the title of the members and officers thereof to their respective offices; nor questioning the additions, betterments and improvements to the water system of the Issuer (the "System") being financed out of the proceeds of sale of the Bond.

4. **GOVERNMENTAL APPROVALS:** All applicable approvals and certificates required by law for construction and operation of the System have been duly and timely obtained and remain in full force and effect. This includes a Certificate of Convenience and Necessity from the West Virginia Public Service Commission ("PSC") awarded pursuant to Case No. 96-0377-W-CN.

5. **NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS:** There has been no adverse change in the financial condition of the Issuer since the approval by the Purchaser of a loan to assist in the additions, betterments and improvements to the System.

The Issuer has outstanding its (a) Waterworks Revenue Bonds, Series 1970, (b) Waterworks System Bond, Series 1974, (c) Water Revenue Bonds, Series 1991 and (d) Water Revenue Bond, Series 1993, all of which are payable from and entitled to liens on the revenues of the System, all on a parity with the liens and pledges in favor of the Bond.

6. **SIGNATURES:** The undersigned MAYOR and RECORDER 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, 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 or changed in any way unless modification appears from later documents also listed below:

Charter of Issuer.

Ordinance.

Notice of Public Hearing on Ordinance.

Minutes of Adoption of Ordinance on First and Second Reading.

Minutes on Enactment of Ordinance After Public Hearing.

Sunshine Act Resolution of Council.

Oaths of Office of Mayor, Recorder and Members of Council

Rate Ordinance

Public Service Commission Certificate of Convenience and Necessity

8. **PUBLIC SERVICE COMMISSION ORDER; RATES:** The undersigned Attorney hereby covenants that he has filed any information with the PSC and taken any other actions required to maintain the PSC Order dated October 23, 1996, in full force and effect. The rates were enacted by ordinance adopted August 5, 1996, and the City has complied with all requirements of the PSC to make the rates valid and effective, and such rates are in full force and effect.

9. **INCUMBENCY AND OFFICIAL NAME:** The proper corporate title of the Issuer is "City of Spencer", and it is a municipal corporation of the State of West Virginia located in Roane County, West Virginia. The governing body of the Issuer is the Mayor, its Council consisting of five (5) Council Members and the Recorder whose names, terms and offices are as follows:

<u>Name</u>	<u>Term</u>	<u>Office</u>
Terry A. Williams	June 30, 2001	Mayor
David Bowen	June 30, 2001	Recorder and Council Member
Elsie Daugherty	June 30, 2001	Council Member
David Bowen	June 30, 2001	Council Member
Patrick J. Lance	June 30, 2001	Council Member
Kimberly A. Frum	June 30, 2001	Council Member
James E. Starcher	June 30, 2001	Council Member

The duly appointed and acting Attorney for the Issuer is Thomas N. Whittier.

10. **DELIVERY AND PAYMENT:** On the date hereof, the Bond was delivered to the Purchaser at Spencer, West Virginia, by the undersigned Mayor, 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 above-mentioned Bond Ordinance.

At the time of delivery of the Bond, a payment was received by the undersigned Mayor, being a portion of the principal amount of the Series 1998 Bond, with additional portions of said principal amount to be paid to the Issuer as construction on the project progresses. Interest on advances upon the Series 1998 Bond at the rate of 4.50% per annum is payable upon each advance from the date hereof. The Bond Proceeds have been deposited in accordance with the terms of the Bond Ordinance.

The Series 1998 Bond is dated on the date hereof and interest thereon on the Series 1998 Bond at the rate of 4.50% per annum is payable on the Bond from such date.

11. **LAND AND RIGHTS OF WAY:** All land in fee simple and all rights of way and easements necessary for the construction, 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.

12. **MEETINGS:** All actions, ordinances, supplemental resolutions, orders and agreements taken by and entered into by or on behalf of the Issuer in any way connected with the construction, acquisition, operation and financing of the System were authorized or adopted at meetings of the Council of the Issuer duly and regularly called and held pursuant to all applicable statutes and the customary procedures of Council, and a quorum of duly elected or appointed, qualified and acting members of the Council was present and acting at all times during all such meetings.

13. **CONTRACTORS' INSURANCE:** 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 of the Purchaser and the Bond Ordinance.

14. **CONNECTIONS:** The Issuer has received connection agreements from at least 1,917 bona fide users in full compliance with the requirements of the Purchaser.

15. **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.

16. **RATES AND CHARGES:** Based upon information submitted by the Consulting Engineers, the rates and charges for the System which were approved on August 5, 1996, to be effective upon the completion of the Project, will, so long as the Bond is outstanding, provide Net Revenues sufficient to pay (a) the interest upon the Bond, (b) the principal amount of the Bond at or before its maturity and (c) a margin of safety or reserve for such Bond and for the payment into the Reserve Account created on account of the Bond.

17. **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 with respect to a sale or lease of any land, materials, supplies or services to the Issuer, or to any contractor supplying the Issuer, relating to the Bond, the authorizing document and/or the Project, including without limitation, with respect to the Depository Bank. For purposes of this paragraph, a "substantial financial interest" shall include, without limitation, an interest amounting to more than 5% of the particular business enterprise or contract.

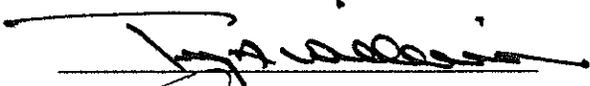
18. **COMPLIANCE WITH 1990, 1974, 1991 AND 1993 ORDINANCES AND BONDS:** All payments have been made under the 1970, 1974, 1991 and 1993 Ordinances, and there are no defaults in the terms and conditions of the 1970, 1974, 1991 and 1993 Ordinances or Bonds.

WITNESS our signatures and the official corporate seal of the CITY OF SPENCER on this 5th day of June, 1998.

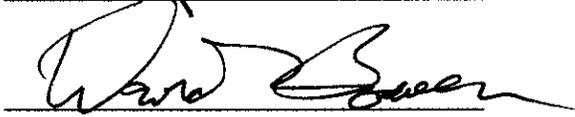
(SEAL)

SIGNATURE

OFFICIAL TITLE



Mayor



Recorder



Attorney for Issuer



\$885,000  
CITY OF SPENCER  
WATER REVENUE BOND,  
SERIES 1998

ENGINEER'S CERTIFICATE

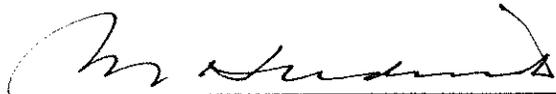
I, James B. Hildreth, Registered Professional Engineer, West Virginia License No. 7719, of Boyles and Hildreth, Spencer, West Virginia, hereby certify that my firm is engineer for the water system (the "Project") of the City of Spencer (the "City") to be constructed in Roane County, West Virginia, which construction and acquisition are being financed in part by the above-captioned revenue bond of the City.

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 is not situated in any other municipality.

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

WITNESS my signature on this 1st day of May, 1998.

Boyles and Hildreth, Consulting Engineers

By:   
Engineer



LARRY A. PENIX AND ASSOCIATES  
PO BOX 152  
ONA, WEST VIRGINIA 25545

May 7, 1998

USDA  
Rural Utilities Service  
PO Box 303  
Parkersburg, WV 26102

Gentlemen:

Based upon rates and charges set forth in an ordinance of the City of Spencer enacted May 2, 1996, and projected operation and maintenance expenses and anticipated customer charges as furnished to us by Boyles and Hildreth, Consulting Engineers, it is our opinion that such rates and charges will be sufficient to provide revenues which, together with other revenues of the water system of the City of Spencer, will pay all repair, operation and maintenance expenses and leave a balance each year to equal at least 128% of the maximum amount required in any year for debt service on the 1998 Water Revenue Bonds to be issued by the City to Rural Utilities Service and all other obligations secured or payable from the revenues of the system prior to or on a parity with such bonds, including the City's Water Revenue Bonds - 1970 Issue (EDA), 1974 Issue (FmHA), 1991 Issue (FmHA), and 1993 Issue (FmHA).

Sincerely,



Larry A. Penix  
Certified Public Accountant

LARRY A. PENIX AND ASSOCIATES  
PO BOX 152  
ONA, WEST VIRGINIA 25545

USDA  
Rural Utilities Service  
PO Box 303  
Parkersburg, WV 26102

I hereby certify that the City of Spencer Water Department has established and maintains its accounting system in accordance with generally accepted accounting principles for the City of Spencer Charles Fork Water Project. This accounting system established is in compliance and in accordance with USDA Rural Utilities Service, Public Service Commission of West Virginia, Appalachian Regional Commission guidelines and regulations, and the bond resolutions.

*Larry A. Penix*

Larry A. Penix  
Certified Public Accountant



CITY OF SPENCER, a municipal utility

(Name of Utility)

OF

Spencer, West Virginia

(Location of Office)

# Rates, Rules and Regulations for Furnishing WATER

AT

In and near Spencer to the City of Spencer, Roane County, WV.

Filed with THE PUBLIC SERVICE COMMISSION  
OF  
WEST VIRGINIA

Issued May 2, 19 96

Effective August 5, 19 96

Passed by City Council.

Issued by CITY OF SPENCER  
(Name of Utility)

By *[Signature]*

Mayor

**RECEIVED**

TITLE 7, CHAPTER 2A

JUL 11 1996

THE CITY OF SPENCER, AN ORDINANCE AMENDING WATER RATES,  
CHARGES AND CONDITIONS OF SERVICE, AND PROVIDING  
WHEN THIS ORDINANCE SHALL TAKE EFFECT

SECTION ONE: AUTHORITY FOR THIS ORDINANCE

This ordinance is enacted pursuant to the provisions of Article 11, Chapter 8 and Article 13, Chapter 8 of the Code of West Virginia, as amended, and other applicable provisions of law.

SECTION TWO: FINDINGS AND DETERMINATIONS

It is hereby found, determined and declared as follows:

A. The City of Spencer presently owns and operates a water treatment plant and distribution system which treatment plant and distribution system is financed through the fees collected from its customers for consumption of water provided by the system.

B. The present rates for water service in the City of Spencer and vicinity are insufficient for the payment of the reasonable and necessary operating expenses, bond service on existing debt, provision for depreciation, reasonable operating reserve, and capital improvements, and therefore, it has become necessary to increase said rates in order to provide sufficient revenue to cover the above expenses.

SECTION THREE: RATES

To accomplish the purposes set forth in SECTION TWO hereof, the following rates, charges and conditions of service are hereby established as follows, to be effective as the time set forth in SECTION FOUR:

RATE I (LOW LEVEL)

Applicable throughout entire service territory except such territories as served through Booster Stations.

AVAILABILITY OF SERVICE

Available for general domestic, commercial, industrial service.

(A) RATE

First 2,000 gallons used per month - \$4.24 per 1,000 gallons  
Next 3,000 gallons used per month - \$4.09 per 1,000 gallons  
Next 25,000 gallons used per month - \$3.36 per 1,000 gallons  
Next 70,000 gallons used per month - \$1.36 per 1,000 gallons  
All  
Over 100,000 gallons used per month - \$1.23 per 1,000 gallons

(A) Indicates advance

(A) 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 or less	\$ 8.48 per month
3/4 inch meter	\$ 12.71 per month
1 inch meter	\$ 21.20 per month
1-1/4 inch meter	\$ 30.94 per month
1-1/2 inch meter	\$ 42.41 per month
2 inch meter	\$ 67.83 per month
3 inch meter	\$127.22 per month
4 inch meter	\$212.04 per month
6 inch meter	\$424.08 per month
8 inch meter	\$678.53 per month

DELAYED PAYMENT CHARGE

The above tariff is net. On all current usage billings not paid in full within twenty (20) days, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate. No bill shall be considered delinquent any sooner than thirty (30) days from the billing date.

SERVICE CONNECTION FEE (TAP FEE)

Three hundred sixty-four dollars (\$364.00).

(A) RECONNECTION CHARGE

A reconnection charge of fifteen dollars (\$15.00) shall be made to restore discontinued service.

RATE II (BOOSTER LEVEL)

Applicable to territory served by Spencer Plant through Booster Stations.

AVAILABILITY OF SERVICE

Available for general domestic, commercial, industrial service.

(A) RATE

First 2,000 gallons used per month - \$4.66 per 1,000 gallons  
Next 3,000 gallons used per month - \$4.54 per 1,000 gallons  
Next 25,000 gallons used per month - \$3.70 per 1,000 gallons  
Next 70,000 gallons used per month - \$1.50 per 1,000 gallons  
All  
Over 100,000 gallons used per month - \$1.35 per 1,000 gallons

(A) Indicates advance

(A) 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 or less	\$ 9.32 per month
3/4 inch meter	\$ 14.01 per month
1 inch meter	\$ 23.31 per month
1-1/4 inch meter	\$ 34.04 per month
1-1/2 inch meter	\$ 46.62 per month
2 inch meter	\$ 74.59 per month
3 inch meter	\$139.87 per month
4 inch meter	\$233.12 per month
6 inch meter	\$466.24 per month
8 inch meter	\$745.98 per month

DELAYED PAYMENT CHARGE

The above tariff is net. On all current usage billings not paid in full within twenty (20) days, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate. No bill shall be considered delinquent any sooner than thirty (30) days from the billing date.

SERVICE CONNECTION FEE (TAP FEE)

Three hundred sixty-four dollars (\$364.00)

(A) RECONNECTION CHARGE

A reconnection charge of fifteen dollars (\$15.00) shall be made to restore discontinued service.

RATE III (RIPLEY ROAD LOW LEVEL AND ROUTE 119)

Applicable throughout U.S. Route 33 West, Steel Hollow Road, Nancy's Run Road and U.S. Route 119 South, Speed Road and Missouri Fork Road, except ones served through Booster Stations.

AVAILABILITY OF SERVICE

Available for general domestic, commercial, industrial service.

(A) RATE

First	2,000 gallons used per month - \$8.56 per 1,000 gallons
Next	3,000 gallons used per month - \$8.31 per 1,000 gallons
Next	25,000 gallons used per month - \$7.81 per 1,000 gallons
Next	70,000 gallons used per month - \$2.73 per 1,000 gallons
All	
	Over 100,000 gallons used per month - \$2.46 per 1,000 gallons

(A) Indicates advance

(A) 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 or less	\$ 17.11 per month
3/4 inch meter	\$ 25.67 per month
1 inch meter	\$ 42.78 per month
2 inch meter	\$136.88 per month
3 inch meter	\$256.65 per month

DELAYED PAYMENT CHARGE

The above tariff is net. On all current usage billings not paid in full within twenty (20) days, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate. No bill shall be considered delinquent any sooner than thirty (30) days from the billing date.

