

THE CITY OF ST. MARYS

\$49,000 COMBINED WATERWORKS AND  
SEWERAGE SYSTEM REVENUE REFUNDING  
BONDS, SERIES 1996 A

\$128,000 COMBINED WATERWORKS AND  
SEWERAGE SYSTEM REVENUE BONDS,  
SERIES 1996 B

November 13, 1996

THE CITY OF ST. MARYS  
\$49,000 COMBINED WATERWORKS AND SEWERAGE SYSTEM  
REVENUE REFUNDING BONDS, SERIES 1996 A  
AND  
\$128,000 COMBINED WATERWORKS AND SEWERAGE SYSTEM  
REVENUE BONDS, SERIES 1996 B

Closing: November 13, 1996

TRANSCRIPT OF PROCEEDINGS

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The closing of the sale of the City of St. Marys Waterworks and Sewerage System Bonds, Series 1996 A and Series 1996 B (the "Bonds"), will take place at City Hall, St. Marys, West Virginia, at 10:30 a.m. prevailing time on November 13, 1996. No transaction shall be deemed to have been completed and no documents shall be deemed to have been delivered unless or until all transactions are complete and all documents delivered.

3:52465

# State of West Virginia



## Certificate

*I, Ken Heckler, Secretary of State of the  
State of West Virginia, hereby certify that*

THIS IS A TRUE COPY OF CHAPTER 8, ARTICLE 20 OF THE WEST  
VIRGINIA CODE AND CHAPTER 8, ARTICLE 20 OF THE 1996 CUMU-  
LATIVE SUPPLEMENT TO THE WEST VIRGINIA CODE AS INDICATED  
BY THE RECORDS OF THIS OFFICE.



*Given under my hand and the  
Great Seal of the State of  
West Virginia on this  
Twelfth day of*

*November 12 19 96*

*Ken Heckler*

*Secretary of State  
by Mary C. Cathey, Esq.*

## ARTICLE 20.

## COMBINED WATERWORKS AND SEWERAGE SYSTEMS.

## Part I. Combined Waterworks and Sewerage Systems Authorized; Definitions.

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- 8-20-1. Acquisition and operation of combined waterworks and sewerage systems; extension beyond corporate limits; definitions.
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- 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; notice of delinquency; 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; limitations with respect to foreclosure.

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- 8-20-16. Grants, loans and advances.

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

## Part V. Operation by Board; Construction.

- 8-20-18. Alternative procedure for acquisition, construction, etc., of combined waterworks and sewerage system.

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

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

Legislative intent. — It appears clear that the legislature recognized the need for municipal utility systems; however, it did not wish the municipality to become generally obligated

for the building or acquisition of the system. Financing is provided for primarily by revenue bonds, and bondholders are assured of a safe investment through the collection of sufficient user charges to service the bonds and maintain the assets of the system. Op. Atty Gen., April 3, 1979.

## PART I. COMBINED WATERWORKS AND SEWERAGE SYSTEMS AUTHORIZED; DEFINITIONS.

## § 8-20-1. Acquisition and operation of combined waterworks and sewerage systems; extension beyond corporate limits; definitions.

Any municipality may acquire, construct, establish and equip and thereafter repair, maintain and operate a combined waterworks and sewerage system either wholly within or partly within and partly without the corporate limits thereof, under the provisions of this article, and any municipality owning and operating either a waterworks or a sewerage system, but not both, may acquire, construct, establish and equip the waterworks or sewerage system which it does not then own and operate, and in either of such cases such municipality may provide by ordinance that when such waterworks or sewerage system, or both, shall have been acquired, constructed, established and equipped, the same shall thereafter be owned, repaired, maintained and operated as a combined undertaking under the provisions of this article, and any municipality already owning and operating an existing waterworks system and an existing sewerage system may by ordinance combine the same into a single undertaking under the provisions of this article.

Any municipality which has combined its waterworks and sewerage system under the provisions of this article, or pursuant to provisions of any other law, may hereafter construct extensions, additions, betterments and improvements to either the waterworks system or the sewerage system of said combined waterworks and sewerage system, or both, and may finance the acquisition, construction, establishment and equipment of any such waterworks or sewerage system, or both, or the construction of extensions, additions, betterments and improvements to either the waterworks system or the sewerage system of such combined waterworks and sewerage system, or both, by the issuance of revenue bonds under the provisions of this article.

Notwithstanding the provisions of any other law or charter to the contrary, any such municipality may serve and supply the area included within twenty miles outside its corporate limits with the water or sewer services and facilities, or both, of its combined waterworks and sewerage system: Provided, That such water or sewer services and facilities shall not be served or supplied within the corporate limits of any other municipality without the consent of the governing body of such other municipality.

When used in this article, the term "waterworks system" shall be construed to mean and include 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; the term "sewerage system" shall be construed to mean and include any or all of the following: A sewerage treatment plant or plants, collecting, intercepting and outlet sewers, lateral sewers, drains, force

mains, conduits, pumping stations, ejector stations and all other appurtenances, extensions, additions and improvements necessary, appropriate, useful, convenient or incidental for the collection, treatment and disposal in a sanitary manner of sewage and industrial wastes; and the term "combined waterworks and sewerage system" shall be construed to mean and include a waterworks and sewerage system, which a municipality determines by ordinance to operate in combination. (1939, c. 98, §§ 1, 2, 1947, c. 112; 1955, c. 131; 1969, c. 86.)

**Plant expansion or repair.** — Considering the general grant of authority provided by § 8-12-5(32) there is no language in this article that would prevent a municipality from granting funds to its combined waterworks and sewerage system to be used for plant expansion or repair. What this section does say, however, is that if the municipality wishes to finance any of the activities governed by the article, it must do so by revenue bonds or by loans or advances under § 8-20-16. *Op. Att'y Gen.*, April 3, 1979.

**Power of eminent domain.** — Municipalities that operate sewer systems may exercise the power of eminent domain. When such a municipality is obliged to exercise that power in furtherance of its public responsibility, but refuses to do so, the public service commission may require the exercise of the power by appropriate order. *Broadmoor/Timberline Apts. v. Public Serv. Comm'n.*, 376 S.E.2d 593 (W. Va. 1968).

### § 8-20-1a. Cooperation with other governmental units.

In carrying out any lawful purpose prescribed by this article, any municipality may, in the exercise of its powers, duties and responsibilities, cooperate or join with the State of West Virginia or any political subdivision, agency, board, commission, office or department thereof, however designated, or with the United States of America or any agency or department thereof. (1976, c. 83.)

### § 8-20-1b. Severance of combined system.

Any municipality which has combined its waterworks and sewerage system under the provisions of this article, or pursuant to provisions of any other law, may hereafter sever said combined waterworks and sewerage system if the following conditions are met:

- (a) An ordinance is enacted by the governing body of the municipality severing the combined waterworks and sewerage system into a separate waterworks system and a separate sewerage system.
- (b) If revenue bonds or notes or other obligations with a lien on or pledge of the revenues of said combined waterworks and sewerage system, or any part thereof, are outstanding, then the municipality must provide in said ordinance (i) that the severance of the combined waterworks and sewerage system is not effective until all such outstanding revenue bonds or notes or other obligations with a lien on or pledge of the revenues of the system, or any part thereof, are paid and (ii) the method for paying said outstanding revenue bonds or notes or other obligations. For the purposes of this section, said municipality may provide for payment of said outstanding revenue bonds or notes or other obligations by:

(1) Depositing moneys and funds with the West Virginia municipal bond commission or in escrow with a corporate trustee, which may be a trust company or bank having powers of a trust company within or without the state of West Virginia selected by the issuer to pay interest when due and to pay principal when due, whether at maturity or earlier redemption;

(2) Depositing securities with the municipal bond commission or said escrow trustee, the principal of and earnings on which will provide moneys sufficient to pay interest when due and to pay principal when due, whether at maturity or earlier redemption; or

(3) Depositing with the municipal bond commission or said escrow trustee any combination of the foregoing sufficient to pay interest when due and to pay principal when due, whether at maturity or earlier redemption.

(c) If the combined waterworks and sewerage system is under the supervision and control of a separate committee, board or commission, then the governing body of the municipality must provide for the dissolution of such committee, board or commission, and the creation of such other committees, boards or commissions as may be required by law. (1986, c. 118.)

## PART II. RIGHT OF EMINENT DOMAIN.

### § 8-20-2. Right of eminent domain; limitations.

For the purpose of acquiring, constructing, establishing or extending any waterworks system or any sewerage system, or a combined waterworks and sewerage system, or for the purpose of constructing any additions, betterments or improvements to any such waterworks or sewerage system, or a combined waterworks and sewerage system, or for the purpose of acquiring any property necessary, appropriate, useful, convenient or incidental for or to any waterworks or sewerage system, or combined waterworks and sewerage system, under the provisions of this article, the municipality 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 complete privately owned waterworks system shall not be exercised without prior approval of the public service commission, and in no event shall any municipality construct, establish or extend beyond the corporate limits of said municipality a municipal waterworks system or a combined waterworks and sewerage system under the provisions of this article to supply service in competition with an existing privately or municipally owned waterworks system or combined waterworks and sewerage system in such municipality 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. (1947, c. 112; 1969, c. 86.)

PART III. REVENUE BOND FINANCING.

**§ 8-20-3. Ordinance describing project; contents.**

The governing body of any municipality availing itself of the provisions of this article shall adopt an ordinance describing in a general way the contemplated project. If it is intended to include in the combined waterworks and sewerage system any existing waterworks system or any existing sewerage system, or both, such ordinance shall provide that it or they be so included in such combined system and shall describe in a general way such existing waterworks or sewerage system or both to be included in the combined waterworks and sewerage system. Such ordinance shall state the means provided for refunding any obligations unpaid and outstanding payable solely from the revenues of any such waterworks or sewerage system, or both. Such ordinance shall determine the period of usefulness of the contemplated project. If it is intended to acquire, construct, establish and equip a combined waterworks and sewerage system or any part thereof, or to construct extensions, additions, betterments and improvements to either the waterworks system or the sewerage system of said combined waterworks and sewerage system, or both, the ordinance shall describe in a general way the works or property or system to be acquired, constructed, established or equipped or the extensions, additions, betterments and improvements to be constructed. Such ordinance shall fix the amount of revenue bonds proposed to be issued, the interest rate or rates, and any other details in connection with such bonds deemed advisable. Such ordinance may state that the bonds, or such ones thereof as may be specified, shall, to the extent and in the manner prescribed, be subordinated and be junior in standing, with respect to principal and interest and the security thereof, to such other bonds as are designated in the ordinance. (1939, c. 98, § 4; 1947, c. 112; 1949, c. 91; 1969, c. 86.)

**§ 8-20-4. Publication of abstract of ordinance and notice; hearing.**

After the ordinance for any project under the provisions of this article has been adopted, an abstract of the ordinance, determined by the governing body to contain sufficient information as to give notice of the contents of such ordinance, 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 such municipality. The notice to be published with said abstract of the ordinance shall state that said ordinance has been adopted, that the municipality contemplates the issuance of the bonds described in the ordinance, that any person interested may appear before the governing body upon a certain date, which shall not be less than ten days subsequent to the date of the first publication of such abstract and notice and which shall not be prior to the date of the last publication of such abstract and notice, and present protests and that a certified copy of the ordinance 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 shall deem 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, then the governing body of said municipality shall not take further action unless four fifths of the qualified members of said governing body assent thereto. (1939, c. 98, § 5; 1947, c. 112; 1967, c. 105; 1969, c. 86; 1971, c. 103; 1981, 1st Ex. Sess., c. 2.)

**§ 8-20-5. Amount, negotiability and execution of bonds; re-fund of outstanding obligations or securities by sale or exchange of bonds.**

For the purpose of defraying the cost of acquisition, construction, establishment or equipment of any such waterworks or sewerage system, or a combined waterworks and sewerage system, and for the purpose of paying the cost of constructing any extensions, additions, betterments or improvements to either the waterworks or sewerage system of said combined waterworks and sewerage system, or both, any such municipality may issue revenue bonds under the provisions of this article. All such bonds may be authorized, issued and sold pursuant to ordinance in installments at different times or an entire issue or series may be sold at one time. Such bonds shall bear interest at a rate not to exceed twelve percent per annum, payable at such times, and shall mature within the period of usefulness of the project involved, to be determined by the governing body and in any event within a period of not more than forty years. Such bonds may be in such denomination or denominations, and be in such form, either coupon or registered, may carry such registration and conversion privileges, may be executed in such manner, may be payable in such medium of payment, at such place or places, may be subject to such terms of redemption, with or without a premium, may be declared to become due before the maturity date thereof, may provide for the replacement of mutilated, destroyed, stolen or lost bonds, may be authenticated in such manner and upon compliance with such conditions, and may contain such other terms and covenants, as may be provided by ordinance of the governing body of the municipality. Notwithstanding the form or tenor thereof, and in the absence of an express recital on the face thereof that the bond is nonnegotiable, all such bonds shall at all times be, and shall be treated as, negotiable instruments for all purposes. Said bonds and the interest thereon, together with all properties and facilities of said municipality owned or used in connection with said combined waterworks or sewerage system, and all the moneys, revenues and other income of such municipality derived from such combined waterworks and sewerage system shall be exempt from all taxation by this State or any county, municipality, political subdivision or agency thereof. Such bonds may be sold in such manner as the governing body shall determine. If any such bonds shall be issued to bear interest at a rate of twelve percent per annum, the price at which they may be sold shall be such that the

interest cost of such municipality of the proceeds of such bonds shall not exceed thirteen percent per annum computed to maturity according to the standard table of bond values. If the governing body of the municipality determines to sell any revenue bonds of such combined waterworks and sewerage system for refunding purposes, the proceeds of such bonds shall be deposited at the place of payment of the bonds, obligations or securities being refunded thereby. In case any officer whose signature appears on such bonds or coupons attached thereto shall cease to be such officer before the delivery of the bonds to the purchaser, such signature shall nevertheless be valid and sufficient for all purposes, with the same effect as if he had remained in office until the delivery of the bonds. All signatures on the bonds or coupons and the corporate seal may be mechanically reproduced if authorized in the ordinance authorizing the issuance of the bonds. Such bonds shall have all the qualities of negotiable instruments under the laws of this State.

Whenever a waterworks and sewerage system is included in a combined waterworks and sewerage system under the provisions of this article and there are unpaid and outstanding revenue bonds or any other obligations or securities previously issued which are payable solely from the revenues of such waterworks or such sewerage system or any part thereof, such outstanding bonds, obligations or securities may be refunded by the issuance and sale or exchange thereof of revenue bonds to be issued under the provisions of this article. Whenever any outstanding bonds, obligations or securities previously issued which are payable solely from the revenues of any waterworks or sewerage system included in a combined waterworks and sewerage system under the provisions of this article are refunded and the refunding is to be accomplished by exchange, such outstanding bonds, obligations or securities shall be surrendered and exchanged for revenue bonds of such combined waterworks and sewerage system of a total principal amount which shall not be more and may be less than the principal amount of the bonds, obligations or securities surrendered and exchanged plus the interest to accrue thereon to the date of surrender and exchange, and if the refunding is to be accomplished through the sale of revenue bonds of such combined waterworks and sewerage system the total principal amount of such revenue bonds which may be sold for refunding purposes shall not exceed the principal amount of the bonds, obligations or securities being refunded plus the interest to accrue thereon to the retirement date or the next succeeding interest payment date, whichever date may be earlier. Provision may be made that each bond to be exchanged for refunding bonds shall be kept intact and shall not be canceled or destroyed until the refunding bonds, and interest thereon, have been finally paid and discharged; but each such bond shall be stamped with a legend to the effect that the same has been refunded pursuant to the provisions of this article. (1939, c. 98, § 3; 1947, c. 112; 1957, c. 123; 1969, c. 86; 1970, c. 7; 1980, c. 33; 1981, 1st Ex. Sess., c. 2.)

### § 8-20-6. Bonds payable solely from revenues; not to constitute municipal indebtedness.

Bonds issued under the provisions of this article shall be payable solely from the revenues derived from the combined waterworks and sewerage system, and such bonds shall not in any event constitute an indebtedness of such municipality 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 within any constitutional or statutory provision or limitation. The ordinance authorizing the issuance of the bonds may contain such covenants and restrictions upon the issuance of additional revenue bonds thereafter as may be deemed necessary or advisable for the assurance of payment of the bonds thereby authorized and as may thereafter be issued. (1939, c. 98, § 6; 1969, c. 86.)

### § 8-20-7. Lien of bondholders.

There shall be and there is hereby created and granted a statutory mortgage lien upon such combined waterworks and sewerage system which shall exist in favor of the holder of bonds hereby authorized to be issued, and each of them, and to and in favor of the holder of the coupons attached to said bonds, and such combined waterworks and sewerage system shall remain subject to such statutory mortgage lien until payment in full of the principal of and interest upon said bonds.

Any municipality in acquiring an existing waterworks system may provide that payment therefor shall be made by issuing revenue bonds and delivering the same at such prices as may be agreed upon within the limitations prescribed in section five [§ 8-20-5] hereof. Any revenue bonds so issued in payment for such an existing waterworks system shall for all purposes be regarded as partaking of the nature of and as being secured by a purchase money mortgage upon the property so acquired; and 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 purchase money mortgages. (1939, c. 98, § 8; 1947, c. 112; 1969, c. 86.)

### § 8-20-8. Covenants with bondholders.

Any ordinance 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 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 combined waterworks and sewerage 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 combined waterworks and sewerage system, including any part thereof heretofore or hereafter acquired, constructed, established, extended, equipped, added to, bettered or improved 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 deemed necessary or desirable;

(c) The fixing, establishing and collecting of such rates or charges for the use of the services and facilities of the combined waterworks and sewerage system, including the parts thereof heretofore or hereafter acquired, constructed, established, extended, equipped, added to, bettered or improved 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 combined waterworks and sewerage system, the payment of the principal of and interest upon all bonds or other obligations payable from the revenues of such combined waterworks and sewerage system, and all reserve and other funds required by the terms of the ordinance authorizing the issuance of such bonds;

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

(e) Limitations or restrictions upon the issuance of additional bonds or other obligations payable from the revenues of such combined waterworks and sewerage system, and the rank or priority, as to lien and source and security for payment from the revenues of such combined waterworks and sewerage 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;

(g) Budgets for the annual repair, maintenance and operation of such combined waterworks and sewerage 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 combined waterworks and sewerage 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 undertaking 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 or trust indenture may also contain such other additional covenants as shall be deemed 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 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 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. 131; 1969, c. 86.)

§ 8-20-9. Operating contract.

Any such municipality 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 combined waterworks and sewerage system, or any part thereof, or (2) the collection and disbursement of the income and revenues thereof, 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 and such persons. Any such municipality shall have plenary power and authority to provide in the ordinance 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 as long as any of said bonds, or interest thereon, is outstanding and unpaid. (1955, c. 131; 1969, c. 86.)

§ 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; notice of delinquency; 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; limitations 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, enact and enforce all needful rules and regulations for the repair, maintenance and operation and management of the combined waterworks and sewerage system of such municipality and for the use thereof, and shall also have plenary power and authority to make, enact and enforce all needful rules and regulations and ordinances for the care and protection of any such system, which may be conducive to the preservation of the public health, comfort and convenience and to rendering the water supply of such municipality pure and the sewerage harmless insofar as it is reasonably possible so to do, and any such

municipality shall have plenary power and authority to charge the users for the use and service of such combined waterworks and sewerage system and to establish rates or charges for such purpose. Separate rates or charges may be fixed for the water and sewer services respectively or combined rates or charges for the combined water and sewer services. Such rates or charges, whether separate or combined, shall be sufficient at all times to pay the cost of repair, maintenance and operation of the combined waterworks and sewerage system, provide an adequate reserve fund and adequate depreciation fund and pay the principal of and interest upon all revenue bonds issued under this article. Rates or charges shall be established, revised and maintained by ordinance and become payable as the governing body may determine by ordinance, and such rates or charges shall be changed from time to time as needful, consistent with the provisions of this article.

(b) Whenever any rates and charges for 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 user's lease of the premises concerned.

(c) All rates or charges for water service and sewer 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 a municipality shall have exhausted all remedies available in magistrate courts against such delinquent users before it may proceed in a civil action against the owner.

(d) 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.

(e) No municipality may foreclose upon the premises served by it for delinquent rates, fees 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. (1939, c. 98, § 7; 1947, c. 112; 1969, c. 86; 1989, c. 133.)

Effect of amendment of 1989. — The second paragraphs as (a) and (c), respectively; amendment designated the former first and added (b), (d) and (e); and rewrote (c).

### § 8-20-11. Discontinuance of water service for nonpayment of rates or charges.

Any such municipality 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 service of said combined waterworks and sewerage system for the nonpayment of the rates or charges for said water service or sewer service, or both. (1955, c. 133; 1969, c. 86.)

### § 8-20-12. Use of revenues; sinking fund.

All revenues derived from the operation of any combined waterworks and sewerage system under the provisions of this article shall be set aside as collected and used only for the purpose of paying the cost of repairing, maintaining and operating such system, providing an adequate reserve fund, an adequate depreciation fund, and paying the principal of and interest upon the revenue bonds issued by the municipality under the provisions of this article. The ordinance pursuant to which any such bonds are issued shall pledge the revenues derived from the combined waterworks and sewerage 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 pursuant to which such bonds have been issued: Provided, That payments of principal of and interest on any bonds owned by the United States of America or any agency or department thereof may be made by the municipality directly to the United States of America or said agency or department thereof. (1939, c. 98, § 9; 1969, c. 86; 1986, c. 118.)

### § 8-20-13. System of accounts; audit.

Any municipality operating a combined waterworks and sewerage 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 combined waterworks and sewerage system and the application of the same. At least once each year such municipality shall cause such accounts to be properly audited,

PART IV. GRANTS, LOANS AND ADVANCES; CUMULATIVE AUTHORITY.

§ 8-20-16. Grants, loans and advances.

Any municipality 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, for the purpose of paying part or all of the cost of acquisition, construction, establishment, extension or equipment of combined waterworks and sewerage systems and the construction of additions, betterments and improvements thereto, and for the other purposes herein authorized, from 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, may be repaid out of the proceeds of bonds authorized to be issued under the provisions of this article, the revenues of the said combined waterworks and sewerage system or grants to the municipality 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 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. Any other provisions of this article notwithstanding, interest on any such loans or temporary advances may be paid from the proceeds thereof until the maturity of such notes or other negotiable instrument.

In no event shall any such loan or temporary advance be a general obligation of the municipality and such loans or temporary advances, including the interest thereon, shall be paid solely from the sources specified in this section. (1961, c. 106; 1969, c. 86; 1981, 1st Ex. Sess., c. 2; 1986, c. 118.)

§ 8-20-17. Additional and alternative method for constructing, etc., and financing combined waterworks and sewerage 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 the combined waterworks and sewerage system herein provided for and for the issuance and sale of the bonds 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 under this article and no publication of any resolution, ordinance, notice or proceeding relating to any such undertaking or to

and a report of such audit shall be open to the public for inspection at all reasonable times. (1939, c. 98, § 10; 1969, c. 86.)

§ 8-20-14. Repair and maintenance of municipal sewerage system outside corporate limits.

Whenever a municipality collects rates or charges from users of any part of a sewerage system located outside the corporate limits of such municipality for sewerage service rendered to such users, pursuant to the provisions of this article or other act or law, such municipality shall be responsible for the repair and maintenance of such sewerage system and the county court (county commission) of the county or counties in which such sewerage system is located shall not be liable or responsible for the repair and maintenance of such sewerage system. (1957, c. 127; 1969, c. 86.)

Editor's notes. — The bracketed words were inserted by the editor. See W. Va. Const., art. IX, § 9.

§ 8-20-15. 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 seven [§ 8-20-7] of this article, protect and enforce any and all rights granted hereunder or under any such ordinance or trust indenture, and may enforce and compel performance of all duties required by the provisions of this article or by any such ordinance or trust indenture to be performed by the municipality 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 combined waterworks and sewerage 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 combined waterworks and sewerage system on behalf of the municipality, 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 pursuant to which such bonds have been issued or trust indenture, or both. (1939, c. 98, § 8; 1947, c. 112; 1969, c. 86.)

the issuance or sale of such bonds 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 department of health and the division of water resources of the department of natural resources 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.)

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

### § 8-20-18. Alternative procedure for acquisition, construction, etc., of combined waterworks and sewerage system.

(a) As an alternative to the procedure hereinabove provided, any municipality is hereby empowered and authorized to acquire, construct, establish, extend, equip, repair, maintain and operate a combined waterworks and sewerage system or to construct, maintain and operate additions, betterments and improvements thereto, 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 supervision 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.

(b) In the event that the waterworks or sewerage system or both are in existence prior to the creation of the combined waterworks and sewerage system, and the waterworks or sewerage system or both are supervised and controlled by a committee, board or commission, and the alternative provided for in subsection (a) of this section is to be followed with respect to the supervision and control of the combined waterworks and sewerage system, the governing body may by ordinance, after the creation of the combined waterworks and sewerage system, provide (1) the manner of and procedure for transferring such supervision and control from each such separate committee, board or commission to the committee, board or commission which is supervising and controlling the combined waterworks and sewerage system, or (2) the manner of and procedure for combining each such separate committee, board or commission into one committee, board or commission and transferring thereto such supervision and control as aforesaid. (1961, c. 104; 1969, c. 86.)

### § 8-20-19. 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.)

#### ARTICLE 20A.

### NEIGHBORHOOD REHABILITATION.

Sec.	Sec.
8-20A-1. Legislative findings and purpose.	8-20A-4. Inspection and technical assistance.
8-20A-2. Definitions.	8-20A-5. Deferral of repayment.
8-20A-3. Neighborhood rehabilitation fund.	