SERVICE CONNECTION FEE (TAP FEE)

Three hundred sixty-four dollars (\$364.00)

(A) RECONNECTION CHARGE

A reconnection charge of fifteen dollars (\$15.00) shall be made to restore discontinued service.

RATE IV (RIPLEY ROAD PROJECT BOOSTER LEVEL)

Applicable throughout U.S. Route 33 West, Steel Hollow Road, Nancy's Run Road and Colt Ridge Road served by Spencer Plant through Booster Stations.

AVAILABILITY OF SERVICE

Available for general domestic, commercial, industrial service.

(A) RATE

First	2,000 gallons used per month - \$9.42 per 1,000 gallons
Next	3,000 gallons used per month - \$9.18 per 1,000 gallons
Next	25,000 gallons used per month - \$8.37 per 1,000 gallons
Next	70,000 gallons used per month - \$3.04 per 1,000 gallons
All	
	Over 100,000 gallons used per month - \$2.70 per 1,000 gallons

(A) Indicates advance

(A) 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 or less	\$ 18.84
3/4 inch meter	\$ 28.26
1 inch meter	\$ 47.10
2 inch meter	\$150.72
3 inch meter	\$282.60

DELAYED PAYMENT CHARGE

The above tariff is net. On all current usage billings not paid in full within twenty (20) days, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate. No bill shall be considered delinquent any sooner than thirty (30) days from the billing date.

SERVICE CONNECTION FEE (TAP FEE)

Three hundred sixty-four dollars (\$364.00)

(A) RECONNECTION CHARGE

A reconnection charge of fifteen dollars (\$15.00) shall be made to restore discontinued service.

PRIVATE FIRE PROTECTION SERVICE

Applicable in entire territory served by the Spencer Plant.

AVAILABILITY OF SERVICE

Available for private fire protection service.

(A) Indicates advance

(A) **RATE**

Where connections, hydrants, sprinklers, etc., on private property are maintained by consumer:

- 2 inch Service Line with hydrants, sprinklers and/or hose connections - \$ 3.06 per month
- 3 inch Service Line with hydrants, sprinklers and/or hose connections - \$ 3.68 per month
- 4 inch Service Line with hydrants, sprinklers and/or hose connections - \$ 4.91 per month
- 6 inch Service Line with hydrants, sprinklers and/or hose connections - \$11.04 per month
- 8 inch Service Line with hydrants, sprinklers and/or hose connections - \$19.62 per month
- 10 inch Service Line with hydrants, sprinklers and/or hose connections - \$30.65 per month
- 12 inch Service Line with hydrants, sprinklers and/or hose connections - \$44.14 per month

Where connections and hydrants on private property are maintained by City:

Each fire hydrant-----\$12.77 per month

These terms are payable monthly in advance.

**PROMPT PAYMENT DISCOUNT**

The above schedule is subject to a discount of five percent (5%) if accounts are paid in full at the office of the Company on or before twenty (20) days from date of bill.

**SECTION FOUR: EFFECTIVE DATE**

This ordinance shall take effect forty-six (46) days after adoption hereof following second reading and is in compliance with the provisions of Chapter 24, Article 2, Section 4b of the Code of West Virginia, as amended.

Passed and approved First Reading March 7, 1996

Second Reading March 28, 1996

This readopted ordinance shall take effect forty-six (46) days after readoption hereof following this readoption reading and is in compliance with the provisions of Chapter 24, Article 2, Section 4b of the Code of West Virginia, amended.

Readoption Reading May 2, 1996

  
\_\_\_\_\_  
Mayor

(A) Indicates advance



PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON

Issued: July 30, 1996

CASE NO. 96-0377-W-CN

THE CITY OF SPENCER, a municipal corporation, Roane County.

Application for a certificate of convenience and necessity to construct, operate and maintain a water line from the City of Spencer Charles Fork Lake Water Impoundment to the City of Spencer Water Treatment facility, at Spencer, Roane County, and for approval of financing incidental thereto.

PROCEDURAL ORDER

On April 4, 1996, The City of Spencer, a municipal corporation, Roane County, West Virginia, filed a duly verified application for a certificate of convenience and necessity to construct, operate and maintain a water line from the City's Charles Fork Water Impoundment to its Water Treatment facility. The Applicant estimates that the proposed construction will cost approximately \$1,500,000, and will be funded by a \$500,000 grant from the Appalachian Regional Commission, a \$115,000 grant from the Rural Development Authority, and an \$885,000 loan from the Rural Development Authority.

In order to support the increased debt service expected as a result of this project, the City of Spencer passed an increased water rate ordinance on March 28, 1996, to become effective on May 13, 1996. This ordinance was amended and readopted on May 2, 1996, to become effective on June 16, 1996.

By a Notice of Filing entered April 4, 1996, the Public Service Commission required the Applicant to provide public legal notice of this application and increased rates by publishing a copy of the Notice of Filing once in a newspaper, duly qualified by the Secretary of State, published and of general circulation in the City of Spencer, and to make due return to the Commission of a proper certification of publication immediately after publication. The Notice of Filing made provision for the filing of written objections to the application within thirty (30) days of the date of publication, and for summary action by the Commission in the absence of protest or objection.

By Commission Referral Order entered April 22, 1996, this matter was referred to the Division of Administrative Law Judges for further proceedings with a decision due date of October 31, 1996.

On May 2, 1996, a Procedural Order was entered which scheduled this matter for hearing, if required, to be held on July 31, 1996, in Spencer, West Virginia.

On July 1, 1996, the Applicant filed a duly executed Affidavit of Publication demonstrating proper publication of the Notice of Filing on May 16, 1996, in the Times Record, as required by said Notice. As of the date of this Procedural Order, no statements of protest, objection or support for said project have been filed with the Commission.

On July 26, 1996, the Applicant, City of Spencer, by its attorney, Thomas N. Whittier, filed a formal Motion to Continue the hearing scheduled for July 31, 1996. In support of this motion, the City states that all notices and advertisements required by this application and supporting rate ordinance have been properly made and, although all time frames have expired, no protests or objections have been received. Both the City and Commission Staff have agreed that there are, at present, no legal impediments which would require that a hearing be conducted and anticipate the filing of a request for waiver of hearing. Additionally, the final engineering plans and specifications for the project have not been completed or filed for Staff's review. The City states that an additional forty-five (45) days will be required to complete the engineering plans and to allow a proper review thereof.

Commission Staff does not object to this motion, and concurs that additional time is needed for a proper engineering review.

The file in this matter reflects that there has been a plethora of public legal notice provided concerning this application and the underlying increased rate ordinance, all without apparent response or protest by any customer of the City of Spencer. The increased rate ordinance has now been in effect for some time, again without protest. Consequently, it is reasonable to assume that this project has the support and acceptance of the public. Likewise, Commission Staff and the City of Spencer have both stated that they do not expect any legal impediments to arise concerning review and approval of this project. Consequently, it is reasonable to cancel the hearing previously scheduled in this matter for July 31, 1996. The City or Commission Staff may petition for a rescheduled hearing date, if issues arise requiring a hearing, otherwise this matter should be completed and submitted to the Administrative Law Judge for decision no later than September 30, 1996. If a hearing is desired, that request should be made as soon as possible, but, in any instance, no later than September 13, 1996.

#### ORDER

IT IS, THEREFORE, ORDERED that the hearing scheduled to be held in this matter on July 31, 1996, shall be, and hereby is, cancelled.

IT IS FURTHER ORDERED that any party or other interested person requesting that this matter be rescheduled for hearing for any reason shall file such request, in writing, by September 13, 1996.

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



Thomas N. Trent  
Administrative Law Judge

TNT:mal

PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON

**FINAL**

11-12-96

Entered: October 23, 1996

CASE NO. 96-0377-W-CN

THE CITY OF SPENCER, a municipal corporation, Roane County.

Application for a certificate of convenience and necessity to construct, operate and maintain a water line from the City of Spencer Charles Fork Lake Water Impoundment to the City of Spencer Water Treatment facility, at Spencer, Roane County, and for approval of financing incidental thereto.

RECOMMENDED DECISION

On April 4, 1996, The City of Spencer, a municipal corporation, Roane County, West Virginia, filed a duly verified application for a certificate of convenience and necessity to construct, operate and maintain a water line from the City's Charles Fork Water Impoundment to its water treatment facility. The Applicant estimated that the proposed construction will cost approximately \$1,500,000, and will be funded by a \$500,000 grant from the Appalachian Regional Commission, a \$115,000 grant from the Rural Development Authority and an \$885,000 loan from the Rural Development Authority.

In order to support the increased debt service expected as a result of this project, the City of Spencer passed an ordinance increasing water rates on March 28, 1996, to become effective on May 13, 1996. This ordinance was amended and readopted on May 2, 1996, and became effective on June 16, 1996.

By a Notice of Filing entered April 4, 1996, the Public Service Commission required the Applicant to provide public legal notice of this application and increased rates by publishing a copy of the Notice of Filing once in a newspaper, duly qualified by the Secretary of State, published and of general circulation in the City of Spencer, and to make due return to the Commission of a proper certification of publication immediately after publication. The Notice of Filing made provision for the filing of written objections to the application within thirty (30) days of the date of publication, and for summary action by the Commission in the absence of protest or objection.

By Commission Referral Order entered April 22, 1996, this matter was referred to the Division of Administrative Law Judges for further proceedings with a decision due date of October 31, 1996.

On May 2, 1996, a Procedural Order was entered which scheduled this matter for hearing, if required, to be held on July 31, 1996, in Spencer, West Virginia.

On July 1, 1996, the Applicant filed a duly executed Affidavit of Publication demonstrating proper publication of the Notice of Filing on May 16, 1996, in the Times Record, as required by said Notice. As of the date of this Recommended Decision, no statements of protest, objection or support for said project have been filed with the Commission.

On July 26, 1996, the Applicant, City of Spencer, by its attorney, Thomas N. Whittier, filed a formal Motion to Continue the hearing scheduled for July 31, 1996. In support of this motion, the City stated that all notices and advertisements required by this application and supporting rate ordinance had been properly made and, although all time frames have expired, no protests or objections were received. Both the City and Commission Staff have agreed that there were, at present, no legal impediments which would require that a hearing be conducted and anticipated the filing of a request for waiver of hearing. Additionally, the final engineering plans and specifications for the project had not been completed nor filed for Staff's review. The City stated that an additional forty-five (45) days would be required to complete the engineering plans and to allow a proper review thereof. Commission Staff did not object to this motion, and concurred that additional time was needed for a proper engineering review of this pending application.

By Procedural Order entered July 30, 1996, the hearing scheduled to be held on July 31, 1996, was cancelled, and the parties and other interested persons were instructed to file any request for the scheduling of further proceedings for September 13, 1996, if such proceedings were required. As of the date of this Recommended Decision, no such requests have been filed.

On October 9, 1996, the Staff of the Public Service Commission filed its Final Joint Staff Memorandum in this matter. Staff reported that this project will consist of approximately 16,000 lineal feet of 16-inch PVC water line, one pump station and appurtenances which will allow the City to by-pass its current free flow open supply route and to transport its raw water directly without loss from the Charles Fork Reservoir. This line will increase usable raw water storage by 40%, eliminate daily dependence on supplementary reservoirs and reduce chemical costs for treatment by \$10,000 per year. This project also includes repainting of three water storage tanks which were last painted in the early 1970s. Staff believes that the need for the project has been demonstrated by the Applicant. In light of the facts that sufficient funding has been committed and the City's increased rate ordinance is final, the project is also economically feasible. Staff concludes that it has no objection to this filing and recommends that a certificate of convenience and necessity be issued for this project, contingent upon receipt of a permit for the project from the West Virginia Office of Environmental Health Services. Staff also states that, if the project cost exceeds \$1,500,000, after the actual receipt of bids, or if the scope of the project changes, the Applicant should be required to inform the Public Service Commission and seek further review and approval of this filing. Staff also recommends that a hearing be waived in

this matter since no protests or objections to either the project or the City's rate ordinance have been filed after ample public notice.

On October 9, 1996, the Acting Executive Secretary served a copy of the Staff recommendations on the Applicant, with directions to respond, if desired, within seven (7) days. As of the date of this Recommended Decision, the City of Spencer has not filed any response or objection to the Staff recommendations and is deemed to be in agreement with those favorable recommendations.

Consequently, the unopposed Staff recommendation will be adopted in this matter and a certificate of convenience and necessity will be issued to the City of Spencer for the construction and operation of the project detailed in the application filed herein on April 4, 1996.

#### FINDINGS OF FACT

1. On April 4, 1996, The City of Spencer, a municipal corporation, Roane County, West Virginia, filed a duly verified application for a certificate of convenience and necessity to construct, operate and maintain a water line from the City's Charles Fork Water Impoundment to its water treatment facility. The Applicant estimates that the proposed construction will cost approximately \$1,500,000, and will be funded by a \$500,000 grant from the Appalachian Regional Commission, a \$115,000 grant from the Rural Development Authority and an \$885,000 loan from the Rural Development Authority. (See, Application filed April 4, 1996).
2. In order to support the increased debt service expected as a result of this project, the City of Spencer passed an ordinance increasing water rates on March 28, 1996, which became effective on May 13, 1996. This ordinance was amended and readopted on May 2, 1996, to become effective on June 16, 1996. (See, Ordinance filed May 7, 1996; Application filed April 4, 1996).
3. On July 1, 1996, the Applicant filed a duly executed Affidavit of Publication demonstrating proper publication of the Notice of Filing on May 16, 1996, in the Times Record, as required by said Notice. As of the date of this Procedural Order, no statements of protest, objection or support for said project have been filed with the Commission. (See, Affidavit of Publication filed June 1, 1996).
4. Pursuant to its review of this filing, the Staff of the Public Service Commission has stated that this project is necessary and economically feasible and has recommended that this application be approved and that a certificate of convenience and necessity be issued to the City of Spencer for this project, contingent upon receipt of a permit for the project from the West Virginia Office of Environmental Health Services. (See, Final Joint Staff Memorandum filed October 9, 1996).
5. As of the date of this Recommended Decision, the City of Spencer had not responded or objected to the Staff recommendation filed in this proceeding. (See, Commission case file, generally).