### § 8-20A-1. Legislative findings and purpose.

(a) The legislature hereby finds and declares that the lack of safe, decent, sanitary and affordable owner-occupied and rental dwellings is one of the most serious problems facing this State and that a major contributing factor to this problem is the deterioration of the State's existing housing stock; that these deteriorating dwellings exist in both the urban and rural areas of the State; that a disproportionate number of owners of these deteriorating dwellings are older, less affluent and otherwise less able to afford the expense of the remodeling, repairing and rehabilitating of their residences necessary to maintain such residences in a sanitary, safe and decent condition; that because of the lack of acceptable loan collateral, the age of their residences and the location and age of the neighborhoods in which their residences are located, many of such owners have not been able to borrow funds necessary to effect such remodeling, repair and rehabilitation; and that some of such homeowners who have been able to obtain funds for such purposes have been able to do so only upon rates of interest and upon other terms and conditions which are particularly onerous and disadvantageous to such owners.

(b) The legislature further finds and declares that the assistance authorized in this article will provide, and will encourage private lenders to provide, to such owners, more readily and at rates of interest and upon other terms and conditions significantly more favorable to such owners, the loans necessary to finance the cost of such remodeling, repair and rehabilitation.

(c) The legislature further finds and declares that the powers granted to municipalities and counties in this article will enable them to maximize the use of federal programs for housing rehabilitation.

(d) The legislature further finds and declares that it is manifestly in the public interest to foster the pride, self-respect and esteem incident to home ownership and to encourage and assist in the maintenance of residences, both owner occupied and rental, in a safe, decent and sanitary condition; that without the assistance authorized in this article, there will be continued deterioration of housing with the resultant proliferation of slums, higher crime rates and general decline in civic pride, public spirit and the quality of life,

ANNOTATED

**VOLUME 3**

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**1996 Cumulative Supplement**

**Including Acts passed during the 1996 Regular Session**

Prepared by the Editorial Staff of the Publishers

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1996

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ARTICLE 20.

**COMBINED WATERWORKS AND SEWERAGE SYSTEMS.**

**Part III. Revenue Bond Financing.**

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-  
trate court action; limitations with respect to foreclosure.

**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; limitations 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, enact and enforce all needful rules and regulations for the repair, maintenance and operation and management of the combined waterworks and sewerage system of such municipality and for the use thereof, and shall also have plenary power and authority to make, enact and enforce all needful rules and regulations and ordinances for the care and protection of any such system, which may be conducive to the preservation of the public health, comfort and convenience and to rendering the water supply of such municipality pure and the sewerage harmless insofar as it is reasonably possible so to do, and any such municipality shall have plenary power and authority to charge the users for the use and service of such combined waterworks and sewerage system and to establish rates or charges for such purpose. Separate rates or charges may be fixed for the water and sewer services respectively or combined rates or charges for the combined water and sewer services. Such rates or charges, whether separate or combined, shall be sufficient at all times to pay the cost of repair, maintenance and operation of the combined waterworks and sewerage system, provide an adequate reserve fund and adequate depreciation fund and pay the principal of and interest upon all revenue bonds issued under this article. Rates or charges shall be established, revised and maintained by ordinance and become payable as the governing body may determine by ordinance, and such rates or charges shall be changed from time to time as needful, consistent with the provisions of this article.

(b) Whenever any rates and charges for 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.

(c) All rates or charges for water service and sewer 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.

(d) 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.

(e) No municipality may foreclose upon the premises served by it for delinquent rates, fees 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. (1939, c. 98, § 7; 1947, c. 112; 1969, c. 86; 1989, c. 133; 1990, c. 140.)

**Effect of amendment of 1990.** — The user and property shall, and deleted the amendment, in (b), deleted "property and the former two provisos at the end; and in (c), owner thereof, as well as the preceding "user" rewrote the proviso. of," substituted "the user shall" for "the owner,

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.**

This article is, without reference to any other statute or charter provision, full authority for the acquisition, construction, establishment, extension, equipment, additions, betterment, improvement, repair, maintenance and operation of or to the combined waterworks and sewerage system herein provided for and for the issuance and sale of the bonds by this article authorized, and is 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 under this article and no publication of any resolution, ordinance, notice or proceeding relating to any such undertaking or to the issuance or sale of such bonds is 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 bureau of public health and the division of environmental protection remain unaffected by this article.

This article is cumulative authority for any undertaking herein authorized, and does not repeal any existing laws with respect thereto. (1933, Ex. Sess., c. 26, § 13; 1969, c. 86; 1994, c. 61.)

*Effect of amendment of 1994.* — The health and "division of environmental protection, in the first paragraph, substituted "division of water resources"; and "bureau of public health" for "department of made other stylistic changes.

ARTICLE 21.

**BOARD OF PARK AND RECREATION COMMISSIONERS.**

PART II. POWERS.

§ 8-21-9. **Authority to take title to real and personal property; conveyances of real property to board by public bodies; sales and conveyances of real property by board; execution of deeds.**

*W. Va. Law Review.* — Lorenson, "Rethinking the West Virginia Municipal Code of 1969," 97 W. Va. L. Rev. 653 (1995).

ARTICLE 22.

**RETIREMENT BENEFITS GENERALLY; POLICEMEN'S PENSION AND RELIEF FUND; FIREMEN'S PENSION AND RELIEF FUND; PENSION PLANS FOR EMPLOYEES OF WATERWORKS SYSTEM, SEWERAGE SYSTEM OR COMBINED WATERWORKS AND SEWERAGE SYSTEM.**

Part II. General Retirement Systems for Class I, II and III Cities.

Sec. 8-22-20. Minimum standards for actuarial soundness.

8-22-11. Investment of funds.  
8-22-11a. Restrictions on investment.  
8-22-13. Reports by board of trustees.

Part III. Policemen's Pension and Relief Fund; Firemen's Pension and Relief Fund.

8-22-16. Pension and relief funds for policemen and firemen; creation of boards of trustees; definitions; continuance of funds.  
8-22-16a. Legislative findings.

8-22-22a. Restrictions on investments.  
8-22-24. Disability pensions.  
8-22-26. Death benefits.  
8-22-26a. Supplemental pension benefits entitlement; benefit payable; application of section; construction.  
8-22-27. General provisions concerning disability pensions, retirement pensions and death benefits.

PART II. GENERAL RETIREMENT SYSTEMS FOR CLASS I, II AND III CITIES.

§ 8-22-11. **Investment of funds.**

The board shall keep as an available sum for the purpose of making retirement, disability and death payments and administration expense an amount estimated to meet such payments for a period not to exceed ninety days. The board in acquiring, investing, reinvesting, exchanging, retaining, selling and managing property for the benefit of the fund shall exercise judgment and care which persons of experience, prudence, discretion and intelligence exercise in the management of financial affairs, considering the probable income as well as the probable security of the investment and with regard to the permanent disposition of the fund. Within the limitations of the foregoing standard, the board is authorized in its sole discretion to invest and reinvest any funds received by it in the following:

- (1) Any direct obligation of, or obligation guaranteed as to the payment of both principal and interest by, the United States of America;
- (2) Any evidence of indebtedness issued by any United States government agency guaranteed as to the payment of both principal and interest, directly or indirectly, by the United States of America including, but not limited to, the following: Government national mortgage association, federal land banks, federal home loan banks, federal intermediate credit banks, banks for coop-

# City of St. Marys

Mayor  
Louis F. Flade

City Manager  
Roy G. Hearn

City Recorder  
Linda K. Wilson

418 Second Street  
ST. MARYS, WEST VIRGINIA 26170  
Phone: (304) 684-2401  
Fax: (304) 684-2463

May 14, 1996

Councilpersons

Ward I  
Lyle Meeks  
Gene Dutton

Ward II  
Richard McCullough  
Jack Johnson

Ward III  
C. A. (Mike) Hendricks  
Larry Burns

STATE OF WEST VIRGINIA  
COUNTY OF PLEASANTS, TO-WIT:

I, Linda K. Wilson, City Recorder for the City of St. Marys, WV, do hereby certify that the attached copies of the City Charter and any amendments thereto, are true and accurate copies of the originals on file in my office.

  
\_\_\_\_\_  
Linda K. Wilson  
City Recorder

CITY CHARTER

CITY OF SAINT MARYS  
WEST VIRGINIA

PLEASANTS COUNTY

JUNE 30, 1930

ENROLLED BILL

(H. B. No. 253)

---

AN ACT to amend and re-enact the several acts incorporating the town of St. Marys, which was done by an order of the circuit court of Pleasants County, West Virginia, on the twenty-third day of April, one thousand eight hundred and eighty; and by an act of the legislature of West Virginia, passed February fifteen, one thousand nine hundred and one, incorporating and creating the city of St. Marys, in Pleasants County, and approved by the governor February eighteen, one thousand nine hundred and one, and being known and denominated Chapter one hundred and forty-seven of the acts of the regular session, of one thousand nine hundred and one. And also an act denominated chapter nine, of the acts of the legislature of West Virginia, regular session, of one thousand nine hundred and seven entitled: An act to amend and re-enact chapter one hundred and forty-seven of the acts of one thousand nine hundred and one, incorporating the city of St. Marys, in relation to section nine and twenty-nine of said act, which act was passed February nineteen, one thousand nine hundred and seven, and became a law ninety days from its passage: to take in additional territory and add certain amendments to said charter: "and providing for a charter election to be held submitting to the voters of the territory within the present city of St. Marys and to those living within the additional territory, to vote thereon at an election to be held for that purpose, to be fixed and held under the supervision of the present municipal government of the city of St. Marys.

"Be it enacted by the legislature of West Virginia:

"That in order to amend, revise and consolidate into one act, and order of the circuit court of Pleasants County, West Virginia, made and entered into on the twenty-third day of April, one thousand eight hundred and eighty, incorporating the town of St. Marys, in Pleasants County, in said state; an act of the legislature of West Virginia, denominated and known as chapter one hundred and forty-seven of the acts of said West Virginia legislature of one thousand nine hundred and one, passed February fifteen, one thousand nine hundred and one, incorporating the city of St. Marys in said Pleasants County, and also an amendment to said charter of said city of St. Marys, being chapter nine of the acts of 1907, passed February nineteen, 1907, amending sections 9 and 29 of said chapter 147, aforesaid, and to embody in this act and chapter all of said acts heretofore enacted and passed, that of the circuit court of Pleasants County, and the acts of West Virginia legislature; to take in additional territory and add certain amendments to said chapter and to submit to the voters of said city in the territory within the present city limits and that to be included in this act, at a charter election to be fixed and held by the present municipal government now in power, and if adopted by a majority of all the legal votes cast at such election this act from and after the date of said election shall be and remain the charter of "The City of St. Marys."

Section 1. That the inhabitants of so much of the county of Pleasants as is within the bounds described by section two of this act, and their successors, shall be and remain, and they are hereby made a body politic and corporate by the name of "The City of St. Marys," and as such shall have perpetual succession and a common seal and by that name may sue and be sued, plead and be impleaded, lease and hold real estate and personal property necessary to the purpose of said corporation.

Section 2. The corporate limits of said city shall hereafter be as follows:

Beginning at the edge of the Ohio River, said starting point being down the river 1190 feet from North corner of Cain House; thence by surveys as the magnetic needle now points, S. 34-3/4 E. 1552 feet to center of run above stone quarry; thence N. 73 E. 2770 feet; thence N. 17-1/3 E. 300 feet above turn in pike; thence N. 38 E. 433 feet near water trough; thence N. 31-1/4 E. 1600 feet; thence N. 21-3/4 E. 3182 feet to M. I. Creek; thence down the creek with the meanders thereof, N. 51 W. 452 feet; N. 57-1/2 W. 258 feet; N. 78 W. 177 feet; S. 88 W. 570 feet corner of county bridge; thence N. 85 W. 557 feet across B & O Right-of-Way; thence parallel with the same S. 25 W. 992 feet; S. 36-1/4 W. 1360 feet to old corporation line; thence N. 60-1/2 W. 222 feet; S. 31-1/2 W. 1553 feet; N. 84-1/2 W. 147 feet to river edge; thence with meanders of same, S. 19-1/2 W. 315 feet; S. 29 W. 975 feet; S. 42-1/2 W. 995 feet; S. 45 W. 227 feet; S. 47 W. 211 feet; S. 50 W. 307 feet to the place of beginning.

Section 3. The territory of said city is hereby divided into three wards, each of which is bounded and described as follows:

First Ward: All that part of the territory above described lying south of a line running from the thoroughfare with the center of Washington Street to the east line of said corporation line near what is known as the Horseshoe Bend, shall constitute the first ward.

Second Ward: All that part of said territory above described, included between the center of Washington Street and Sycamore Street of said city and extending from the thoroughfare and corporation line on the west to the east line of said corporation shall be and constitute the second ward.