## CONCLUSION OF LAW

Under the facts and circumstances of this case and the recommendations of Commission Staff, it is reasonable to waive hearing in this matter, to approve the application filed by the City of Spencer on April 4, 1996, and to issue a certificate of convenience and necessity for the construction and operation of the water project detailed in that application, contingent upon receipt of a permit for the project from the West Virginia Office of Environmental Health Services.

## ORDER

IT IS, THEREFORE, ORDERED that the application filed April 4, 1996, by the City of Spencer, is approved and that a certificate of convenience and necessity shall be issued for the construction and operation of the water project detailed in said application, contingent upon receipt of a permit for the project from the West Virginia Office of Environmental Health Services, a copy of which shall be filed with the Commission. No construction may commence on the project certificated herein unless and until the City of Spencer files the permit from the Office of Environmental Health Services with the Commission.

IT IS FURTHER ORDERED that if, after receipt of actual bids, this project exceeds \$1,500,000 in cost, or if the scope or financing of the project changes, the City of Spencer shall so notify the Public Service Commission and seek subsequent review and approval of the project. In the event of any such change, no construction on the certificated project may commence.

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

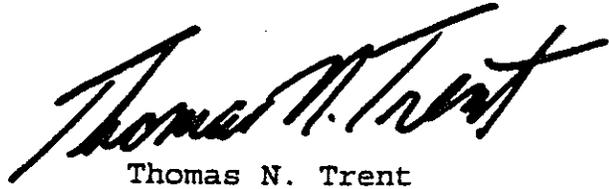
The Acting Executive Secretary is hereby ordered to serve a copy of this order upon the Commission by hand delivery, and upon all parties of record by United States Certified Mail, return receipt requested.

Leave is hereby granted to the parties to file written exceptions supported by a brief with the Acting 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 Acting 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 wavier by the Commission.



Thomas N. Trent  
Administrative Law Judge

TNT:dfs





UNITED STATES DEPARTMENT OF COMMERCE  
Economic Development Administration  
Washington, D.C. 20230

November 15, 1996

Lowell Hardman, Manager  
City of Spencer Waterworks  
207 Court Street  
Spencer, WV 25276

Dear Mr. Hardman:

Pursuant to your request, the Economic Development Administration:

- 1) Approves the extension of parity to the City of Spencer, West Virginia, Water Revenue Series Bond of 1996 to be issued through U.S. Department of Agriculture Rural Economic and Community Development (RECD) in the amount of \$885,000.00.
- 2) Approves the waiver, for the purpose of the 1996 Series Bond issue, of the 130% debt service requirement, section 4.05(b) of the Bond Ordinance.
- 3) Approves the waiver, for the purpose of the 1996 Series Bond issue, the requirement that payments under the 1996 Series Bond issue be payable on a semi-annual basis.

Should you have any questions, please do not hesitate to call our office (202)482-4965.

Sincerely,

  
Kenneth M. Kukovich  
Acting Director  
Liquidation Division

cc: Thomas N. Whittier  
Hedges, Jones, Whittier & Hedges

80000 SERIES  
10% P.C.W.





United States  
Department of  
Agriculture

Rural Development

Federal Building, Room 320  
75 High Street  
Morgantown, WV 26505  
Telephone: (304) 291-4796  
Fax: (304) 291-4159  
TTY/TDD: (304) 284-5941

\$885,000  
CITY OF SPENCER  
WATER REVENUE BOND, SERIES 1998

CONSENT TO ISSUANCE OF PARITY BOND AND PARITY LIEN

United States Department of Agriculture, Rural Development, Rural Utilities Service (the "Government") represents that it is the sole and only registered owner of the 1974 Bonds issued in the amount of \$765,000, the 1991 Bonds issued in the amount of \$365,000, and the 1993 Bonds issued in the amount of \$300,000, authorized by ordinances dated September 30, 1974; December 9, 1991; and March 11, 1993, respectively (collectively, the "Prior Bonds"). The Government does hereby consent to the issuance by the City of Spencer, Spencer, West Virginia (the "Issuer"), of its parity water revenue bond, Series 1998, in the amount of \$885,000 (the "Series 1998 Bond"), to be sold to the Government. The Government hereby further consents that the Series 1998 Bond may be payable from the revenues of the water system of the Issuer and otherwise secured on a parity with the Prior Bonds and the 1970 Bonds held by the Economic Development Administration, United States Department of Commerce, and hereby waives the other conditions applicable to issuance of parity bonds.

By execution of this consent, the undersigned hereby certifies that he is fully empowered and authorized to execute this consent on behalf of the Government.

WITNESS my signature this 1st day of May, 1998.

UNITED STATES DEPARTMENT OF AGRICULTURE  
RURAL DEVELOPMENT

By:   
Robert D. Lewis

Its: State Director





\$885,000  
CITY OF SPENCER  
WATER REVENUE BOND, SERIES 1998

No. R-1

Date: June 5, 1998

FOR VALUE RECEIVED, the CITY OF SPENCER, a municipal corporation and political subdivision of the State of West Virginia, in Roane County of said State (herein called "Issuer"), hereby 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 Eight Hundred Eighty-Five Thousand and 00/100 Dollars (\$885,000.00), plus interest on the unpaid principal balance at the rate of four and one half percent (4.5%) 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 (24) months after the date hereof, and \$4,063.00 covering principal and interest, thereafter 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, 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 Issuer as requested by Issuer 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 and made 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 the principal. Payments shall be made at the office of the Municipal Bond Commission, Charleston, West Virginia, and shall be mailed to the registered owner hereof at the address as it appears on the books of the Issuer in its capacity as Registrar. Provided, however, for so long as the Government remains the owner of this Bond, the Issuer shall remit payments directly to the Government or any agency or department thereof.

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of Issuer. Refunds and extra payments, as defined in the regulations of the Rural Utilities Service, 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 Issuer to pay the remaining installments as scheduled herein.

If the Government at any time assigns this Bond and insures the payment thereof, Issuer 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 Issuer 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 Issuer, 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 Issuer, 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.

**SPECIMEN**

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 Issuer to the Government without demand. Issuer agrees to use the loan evidenced hereby solely for purposes authorized by the Government.

Issuer 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 of improvements to a water system (the "System") of the Issuer, 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 Issuer within the meaning of any constitutional or statutory provision or limitation.

**SPECIMEN**

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 the Issuer, 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 Bond Legislation, 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, Article 19 of Chapter 8 of the West Virginia Code (herein called the "Act").

If at any time it shall appear to the Government that Issuer 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, Issuer 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 Issuer made or insured by the Government pursuant to the Consolidated Farmers Home Rural Development Act, as amended. This Bond shall be subject to the present regulations of the Rural Development Authority, and to its future regulations not inconsistent with the express provisions hereof.

**SPECIMEN**

**THIS BOND IS ON A PARITY AS TO LIEN AND SOURCE OF PAYMENT WITH THE WATERWORKS REVENUE BONDS, SERIES 1970, WATERWORKS SYSTEM BOND, SERIES 1974, WATER REVENUE BOND, SERIES 1991, AND WATER REVENUE BOND, SERIES 1993 OF THE ISSUER DESCRIBED IN THE RESOLUTIONS ISSUED WITH RESPECT TO EACH SERIES.**

The initial address of Government for purposes of bond registration is Federal Building, Room 320, 75 High Street, Morgantown, WV 26505-7500.

This Bond will be in default should any proceeds be used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity, as set for in Exhibit M of subpart G of Part 1040 of Title 7 of the Code of Federal Regulations, as amended.

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

(SEAL)

CITY OF SPENCER

By \_\_\_\_\_  
Mayor  
207 Court Street  
Spencer, WV 25276

**SPECIMEN**

ATTEST:

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

(Form Of)

RECORD OF ADVANCES

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

**SPECIMEN**

(Form of Assignment)

ASSIGNMENT

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

DATED: \_\_\_\_\_

\_\_\_\_\_

In the presence of:

\_\_\_\_\_



Financing Statements also on file in the  
Roane County Clerk's office.

This **FINANCING STATEMENT** is presented to a filing officer for filing pursuant to the Uniform Commercial Code:

1. Debtor(s) (Last Name First) and address(es)  
City of Spencer  
207 Court Street  
Spencer, WV 25276

2. Secured Party(ies) and address(es)  
United States Department of  
Agriculture  
Rural Utilities Service  
P.O. Box 303  
Parkersburg, WV 26102

3. Maturity date (if any):  
For Filing Officer (Date, Time,  
Number, and Filing Office)

0495919

98 JUN 8 PM 2:16

4. This financing statement covers the following types (or items) of property:

Statutory mortgage lien on accounts, revenues, water system and other property as provided by Bond Ordinance authorizing the issuance of \$985,000 City of Spencer, Water Revenue Bond, Series 1998, and by §§-19-8 of the Code of West Virginia of 1931, as amended.

5. Assignee(s) of Secured Party and Address(es)

This Financing Statement is filed in connection with a public issue of the City of Spencer, Boone County, West Virginia, pursuant to the provisions of Section 46-9-403(8) of the Code of West Virginia of 1931, as amended. No continuation statements need to be filed to continue this financing statement in effect throughout the term of the underlying bond issue.

Filed with:

Secretary of State of WV

This statement is filed without the debtor's signature to perfect a security interest in collateral. (check  if so)

already subject to a security interest in another jurisdiction when it was brought into this state.

which is proceeds of the original collateral described above in which a security interest was perfected:

Check  if covered.  Proceeds of Collateral are also covered. No. of additional Sheets presented:

City of Spencer

USA, USDA, Rural Utilities Service

Rural Dev.  
Specialist

By: \_\_\_\_\_ Signature(s) of Debtor(s)

Mayor

By: \_\_\_\_\_ Signature(s) of Secured Party(ies)

Title

(4) Secured Party Copy **ORIGINATOR** - Remove this copy and forward balance of form intact for filing.

\$885,000  
CITY OF SPENCER  
WATER REVENUE BOND,  
SERIES 1998

NON-ARBITRAGE CERTIFICATE

I, Terry A. Williams, Mayor of the City of Spencer, Roane County, West Virginia (the "Issuer"), being one of the officials of the Issuer duly charged with the responsibility for the issuance of Water Revenue Bond, Series 1998, in the aggregate principal amount of \$885,000 of the Issuer, dated June 5, 1998 (the "Bond"), hereby certify as follows:

1. This certificate is being executed and delivered pursuant to Section 148 of the Internal Revenue Code of 1986, as amended, and applicable regulations (the "Code"). I am one of the officers of the Issuer charged with the responsibility of issuing the Bond. I am familiar with the facts, circumstances and estimates herein certified and am duly authorized to execute and deliver this certificate on behalf of the Issuer.

2. This certificate may be relied upon as the certificate of the Issuer.

3. The Issuer has not been notified by the Internal Revenue Service of any listing or proposed listing of it as an issuer the certification of which may not be relied upon by holders of obligations of the Issuer or that there is any disqualification of the Issuer by the Internal Revenue Service because a certification made by the Issuer contains a material misrepresentation.

4. This certificate is based upon facts, circumstances, estimates and expectations of the Issuer in existence on June 5, 1998, the date on which the Bond is to be physically delivered in exchange for the issue price thereof, and to the best of my knowledge and belief, the expectations of the Issuer set forth herein are reasonable.

5. In the Ordinance pursuant to which the Bond is issued, the Issuer has covenanted to make no use of the proceeds of the Bond which would cause the Bond to be an "arbitrage bond" within the meaning of the Code.

6. The Bond was sold on June 5, 1998, to United States Department of Agriculture, Rural Utilities Service ("RUS" or the "Purchaser"), for an aggregate purchase price of \$885,000 (100% of par).

7. The Bond is being delivered simultaneously with the delivery of this certificate and is issued for the purpose of (i) permanently financing the cost of acquisition and construction of certain additions, betterments and improvements to the existing water system of the Issuer (the "Project"); and (ii) paying costs of issuance and other costs in connection therewith.

8. The total cost of the Project is estimated at \$1,500,000. Sources and uses of funds for the Project are as follows:

<u>SOURCES</u>	
Bond	\$885,000
RDA Grant	115,000
ARC Grant	<u>500,000</u>
Total Sources	<u>\$1,500,000</u>

<u>USES</u>	
Design, Acquisition and Construction of Project	\$1,491,000
Costs of Issuance	<u>9,000</u>
Total Uses	<u>\$1,500,000</u>

The amount of Project costs is estimated to be greater than the gross proceeds of the Bond. Except for the proceeds of the Bond and the funds described above, no other funds of the Issuer will be available to meet costs of the Project, and no balances are available to meet such costs in any account which may, without appropriate action, be invaded to pay such expenditures without a legislative, judicial or contractual requirement that such account be reimbursed.

9. Pursuant to Article V of the Ordinance, the following special funds or accounts have been created or continued:

- (1) Revenue Fund;
- (2) Project Construction Account;
- (3) Operation and Maintenance Fund;
- (4) Depreciation Fund; and
- (5) Series 1998 Bond Sinking Fund and within the Series 1998 Bond Sinking Fund, the Reserve Account.

10. Pursuant to the Ordinance, the proceeds of the Bond will be deposited in the Project Construction Account and applied solely to payment of Costs of the Project including costs of issuance of the Bond and related costs.

11. Moneys held in the Series 1998 Bond Sinking Fund will be used solely to pay principal of and interest on the Bond and will not be available to meet costs of construction of the Project. To the extent required, all investment earnings on moneys in the Reserve Account will be annually withdrawn therefrom and deposited into the Project Construction Account until completion of the Project, and thereafter will be deposited, not less than once each year, in the Revenue Fund, and such amounts will be applied in full, first to the next ensuing interest payment, if any, due on the Bond, and then to the next ensuing principal payment due thereon.

12. Except for the Series 1998 Bond Sinking Fund, there are no other funds or accounts established or held by the Issuer which are reasonably expected to be used to pay debt service on the Bond, or which are pledged as collateral for Bond, and for which there is a reasonable assurance that

amounts therein will be available to pay debt service on the Bond, if the Issuer encounters financial difficulties. Except as provided herein, no funds which have been or will be used to acquire directly or indirectly securities, obligations, annuity contracts or other investment-type property producing a yield in excess of the yield on the Bond, have been or will be pledged to payment of the Bond. Any amounts deposited in the Reserve Account from time to time by the Issuer will not exceed the maximum annual principal and interest on the Bond and will not exceed one hundred twenty-five percent (125%) of average annual principal and interest on the Bond. Amounts in the Reserve Account, not to exceed ten percent (10%) of the proceeds of the Bond, if invested, will be invested without yield limitation. The establishment of the Reserve Account is required by the Purchaser, is vital to its purchase of the Bond and is reasonably required to assure payments of debt service on the Bond.

13. The Issuer has entered into a contract for the construction of the Project, and the amount to be expended pursuant to such contract exceeds the lesser of two and one half percent (2 1/2%) of the estimated total Project cost financed with proceeds from the sale of the Bond or \$100,000. Acquisition, construction and equipping of the Project will proceed with due diligence to completion and all of the proceeds from the sale of the Bond, together with any investment earnings thereon, will be expended for payment of costs of the Project on or before November 27, 1999. Construction of the Project is expected to be completed within twelve (12) months.

14. The Issuer will comply with the provisions of the Code for which the effective date precedes the date of delivery of the Bond to the Purchaser.

15. Any money deposited in the Series 1998 Bond Sinking Fund for payment of the principal and interest on the Bond (other than the Reserve Account therein) will be spent within a 13 month period beginning on the date of receipt, and any moneys received from the investment of amounts held in the Series 1998 Bond Sinking Fund (other than the Reserve Account therein) will be spent within a 1-year period beginning on the date of receipt.

16. All the proceeds of the Bond which were used for the payment of costs of the Project will be expended for such purposes within five hundred fifty (550) days from June 5, 1998.

17. The amounts designated as costs of issuance of the Bond consist only of costs which are directly related to and necessary for the issuance of the Bond.

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

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

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

21. The original proceeds of the Bond will not exceed the amount necessary for the purposes of the issue.

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

23. The Issuer shall not permit at any time or times any of the proceeds of the Bond, or any other funds of the Issuer, to be used directly or indirectly in a manner which would result in the exclusion of the Bond from treatment afforded by Section 103(a) of the Code by reason of classification of the Bond as "private activity bond" within the meaning of the Code. The Issuer will take all actions and refrain from taking such actions as shall be necessary to comply with the Code in order to ensure the interest on the Bond is excludable from gross income for federal income tax purposes.

24. The Bond, in whole or in part, will not be, directly or indirectly, federally guaranteed within the meaning of Section 149(b) of the Code.

25. The Issuer has retained the right to amend or supplement its authorizing documents if such amendment or supplement is necessary to preserve the exclusion from gross income for federal income tax purposes of the Bond.

26. The Issuer shall comply with the yield restriction on the proceeds of the Bond as set forth in the Code. The yield on the Bond is four and 50/100 percent (4.50%).

27. The Issuer has either (a) funded the Reserve Account in the maximum amount of principal and interest which will mature and become due on the Bond in the then current or any succeeding year with the proceeds of the Bond, or (b) created the Reserve Account which will be funded with equal payments on a monthly basis over a ten (10) year period until such Reserve Account holds an amount equal to the maximum amount of principal and interest which will mature and become due on the Bond in the then current or any succeeding year. Moneys in the Reserve Account and the Series 1998 Bond Sinking Fund (established for the annual payment of principal and interest) will be used solely to pay principal of and interest on the Bond and will not be available to pay costs of the Project.

28. The Issuer shall submit to RDA, formerly FmHA, within fifteen (15) days following the end of the Issuer's bond year, a certified copy of its rebate calculation, but if the Issuer qualifies for the small governmental issuer exception to rebate, or any other exception thereto, then the Issuer shall submit to RDA, formerly FmHA, a certificate stating that it is exempt from the rebate provisions and that no event has occurred to its knowledge during the bond year which would make the Bond subject to rebate.

29. The Issuer has general taxing powers to finance operations of or facilities of the nature of the system, and the Issuer and all subordinate entities reasonably expect to issue less than \$5,000,000 of tax-exempt obligations during the calendar year in which the Bond is to be issued (1998) and has issued no other tax-exempt obligations during the current calendar year (or if the Issuer has issued tax-exempt obligations, the total of all bonds issued will be less than the \$5,000,000).

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

31. The Issuer covenants and agrees to comply with the rebate requirements of the Code; if not exempted therefrom, and with all other requirements of the Code necessary, proper or desirable to maintain the tax-exempt status of the Bond. In addition, the Issuer has covenanted to comply with all Regulations from time to time in effect and applicable to the Bond as may be necessary in order to fully comply with Section 148(f) of the Code and has covenanted to take such actions, and refrain from taking such actions, as may be necessary to fully comply with Section 148(f) of the Code and such Regulations, regardless of whether such actions may be contrary to any of the provisions of the Ordinance authorizing issuance of the Bond.

32. Goodwin & Goodwin, LLP is entitled to rely upon the representations, expectations, covenants, certifications and statements contained herein in rendering its opinions regarding the tax-exempt status of interest on the Bond.

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

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

Dated this 5th day of June, 1998.

CITY OF SPENCER

By:   
Mayor



HEDGES, JONES, WHITTIER AND HEDGES

ATTORNEYS AT LAW

SPENCER, WEST VIRGINIA 25276

GROVER F. HEDGES (1885-1955)

G. F. HEDGES, JR. (1914-1986)

ORTON A. JONES

THOMAS N. WHITTIER

CHRISTINE M. HEDGES

POST OFFICE BOX 7

AREA CODE 304

927-3790

FAX 927-1082

June 5, 1998

Rural Utilities Service  
P.O. Box 303  
Parkersburg, West Virginia 26102

City of Spencer  
207 Court Street  
Spencer, West Virginia 25276

Re: \$885,000 City of Spencer Water Revenue Bond,  
Series 1998

Gentlemen:

As attorney for the City of Spencer, Roane County, West Virginia (the "City"), we have examined the record of proceedings relating to the issue of the City of Spencer, Water Revenue Bond, Series 1998 (the "Bond") and have considered the validity of the bond issue. In this connection we have examined and are familiar with the constitution and statutes of the State of West Virginia, including Chapter 8, Article 19 of the Code of West Virginia of 1931, as amended, the City's Charter, related minutes and a certified copy of the Ordinance passed by the City (the "Ordinance"), a copy of the certificate of convenience and public necessity issued by the West Virginia Public Service Commission, the water rates necessary to pay for the Bond as described in the Ordinance, copies of contracts and other documents relating to the funding and approval for the project by the City, including, but not limited, to the construction contract, plans and specifications, and other documents relating to the project, the letter of conditions forwarded by the Farmers Home Administration (now known as Rural Utilities Service) to the City, the existing 1970, 1974, 1991 and 1993 Bonds and Ordinances and other documents incidental and material to the issuance by the City of the Bond. From such familiarity and examination, we are of the opinion as follows:

1. The City is a duly created and presently existing municipality and political subdivision of the State of West Virginia with full power and authority to construct and acquire and to operate and maintain the Water System and to issue and sell the Bond, all under the provisions of Chapter 8, Article 19 (the "Act"), of the Code of West Virginia 1931, as amended, and other applicable provisions of law.

2. The City, through City Council (the "Council"), has legally and effectively enacted the Ordinance and has duly authorized the issuance and delivery of the Bond to the Rural Utilities Service, and the Mayor of the City is duly and lawfully entitled to and authorized to execute the Bond.

3. The Mayor, Recorder and members of the Council have been duly elected or appointed and have fulfilled all requirements necessary to carry on their duties as provided under the Act.

4. The Bond constitutes a valid and legally enforceable special obligation of the City secured by and payable solely from a parity lien on and pledge of the net revenue of the System as described in the Ordinance, all in accordance with the terms of the Bond and the Ordinance, subject to and on a parity with the 1970, 1974, 1991 and 1993 Bonds as such Bonds are described in the Bond Ordinance. The holders of such Bonds have consented to the issuance of the parity 1998 Bond.

5. The City, through its Council, has legally and effectively enacted the water rates necessary to make the payments on the Bond from the rates described in the Ordinance, and it has lawfully enacted and has filed a tariff which has been approved by the West Virginia Public Service Commission for the water rates that are described within the Ordinance, which rates are not subject to appeal or protest.

6. The City has obtained from the West Virginia Public Service Commission a valid, final and non-appealable certificate of convenience and necessity in Case No. 96-0377-W-CN which lawfully authorizes the City to proceed with the expansion, construction and maintenance of the City's Water System and approves the issuance of the Bond.

7. The City, through its Council, has legally and effectively enacted all other ordinances, contracts and agreements that are necessary to comply with the letter of conditions previously forwarded and conditions required therein and has complied with all necessary provisions of the Ordinance necessary before the Bond may be issued and delivered and so that the Bond can, in fact, be lawfully issued and delivered.

8. The execution and delivery of the Bond and the enactment of the Ordinance and compliance with the provisions of them will not conflict with nor constitute a breach of or default under any agreement or other instrument known to us to which the City is a part, or any court order or consent decree known to us to which the City is subject, or any law or administrative regulation to which the City is subject.

9. All authorization, consents, approvals and reviews by governmental bodies or regulatory authorities then required for the City's adoption, execution or performance of the Bond and the Ordinance have been obtained or affected, and we have no reason to believe that the City will be unable to obtain or affect any additional such authorizations, consents or approvals that may be required in the future for performances of any of them by the City.

10. To our knowledge, there is no action, suit, proceeding or investigation at law or in equity by any court, public board or body, pending or threatened against or affecting the City or any member of the Council, and no facts exist relating to the composition of the Council or the exercise of their duties, wherein an unfavorable decision, ruling or finding would have a materially adverse effect upon the validity of the Bond or the Ordinance.

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

The foregoing opinion is qualified to the extent that the enforceability of the liens, pledges and terms set forth in the Bond and in the Bond Ordinance may be limited by bankruptcy, insolvency and other laws affecting the rights of creditors generally.

Very truly yours,

A handwritten signature in black ink, appearing to read "Thomas N. Whittier", written over a horizontal line.

Thomas N. Whittier

TNW/lw



LAW OFFICES  
**GOODWIN & GOODWIN, LLP**  
P. O. BOX 2107  
1500 ONE VALLEY SQUARE  
CHARLESTON, WEST VIRGINIA 25328-2107  
304/346-7000  
TELECOPIER 304/344-9692

201 THIRD STREET  
PARKERSBURG, WEST VIRGINIA 26101  
304/485-2345

P. O. BOX 349  
500 CHURCH STREET  
RIPLEY, WEST VIRGINIA 25271  
304/372-2651

REPLY TO:

Charleston

June 5, 1998

United States of America  
Rural Utilities Service  
P.O. Box 303  
Parkersburg, WV 26102

City of Spencer  
207 Court Street  
Spencer, WV 25276

Re: \$885,000 City of Spencer, Water Revenue Bond,  
Series 1998

Gentlemen:

We have examined a transcript of proceedings relating to the issuance of the Water Revenue Bond, Series 1998, in the amount of \$885,000 (the "Bond"), of the City of Spencer, Roane County, West Virginia (the "Issuer"), and a "Non-Arbitrage Certificate" executed by the Mayor of the Issuer on this date.

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

Accordingly, it is our opinion that, under existing statutes, regulations, rulings and court decisions, the Bond is not an "arbitrage bond" as so defined.

GOODWIN & GOODWIN, LLP

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

Respectfully submitted,

A handwritten signature in cursive script that reads "Goodwin & Goodwin, LLP" followed by a circled "H" or similar mark.

GOODWIN & GOODWIN, LLP



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304/372-2651

REP-Charleston

June 5, 1998

City of Spencer  
207 Court Street  
Spencer, WV 25276

United States of America  
Rural Utilities Service  
P. O. Box 303  
Parkersburg, WV 26102

Re: \$885,000 City of Spencer, Water Revenue Bond,  
Series 1998

Gentlemen:

We have examined a record of proceedings relating to the issuance by the City of Spencer (the "Issuer") of its Water Revenue Bond, Series 1998, in the principal amount of \$885,000, bearing interest on the unpaid principal balance from date of delivery at the rate of four and one half percent (4.50%) per annum, and dated on the date hereof (the "Bond").

The Bond has been authorized by an ordinance (the "Bond Ordinance") duly adopted by the City Council of the Issuer, which is the governing body of the Issuer.

Interest only on the Bond is payable in monthly installments for the twenty-four (24) months after delivery of the Bond and thereafter the principal of and interest on the Bond is payable in monthly installments of \$4,063.00, to and including the 480th month after the date of the Bond, the final installment to be in the sum of the unpaid principal and interest due on the date thereof.

Principal installments upon the Bond are subject to payment in advance as provided therein and in the Bond Ordinance.

The Bond Ordinance and the Bond provide that the issue is for the purpose of financing the costs of construction and acquisition of the improvements and additions to an existing water system (the "System") of the Issuer.

## GOODWIN & GOODWIN, LLP

Upon issuance of the Bond, the Issuer has outstanding the 1970 Bond, the 1974 Bond, the 1991 Bond and the 1993 Bond, all as described in the Bond Ordinance, which are on a parity as to lien and source of and security for payment with the Bond.

In rendering this opinion, we have relied, in part, upon the opinion letter of Hedges, Jones, Whittier and Hedges, attorney to the Issuer, and the combined General Certificate of Issuer and attorney for Issuer.

It is our opinion that:

1. The Issuer is a duly organized and presently existing municipality and is a public corporation and a political subdivision of the State of West Virginia with full power and authority to construct, acquire, operate and maintain the System and issue and sell the Bond, all under the provisions of Chapter 8, Article 19 (the "Act"), of the Code of West Virginia of 1931, as amended, and other applicable provisions of law.

2. The Issuer, through its Council, has legally and effectively adopted the Bond Ordinance in connection with the bond issue and issued, sold and delivered the Bond to the Rural Utilities Service.

3. As of this date, the Bond is in due and proper form and has been duly executed and delivered and constitutes a valid and legally enforceable special obligation of the Issuer secured by and payable solely from a parity statutory lien with the Bond and the 1970 Bond, the 1974 Bond, the 1991 Bond and the 1993 Bond, as described in the Bond Ordinance, and a pledge of the net revenues of the System, all in accordance with the terms of the Bond and the Bond Ordinance.