Third Ward: All of the remainder of said territory lying north and east of the said Sycamore Street and up to Middle Island Creek, beginning with the line of said corporation at a point of intersection of said second ward, with the eastern and northern boundary thereof, and binding thereon with the line of said corporation back to its intersection at the end of said second ward, shall be and constitute the third ward of said city. Said three wards so formed as aforesaid, to be and remain as constituted and laid down until changed by the municipal authorities of said city as provided by law.

Section 4. The municipal authorities of said city shall consist of a mayor and two councilmen from each ward, six councilmen in all, until additional wards be added to said city, who together shall form the common council. The mayor to be elected bi-annually and held for the term of two years; and all councilmen, after the first election, shall be elected for the term of four years. At the first election one councilman shall be elected for two years and one for four years, to be so designated on the ballot, they to hold their office for and during the term for which they are elected and until their successors are elected and qualified. The mayor must be a bona fide free holder of said city, and the councilmen must be bona fide residents and free holders, or if not free holders, possessed of at least five hundred dollars worth of personal property at the time of their election. The mayor and councilmen to receive such compensation for their services as the council shall from time to time fix and determine; but, after the first election the council in being shall fix the salary and compensation for the incoming officers. And it is further provided that the mayor and councilmen of said city shall not be interested directly or indirectly in any contract for the furnishing of the city with supplies or other property, or to become party or privies to any contract, directly or

indirectly, whereby they can or may receive anything in money from said city, other than the salary fixed and allowed by this charter. And the mayor and councilmen, or any one of them may be removed from office for malfeasance in office or for neglect or failure to discharge the duties imposed upon them by law, upon written charges preferred against them in the same manner and according to the same rule governing the removal of county and district officers. And the councilmen in being at the time of such removal or resignation of the mayor or any councilman shall fill the same by appointment until the next general election.

Section 5. All the corporate powers of said corporation shall be exercised by said council or under their authority, except when otherwise herein provided.

Section 6. The appointed officers of this municipality shall consist of a recorder, chief of police and his assistants, city collector, health officer, city attorney and city manager, all of whom are to be appointed by the council and hold their office during the pleasure of the council, subject to removal for causes.

Section 7. The city recorder shall be required to keep a record of all proceedings, including the minutes of all meetings of the council, which shall be kept, in a well-bound book and properly indexed, and shall also issue all orders for moneys on the treasury, which order must be countersigned by the mayor and city recorder; and such city recorder may be required to keep any other records or do such clerical work as pertain to the municipal government of said city, or that is required to be done under the direction and supervision of the city manager, and shall receive such monthly compensation by way of salary as shall be fixed by the council payable monthly. The city collector, shall before entering upon the duties of his office, give such bond as the council may require, payable to the City of St. Marys for the faithful receiving and accounting for all monies that may come into his or her hands, and shall collect all monies for taxes, licenses, water rent, or other levies and all taxes on dogs, and shall not pay out any monies, except on orders ordered by the council and countersigned by the recorder and mayor; and shall render quarterly statements to the council or finance committee of the status and amount of monies on hand, including all collections and disbursements for each three months during his or her incumbency in office; and he or she shall, at the end of their term of office account for and pay over all monies remaining in his or her hands and turn over all uncollected taxes, licences and bills of any kind whatsoever, to his or her successor in office; and a failure so to do shall not only hold her or him liable under their bond, but a willful neglect so to do shall be deemed a felony for which he or she may be prosecuted therefor.

The city health officer shall perform such duties as the council by ordinance may prescribe, in conjunction with the rules and regulations governing the health department of said city and as are prescribed by the State Board of Health, and he may be removed from office at any time for willful neglect of duty.

The city attorney shall do all the legal work required to be done by the council, pertaining to the affairs of said municipality, and shall advise the council at the regular or special meetings of the same and prosecute and defend all suits brought by the city or instituted against it; and shall advise the mayor and other officers in this municipality when so requested, and shall do and perform all other duties as may be required by the municipal government.

The said council may appoint a chief of police and such assistants as are necessary, and the mayor may in an emergency and at the time the council is not in session, appoint special police on extraordinary occasions, if deemed necessary, and said chief of police and police officers are subject to control absolutely of the mayor, except when the council is in session.

All the foregoing officers, namely, city collector, city health officer, city attorney, chief of police and police officers, shall receive such pay and compensation, either monthly or otherwise, or to the city collector a commission on receipt, as the council in regular session may fix and determine; they to be paid monthly thereof; subject to removal as aforesaid for cause by the council.

The council shall, at the beginning of their term, appoint some person qualified and efficient for that purpose, as city manager, who shall hold office at the pleasure of the council and have full charge and authority over all the municipal affairs of said city; except that pertaining to city recorder, city collector, health officer, city attorney and police officers, and shall have general supervision over the control, direction and management of the streets and alleys of said city and control the water works, and shall employ and install such person or persons as are competent and efficient to do and perform the work and control the laying of all pavements, side walks, and water lines; manage and control all connections for water to be made by persons, corporation or individuals so requiring water, to see that the water service is properly looked after and maintained, and to keep and to cause to have kept a record in a book for that purpose, the names of all water consumers to whom the city furnishes water or sells the same, rendering to the city collector monthly accounts of all water so sold to consumers within the city or elsewhere, subject to ordinances to be enacted by the council. And shall see that the streets and alleys of said city are kept clean and in a sanitary condition, and to see that the owners of real estate do not encroach upon the city, nor permit anything obnoxious, unsanitary or otherwise, to be kept within the corporate limits which is a menace to the health or comfort of the citizens, subject nevertheless to sections 22-b; and shall cause all property owners to keep and maintain their property safe from fire; and in conjunction with the police of said city, shall inspect all buildings at such times and under such conditions as may be necessary as provided by this charter, or ordinances passed in pursuance thereof. Said city manager to do and perform such other duties as may be required of him or prescribed by proper orders or ordinances adopted and entered of record by the council, and shall receive such monthly compensation as may be fixed by the council and entered of record during his term of office, payable monthly, and he may be removed for cause.

Section 8. The first election shall be held hereunder on the second Tuesday in June, one thousand nine hundred and twenty-one, beginning on the said second Tuesday in June, one thousand nine hundred and twenty-one, and thereafter every two years. At each election there shall be elected a mayor for the term of two years; as hereinbefore provided, one councilman for two years in each ward, and one councilman for four years in each ward; and thereafter there shall be only one councilman elected in each ward, biennially for two years. The terms of all officers so elected on the second Tuesday in June, beginning with the second Tuesday of June 1921, and thereafter every two years, shall be on the first day of July following their election, and they shall hold until their successors are elected and qualified according to law.

Section 9. The elective officers under this charter shall be nominated by a non-partisan mass convention to be held at least twenty days before the regular election to be held for mayor and councilmen, at which convention at least one and not more than two persons shall be nominated for mayor; and after the first election held under this charter, at least one and not more than two persons shall be nominated for mayor; and after the first election held under this charter, at least one and not more than two persons shall be nominated for council, from each ward of said city. And municipal authorities of this city are hereby relieved from holding any primary election for the nomination of its elective officers, but the election to be held to be conducted under the Australian ballot system, now in force in this state, when this charter becomes effective.

Section 10. Every person residing in said city shall be entitled to vote for all officers elected under this act; but no person who is minor, or of unsound mind, or a pauper, or who is under conviction of treason, felony or bribery in an election, or who has not been a resident of this state for one year and of the city of St. Marys for sixty days, and is not a bona fide resident of the ward in which he or she offers to vote, shall be entitled to vote.

Section 11. Whenever two or more persons shall receive an equal number of votes for councilman or other officer, such tie shall be decided by the council in being.

Section 12. All contested elections shall be heard and decided by the common council for the time being; and the contest shall be made and conducted in the same manner as provided for in contests for county and district officers; and the common council shall conduct their proceedings in such cases as nearly as practicable in conformity with the proceedings of the county court in such cases.

Section 13. The mayor and council and all other officers provided for in this act, shall each, before entering upon the duties of their office, and within one week from the date of their election or appointment give the bond required from any officer by this charter, and take the oath prescribed by law for all officers of this state; and make oath that they will truly, faithfully and impartially, to the best of their ability, discharge the duties of their respective offices, so long as they continue therein. Said oath or affirmation may be taken before any person authorized to administer oaths, under the law now in force, or before the mayor or recorder of said city.

Section 14. If any person elected to any office under the provisions of this act, shall not be eligible to such office under the provisions of this act, or shall fail to qualify as herein required, the council for the time being shall declare his said office vacant and shall proceed to fill the vacancy as required by this act.

Section 15. The mayor shall be chief executive officer of the city, and shall take care that the orders, by-laws, ordinances, acts and resolutions of the council thereof are faithfully executed. He shall be ex-officio a justice and conservator of the peace within the city, and shall within the same have, possess and exercise all the power and perform all the duties vested by law in a justice of the peace; except, that he shall have no jurisdiction in civil causes of action arising out of the corporate limits of the city. Any warrant or other process issued by him may be executed at any place in the county; he shall have control of the police of the city; and may suspend any policeman for cause; and he may appoint special police officers whenever he deems it necessary; and

it shall be his duty especially to see that the peace and good order of the city are preserved, and that the persons and property therein are protected; and to this end he may cause the arrest and detention of all rioters and disorderly persons in the city before issuing his warrant therefor. He shall have the power to issue executions for all fines, penalties and costs imposed by him, or he may require the immediate payment thereof, and in default of such payment he may commit the party in fault to the jail of the corporation, if there be one, until the fine or penalty and costs shall be paid; but the term of imprisonment in such cases shall not exceed thirty days. And in all cases where a person is sentenced to imprisonment or to the payment of a fine of ten dollars or more, (and in no case shall judgment for a fine of less than ten dollars be given by the mayor if the defendant, his agent or attorney object thereto) such person shall be allowed an appeal from such decision to the circuit court of said Pleasants County, and upon the execution of an appeal bond with security deemed sufficient by the mayor, in penalty double the amount of the fine and costs imposed by the mayor with condition that the person proposing to appeal will perform and satisfy any judgment which may be rendered against him by the circuit court on such appeal. If such appeal be taken, the warrant of arrest (if there be any), the transcript of the judgment, the appeal bond and other papers of the case, shall be forthwith delivered by the mayor to the clerk of said court, and the court shall proceed to try the case as upon indictment or presentation, and render such judgment, including that of costs, as the law and the evidence may require; provided, that no judgment for costs shall be rendered in any such case against the city. The mayor shall from time to time, recommend to the council such measures as he may deem needful for the welfare of the city. The expenses of maintaining any person committed to the jail of the county by him, except it be to answer and indictment or be under the provision of section two hundred and twenty-seven and two hundred and twenty-eight of chapter fifty, of the amended code of this state, shall be paid by the city. But the mayor shall not receive any money belonging to the state or individuals unless he shall give the bond and security require of a justice of the peace by chapter fifty of the code; and all the provisions of said chapter relating to money received by justices shall apply as to like monies received by the mayor. The mayor shall pay all monies received by him for fines, or by virtue of his office belonging to the city, to the city collector, within one week after he received same.

Section 16. The presence of a majority of the council shall be necessary to make a quorum for the transaction of business.

Section 17. The council shall cause to be kept by the records in a well bound book to be called the "Minute Book," an accurate record of all its proceedings, ordinance, acts, orders and resolutions, and in another to be called the "Ordinance Book," an accurate copy of all general ordinances adopted by the council, both of which shall be fully indexed and open to the inspection of any one required to pay taxes to the city, or who may be otherwise interested. All oaths and bonds of officers in the city and all papers of the council shall be endorsed, filed and securely kept by the recorder. The bonds of officers shall be recorded in a well bound book to be called the "Record of Bonds." The recorder shall perform all such other duties as may by ordinance of the council be prescribed, and shall be ex-officio clerk of the police court. All printed copies of such ordinances purporting to be published under authority of the council, and transcript of such ordinances, acts, orders and resolutions, certified by the recorder, under the seal of the city, shall be deemed prima facie correct, when sought to be used in any court or before any justice.

Section 18. At each meeting of the council the proceedings of the last meeting shall be read and corrected, if erroneous, and signed by the presiding officer for the time being.

Section 19. The mayor shall have no vote on any question, except on a tie in council.

Section 20. The council shall, at the beginning of their term elect one of their members mayor pro tempore who shall be qualified to act as mayor in his absence; or in case of the death, resignation or removal of the mayor, and the said person so appointed pro tempore shall hold the office of mayor until the mayor shall have been appointed by the council to fill such vacancy for the unexpired term, and said mayor pro tempore in the absence of the mayor, shall be clothed with all power and authority conferred by this charter upon the mayor elect. In case of the absence, death or disability of the mayor, and mayor pro tempore, then council shall select a member of council to act as such.