4. The interest on the Bond is excluded from gross income for federal income tax purposes and is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations; it should be noted, however, that for the purpose of computing the alternative minimum tax imposed on corporations (as described for federal income tax purposes), such interest is taken into account in determining adjusted current earnings. The opinions set forth in the preceding sentence are subject to the condition that the Issuer comply with all requirements of the Internal Revenue Code of 1986, as amended, that must be satisfied subsequent to the issuance of the Bond in order that interest thereon be, or continue to be, excluded from gross income for federal income tax purposes. The Issuer has covenanted to comply with each such requirement. Failure to comply with certain of such requirements may cause the inclusion of interest on the Bond in gross income for federal income tax purposes to be retroactive to the date of issuance of the Bond. We express no opinion regarding other federal tax consequences arising with respect to the Bond.

5. The Bond and the interest thereon is, under the Act, exempt from taxation by the State of West Virginia or any county, municipality, political subdivision or agency thereof.

6. It is to be understood that the rights of the holder of the Bond and the enforceability of the Bond and the Bond Ordinance, and the liens and pledges set forth therein, may be subject to and this opinion is limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws

GOODWIN & GOODWIN, LLP

affecting creditors' rights heretofore or hereafter enacted to the extent constitutionally applicable and that their enforcement may also be subject to the exercise of judicial discretion in appropriate cases.

Respectfully submitted,

A handwritten signature in cursive script that reads "Goodwin & Goodwin, LLP". The signature is written in black ink and is positioned above the printed name of the firm.

GOODWIN & GOODWIN, LLP



REGISTRY

\$885,000  
CITY OF SPENCER  
WATER REVENUE BOND,  
SERIES 1998

<u>BOND NO.</u>	<u>AMOUNT</u>	<u>HOLDER</u>	<u>DATE ACQUIRED</u>
R-1	\$885,000	United States of America, United States Department of Agriculture, Rural Utilities Service Federal Building, Room 320 75 High Street Morgantown, WV 26505-7500	June 5, 1998

ALL ASSIGNMENTS OR CHANGES OF OWNERSHIP OF THIS BOND MUST BE REPORTED ON THIS REGISTRY PURSUANT TO SECTION 3.05 OF THE BOND ORDINANCE.



\$885,000  
CITY OF SPENCER  
WATER REVENUE BOND,  
SERIES 1998

RECEIPT FOR BOND NO. R-1 AND TRANSCRIPT

The undersigned, for Rural Utilities Service (the "Purchaser"), hereby certifies as follows:

1. On the 5th day of June, 1998, at Spencer West Virginia, the undersigned received for the Purchaser the City of Spencer Water Revenue Bond, Series 1998, numbered R-1, in the amount of \$885,000, dated as of the date hereof, bearing interest at the rate of 4.50% per annum, 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 Series 1998 Bond had been executed and sealed by the designated officials of the City.
3. At the time of such receipt, there was paid to said City a payment representing a portion of the aggregate principal amount of the Series 1998 Bond.
4. At the time of such receipt, there was also received by the undersigned a set of Bond Transcript documents.

WITNESS my signature on this 5th day of June, 1998.

RURAL UTILITIES SERVICE

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

Rural Development Specialist



Is your RETURN ADDRESS completed on the reverse side?

**SENDER:**

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- 1.  Addressee's Address
- 2.  Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Director  
Internal Revenue Service  
Center  
Philadelphia, PA 19255

4a. Article Number

~~PHILADELPHIA~~

4b. Service Type

- Registered  Certified
- Express Mail  Insured
- Return Receipt for Merchandise  COD

7. Date of Delivery

JUN 15 1998  
PSC PHILA., PA

5. Received By: (Print Name)

8. Addressee's Address (Only if requested and fee is paid)

6. Signature: (Addressee or Agent)

X

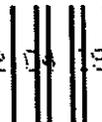
PS Form 3811, December 1994

Spencer

Domestic Return Receipt

Thank you for using Return Receipt Service.

UNITED STATES POSTAL SERVICE 06/17/98 22 04 198#0423



First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

• Print your name, address, and ZIP Code in this box •

Goodwin & Goodwin, LLP  
P.O. Box 2107  
1500 One Valley Square  
Charleston, WV 25328-2107

<b>Part I Reporting Authority</b>		If Amended Return, check here <input type="checkbox"/>	
1 Issuer's name City of Spencer, West Virginia	2 Issuer's employer identification number 55-6000256		
3 Number and street (or P.O. box if mail is not delivered to street address) 207 Court Street	Room/suite	4 Report number 619 98-1	
5 City, town, or post office, state, and ZIP code Spencer, WV 25276		6 Date of issue 6/5/98	
7 Name of issue \$885,000 City of Spencer Water Revenue Bonds, Series 1998		8 CUSIP number N/A	

<b>Part II Type of Issue (check applicable box(es) and enter the issue price)</b>		9	\$
9 <input type="checkbox"/> Education (attach schedule-see instructions)		10	
10 <input type="checkbox"/> Health and hospital (attach schedule-see instructions)		11	
11 <input type="checkbox"/> Transportation		12	
12 <input type="checkbox"/> Public safety		13	
13 <input type="checkbox"/> Environment (including sewage bonds)		14	
14 <input type="checkbox"/> Housing		15	885,000
15 <input checked="" type="checkbox"/> Utilities		16	
16 <input type="checkbox"/> Other. Describe (see instructions) ▶			
17 If obligations are tax or other revenue anticipation bonds, check box <input type="checkbox"/>			
18 If obligations are in the form of a lease or installment sale, check box <input type="checkbox"/>			

<b>Part III Description of Obligations</b>							
	(a) Maturity date	(b) Interest rate	(c) Issue price	(d) Stated redemption price at maturity	(e) Weighted average maturity	(f) Yield	(g) Net interest cost
19 Final maturity	6/5/2038	4.500 %	\$4,039.25	Par			
20 Entire issue			\$885,000	Par	26.201 years	4.500 %	4.500 %

<b>Part IV Uses of Proceeds of Bond Issue (including underwriters discount)</b>		21	
21 Proceeds used for accrued interest		22	885,000
22 Issue price of entire issue (enter amount from line 20, column (c))		23	9,000
23 Proceeds used for bond issuance costs (including underwriters discount)		24	
24 Proceeds used for credit enhancement		25	
25 Proceeds allocated to reasonably required reserve or replacement fund		26	
26 Proceeds used to currently refund prior issues		27	
27 Proceeds used to advance refund prior issues		28	9,000
28 Total (add lines 23 through 27)		29	876,000
29 Nonrefunding proceeds of the issue (subtract line 28 from line 22 and enter amount here)			

<b>Part V Description of Refunded Bonds (Complete this part only for refunding bonds)</b>		N/A	
30 Enter the remaining weighted average maturity of the bonds to be currently refunded	▶	years	
31 Enter the remaining weighted average maturity of the bonds to be advance refunded	▶	years	
32 Enter the last date on which the refunded bonds will be called	▶		
33 Enter the date(s) the refunded bonds were issued	▶		

<b>Part VI Miscellaneous</b>		N/A	
34 Enter the amount of the state volume cap allocated to the issue under section 141(b)(5)	▶	34	
35 Enter the amount of the bonds designated by the issuer under section 265(b)(3)(B)(i)(iii) (small issuer exception)	▶	35	
36a Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (see instructions)	▶	36a	
b Enter the final maturity date of the guaranteed investment contract	▶		
37 Pooled financings: a Proceeds of this issue that are to be used to make loans to other governmental units	▶	37a	
b If this issue is a loan made from the proceeds of another tax-exempt issue, check box <input type="checkbox"/> and enter the name of the issuer	▶		
38 If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box <input type="checkbox"/>	▶		
39 If the issuer has identified a hedge, check box <input type="checkbox"/>	▶		

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete.

Please Sign Here

Signature of issuer's authorized representative: Terry A. Williams Date: 6/5/98 Type or print name and title: Terry A. Williams, Mayor



LAW OFFICES  
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P. O. BOX 2107  
1500 ONE VALLEY SQUARE  
CHARLESTON, WEST VIRGINIA 25328-2107  
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201 THIRD STREET  
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304/485-2345

P. O. BOX 349  
500 CHURCH STREET  
RIPLEY, WEST VIRGINIA 25271  
304/372-2651

REPLY TO:  
Charleston

June 5, 1998

Via Certified Mail-Return Receipt  
Requested No. P-170-070-862  
Director  
Internal Revenue Service Center  
Philadelphia, PA 19255

Re: \$885,000 City of Spencer, West Virginia,  
Water Revenue Bond, Series 1998

Gentlemen:

Enclosed is a completed and executed Form 8038-G to be filed on behalf of the City of Spencer, West Virginia which provides the information required by Section 149(e) of the Internal Revenue Code of 1986, as amended. We have also enclosed a file copy to be returned to our office (after acknowledging receipt of the same) in the enclosed self-addressed, stamped envelope.

Thank you for your attention to this matter.

Sincerely yours,

*W. K. Bragg, Jr.*

William K. Bragg, Jr.

WKB/bas  
Enclosures

WV MUNICIPAL BOND COMMISSION

812 Quarrier Street,  
Suite 300  
Charleston, WV 25301  
(304) 558-3971

NEW ISSUE REPORT FORM

Date of Report: June 5, 1998  
(See Reverse for Instructions)

ISSUE: \$885,000 City of Spencer, West Virginia  
Water Revenue Bond, Series 1998

ADDRESS: 207 Court Street  
Spencer, WV 25276

COUNTY: Roane

PURPOSE: New Money X

OF ISSUE: Refunding \_\_\_ Refunds issue(s) dated:

ISSUE DATE: June 5, 1998

CLOSING DATE: June 5, 1998

ISSUE AMOUNT: \$885,000

RATE: 4.50 %

1ST DEBT SERVICE DUE: June 5, 1999

1ST PRINCIPAL DUE: July 5, 2000

1ST DEBT SERVICE AMOUNT: Not  
Available

PAYING AGENT: City of Spencer

BOND COUNSEL: Goodwin & Goodwin,  
LLP

REGISTRAR: City of Spencer  
Contact Person: David Bowen  
Phone: (304) 927-1640

Contact Person: W.K. Bragg, Jr.  
Phone: (304) 346-7000

LENDER: Rural Utilities Service  
Contact Person: Gary Wilson  
Phone: (304) 420-6666

KNOWLEDGEABLE ISSUER CONTACT:  
Contact Person: Terry A. Williams  
Position: Mayor  
Phone: (304) 927-1640

DEPOSITS TO MBC AT CLOSE:

	___	Accrued Interest:	\$	_____	
	___	Capitalized Interest:	\$	_____	
By ___	Wire	___	Reserve Account:	\$	_____
___	Check	___	Other:	\$	_____

TRANSFERS BY MBC AT CLOSE:

	___	To Escrow Trustee:	\$	_____	
By ___	Wire	___	To Issuer:	\$	_____
___	Check	___	To Cons. Invest. Fund:	\$	_____
___	IGT	___	Other:	\$	_____

Notes: \_\_\_\_\_

FOR MUNICIPAL BOND COMMISSION USE ONLY:

DOCUMENTS

REQUIRED: \_\_\_\_\_

TRANSFERS

REQUIRED: \_\_\_\_\_

(print on back of form)

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 WV 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 close are required, please submit this form before closing. If no significant facts change by closing, no resubmission at close is required. If, however, there are changes, please submit an updated form, with changes noted, at close.

If you should have any questions concerning this form, please call the Commission.





§ 8-19-1

MUNICIPAL CORPORATIONS

- Sec. security agreements; priority of liens.
- 8-19-9. Covenants with bondholders.
- 8-19-10. Operating contract.
- 8-19-11. Rates or charges for water and electric power must be sufficient to pay bonds, etc.; disposition of surplus.
- 8-19-12. Service charges; sinking fund; amount of bonds; additional bonds; surplus.
- 8-19-12a. Lien for delinquent service rates and charges; notice of delinquency; failure to cure delinquency; civil actions; deferral of filing fees and costs in magistrate court action; limitations with respect to foreclosure.
- 8-19-13. Discontinuance of water or electric power service for nonpayment of rates or charges.
- 8-19-14. Bonds for additions, betterments and improvements.
- 8-19-15. System of accounts; audit.

- Sec. 8-19-16. Protection and enforcement of rights of bondholders, etc.; receivership.

**Part V. Grants, Loans, Advances and Agreements; Cumulative Authority.**

- 8-19-17. Grants, loans, advances and agreements.
- 8-19-18. Additional and alternative method for constructing or improving and for financing waterworks or electric power system; cumulative authority.

**Part VI. Operation by Board; Construction.**

- 8-19-19. Alternative procedure for acquisition, construction or improvement of waterworks or electric power system.
- 8-19-20. Article to be liberally construed.
- 8-19-21. Specifications for water mains and water service pipes.

**Revision of article.** — Acts 1990, c. 141, amended and reenacted this article, substituting present §§ 8-19-1 — 8-19-20 for former §§ 8-19-1 to 8-19-12a, and 8-19-13 to 8-19-20 (enacted by Acts 1933, c. 26, §§ 1, 3-14 and amended by Acts 1933, 2nd Ex. Sess., c. 49; 1937, c. 52; 1939, c. 97, c. 98, § 10; 1949, c. 90; 1955, c. 133; 1961, cc. 104, 105; 1967, c. 105; 1969, c. 86; 1970, c. 7; 1971, c. 103; 1978, c. 72;

1980, c. 33; 1981, 1st Ex. Sess., c. 2; 1983, c. 151; 1984, c. 128; 1986, c. 118; 1986, 1st Ex. Sess., c. 18; 1989, c. 133). No detailed explanation of the changes made by the 1990 act was practicable, but, where appropriate, the historical citations to the former sections have been added to corresponding sections in the amended article.

**PART I. MUNICIPAL AND COUNTY WATERWORKS AND ELECTRIC POWER SYSTEMS AUTHORIZED; DEFINITION.**

**§ 8-19-1. Acquisition and operation of municipal and county waterworks and electric power systems; construction of improvements to municipal and county electric power systems; extension beyond corporate limits; definitions.**

(a) Subject to and in accordance with the provisions of this article, any municipality or county commission may acquire, construct, establish, extend, equip, repair, maintain and operate or lease to others for operation, a waterworks system or an electric power system or construct, maintain and operate additions, betterments and improvements to an existing waterworks system or an existing electric power system, notwithstanding any provision or limitation to the contrary in any other law or charter: Provided, That such

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CORPORATIONS

Sec. 8-19-16. Protection and enforcement of rights of bondholders, etc.; receivership.

Part V. Grants, Loans, Advances and Agreements; Cumulative Authority.

8-19-17. Grants, loans, advances and agreements.
8-19-18. Additional and alternative method for constructing or improving and for financing waterworks or electric power system; cumulative authority.

Part VI. Operation by Board; Construction.

8-19-19. Alternative procedure for acquisition, construction or improvement of waterworks or electric power system.
8-19-20. Article to be liberally construed.
8-19-21. Specifications for water mains and water service pipes.

1981, c. 33; 1981, 1st Ex. Sess., c. 2; 1983, c. 1984, c. 128; 1986, c. 118; 1986, 1st Ex. Sess., c. 3; 1989, c. 133). No detailed explanation of the changes made by the 1990 act was available, but, where appropriate, the historical citations to the former sections have been added to corresponding sections in the amended article.

WATERWORKS AND ELECTRIC POWER DEFINITION.

Extension of municipal and electric power system improvements to municipal limits; definitions.

provisions of this article, any person shall not construct, establish, extend, lease to others for operation, acquire, own, lease or construct, maintain and operate an existing waterworks system notwithstanding any provision or ordinance in its charter: Provided, That such

municipality or county commission shall not serve or supply water facilities or electric power facilities or services within the corporate limits of any other municipality or county commission without the consent of the governing body of such other municipality or county commission.

(b) Any municipality or county commission which intends to file an application with the federal energy regulatory commission for a license to acquire, construct, establish, extend, maintain and operate, or lease to others for operation, an electric power system, shall give written notice by certified mail, return receipt requested, and shall give public notice by Class I legal advertisement in compliance with the provisions of article three [§ 59-3-1 et seq.], chapter fifty-nine of this code and the publication area shall be the municipality or county in which the system is to be located to the governing body of the municipality or the county commission in which such system is or shall be located or, if such system is or shall be located outside of a municipality or county, to the county commission of the county in which such system is or shall be located, at least sixty days prior to the filing of such application: Provided, That the provisions of this subsection shall not apply to any municipality or county commission which, on the date of the passage of this act [Acts 1990, c. 141; March 10, 1990], has obtained a license from the federal energy regulatory commission to acquire, construct, establish, extend, maintain and operate, or lease to others for operation, an electric power system. If the municipality or county commission receiving such notice does not respond to the notice within sixty days of receipt of such notice, then such other municipality or the county commission shall be deemed to have consented to the application for the proposed electric power system. If such other municipality or the county commission notifies the municipality or county commission that it objects to the proposed electric power system, such other municipality or the county commission shall hold a public hearing on the proposed system within sixty days of receipt of such notice from the municipality or county commission.

(c) As used in this article:

(1) "Waterworks system" means a waterworks system in its entirety or any integral part thereof, including mains, hydrants, meters, valves, standpipes, storage tanks, pump tanks, pumping stations, intakes, wells, impounding reservoirs, pumps, machinery, purification plants, softening apparatus and all other facilities necessary, appropriate, useful, convenient or incidental in connection with or to a water supply system.

(2) "Electric power system" means a system or facility which produces electric power in its entirety or provides for the distribution of electric power for local consumption and use or for distribution and resale or any combination thereof, or any integral part thereof, including, but not limited to, power lines and wires, power poles, guy wires, insulators, transformers, generators, cables, power line towers, voltage regulators, meters, power substations, machinery and all other facilities necessary, appropriate, useful or convenient or incidental in connection with or to an electric power supply system. (1933, Ex. Sess., c. 26, § 1; 1937, c. 52; 1939, c. 97; 1949, c. 90; 1955, c. 133; 1969, c. 86; 1978, c. 72; 1983, c. 151; 1986, c. 118; 1986, 1st Ex. Sess., c. 18; 1990, c. 141.)

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Revision of article. — See note under the same catchline at the beginning of this article.

PART III. RIGHT OF EMINENT DOMAIN.

§ 8-19-3. Right of eminent domain; limitations.

For the purpose of acquiring, constructing, establishing or extending any waterworks system or electric power system, or for the purpose of constructing any additions, betterments or improvements to any waterworks or electric power system, or for the purpose of acquiring any property necessary, appropriate, useful, convenient or incidental for or to any waterworks or electric power system, under the provisions of this article, the municipality or county commission shall have the right of eminent domain as provided in chapter fifty-four (§ 54-1-1 et seq.) of this code: Provided, That such right of eminent domain for the acquisition of a privately owned waterworks system, or electric power system, or any part thereof, shall not be exercised without prior approval of the public service commission, and in no event shall any municipality or county commission construct, establish or extend beyond the corporate limits of said municipality or county line a municipal or county waterworks or electric power system under the provisions of this article to supply service in competition with an existing privately or municipally or county owned waterworks or electric power system in such municipality or county or within the proposed extension of such system, unless a certificate of public convenience and necessity therefor shall have been issued by the public service commission: Provided, however, That a municipality or county commission may not exercise such right of eminent domain over a privately owned electric power system or any part thereof for the purpose of acquiring, constructing, establishing or extending an electric power system.

Subject to the provisions of this article and notwithstanding the provisions of section nineteen (§ 8-12-19), article twelve of this chapter to the contrary, a municipality or county commission may acquire, construct, establish, extend, equip, repair, maintain and operate, or lease to others for operation, electric generators or electric generating systems or electric transmission systems more than one mile beyond the corporate limits of such municipality or county line and said electric generation systems shall not be under the jurisdiction of the public service commission. (1933, Ex. Sess., c. 26, § 9; 1937, c. 52; 1969, c. 86; 1978, c. 72; 1983, c. 151; 1990, c. 141.)

Revision of article. — See note under the same catchline at the beginning of this article.

PART IV. REVENUE BOND FINANCING.

INENT DOMAIN.

in; limitations.

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 ts to any waterworks or electric  
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 not be exercised without prior  
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 c. 26, § 9; 1937, c. 52; 1969, c.

§ 8-19-4. Estimate of cost; ordinance or order for issuance of revenue bonds; interest on bonds; rates for services; exemption from taxation.

Whenever a municipality or county commission shall, under the provisions of this article, determine to acquire, by purchase or otherwise, construct, establish, extend or equip a waterworks system or an electric power system, or to construct any additions, betterments or improvements to any waterworks or electric power system, it shall cause an estimate to be made of the cost thereof, and may, by ordinance or order, provide for the issuance of revenue bonds under the provisions of this article, which ordinance or order shall set forth a brief description of the contemplated undertaking, the estimated cost thereof, the amount, rate or rates of interest, the time and place of payment, and other details in connection with the issuance of the bonds. Such bonds shall be in such form and shall be negotiated and sold in such manner and upon such terms as the governing body of such municipality or county commission may by ordinance or order specify. All such bonds and the interest thereon shall be exempt from all taxation by this state, or any county, municipality or county commission, political subdivision or agency thereof. Notwithstanding any other provision of this code to the contrary, the real and personal property which a municipality or county has acquired and constructed according to the provisions of this article, and any leasehold interest therein held by other persons, shall be deemed public property and shall be exempt from taxation by the state, or any county, municipality or other levying body, so long as the same is owned by such municipality or county: Provided, That with respect to electric power systems, this exemption for real and personal property shall be applicable only for such real and personal property (1) physically situate within the municipal or county boundaries of the municipality or county which acquired or constructed such electric power system and there was in place prior to the effective date of the amendments to this section made in the year one thousand nine hundred ninety-two an agreement between the municipality and the county commission for payments in lieu of tax, or (2) acquired or constructed with the written agreement of the county school board, county commission and any municipal authority within whose jurisdiction the electric power system is or is to be physically situate. Notwithstanding anything contained in this statute to the contrary, this exemption shall be applicable to any leasehold or similar interest held by persons other than a municipality or county only if acquired or constructed with the written agreement of the county school board, county commission and any municipal authority within whose jurisdiction the electric power system is or is to be physically situate: Provided, however, That payments made to any county commission, county school board or municipality in lieu of tax pursuant to such an agreement shall be distributed as if the payments resulted from ad valorem property taxation. Such bonds shall bear interest at a rate per annum set by the municipality or county commission, payable at such times, and shall be payable as to principal

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at such times, not exceeding fifty years from their date, and at such place or places, within or without the state, as shall be prescribed in the ordinance or order providing for their issuance. Unless the governing body of the municipality or county commission shall otherwise determine, such ordinance or order shall also declare that a statutory mortgage lien shall exist upon the property so to be acquired, constructed, established, extended or equipped, fix minimum rates or charges for water or electricity to be collected prior to the payment of all of said bonds and shall pledge the revenues derived from the waterworks or electric power system for the purpose of paying such bonds and interest thereon, which pledge shall definitely fix and determine the amount of revenues which shall be necessary to be set apart and applied to the payment of the principal of and interest upon the bonds and the proportion of the balance of such revenues, which are to be set aside as a proper and adequate depreciation account, and the remainder shall be set aside for the reasonable and proper maintenance and operation thereof. The rates or charges to be charged for the services from such waterworks or electric power system shall be sufficient at all times to provide for the payment of interest upon all bonds and to create a sinking fund to pay the principal thereof as and when the same become due, and reasonable reserves therefor, and to provide for the repair, maintenance and operation of the waterworks or electric power system, and to provide an adequate depreciation fund, and to make any other payments which shall be required or provided for in the ordinance or order authorizing the issuance of said bonds. (1933, Ex. Sess., c. 26, § 3; 1933, 2nd Ex. Sess., c. 49; 1955, c. 133; 1969, c. 86; 1970, c. 7; 1978, c. 72; 1980, c. 33; 1981, 1st Ex. Sess., c. 2; 1984, c. 128; 1986, 1st Ex. Sess., c. 18; 1990, c. 141; 1992, c. 147.)

**Revision of article.** — See note under the same catchline at the beginning of this article.

**Effect of amendment of 1992.** — The amendment, effective July 1, 1992, added the fifth sentence and the proviso at the end of the fourth sentence.

**Editor's notes.** — This section refers to "the effective date of the amendments to this section made in the year one thousand nine hundred ninety-two." Acts 1992, c. 147 provided that the amendments to this section, made in 1992, take effect July 1, 1992.

**§ 8-19-5. Publication of abstract of ordinance or order and notice; hearing.**

After the ordinance or order for any project under this article has been adopted, an abstract of the ordinance or order, determined by the governing body to contain sufficient information as to give notice of the contents of such ordinance or order, together with the following described notice, shall be published as a Class II legal advertisement in compliance with the provisions of article three [§ 59-3-1 et seq.], chapter fifty-nine of this code, and the publication area for such publication shall be the municipality or county. The notice to be published with said abstract of the ordinance or order shall state that said ordinance or order has been adopted, that the municipality or county commission contemplates the issuance of the bonds described in the ordinance or order, that any person interested may appear before the governing body, upon a certain date, which shall be not less than ten days subsequent to the date of the first publication of such abstract and notice and which shall not be

from their date, and at such place or all be prescribed in the ordinance or the governing body of the municipality determine, such ordinance or mortgage lien shall exist upon the established, extended or equipped, fix electricity to be collected prior to the edge the revenues derived from the e purpose of paying such bonds and ely fix and determine the amount of t apart and applied to the payment b bonds and the proportion of the set aside as a proper and adequate hall be set aside for the reasonable hereof. The rates or charges to be orks or electric power system shall payment of interest upon all bonds apital thereof as and when the same efor, and to provide for the repair, ks or electric power system, and to to make any other payments which rdinance or order authorizing the 2 3; 1933, 2nd Ex. Sess., c. 49; 72; 1980, c. 33; 1981, 1st Ex. Sess., 1990, c. 141; 1992, c. 147.)

*Editor's notes.* — This section refers to "the tive date of the amendments to this section e in the year one thousand nine hundred y-two." Acts 1992, c. 147 provided that the dments to this section, made in 1992, take July 1, 1992.

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ject under this article has been ler, determined by the governing ive notice of the contents of such owing described notice, shall be n compliance with the provisions fifty-nine of this code, and the he municipality or county. The he ordinance or order shall state l, that the municipality or county bonds described in the ordinance ear before the governing body, han ten days subsequent to the nd notice and which shall not be

prior to the date of the last publication by such abstract and notice, and present protests, and that a certified copy of the ordinance or order is on file with the governing body for review by interested parties during the office hours of the governing body. At such hearing all protests and suggestions shall be heard and the governing body shall take such action as it considers proper in the premises: Provided, That if at such hearing written protest is filed by thirty percent or more of the freeholders of the municipality or county, then the governing body of said municipality or county shall not take further action unless four fifths of the qualified members of said governing body assent thereto. (1933, Ex. Sess., c. 26, § 4; 1967, c. 105; 1969, c. 86; 1971, c. 103; 1981, 1st Ex. Sess., c. 2; 1990, c. 141.)

*Revision of article.* — See note under the same catchline at the beginning of this article.

**§ 8-19-6. Amount, negotiability and execution of bonds.**

Bonds herein provided for shall be issued in such amounts as may be necessary to provide sufficient funds to pay all costs of acquisition, construction, establishment, extension or equipment, including engineering, legal and other expenses, together with interest to a date six months subsequent to the estimated date of completion. Bonds issued under the provisions of this article are hereby declared to be negotiable instruments, and the same shall be executed by the proper legally constituted authorities of the municipality or county commission, and be sealed with the corporate seal of the municipality or certified by the county commission, and in case any of the officers whose signatures appear on the bonds or coupons shall cease to be such officers before delivery of such bonds, such signatures shall nevertheless be valid and sufficient for all purposes the same as if they had remained in office until such delivery. All signatures on the bonds or coupons and the corporate seal may be mechanically reproduced if authorized in the ordinance or order authorizing the issuance of the bonds. (1933, Ex. Sess., c. 26, § 5; 1933, 2nd Ex. Sess., c. 49, § 5; 1969, c. 86; 1970, c. 7; 1980, c. 33; 1981, 1st Ex. Sess., c. 2; 1984, c. 128; 1990, c. 141.)

*Revision of article.* — See note under the same catchline at the beginning of this article.