Section 21. The meetings of the council shall be held at such place in said city, and at such times, as they shall from time to time ordain and appoint; but it shall be lawful for the council, by ordinance, to vest in any officer of said city, or in any member or number of members of their own body, the authority to call special meetings; and it shall, by ordinance, prescribe the code in which notice of such meeting shall be given; and no business shall be transacted unless a majority of all the members, of which it then consists, shall be present; except, that a less number may compel the attendance of absent members, under such reasonable penalties as they may think proper to impose, and all questions put, except in such matters as are herein provided for, shall be decided by a majority of the members present.

Section 22. The council of said city shall have power to lay off, vacate, close, open, alter, grade and keep in good repair, the roads, streets, alleys, pavements, sidewalks, crosswalks, drains and gutters therein, for the use of the citizens or of the public, and to improve and light the same, and to keep them free from obstruction of every kind; to regulate the width of the pavements and sidewalks, on the streets and alleys, and to order the pavements, sidewalks, footways, drains and gutters to be kept in good order, free and clean, by the owners or occupants of the real property next adjacent thereto; to establish and regulate markets, prescribe the time of holding the same, provide suitable and convenient buildings therefor, and to prevent the forestalling of such market; (to prevent injury or annoyance to the public, or the individual from anything dangerous, offensive or unwholesome); to prohibit or regulate slaughter houses, tan houses and soap factories, within the city limits, or the exercise of any unhealthful or offensive business, trade or employment; to abate all nuisances within the city limits, or to require and compel the abatement or removal thereof, at the expense of the person causing the same, or by or at the expense of the owner or occupant of the ground on which they are placed or found, subject nevertheless, to section 22-b; to cause to be filled up, raised or drained, by or at the expense of the owner, any city lot or tract of land covered or subject to be covered by stagnant water; to prevent horses, hogs, cattle or other animals, and fowls of all kinds, from going or being at large in such city, and as one means of prevention, to provide for impounding and confining such animals and fowls, and upon failure to reclaim for the sale thereof; to protect places of divine worship, and preserve order in and about the premises where and when such worship is held; to regulate the keeping of gun powder and other inflammable or dangerous substances, subject nevertheless to 32-a to 22-b

to provide for the regular building of houses or other structures, and for the making and maintaining of division fences by the owners of adjoining premises, and for the proper drainage of city lots or parcels of land, by or at the expense of the owner or occupant thereof; to provide against danger or damage by fire; to punish for assault and batteries; to prohibit the keeping or loitering in or visiting houses of ill-fame or loitering in saloons, or upon the streets; to prevent lewd or lascivious conduct; the sale or exhibition of indecent pictures or other representations; the desecration of the Sabbath day, profane swearing, the illegal sale of intoxicating liquors, mixtures and preparations, beer, ale, wine or drinks of like nature; to protect the persons of those residing or being within the said city; to appoint, when necessary, or advisable, a police force, permanent or temporary, to assist the chief of police in the discharge of his duties; to build or purchase, or lease and use a suitable place of imprisonment within or near said city, for the safekeeping or punishment of persons charged with or convicted of the violations of ordinances; to erect or authorize or prohibit the erection of gas, electric light or water works, within the city limits; to prevent injury of such works, or the pollution of any gas or water used or intended to be used by the public or individuals; to provide for and regulate the weighing or measuring of hay, coal, lumber and other articles sold or kept, or offered for sale, within said city, and to establish rates and charges for said weighing and measuring of hay, coal, lumber and other articles sold or kept, or offered for sale, within said city, and to regulate the running and speed of engines and cars within the said city; to create by ordinance such committees and boards, and delegate such authority thereto as may be deemed necessary or advisable; to provide for the annual assessments of the taxable property therein, including dogs kept in said city, and regulate their running at large, and to provide a revenue for the city for municipal purposes, and to appropriate such revenue to its expenses; and generally to take such measures as may be deemed necessary or advisable to protect the property, public and private, within the city; to preserve and maintain peace, quiet and good order therein, and to preserve and promote the health, safety, comfort and well being of the inhabitants thereof. The council shall have authority to pass all ordinances (not repugnant to the constitution and laws of the United States and of this state) which shall be necessary or proper to carry into full effect and power the authority, capacity and jurisdiction which is, or shall be granted or vested in the city or in the council, or in any officer or body of officers of said city, or to enforce any or all ordinances by reasonable fines and penalties, and by imprisoning the offender or offenders, and upon failure to pay any fine or penalty imposed, by compelling them to labor without compensation on any of the public works or improvements undertaken, or to be undertaken by the said city; or to labor at any work which the said city may lawfully employ labor upon, at such a rate per diem as the council may fix, but not a less rate than is fixed by said city council for like labor from other employees of said city, until any fines or penalties imposed upon any such offender or offenders by said city shall have been fully paid and discharged, after deducting charges of support while in the custody of the officers of said city; and all ordinances relating to license and sale of spiritous liquors, malt liquors, or wines, and the keeping of or loitering or dwelling in houses of ill-fame; and such police regulations as may be ordained for said city, and the right and power to enforce the same shall extend one mile, in the state of West Virginia, beyond the corporate limits of the city; provided, however, that no fine shall be imposed exceeding one hundred dollars and that no person shall be imprisoned or compelled to labor, as aforesaid, more than thirty days for any one offense. And in all cases where a fine is imposed for an amount exceeding ten dollars, or a person be imprisoned or compelled to labor as aforesaid, for a term greater than ten days, an appeal may be taken from any such decision, upon the same terms and conditions that appeals

are taken from the judgment of a justice of the state, such fines and penalties shall be imposed and recovered and such imprisonment inflicted and enforced, by and under the judgment of the mayor of the city, or in case of his absence or inability to act, by the mayor pro tempore of said city, or if he be unable to act, then a member of the council, to be appointed by the council for that purpose. In addition to the powers above enumerated, the said city council shall have power to improve, amplify, expand, and maintain the water works of said city, and to provide for an adequate supply of pure, healthful water for said city, and to do all things necessary to adequately supply said city with pure, wholesome water, and provide contract for construction and maintain an adequate sewerage system for said city, provided, however, that no license, even if permitted by the authorities of this state, shall be granted by the council for said city for sale, offer or exposing for sale of any brandy, whiskey, rum, gin, wine, porter ale, or beer or any other spiritous, vinous or malt liquors or any intoxicating liquor, drink or mixture or preparation whatever within said city or within one mile of the corporate limits thereof, and the same is absolutely prohibited.

Section 22-a. The council shall have the power by ordinance to regulate the erection of buildings with said city, grant permission therefor, and prohibit the erection of any buildings or the material to be used therein, unless the same conforms to the ordinances hereafter enacted, that will conduce to the safety of the citizens of said municipality and the adjacent property owners; but nothing herein contained shall abridge or restrict the right of any property owner, lessee or tenant thereof from using his property for any legitimate business; subject to such rules and regulations as the council may prescribe by ordinance not repugnant to the constitution of this state, nor shall the council hereafter impose any unjust or unusual restriction or requirement nor pass any ordinance or ordinances abridging the rights of property owners from exercising and carrying on any legitimate business, unless the same is a menace to public safety, or deleterious to the lives or health of the residents of said city, or which is unsanitary and offensive to the people at large; nor permit any unsanitary or defective plumbing to be done or allow any defective, insufficient or dangerous electric plumbing to be installed or placed in any buildings or building in said city by any person, firm, or corporation, unless the same is done with proper and safe material and in a mechanical manner; and said plumbing, both sanitary and electrical, shall be subject to the inspection and condemnation of any engineer appointed by the council to inspect the same; and all work, sanitary, electric or other plumbing to be under the control of the council or its engineer to be regulated by proper ordinances. And it is further provided, that said council, through its city manager or competent engineer shall, at least every three months during the year, or oftener if necessary, inspect all buildings, houses and other structures within said city, and especially all public buildings, churches, school houses, theaters and places of amusements including movies and note the kind and quality of plumbing and heating arrangements, and the manner and places of exit to all theaters and places of amusement, including movies; and in all buildings above the second story that are used by the public to have proper means of exit and fire escapes if required. And council shall have power to enforce this section by proper ordinances.

Section 22-b. Provided, however, that no ordinance shall be enacted or passed by said city council, or any action taken by it, relative to the refining, manufacturing, storing or keep in storage of petroleum, oil and its by-products, within the said city limits; nor shall there be passed or enacted by said council any ordinance commonly known as smoke ordinance in said city, nor shall said council take any action in regard thereto under this charter, but all such matters shall be solely governed and controlled by general state law now in force and in effect, or that may hereafter be enacted.

Section 23. The council of said city is further granted the authority to issue licenses within said city for any legitimate purpose or business for which a state license is issued and granted, and is permitted to charge the same license fee therefor, pursuant to the provisions of chapter thirty-two of the code of West Virginia of one thousand nine hundred and eighteen, provided, the county court of Pleasants County shall have granted the same or the clerk of the county court of said county, acting in lieu of said court, granted the same; this shall include pool rooms, bowling alleys and billiard and pool tables; and the council expressly reserves the right and power to regulate the hours at which pool rooms and bowling alleys shall be kept open and maintained, and may for cause revoke the license, and also reserves the power to itself to limit the speed and manner in which automobiles, trucks and other vehicles, are used and operated in said city, over and across its roads, streets and alleys and fix such restrictions as to speed, size, etc., of such automobiles, trucks or other vehicles as will conduce to the safety, and comfort of the citizens of said municipality and the protection of persons traveling the streets, as well as the size of the motor vehicle or other cars transporting stuff over and across the streets and alleys of said city, which are exclusively kept up and maintained by the taxes and levies within the said municipality.

Section 24. A book, well bound and indexed, to be denominated the "Docket" shall be kept in the office of the mayor, in which shall be noted each case brought before or tried by him, together with the proceedings therein, including a statement of the complaint, the summons, the return, the facts of appearance or non-appearance, the defense, the hearing, the judgment, the costs, and in case the judgment be one of conviction, the action taken to enforce the same. The record of each case shall be signed by the mayor and the original papers thereof, if no appeal be taken, shall be kept together and preserved in his office, and the mayor shall deliver to his successors the docket and all books and papers pertaining to his office. The mayor or mayor pro tempore shall act as a police judge and try all offenders brought before him or hear and make all entries in the docket and have the same power and jurisdiction as justice of the peace, and shall enforce criminal ordinances in force, or that may be passed in pursuance to this charter, and see that the same are enforced rigidly, to the end that the peace and good order of the city is observed; and any willful neglect of duty on the part of the mayor or mayor pro tempore will render him liable to be suspended from office by the council and removed therefrom, on ten days notice upon written charges preferred against him.

Section 25. The council shall cause to be made up annually and spread upon its minute book, an accurate estimate of all sums which are, or may be, lawfully chargeable against the city, and which ought to be paid within one year; and it shall order a levy of so much as will, in its judgment, be necessary, to pay the same. Such levy shall be upon all real property and personal property subject to state and county taxes therein including a poll tax of not more than fifty cents upon each citizen resident of said corporation over twenty-one years of age; provided, that such levy shall not exceed thirty-five cents on every one hundred dollars of the ascertained value of such property. At least once in each year the council shall cause to be made up and published in one or more newspapers of the city, a statement of the revenue received from the different sources, and of the expenditures upon the different accounts for the preceding year, or portion of the year, as the case may be.

And there shall be levied a tax of one dollar on all male dogs within the corporate limits, and not to exceed five dollars on each female dog; a list of which dogs shall be furnished by the police officers to the recorder of said city, to be by him or her transmitted to the assessor of Pleasants County, not

later than the thirtieth day of June of each year; and a failure on the part of any police officer to make any such report and return, upon complaint being lodged with the council, shall be sufficient cause for his removal from office. And it is further provided that said dog tax shall be collected by the city collector and if the person owning such dog declines and refuses to pay the same, the city collector shall report the same to the police officers, whose duty it shall be to kill such dog forthwith.

Section 26. The council, upon the return of the assessor, shall cause the said assessor's books to be correctly copied by the recorder into well bound books to be provided for the purpose, and the taxes extended in each book, one of which shall be delivered to the city collector, taking his receipt therefor, as well as for the taxes therein contained.

Section 27. Annual levy by municipal council. At its session held on the second Tuesday, in August, as aforesaid, the common council of every municipal corporation shall ascertain the condition of the fiscal affairs thereof, and make up an itemized statement of the same, which shall set forth in detail:

(a) The amount due the municipality, and the amount that will become due thereto and collectable during the current fiscal year, from every source, but excepting the amount that will be produced by levy of taxes to be made for the year.

(b) The debts and demands owned by the municipality, and the debts and demands that will become due and payable during the current fiscal year, including interest on any indebtedness, funded or bonded or otherwise.