**§ 8-19-7. Bonds payable solely from revenues; not to constitute municipal or county indebtedness.**

Bonds issued under the provisions of this article shall be payable solely from the revenues derived from such waterworks or electric power system, and such bonds shall not in any event constitute an indebtedness of such municipality or county within the meaning of any constitutional or statutory provision or limitation, and it shall be plainly stated on the face of each bond that the same has been issued under the provisions of this article, and that it does not constitute an indebtedness of such municipality or county within constitutional or statutory provision or limitation. Subject to the provisions of

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subsection (b), section twelve [§ 8-19-12(b)] of this article, the ordinance or order authorizing the issuance of the bonds may contain such covenants and restrictions upon the issuance of additional revenue bonds thereafter as may be considered necessary or advisable for the assurance of payment of the bonds thereby authorized and as may thereafter be issued. (1933, Ex. Sess., c. 26, § 6; 1933, 2nd Ex. Sess., c. 49; 1969, c. 86; 1978, c. 72; 1990, c. 141.)

**Revision of article.** — See note under the same catchline at the beginning of this article.

**§ 8-19-8. Lien of bondholders; deeds of trust; security agreements; priority of liens.**

Unless the governing body shall otherwise determine in the ordinance or order authorizing the issuance of bonds under this article, there shall be and there is hereby created and granted a statutory mortgage lien upon the waterworks or electric power system so acquired, constructed, established, equipped, extended or improved from the proceeds of bonds hereby authorized to be issued, which shall exist in favor of the holder of said bonds and each of them, and to and in favor of the holder of the coupons attached to said bonds, and such waterworks or electric power system shall remain subject to such statutory mortgage lien until payment in full of the principal of and interest upon said bonds.

Any municipality or county commission in acquiring an existing waterworks system or in improving an existing waterworks or electric power system may provide that financing therefor may be made by issuing revenue bonds and delivering the same at such prices as may be agreed upon within the limitations prescribed in section six [§ 8-19-6] of this article. Any revenue bonds so issued to provide financing for such existing waterworks or electric power system or for any improvements to an existing waterworks or electric power system may be secured by a mortgage or deed of trust upon and security interest in the property so acquired or improved or any other interest of the municipality or county commission in property related thereto as determined by the municipality or county commission in the ordinance or order authorizing the issuance of such revenue bonds; and in such event the holders thereof shall have, in addition to any other remedies and rights prescribed by this article, such remedies and rights as may now or hereafter exist in law in the case of mortgages or deeds of trust on real property and security interests in personal property. Such mortgage or deed of trust, upon its recordation, shall have priority over all other liens or encumbrances, however created or arising, on the property covered by such mortgage or deed of trust, to the same extent and for the same amount as if the municipality or county were obligated to pay the full amount secured by such mortgage or deed of trust immediately upon the recordation of such mortgage or deed of trust and remained so obligated until the obligations secured are fully discharged. (1933, Ex. Sess., c. 26, § 7; 1933, 2nd Ex. Sess., c. 49; 1969, c. 86; 1978, c. 72; 1986, 1st Ex. Sess., c. 18; 1990, c. 141.)

Revision of article. — See note under the same catchline at the beginning of this article.

**§ 8-19-9. Covenants with bondholders.**

Any ordinance or order authorizing the issuance of bonds hereunder, or any trust indenture with any banking institution or trust company within or without the state for the security of said bonds, which any such municipality or county commission is hereby empowered and authorized to enter into and execute, may contain covenants with the holders of such bonds as to:

(a) The purpose or purposes to which the proceeds of sale of such bonds or the revenues derived from said waterworks or electric power system may be applied and the securing, use and disposition thereof, including, if deemed desirable, the appointment of a trustee or depository for any of such funds;

(b) The pledging of all or any part of the revenues derived from the ownership, control or operation of such waterworks or electric power system, including any part thereof heretofore or hereafter acquired, constructed, established, extended or equipped or derived from any other sources, to the payment of the principal of or interest thereon of bonds issued hereunder and for such reserve or other funds as may be considered necessary or desirable;

(c) The fixing, establishing and collecting of such rates or charges for the use of the services and facilities of the waterworks or electric power system, including the parts thereof heretofore or hereafter acquired, constructed, established, extended or equipped and the revision of same from time to time, as will always provide revenues at least sufficient to provide for all expenses of repair, maintenance and operation of such waterworks or electric power system, the payment of the principal of and interest upon all bonds or other obligations payable from the revenues of such waterworks or electric power system, and all reserve and other funds required by the terms of the ordinance or order authorizing the issuance of such bonds;

(d) The transfer from the general funds of the municipality or county commission to the account or accounts of the waterworks or electric power system of an amount equal to the cost of furnishing the municipality or county commission or any of its departments, boards or agencies or the county commission with the services and facilities of such waterworks or electric power system;

(e) Subject to the provisions of subsection (b), section twelve [§ 8-19-12(b)] of this article, limitations or restrictions upon the issuance of additional bonds or other obligations payable from the revenues of such waterworks or electric power system, and the rank or priority, as to lien and source and security for payment from the revenues of such waterworks or electric power system, between bonds payable from such revenues;

(f) The manner and terms upon which all bonds and other obligations issued hereunder may be declared immediately due and payable upon the happening of a default in the payment of the principal of or interest thereon, or in the performance of any covenant or agreement with bondholders, and the manner and terms upon which such defaults may be declared cured and the acceleration of the maturity of such bonds rescinded and repealed;

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(g) Budgets for the annual repair, maintenance and operation of such waterworks or electric power system and restrictions and limitations upon expenditures for such purposes, and the manner of adoption, modification, repeal or amendment thereof, including the approval of such budgets by consulting engineers designated by holders of bonds issued hereunder;

(h) The amounts of insurance to be maintained upon such waterworks or electric power system, or any part thereof, and the use and disposition of the proceeds of any insurance; and

(i) The keeping of books of account, relating to such undertakings and the audit and inspection thereof, and the furnishing to the holders of bonds issued hereunder or their representatives, reports prepared, certified or approved by accountants designated or approved by the holders of bonds issued hereunder.

Any such ordinance, order or trust indenture may also contain such other additional covenants as shall be considered necessary or desirable for the security of the holders of bonds issued hereunder, notwithstanding that such other covenants are not expressly enumerated above, it being the intention hereof to grant to municipalities or county commissions plenary power and authority to make any and all covenants or agreements necessary in order to secure greater marketability for bonds issued hereunder as fully and to the same extent as such covenants or agreements could be made by a private corporation rendering similar services and facilities and to grant to municipalities and counties full and complete power and authority to enter into any contracts, covenants or agreements with holders of bonds issued hereunder not inconsistent with the constitution of this state. (1955, c. 133; 1969, c. 86; 1978, c. 72; 1990, c. 141.)

**Revision of article.** — See note under the same catchline at the beginning of this article.

**§ 8-19-10. Operating contract.**

Any such municipality or county commission may enter into contracts or agreements with any persons for (1) the repair, maintenance and operation and management of the facilities and properties of said waterworks or electric power system, or any part thereof, or (2) the collection and disbursement of the income and revenues therefor, or for both (1) and (2), for such period of time and under such terms and conditions as shall be agreed upon between such municipality or county commission and such persons. Any such municipality or county commission shall have plenary power and authority to provide in the ordinance or order authorizing the issuance of bonds hereunder, or in any trust indenture securing such bonds, that such contracts or agreements shall be valid and binding upon the municipality and county commission as long as any of said bonds, or interest thereon, is outstanding and unpaid. (1955, c. 133; 1969, c. 86; 1978, c. 72; 1990, c. 141.)

**Revision of article.** — See note under the same catchline at the beginning of this article.

maintenance and operation of such and restrictions and limitations upon the manner of adoption, modification, and the approval of such budgets by the holders of bonds issued hereunder; maintained upon such waterworks or electric power systems, and the use and disposition of the proceeds of such undertakings and the rights of the holders of bonds issued hereunder. The terms prepared, certified or approved by the holders of bonds issued hereunder. The ordinance may also contain such other provisions as may be deemed necessary or desirable for the purposes hereunder, notwithstanding that such provisions are provided above, it being the intention of the commission plenary power and authority necessary in order to carry out the provisions hereunder as fully and to the extent that such provisions could be made by a private utility and to grant to municipalities and authority to enter into any contracts of bonds issued hereunder not otherwise provided for. (1955, c. 133; 1969, c. 86; 1978,

**§ 8-19-11. Rates or charges for water and electric power must be sufficient to pay bonds, etc.; disposition of surplus.**

Rates or charges for water or electric power fixed precedent to the issuance of bonds shall not be reduced until all of said bonds shall have been fully paid, and may, whenever necessary, be increased in amounts sufficient to provide for the payment of the principal of and interest upon such bonds, and to provide proper funds for the depreciation account and repair, maintenance and operation charges. If any surplus shall be accumulated in the repair, maintenance and operation fund which shall be in excess of the cost of repairing, maintaining and operating the waterworks or electric power system during the remainder of the fiscal year then current, and the cost of repairing, maintaining and operating the said waterworks or electric power system during the fiscal year then next ensuing, then any such excess may be transferred to either the depreciation account or to the bond and interest redemption account, and if any surplus shall be accumulated in the depreciation account over and above that which the municipality or county commission shall find may be necessary for the probable replacements which may be needed during the then present fiscal year, and the next ensuing fiscal year, such excess may be transferred to the bond and interest redemption account, and, if any surplus shall exist in the bond and interest redemption account, the same shall be applied insofar as possible in the purchase or retirement of outstanding revenue bonds payable from such account. (1933, Ex. Sess., c. 26, § 8; 1969, c. 86; 1978, c. 72; 1990, c. 141.)

Revision of article. — See note under the same catchline at the beginning of this article.

**§ 8-19-12. Service charges; sinking fund; amount of bonds; additional bonds; surplus.**

(a) Every municipality or county commission issuing bonds under the provisions of this article shall thereafter, so long as any of such bonds remain outstanding, repair, maintain and operate its waterworks or electric power system as hereinafter provided and shall charge, collect and account for revenues therefrom as will be sufficient to pay all repair, maintenance and operation costs, provide a depreciation fund, retire the bonds and pay the interest requirements of the bonds as the same become due. The ordinance or order pursuant to which any such bonds are issued shall pledge the revenues derived from the waterworks or electric power system to the purposes aforesaid and shall definitely fix and determine the amount of revenues which shall be necessary and set apart in a special fund for the bond requirements. The amounts as and when so set apart into said special fund for the bond requirements shall be remitted to the West Virginia municipal bond commission to be retained and paid out by said commission consistent with the provisions of this article and the ordinance or order pursuant to which such bonds have been issued: Provided, That payment of principal of and interest on

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any bonds owned by the United States of America or any agency or department thereof may be made by the municipality or county commission directly to the United States of America or said agency or department thereof. The bonds hereby authorized shall be issued in such amounts as may be determined necessary to provide funds for the purpose for which they are authorized, and in determining the amount of bonds to be issued it shall be proper to include interest on the bonds for a period not beyond six months from the estimated date of completion.

(b) If the proceeds of the bonds, because of error or otherwise, shall be less than the cost of the property or undertaking for which authorized, additional bonds may be issued to provide the amount of such deficit and such additional bonds shall be considered to be of the same issue and shall be entitled to payment from the same fund without preference or priority over the bonds first authorized and issued.

(c) If the proceeds of the bonds shall exceed the cost of the property or undertaking, the surplus shall be converted into the fund thereon. (1933, Ex. Sess., c. 26, § 11; 1969, c. 86; 1978, c. 72; 1986, c. 118; 1990, c. 141.)

Revision of article. — See note under the same catchline at the beginning of this article.

**§ 8-19-12a. Lien for delinquent service rates and charges; notice of delinquency; failure to cure delinquency; civil actions; deferral of filing fees and costs in magistrate court action; limitations with respect to foreclosure.**

(a) Whenever any rates and charges for water services or facilities furnished remain unpaid for a period of thirty days after the same become due and payable, the property and the owner thereof, as well as the user of the services and facilities provided, shall be delinquent and the owner, user and property shall be held liable at law until such time as all such rates and charges are fully paid: Provided, That in the event the user is a tenant, the property owner shall be given notice of any said delinquency by certified mail, return receipt requested, and the user shall be given such notice by first-class mail: Provided, however, That failure of the user to cure the delinquency within a thirty-day period after receipt of such notice shall constitute grounds to terminate the user's lease of the premises concerned.

(b) All rates or charges for water service whenever delinquent, as provided by ordinance of the municipality or order of the county commission, shall be liens of equal dignity, rank and priority with the lien on such premises of state, county, school and municipal taxes for the amount thereof upon the real property served, and the municipality or county commission shall have plenary power and authority from time to time to enforce such lien in a civil action to recover the money due for such services rendered plus court fees and costs and a reasonable attorney's fee: Provided, That a municipality or county commission shall have exhausted all remedies available against such delinquent users before it may proceed in a civil action against the owner.

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(c) Municipalities and county commissions are hereby granted a deferral of filing fees or other fees and costs incidental to the bringing and maintenance of an action in magistrate court for the collection of the delinquent rates and charges. If the municipality or county commission collects the delinquent account, plus fees and costs, from its customer or other responsible party, the municipality or county commission shall pay to the magistrate court the filing fees or other fees and costs which were previously deferred.

(d) No municipality or county commission may foreclose upon the premises served by it for delinquent rates or charges for which a lien is authorized by this section except through the bringing and maintenance of a civil action for such purpose brought in the circuit court of the county or the county wherein the municipality lies. In every such action, the court shall be required to make a finding based upon the evidence and facts presented that the municipality or county commission had exhausted all other remedies for the collection of debts with respect to such delinquencies prior to the bringing of such action. In no event shall foreclosure procedures be instituted by any municipality or county commission or on its behalf unless such delinquency had been in existence or continued for a period of two years from the date of the first such delinquency for which foreclosure is being sought. (1989, c. 133; 1990, cc. 140, 141.)

**Revision of article.** — See note under the same catchline at the beginning of this article.

**Effect of amendments of 1990.** — Acts 1990, c. 140 rewrote the section as set out in the editor's notes.

Acts 1990, c. 141, set out above, rewrote this section as part of the revision of this article by that act.