(c) All other expenditures, under the several heads of expenditures, to be made and payable out of the funds of the municipality for the current fiscal year, including the cost of collecting of taxes and other claims, with proper allowances for delinquent taxes and contingencies. Said statement shall also set forth the total amount necessary to be raised by the levy of taxes for the current fiscal year; and the proposed rate of levy of taxes on the property of the municipality; and also the aggregate of the property of the municipality; also the aggregate of the taxable property in the municipality, stating separately the amount of personal property, of real estate, and the property assessed by the board of public works. A copy of such statement duly certified by the clerk, recorder or other recording officer of such municipality, shall be published as provided in sections one and two of chapter twenty-eight-a, Barnes Code, of West Virginia, one thousand nine hundred and sixteen; and posted at each voting place in the municipality at least eight days before an adjourned meeting of the common council to be held on the fourth Tuesday in August; at which time the council shall reconvene and proceed in all respects as provided in sections one and two, chapter twenty-eight-a, Barnes Code, West Virginia, 1916. After having entered the said statement, as finally approved, in its book of record of proceedings, the council shall thereupon levy as many cents on each one hundred dollars of the assessed valuation of the property of the municipality, according to the last assessment thereof, as will produce the amount shown by the said statement necessary to be raised for municipal purposes during the fiscal year; provided, that such levy shall not exceed thirty-five cents on each one hundred dollars of said valuation for any year, anything in this charter to the contrary, notwithstanding.

Section 28. And the council of said city is hereby empowered and authorized at any time that the necessity thereunder arises, or the condition of the

municipal affairs are such that a special levy should be required for any purposes, the power is hereby granted to the said council of the said city of St. Marys, to make such further or additional levies in the manner prescribed by sections five, six, seven and eight of chapter twenty-eight-a, of the code of West Virginia, one thousand nine hundred and sixteen; and said sections five, six, seven and eight are made part and parcel of this charter and held and treated the same as if fully copied herein, and the council of said city is hereby empowered and authorized at any time that the legislature of West Virginia shall amend or change said sections five, six, seven and eight of chapter twenty-eight-a, to make such amendments conformable to this charter.

Section 29. And section nine of chapter, twenty-eight-a, Barnes Code of West Virginia, one thousand nine hundred and sixteen concerning unlawful expenditures, indebtedness and liability, is made a part and parcel of this chapter.

Section 30. There shall be a lien on personal property and real estate within said city or the city taxes assessed thereon, and for all fines and penalties assessed or imposed upon the owners thereof by the authorities of such city from the time the same are so assessed or imposed, which shall have priority over all other liens, except the lien for taxes due the state and county; and which may be enforced by the council in the same manner provided by law for the enforcement of the lien for county taxes. If any real estate within said city be returned delinquent for the non-payment of taxes due thereon, a copy of such delinquent list may be certified by the council to the auditor, and the same may be sold for city taxes, interest and commissions thereon, in the same manner, at the same time and by the same officers as real estate is sold for state taxes.

Section 31. It shall be the duty of the council of said city, to at the first regular meeting in such year, appoint three persons, residents of said city, to act in the capacity of trustees of the sinking fund accrued from any and all special levies made and collected, for the purpose of paying the interest and principal upon the bonded indebtedness of said city; and it shall be the duty of said trustees to take charge of and invest said sinking fund in safe securities at their discretion and such manner as to yield to the said City of St. Marys the best interest thereon that said trustees for the benefit of said city, and paid over by them at the time of making their settlement to such person or persons as the council may direct before entering upon their duties as trustees of said sinking fund, said three trustees so appointed shall execute and file with the recorder of said city, a bond in a sum to be fixed by the council, sufficient to cover and secure all monies coming into their hands by reason of their said office; which bond shall be executed by them, together with good personal security to be approved by the council. Said trustees of the sinking fund shall, make and file with the council a full and complete statement once each year, or as often as the council may deem necessary and require, and said trustees shall make a full and complete settlement and pay over all monies in their hands as such trustees, whenever required by the council so to do.

Section 32. All bonds, obligations or other writings, taken in pursuance of any provision of this act, shall be made payable to "The City of St. Marys", and the respective person and their heirs, executors, administrators and assigns bound thereby, shall be subject to the same proceedings on the said bond, obligation and other writing, for enforcing the condition of the terms thereof, by motion or otherwise, before any court of competent jurisdiction in any for the county of Pleasants, that collectors of county levies and other sureties are, or shall be subject to, on their bonds for enforcing the payment of the county levies.

Section 33. The council shall have the right to institute proceedings in the same name of the city, for the condemnation of real estate for streets, alleys, drains, market grounds, city prisons or other work or purpose of public utility. Such proceedings shall conform to the provisions of chapter forty-two of the code of West Virginia, and the expense thereof shall be borne by the city.

Section 34. All acts or parts of acts, inconsistent with this act, are hereby repealed; but this act shall not be construed to repeal, change or modify any previous act consistent with this act, authorizing the town of St. Marys to contract debts or to borrow money, or to take away any of the powers conferred upon said town of St. Marys, or upon the mayor or council, or any of the officers, conferred by general law, except so far as the same are consistent with the powers hereby conferred; and the city of St. Marys, hereby created, shall be held in all things to be legal successor to the town of St. Marys, heretofore existing, and all legal obligations of said town shall be valid and binding upon the city of St. Marys.

Section 35. It is made part and parcel of this charter that all indebtedness heretofore contracted either by bond issue or issues, or the issue of orders, or evidence of indebtedness of any kind against the city of St. Marys, or the former town of St. Marys, shall on no wise be effected by the adoption of this charter; but the city council is authorized and empowered, and it is made a condition precedent that said municipality shall provide for and take care of said indebtedness in the manner provided by law, and said city through its municipal authorities are authorized and empowered by proper ordinances entered of record and election held therefor, if necessary, and ratified by a three-fifths of the voters of said municipality, at an election to be held for that purpose, to fund its bonded and other indebtedness at a rate of interest, not exceeding six per cent, to run for a period of not longer than thirty-four years, and said council is given the right and privilege hereunder of all powers conferred to cities and towns in this state by chapter forty-seven of Barnes Code of West Virginia, one thousand nine hundred and sixteen, governing cities and towns; and especially that part of said chapter, sections forty-nine-b one, forty-nine-b-two, forty-nine-b-three, forty-nine-b-four, forty-nine-b-five, forty-nine-b-six, forty-nine-b-seven, forty-nine-b-eight, forty-nine-b-nine, forty-nine-b-ten, forty-nine-b-eleven.

A. - Also, forty-nine-one-c, forty-nine-two-c, forty-nine-three-c, forty-nine-four-c, down to and including forty-nine-o.

Which act of said code of one thousand nine hundred and sixteen, chapter forty-seven, aforesaid, are made a part and parcel of the organic law of this city.

Section 36. It is hereby expressly provided that immediately after the passage of this act and the approval by the governor of this state, or its approval, by reason of his failure to sign the same, the present council and municipality of the city of St. Marys in being, shall cause a charter election to be held at three public places in the wards designated herein, numbers one, two and three, at such time and place and on a day to be named therein, under the general rules and regulations for the governing and controlling of general elections in this state and which election shall be held after two weeks notice is given of the time and place of said election and the ballots shall have printed thereon, "For the amended charter of the city of St. Marys", and "Against the amended charter of the city of St. Marys". And if, on the vote being canvassed and certified, within five days thereafter, a majority of all

the voters shall have voted in the affirmative, then said charter, so amended, shall from thence on be in full force and effect, and shall be the organic law governing said municipality, but if a majority of the votes cast at said election are found to be against said ratification, then said proposed charter will not have been adopted and the present charter now in being will continue in force and effect as it now is.

Section 37. In case said charter is adopted, at said charter election, held as aforesaid, then all acts and parts of acts inconsistent with this proposed charter, shall be deemed to have been repealed, and are, hereby repealed.

Section 38. The mayor and council in being and all elective officers of the city of St. Marys, in office at the time of the passage of this act, shall hold their respective offices and exercise all the powers and discharge all the duties thereof until their successors are elected and qualified; and shall exercise the powers, perform the duties, and receive the compensation heretofore conferred, prescribed and allowed by the form charter, by general law or by the ordinances of the said town, while they remain in office under the provisions of this act.

All ordinances in force in the city of St. Marys, at the time of the passage of this charter and the taking effect of the same, shall continue to have full operation and effect as ordinances of the city of St. Marys until amended, repealed, or suspended by the council of said city, except such thereof as are inconsistent with the provisions of this act.

Section 39. The said city council shall have full power and authority to change and enlarge the corporate limits of said city in manner and in form, and under the provisions provided by section forty-eight and forty-nine chapter forty-seven of the Barnes Code of West Virginia, edition of 1916.

AN ORDINANCE PROVIDING FOR AMENDMENT  
OF SECTIONS 4, 8, 9, and 10 OF THE  
CITY CHARTER OF ST. MARYS AND CALLING  
AN ELECTION FOR SUCH PURPOSE

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ST. MARYS

That Section 4 of the City Charter of the City of St. Marys, West Virginia, be amended by deleting the second sentence of Section 4 and inserting in lieu thereof, the following:

Section 4. The Mayor shall be elected for the term of four years; and all councilmen, after the first election, shall be elected for the term of four years.

That Section 4 of the City Charter be amended by adding to the fourth sentence of Section 4 the following:

Section 4. and all must be bona fide residents of said City for at least one year preceding the time of their election.

That Section 8 of the City Charter be amended by deleting all of Section 8 and inserting in lieu thereof, the following:

Section 8. Candidates to be voted for at any general municipal election in the City of St. Marys, at which a Mayor and three councilmen are to be elected under the provisions hereof, shall be named at a primary election, and the two candidates receiving the highest number of votes for Mayor are to be the candidates and the only candidates to be voted upon at the General Election. The two candidates in each ward receiving the highest number of votes at said Primary Election are to be the candidates and the only candidates to be voted upon at the General Election. The Primary Election shall be held on the second Tuesday in May, One Thousand Nine Hundred and Sixty-Nine, and thereafter every two years. The General Election shall be held on the second Tuesday in June, One Thousand Nine Hundred and Sixty-Nine, and thereafter every two years. The terms of all officers so elected on the second Tuesday in June shall be on the first day of July following their election, and they shall hold the same until their successors are elected and qualified according to law.

That Section 9 of said Charter be amended by deleting all of Section 9 and inserting in lieu thereof, the following:

Section 9. Any person desiring to become a candidate for Mayor or Councilman shall, on or before the 15th day of April prior to the Primary Election, file with the City Recorder a statement of said candidacy, with a filing fee charge of Five Dollars (\$5.00).

That Section 10 of said Charter be amended by deleting the language "sixty days" from the fifth line thereof and inserting in lieu thereof the language "One Year".

AN ORDINANCE CHANGING THE CHARTER OF  
THE CITY OF ST. MARYS AND APPOINTING  
A "POLICE COURT JUDGE", THE FIXING HIS  
COMPENSATION AND DUTIES FOR SAID CITY.

WHEREAS, the Charter of the City of St. Marys, West Virginia, provides in Section 15 of said Charter as follows:

The mayor shall be chief executive officer of the city, and shall take care that the orders, by-laws, ordinances, acts and resolutions of the council thereof are faithfully executed. He shall be ex-officio a justice and conservator of the peace within the city, and shall within the same have, possess and exercise all the power and perform all the duties vested by law in a justice of the peace; except, that he shall have no jurisdiction in civil causes of action arising out of the corporate limits of the city. Any warrant or other process issued by him may be executed any place in the county. He shall have control of the police of the city; and may suspend any policeman for cause; and he may appoint special police officers whenever he deems it necessary; and it shall be his duty especially to see that the peace and good order of the city are preserved, and that the persons and property therein are protected; and to this end he may cause the arrest and detention of all rioters and disorderly persons in the city before issuing his warrant therefor.

He shall have the power to issue executions for all fines, penalties and costs imposed by him, or he may require the immediate payment thereof, and in default of such payment he may commit the party in default to the jail of the corporation, if there be one, until the fine or penalty and costs shall be paid; but the term of imprisonment in such cases shall not exceed thirty days. And in all cases where a person is sentenced to imprisonment or to the payment of a fine of ten dollars or more, (and in no case shall judgment for a fine of less than ten dollars be given by the mayor if the defendant, his agent or attorney object thereto) such person shall be allowed an appeal from such decision to the Circuit Court of said Pleasants County, and upon the execution of an appeal bond with security deemed sufficient by the mayor, in penalty double the amount of the fine and costs imposed by the mayor with condition that the person proposing to appeal will perform and satisfy any judgment which may be rendered against him by the Circuit Court on such appeal. If such appeal be taken, the warrant of arrest (if there be any), the transcript of the judgment, the appeal bond and other papers of the case, shall be forthwith delivered by the mayor to the clerk of said court, and the court shall proceed to try the case as upon indictment or presentation, and render such judgment, including that of costs, as the law and the evidence may require; provided, that no judgment for costs shall be rendered in any such case against the City.

The mayor shall from time to time, recommend to the council such measures as he may deem needful for the welfare of the City. The expenses of maintaining any person committed to the jail of the county by him, except it be to answer an indictment or be under the provision of section two hundred and twenty-seven and two hundred and twenty-eight of chapter

fifty, of the amended code of this state, shall be paid by the City. But the mayor shall not receive any money belonging to the state or individuals unless he shall give the bond and security required by chapter fifty of the code of a justice of the peace; and all the provisions of said chapter relating to money received by justices shall apply as to like moneys received by the mayor. The mayor shall pay all moneys received by him for fines, or by virtue of his office belonging to the City, to the city collector, within one week after he received same.

WHEREAS, said charter provisions as relating to the powers and duties of Police Judge for said City are in conflict with and have been changed by Chapter 8, Article 10, Section 2, of the Code of West Virginia, and

WHEREAS, it is the desire of Council to adopt the provisions of Chapter 8, Article 10, Section 2 of the Code of West Virginia, to the extent hereinafter set forth and thereby to amend Section 15 of the Charter of said City of St. Marys.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF ST. MARYS, WEST VIRGINIA, That the provisions in conformity with Chapter 8, Article 10, Section 2, of the Code of West Virginia, be adopted and made a part of the Charter of this municipality as follows:

Section 15. Duties and Power of Mayor.

The mayor shall be chief executive officer of the city, and shall take care that the orders, by-laws, ordinances, acts and resolutions of the council thereof are faithfully executed. He shall have control of the police of the city; and may suspend any policeman for cause; and he may appoint special police officers whenever he deems it necessary; and it shall be his duty especially to see that the peace and good order of the city are preserved, and that the persons and property therein are protected. The mayor shall from time to time, recommend to the council such measures as he may deem needful for the welfare of the City.

Section 15(a). Appointment of Police Court Judge; Duties Generally.

The municipality of St. Marys, West Virginia, having a population in excess of two thousand (2,000) people, does hereby provide for the appointment by the Common Council by a majority thereof, an Officer or person to be known as "Police Court Judge", who shall be a person of good moral character and reputation, a law abiding citizen, a person who has not been convicted of a

felony or of any scandalous crime and a resident and freeholder of the municipality for at least one year preceding the time of his appointment, and his compensation shall be determined in the same manner as all appointed officials of the municipality, and the duties of such Police Court Judge are as hereinafter set forth:

The Police Court Judge shall be ex-officio a justice and conservator of the peace within the city, and shall, within the same, have and exercise all of the powers, both civil and criminal, and perform all duties vested by law in a justice of the peace or magistrate, except that he shall have no jurisdiction in civil cases or causes of action arising out of the corporate limits of the city. He shall have the same power to issue attachments in civil suits as a justice or magistrate of his county has, though the cause of action arose out of his city. However, in such case he shall have no power to try the same but such attachments shall be returnable and be heard before some justice or magistrate of his county. Upon complaint he shall have authority to issue a search warrant in connection with the violation of a municipal ordinance. Any search warrant, warrant of arrest or other process issued by him may be directed to the Chief of Police or any member of the police department of the city, and the same may be executed at any place within the county or counties in which the city is situated; and it shall be his duty especially to see that the peace and good order of the town are preserved, and that persons and property therein are protected; and to this end he may cause the arrest and detention of all riotous and disorderly persons in the city before issuing his warrant therefor. He shall have the power to issue executions for all fines, penalties and costs imposed by him, or he may require the immediate payment thereof, and in default of such payment, he may commit the party in default to the jail of the county or counties in which such city is situated, or other place of imprisonment in such corporation, if there be one, until the fine or penalty and costs shall be paid; but the term of imprisonment in such case shall not exceed thirty days. In all cases where a person is sentenced to imprisonment or to the payment of a fine of Ten Dollars or more, and in no case shall a judgment for a fine of less than Ten Dollars be given by the Police Court Judge if the defendant, his agent or attorney object thereto, such person shall be allowed an appeal from such decision to the Circuit Court of Pleasants County, West Virginia, and upon the execution of an appeal bond with security deemed sufficient by the Police Court Judge, in penalty double the amount of the fine and costs imposed by the Police Court Judge with condition that the person proposing to appeal will perform and satisfy any judgment which may be rendered against him by the Circuit Court on such appeal. If such appeal be taken, the warrant of arrest (if there be any), the transcript of the judgment, the appeal bond and other papers of the case, shall be forthwith delivered by the Police Court Judge to the clerk of said court, and the court shall proceed to try the case as upon indictment or presentation, and render such judgment, including that of costs, as the law and the evidence may require; provided, that no judgment for costs shall be rendered in any such case against the City.

When the penalty authorized by law is a fine exceeding Five Dollars, or imprisonment, the accused shall be entitled to a trial by twelve jurors, or a less number, if demanded, under the regulations respecting such trials in civil suits before justices or magistrates, as provided under the provisions of Chapter 50 of the Code of West Virginia. He shall from time to time, recommend to the Council such measures as he may deem needful for the welfare of the city. The expense of maintaining any person committed to the jail of the county by him, except it be to answer an indictment, or be under the provisions of Section 8 and 9, Article 18, Chapter 50 of the Code of West Virginia, shall be paid by the City and taxed as part of the costs of the proceeding. But such Police Court Judge shall not receive any money belonging to the State or to individuals unless he shall give bond and security required of a justice of the peace or magistrate as set forth in Chapter 50, Article 1 of the Code of West Virginia; and all the provisions of Article 1, Chapter 50 relating to moneys received by justices or magistrates shall apply to like moneys received by such Police Court Judge. The Police Court Judge shall pay all moneys received by him for fines, or by virtue of his office belonging to the City, to the city collector, within one week after he received same. Such Police Court Judge shall have all the similar powers and duties enumerated in the respective applicable charter provisions of the Code of West Virginia.

You are further notified that on the 17th day of April, 1976, one written objection was filed to object to the adoption of the proposed amendments. You are further advised that on the 27th day of April, 1976, the Council of the City of St. Marys unanimously approved the proposed amendments and agreed to submit the proposed amendments to the voters for ratification or rejection at a special election to be held on the 11th day of May, 1976, between the hours of 6:30 a.m. and 7:30 p.m. o'clock.

This notice is given in compliance with Chapter 8, Article 4, Section 8 of the West Virginia Code.

That notice calling such election shall be given by publication of this ordinance at least once each week for two successive weeks before said election in the Pleasants County Leader and the St. Marys Oracle, two newspapers of opposite politics, and of general circulation, published in said municipality. Attested copies of this ordinance shall also be posted at each place of voting at least ten (10) days before said election. All provisions of law concerning general elections shall apply so far as they are practicable.

It is further ordered that the voting places for said election shall be as follows:

First Ward	Court House
Second Ward	The St. Marys Grade School
Third Ward	The High School Building

It is further directed that the persons who are hereafter designated as election officials who are to hold and conduct the primary election to be held on Tuesday, May 11, 1976, are also designated as election officials to hold and conduct the aforesaid special City Election and will perform the duties in such dual capacities.

It is further ordered that the recorder of the City do procure and furnish the necessary supplies for the holding of said special election at the aforesaid voting precincts in accordance with law; that he do cause to be posted at each said voting places an attested copy of this order at least ten days before said special election; that he do notify the aforementioned Commissioners and Clerks of their appointments as election officials for such special election.

That the ballot to be used at such election shall be in form as follows:

OFFICIAL BALLOT

Special election to authorize change to the Charter of the City of St. Marys, West Virginia, establishing a municipal police court judge, according to the order of Council of the City of St. Marys, West Virginia, entered on the 27th day of April, 1976.

FOR THE CHARTER CHANGE ESTABLISHING  
A MUNICIPAL POLICE COURT JUDGE

AGAINST THE CHARTER CHANGE ESTABLISHING  
A MUNICIPAL POLICE COURT JUDGE

INSTRUCTIONS: Those favoring a Charter change will place an (x) in the square "For the Charter Change Establishing a Municipal Police Court Judge"; those against the charter change will place an (x) in the square "Against the Charter Change Establishing a Municipal Police Court Judge".

AN ORDINANCE ESTABLISHING A MUNICIPAL  
COURT AND PROVIDING FOR A MUNICIPAL POLICE  
COURT JUDGE: POWERS AND DUTIES GENERALLY; APPEAL.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF ST. MARYS,  
in the County of Pleasants and State of West Virginia, in regular session  
assembled this 6th day of July, 1976, THAT

Section 1. Municipal Court.

There is hereby created a municipal court for the City of St. Marys, which shall be presided over by a municipal police court judge.

Section 2. Municipal Police Court Judge, Appointment, Qualification, Compensation, Oath and Bond.

There shall be a municipal police court judge who shall be appointed by the Council, who shall hold his office at the pleasure of the Council, and who shall receive such compensation as may be fixed by Council. The person so appointed as municipal police court judge shall be a person of good moral character and reputation, a law abiding citizen, a person who has not been convicted of a felony or of any scandalous crime and a resident of and freeholder of the municipality for at least one (1) year next preceding the time of his appointment. The person so appointed as municipal police court judge shall qualify by taking the oath of office as such and shall give bond in the amount fixed by Council, under which bond he shall be responsible for all funds coming into his hands by virtue of such appointment.

Section 3. Powers and Duties of Municipal Police Court Judge.

The municipal police court judge shall be a conservator of the peace within the City, and insofar as any ordinance of the City is concerned, shall have and exercise all such powers and duties in criminal cases as a magistrate may lawfully exercise under the statutes of the State, and he shall also be ex-officio a magistrate within the City, and shall, within said City, have and exercise all of the criminal powers and perform all duties fixed by law in a magistrate, except that he shall have no jurisdiction in civil cases, and shall have such further powers and perform such other duties as may be from time to time prescribed or conferred by any law of the State or by ordinance of the City of St. Marys.

Section 4. Docket, Disposition of Fees, Fines and Costs.

There shall be a docket of the municipal court and it shall be the duty of the municipal police court judge to docket fully thereon all cases in the court, and show thereon all fees, fines, and costs adjudged and collected. The municipal police court judge shall, at least once a month, make a written report to the City Clerk of the City showing all receipts for the previous month and shall pay over and deliver to said City Clerk all such monies so received and to which the City is entitled, which monies shall be deposited in the City General Fund. Each such report shall be presented to the County at its next regular meeting.

Section 5. Costs.

The City shall be entitled to, and the municipal police court judge may tax, in all cases appearing before him involving violations of City ordinances, the same costs and in the same amounts as a magistrate may tax.

Section 6. Issuance of Search Warrants, Direction and Service of Process.

Upon complaint, the municipal police court judge shall have authority to issue a search warrant in connection with the violation of any provision of state law or ordinance of the City. Any search warrant, warrant of arrest or other process issued by the municipal police court judge may be directed to the Chief of Police or any member of the police department of the City and may be executed at any place within the county.

Section 7. Appeal.

Every person sentenced by the municipal police court judge of the municipal court to imprisonment or to the payment of a fine of Ten Dollars (\$10.00) or more, and in no case shall a fine of less than Ten Dollars (\$10.00) be imposed if the defendant, his agent or attorney objects thereto, shall be allowed an appeal to the Circuit Court of Pleasants County; the procedure upon appeal from the municipal court shall be the same as an appeal from a magistrate's court.

Section 8. Acting Municipal Police Court Judge.

In the event of the temporary absence of the municipal police court judge from his duties, the Mayor shall appoint a person similarly qualified to serve as municipal police court judge during such absence without the necessity of Council approval. The compensation of the temporary police court judge shall be determined by council.

Section 9.

Should any part of this Ordinance be declared invalid, it shall not affect the remainder of this Ordinance.

Section 10.

This Ordinance shall take effect on the 6th day of July, 1976.

AN ORDINANCE CHANGING THE CHARTER OF  
THE CITY OF ST. MARYS AND CREATING  
NEW BOUNDARIES FOR THE FIRST,  
SECOND AND THIRD WARDS

WHEREAS, the Charter of the City of St. Marys, West Virginia, provides in Section 3 of said Charter as follows:

Section 3. The territory of said city is hereby divided into three wards, each of which is bounded and described as follows:

First Ward: All that part of the territory above described lying south of a line running from the thoroughfare with the center of Washington Street to the east line of said corporation line near what is known as the Horseshoe Bend, shall constitute the first ward.

Second Ward: All that part of said territory above described, included between the center of Washington Street and Sycamore Street of said city and extending from the thoroughfare and corporation line on the west to the east line of said corporation shall be and constitute the second ward.

Third Ward: All of the remainder of said territory lying north and east of the said Sycamore Street and up to Middle Island Creek, beginning with the line of said corporation at a point of intersection of said second ward, with the eastern and northern boundary thereof, and binding thereon with the line of said corporation back to its intersection at the end of said second ward, shall be and constitute the third ward of said city. Said three wards so formed as aforesaid, to be and remain as constituted and laid down until changed by the municipal authorities of said city as provided by law.