**Editor's notes.** — This section was amended twice in 1990, first by c. 140 (passed March 10, and effective 90 days from passage) and then by c. 141 (passed March 10, and in effect from passage). The text set out above reflects the amendment by c. 141, which amended and reenacted the entire article. As amended by c. 140, this section read: "(a) Whenever any rates and charges for water services or facilities furnished remain unpaid for a period of thirty days after the same become due and payable, the user of the services and facilities provided shall be delinquent and the user shall be held liable at law until such time as all such rates and charges are fully paid.

"(b) All rates or charges for water service whenever delinquent, as provided by ordinance of the municipality, shall be liens of equal dignity, rank and priority with the lien on such premises of state, county, school and municipal taxes for the amount thereof upon the real property served, and the municipality shall have plenary power and authority from time to time to enforce such lien in a civil action to recover the money due for such services rendered plus court fees and costs and a reasonable attorney's fee: Provided, That an owner of real property may not be held liable for the

delinquent rates or charges for services or facilities of a tenant, nor shall any lien attach to real property for the reason of delinquent rates or charges for services or facilities of a tenant of such real property, unless the owner has contracted directly with the municipality to purchase such services or facilities.

"(c) Municipalities are hereby granted a deferral of filing fees or other fees and costs incidental to the bringing and maintenance of an action in magistrate court for the collection of the delinquent rates and charges. If the municipality collects the delinquent account, plus fees and costs, from its customer or other responsible party, the municipality shall pay to the magistrate court the filing fees or other fees and costs which were previously deferred.

"(d) No municipality may foreclose upon the premises served by it for delinquent rates or charges for which a lien is authorized by this section except through the bringing and maintenance of a civil action for such purpose brought in the circuit court of the county wherein the municipality lies. In every such action, the court shall be required to make a finding based upon the evidence and facts presented that the municipality had exhausted all other remedies for the collection of debts with respect to such delinquencies prior to the bringing of such action. In no event shall foreclosure procedures be instituted by any municipality or on its behalf unless such delinquency had been in existence or continued for a period of two years from the date of the first such delinquency for which foreclosure is being sought."

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§ 8-19-13. Discontinuance of water or electric power service for nonpayment of rates or charges.

Any such municipality or county commission shall also have plenary power and authority, and may covenant with the holders of any bonds issued hereunder, to shut off and discontinue the supplying of the water or electric power service of said waterworks or electric power system for the nonpayment of the rates or charges for said water or electric power service. (1955, c. 133; 1969, c. 86; 1978, c. 72; 1990, c. 141.)

Revision of article. — See note under the same catchline at the beginning of this article.

§ 8-19-14. Bonds for additions, betterments and improvements.

Whenever any municipality or county commission shall now or hereafter own and operate a waterworks or electric power system, whether acquired, constructed, established, extended or equipped under the provisions of this article or not, and shall desire to construct additions, betterments or improvements thereto, it may issue revenue bonds under the provisions of this article to pay for the same, and the procedure therefor, including the fixing of rates or charges and the computation of the amount thereof, and the power and authority in connection therewith, shall be the same as in this article provided for the issuance of bonds for the acquisition, construction, establishment, extension or equipment of a waterworks system or electric power system in a municipality or county which has not heretofore owned and operated a waterworks or electric power system: Provided, That nothing in this article shall be construed as authorizing any municipality or county commission to impair or commit a breach of the obligation of any valid lien or contract created or entered into by it, the intention being to authorize the pledging, setting aside and segregation of such revenues for the construction of such additions, betterments or improvements only where and to the extent consistent with outstanding obligations of such municipality or county commission, and in accordance with the provisions of this article. (1933, Ex. Sess., c. 26, § 10; 1933, 2nd Ex. Sess., c. 49; 1969, c. 86; 1978, c. 72; 1990, c. 141.)

Revision of article. — See note under the same catchline at the beginning of this article.

§ 8-19-15. System of accounts; audit.

Any municipality or county commission operating a waterworks or electric power system under the provisions of this article shall set up and maintain a proper system of accounts in accordance with the requirements of the public service commission, showing the amount of revenues received from such waterworks or electric power system and the application of the same. At least once each year such municipality or county commission shall cause such accounts to be properly audited, and a report of such audit shall be open to the

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**Water or electric power service at rates or charges.**

Commission shall also have plenary power over the holders of any bonds issued for the supplying of the water or electric power system for the nonpayment of electric power service. (1955, c. 133;

**Waterworks and electric power systems - betterments and improve-**

Commission shall now or hereafter over a waterworks or electric power system, whether acquired, owned or operated under the provisions of this article or any other law, additions, betterments or improvements made under the provisions of this article or any other law, including the fixing of rates or charges therefor, and the power and authority to do the same as in this article provided for the construction, establishment, extension or electric power system in a waterworks or electric power system heretofore owned and operated a municipality or county commission provided, That nothing in this article shall be construed to authorize the pledging, setting or creating of any valid lien or contract created to authorize the pledging, setting or creating of such additions, and to the extent consistent with this article. (1933, Ex. Sess., c. 26, § 10; 1978, c. 72; 1990, c. 141.)

**Audit.**

When operating a waterworks or electric power system, the commission shall set up and maintain a system of accounts in accordance with the requirements of the public utility commission of revenues received from such waterworks or electric power system and the application of the same. At least once a year the public utility commission shall cause such an audit of such audit shall be open to the

public for inspection at all reasonable times. (1939, c. 98, § 10; 1969, c. 86; 1978, c. 72; 1990, c. 141.)

**Revision of article.** — See note under the same catchline at the beginning of this article.

**§ 8-19-16. Protection and enforcement of rights of bondholders, etc.; receivership.**

Any holder of any bonds issued under the provisions of this article or of any coupons representing interest accrued thereon may by civil action, mandamus or other proper proceeding enforce the statutory mortgage lien created and granted in section eight of this article, protect and enforce any and all rights granted hereunder or under any such ordinance, order or trust indenture, and may enforce and compel performance of all duties required by the provisions of this article or by any such ordinance, order or trust indenture to be performed by the municipality or county commission, or by the governing body or any officer, including the making and collecting of reasonable and sufficient rates or charges for services rendered by the waterworks or electric power system. If there be default in the payment of the principal of or interest upon any of such bonds, or of both principal and interest, any court having jurisdiction shall appoint a receiver to administer said waterworks or electric power system on behalf of the municipality or county commission, and the bondholders or trustee, or both, with power to charge and collect rates or charges sufficient to provide for the retirement of the bonds and pay the interest thereon, and for the payment of the repair, maintenance and operation expenses, and such receiver shall apply the revenues in conformity with the provisions of this article and the ordinance or order pursuant to which such bonds have been issued or any trust indenture, or both. (1933, Ex. Sess., c. 26, § 12; 1969, c. 86; 1978, c. 72; 1990, c. 141.)

**Revision of article.** — See note under the same catchline at the beginning of this article.

PART V. GRANTS, LOANS, ADVANCES AND AGREEMENTS; CUMULATIVE AUTHORITY.

**§ 8-19-17. Grants, loans, advances and agreements.**

As an alternative to, or in conjunction with, the issuance of revenue bonds authorized by this article, any municipality or county commission is hereby empowered and authorized to accept loans or grants and procure loans or temporary advances evidenced by notes or other negotiable instruments issued in the manner, and subject to the privileges and limitations, set forth with respect to bonds authorized to be issued under the provisions of this article, or otherwise enter into agreement, including, but not limited to, agreements of indemnity, assurance or guarantee with respect to, and for the purpose of financing part or all of, the cost of acquisition, construction, establishment, extension or equipment of waterworks or electric power systems and the

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construction of additions, betterments and improvements to existing waterworks systems or to existing electric power systems, and for the other purposes herein authorized, from or with any authorized agency of the state or from the United States of America or any federal or public agency or department of the United States or any private agency, corporation or individual, which loans or temporary advances, including the interest thereon, or the municipality's or county's financial obligations contained in such other agreements, which need not bear interest, may be repaid out of the proceeds of bonds authorized to be issued under the provisions of this article, the revenues of or proceeds from the said waterworks system or electric power system or grants to the municipality or county commission from any agency of the state or from the United States of America or any federal or public agency or department of the United States or any private agency, corporation or individual or from any combination of such sources of payment, and may be secured in the manner provided in sections eight, nine and sixteen [§§ 8-19-8, 8-19-9 and 8-19-16] of this article to secure bonds issued under the provisions of this article, but shall not otherwise be subject to the requirements of sections eleven and twelve [§§ 8-19-11 and 8-19-12] of this article, and to enter into the necessary contracts and agreements to carry out the purposes hereof with any agency of the state, the United States of America or any federal or public agency or department of the United States, or with any private agency, corporation or individual.

In no event shall any such loan or temporary advance or agreement be a general obligation of the municipality or county and such loans or temporary advances or agreements, including the interest thereon, shall be paid solely from the sources specified in this section. (1961, c. 105; 1969, c. 86; 1978, c. 72; 1981, 1st Ex. Sess., c. 2; 1986, c. 118; 1986, 1st Ex. Sess., c. 18; 1990, c. 141.)

Revision of article. — See note under the same catchline at the beginning of this article.

§ 8-19-18. Additional and alternative method for constructing or improving and for financing waterworks or electric power system; cumulative authority.

This article shall, without reference to any other statute or charter provision, be deemed full authority for the acquisition, construction, establishment, extension, equipment, additions, betterment, improvement, repair, maintenance and operation of or to a waterworks or electric power system or for the construction of any additions, betterments, improvements, repairs, maintenance or operation of or to an existing electric power system as herein provided and for the issuance and sale of the bonds or the alternative methods of financing by this article authorized, and shall be construed as an additional and alternative method therefor and for the financing thereof, and no petition, referendum or election or other or further proceeding with respect to any such undertaking or to the issuance or sale of bonds or the alternative methods of financing under the provisions of this article and no publication of any

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improvements to existing water-  
 systems, and for the other purposes  
 of any agency of the state or from the  
 public agency or department of the  
 state or individual, which loans or  
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### Alternative method for con- struction; and for financing wa- ter system; cumulative

other statute or charter provi-  
 sion, construction, establishment,  
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 nance of power system as herein provided  
 or the alternative methods of  
 financing thereof, and no petition,  
 proceeding with respect to any such  
 loans or the alternative methods of  
 financing thereof, and no publication of any

resolution, ordinance, order, notice or proceeding relating to any such under-  
 taking or to the issuance or sale of such bonds or the alternative methods of  
 financing shall be required, except as prescribed by this article, any provisions  
 of other statutes of the state to the contrary notwithstanding: Provided, That  
 all functions, powers and duties of the state division of health shall remain  
 unaffected by this article.

This article shall be construed as cumulative authority for any undertaking  
 herein authorized, and shall not be construed to repeal any existing laws with  
 respect thereto. (1933, Ex. Sess., c. 26, § 13; 1969, c. 86; 1978, c. 72; 1986, 1st  
 Ex. Sess., c. 18; 1990, c. 141.)

Revision of article. — See note under the  
 same catchline at the beginning of this article.

### PART VI. OPERATION BY BOARD; CONSTRUCTION.

#### § 8-19-19. Alternative procedure for acquisition, construc- tion or improvement of waterworks or electric power system.

As an alternative to the procedures hereinabove provided, any municipality  
 or county commission is hereby empowered and authorized to acquire, con-  
 struct, establish, extend, equip, repair, maintain and operate a waterworks or  
 an electric power system or to construct, maintain and operate additions,  
 betterments and improvements to an existing waterworks system or an  
 existing electric power system, whether acquired, constructed, established,  
 extended or equipped under the provisions of this article or not, and to collect  
 the revenues therefrom for the services rendered thereby, through the super-  
 vision and control of a committee, by whatever name called, composed of all or  
 a portion of the governing body, or of a board or commission appointed by such  
 governing body, as may be provided by the governing body, and if such  
 alternative is followed, said committee, board or commission shall have and be  
 limited to all the powers, authority and duties granted to and imposed upon a  
 board as provided in article sixteen [§ 8-16-1 et seq.] of this chapter. (1961, c.  
 104; 1969, c. 86; 1978, c. 72; 1990, c. 141.)

Revision of article. — See note under the  
 same catchline at the beginning of this article.

*If operated by a water  
 board, then look at  
 Art. 16.*

#### § 8-19-20. Article to be liberally construed.

This article is necessary for the public health, safety and welfare and shall  
 be liberally construed to effectuate its purposes. (1933, Ex. Sess., c. 26, § 14;  
 1969, c. 86; 1990, c. 141.)

Revision of article. — See note under the  
 same catchline at the beginning of this article.

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§ 8-19-21. Specifications for water mains and water service pipes.

Considering the importance of public fire protection, any state or local government, public service district, public or private utility which installs, constructs, maintains, or upgrades water mains, shall ensure that all new mains specifically intended to provide fire protection are supplied by mains which are not less than six inches in diameter. A permit or other written approval shall be obtained from the Department of Health and Human Resources for each hydrant or group of hydrants installed in compliance with section nine (§ 16-1-9), article one, chapter sixteen of the West Virginia Code as amended: Provided, That all newly constructed water distribution systems transferred to a public or private utility shall have mains at least six inches in diameter where fire flows are desired or required by the public or private utility: Provided, however, That the utility providing service has sufficient hydraulic capacity as determined by the Department of Health and Human Resources. (1994, c. 31.)

ARTICLE 20.

COMBINED WATERWORKS AND SEWERAGE SYSTEMS.

Part III. Revenue Bond Financing.

Sec.

trate court action; limitation with respect to foreclosure.

Sec.

8-20-10. Power and authority of municipality to enact ordinances and make rules and regulations and fix rates or charges; change in rates or charges; failure to cure delinquency; delinquent rates or charges as liens; civil action for recovery thereof; deferral of filing fees and costs in magis-

Part IV. Grants, Loans and Advances; Cumulative Authority.

8-20-17. Additional and alternative method for constructing, etc., and financing combined waterworks and sewerage system; cumulative authority.

PART III. REVENUE BOND FINANCING.

§ 8-20-10. Power and authority of municipality to enact ordinances and make rules and regulations and fix rates or charges; change in rates or charges; failure to cure delinquency; delinquent rates or charges as liens; civil action for recovery thereof; deferral of filing fees and costs in magistrate court action; limitation with respect to foreclosure.

(a) The governing body of any municipality availing itself of the provisions of this article shall have plenary power and authority to make, and enforce all needful rules and regulations for the repair, maintenance, operation and management of the combined waterworks and sewerage system.