WHEREAS, said Charter provisions as relating to the boundaries of the said wards have resulted in great disparity in the size of population of each ward;

WHEREAS, it is the desire of Council to create new

*W. J. Danc  
6.13.59*

boundaries for such wards in order to make the population of each Ward more equal;

WHEREAS, a Notice was published in the St. Marys Oracle and the Pleasants County Leader giving the voters of the City of St. Marys until April 1, 1986, to file objection to the proposed Ordinance;

AND WHEREAS, no objections were filed to the proposed Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF ST. MARYS, WEST VIRGINIA, That the following be adopted and made a part of the Charter of this municipality:

Section 3. The territory of said city is hereby divided into three wards, each of which is bounded and described as follows:

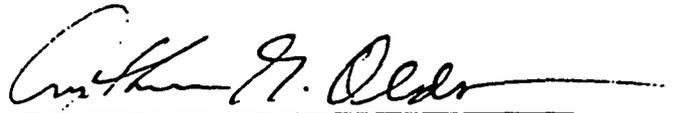
First Ward: All that part of the City of St. Marys lying south of a line running from the thoroughfare with the center of Gallaher Street to the east line of said corporation line shall constitute the first ward.

Second Ward: All that part of the City of St. Marys north of the center of Gallaher Street to a line running along the center of Charles Street; thence north along the center of Elaine Street to the northern boundary of Oakwood Terrace Addition and running along the northern boundary of lots No. 64, 70, 75, 76, 84 and 90 of said Oakwood Terrace Addition as shown on that certain plat of record in the Office of the Clerk of the County Commission of Pleasants County, West Virginia, in Plat Book No. 1, at page 158, shall constitute the second ward.

Third Ward: All of the remainder of the City of St. Marys lying north of a line running along the center of Charles Street; thence north along the center of Elaine Street to the northern boundary of the Oakwood Terrace Addition to the City of St. Marys; thence along the northern boundary of Lots No. 64,

70, 75, 76, 84 and 90 of said Oakwood Terrace  
Addition shall constitute the third ward.

Said three wards as so formed shall remain as  
constituted and laid down until changed by the  
municipal authorities of said City as provided by  
law.



Arthur G. Olds, Mayor

First Reading: April 1, 1986

Second Reading: April 15, 1986

AN ORDINANCE TO AMEND SECTIONS 8 AND 9 OF THE CITY OF ST. MARYS CHARTER IN MANNER FOLLOWING, TO-WIT: TO AMEND SAID SECTION 8 SO AS TO ABOLISH THE MUNICIPAL PRIMARY ELECTION HELD ON THE SECOND TUESDAY IN MAY IMMEDIATELY PRECEDING EACH GENERAL MUNICIPAL ELECTION, AND TO PROVIDE FOR A REGULAR MUNICIPAL ELECTION TO BE HELD ON THE SECOND TUESDAY IN JUNE, 1989, AND BIENNIALLY THEREAFTER ON THE SECOND TUESDAY IN JUNE, TO PROVIDE THAT THE ELECTION OF MAYOR AND COUNCILMAN SHALL BE OF NONPARTISAN NATURE, THAT NO DECLARATION OF POLITICAL AFFILIATION SHALL BE REQUIRED FROM ANY CANDIDATE FOR THE MUNICIPAL ELECTIVE OFFICES OF MAYOR AND COUNCILMAN ANTECEDENT TO HIS OR HER CANDIDACY THEREFOR, TO PROVIDE FOR THE ELECTION OF THAT CANDIDATE RECEIVING THE HIGHEST NUMBER OF VOTES CAST FOR A PARTICULAR OFFICE, TO PROVIDE FOR THE TERMS OF OFFICE AND TO PROVIDE FOR THE CONDUCT OF SUCH ELECTIONS IN MANNER SUCH AS ARE CONDUCTED GENERAL NONPARTISAN ELECTIONS IN THE STATE OF WEST VIRGINIA; TO PROVIDE FOR THE AMENDMENT OF SAID SECTION 9 SO AS TO PROVIDE FOR THE FILING OF A CERTIFICATE OF ANNOUNCEMENT OF CANDIDACY FOR ELECTIVE OFFICE, IN MANNER AND FORM AS SET FORTH, WITH THE RECORDER AND THE PAYMENT OF A FILING FEE.

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BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ST. MARYS, WEST VIRGINIA:

That Section 8 of The City of St. Marys Charter be amended by deleting all of Section 8 and inserting in lieu thereof, the following, to-wit:

Section 8. a) The regular municipal election to be held in the year one thousand nine hundred eighty-nine (1989), and biennially thereafter shall be held on the second Tuesday in June, but upon a nonpartisan ballot printed for the purpose. In the regular municipal election to be held on the 2nd Tuesday in June, 1989, and biennially thereafter, the candidate for any municipal elective office who has filed his candidacy therefore in accordance with Section 9 hereof, and who shall have received the highest number of votes cast for such office, shall be, and shall be declared to be, elected to such office.

b) It is declared to be the intent hereof that any person declared to be elected shall take office, even though he or she or they may not have received a majority or plurality of all votes cast for such office at such election.

c) The terms of all officers so elected on the second Tuesday in June shall commence on the first day of July following their election, and they shall hold the same until

cc w/ Dir

their successors are elected and qualified according to law.

d) Regular municipal elections shall be held on the second Tuesday in June of alternate years commencing as hereinabove provided and conducted in all respects as provided by law for conducting general nonpartisan elections in the State of West Virginia. The Common Council shall perform all of the duties in regard to the election which are imposed upon a county commission in conducting a general election in the State, and the Recorder shall perform all of the duties which are imposed upon the clerks of the circuit and county commission. The Common Council, in selecting officers to conduct the election and in choosing ballot commissioners, shall be bound by all of the laws obligating a county commission to select commissioners and clerks.

e) The ballots at regular municipal elections shall be received, cast, counted, tabulated and returns made and canvassed in all respects as provided by law for conducting general nonpartisan elections in the State of West Virginia, except that the duties devolving upon the county commission and the clerk thereof under the general laws for conducting elections in the State shall be discharged by the Common Council and Recorder.

That Section 9 of the City of St. Marys Charter be amended by deleting all of Section 9 and inserting in lieu thereof, the following, to-wit:

Section 9. a) Any person who is a resident of The City of St. Marys and who is otherwise eligible to hold the office of Mayor or Councilman, and who seeks to be elected to any such office, shall, if such person desires his or her name to appear on the ballot, file a Certificate of Announcement with the Recorder of said City, delcaring himself or herself a candidate for election to such office. Such certificate shall be substantially in the form: I, ....., hereby certify that I am a candidate for the office of ....., and desire my name printed on the ballot to be voted at the regular municipal election to be held on the .....day of....., 19.....; that I am a qualified voter of The City of St. Marys; that the address of my residence in The City of St. Marys is .....; that I am eligible to hold the office; and that I am a candidate therefor in good faith.

\_\_\_\_\_  
Candidate

ANT & WHITE  
ORNEYS AT LAW  
SHINGTON STREET  
O. BOX 178  
YS, WV 26170-0178  
104-684-2219

Signed and acknowledged before me this .....day of  
....., 19.....

\_\_\_\_\_  
Signature and Official Title of  
Certifying Officer

Such announcement shall be signed and acknowledged by the candidate before some officer qualified to administer oaths, who shall certify the same.

b) In the year one thousand nine hundred eighty-nine (1989), and biennially thereafter, such certificate shall be filed with the Recorder not earlier than the last Monday in February next preceding the regular municipal election and not later than the last Friday in March next preceding the regular municipal election and must be received by the Recorder before midnight, eastern standard time, of that day, or, if mailed, shall be postmarked before that hour.

c) Every person who becomes a candidate for municipal office in any such regular municipal election shall, at the time of filing his Certificate of Announcement, pay a filing fee in the sum of Twenty and No/100 Dollars (\$20.00) for the office of Mayor and the sum of Five and No/100 Dollars (\$5.00) for the office of Councilman.

THE CITY OF ST. MARYS

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

*Arthur H. Olds*  
Its Mayor

Attest:

*James K. Skivord*  
\_\_\_\_\_  
Recorder

First Reading June 7, 1988

Second Reading June 21, 1988

# City of St. Marys

Mayor  
Louis F. Flade

City Manager  
Roy G. Hearn

City Recorder  
Linda K. Wilson

418 Second Street  
ST. MARYS, WEST VIRGINIA 26170  
Phone: (304) 684-2401  
Fax: (304) 684-2463

May 14, 1996

Councilpersons

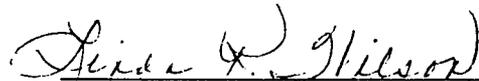
Ward I  
Lyle Meeks  
Gene Dutton

Ward II  
Richard McCullough  
Jack Johnson

Ward III  
C. A. (Mike) Hendricks  
Larry Burns

STATE OF WEST VIRGINIA  
COUNTY OF PLEASANTS, TO-WIT:

I, Linda K. Wilson, City Recorder for the City of St. Marys, WV,  
do hereby certify that the attached copies of council's Oaths of  
Office are true and accurate copies of the originals on file in  
my office.



Linda K. Wilson  
City Recorder

# City of St. Marys

418 Second Street  
ST. MARYS, WEST VIRGINIA 26170  
Phone: (304) 684-2401

Mayor  
Arthur G. Olds

City Manager  
Roy G. Hearn

City Recorder  
Linda K. Wilson

## Councilpersons

Ward I  
Brady Lamp  
Gene Dutton

Ward II  
Richard McCullough  
Jack Johnson

Ward III  
C. A. (Mike) Hendricks  
Art Boggs

STATE OF WEST VIRGINIA  
COUNTY OF PLEASANTS, TO-WIT:

I, Louis F. Flade, do hereby solemnly swear that I will support the Constitution of the United States, and the Constitution of the State of West Virginia, and that I will faithfully and impartially discharge the duties of Mayor of The City of St. Marys, for a term of 4 (four) years, beginning July 1, 1993, to the best of my skill and judgment, so help me God.

Louis F. Flade

Taken, subscribed and sworn to before me this the 30<sup>th</sup> day of June, 1993.

Arthur G. Olds

# City of St. Marys

418 Second Street  
ST. MARYS, WEST VIRGINIA 26170  
Phone: (304) 684-2401

Mayor  
Arthur G. Olds

City Manager  
Roy G. Hearn

City Recorder  
Linda K. Wilson

## Councilpersons

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Gene Dutton

Ward II  
Richard McCullough  
Jack Johnson

Ward III  
C. A. (Mike) Hendricks  
Art Boggs

STATE OF WEST VIRGINIA  
COUNTY OF PLEASANTS, TO-WIT:

I, Larry K. Burns, do hereby solemnly swear that I will support the Constitution of the United States, and the Constitution of the State of West Virginia, and that I will faithfully and impartially discharge the duties of Councilperson Third Ward of The City of St. Marys, for a term of 4 (four) years, beginning July 1, 1993, to the best of my skill and judgment, so help me God.

Larry K. Burns

Taken, subscribed and sworn to before me this the 30<sup>th</sup> day of June, 1993.

Arthur G. Olds

# City of St. Marys

Mayor  
Louis F. Flade

City Manager  
Roy G. Hearn

City Recorder  
Linda K. Wilson

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Councilpersons

Ward I  
Lyle Meeks  
Gene Dutton

Ward II  
Richard McCullough  
Jack Johnson

Ward III  
C. A. (Mike) Hendricks  
Larry Burns

STATE OF WEST VIRGINIA  
COUNTY OF PLEASANTS, TO-WIT:

I, Paul E. Dutton, do hereby solemnly swear that I will support the Constitution of the United States, and the Constitution of the State of West Virginia, and that I will faithfully and impartially discharge the duties of Councilperson (First Ward) of The City of St. Marys, for a term of four years, beginning July 1, 1995, to the best of my skill and judgment, so help me God.

Paul E. Dutton

Taken, subscribed and sworn to before me this the 5th day of July, 1995.

Louis F. Flade

# City of St. Marys

Mayor  
Louis F. Flade

City Manager  
Roy G. Hearn

City Recorder  
Linda K. Wilson

418 Second Street  
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Councilpersons

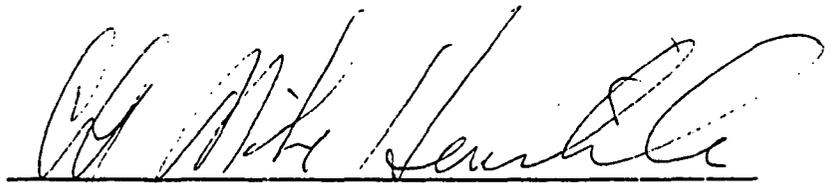
Ward I  
Lyle Meeks  
Gene Dutton

Ward II  
Richard McCullough  
Jack Johnson

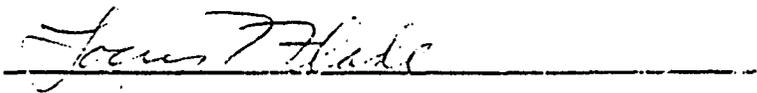
Ward III  
C. A. (Mike) Hendricks  
Larry Burns

STATE OF WEST VIRGINIA  
COUNTY OF PLEASANTS, TO-WIT:

I, C. A. (Mike) Hendricks, do hereby solemnly swear that I will support the Constitution of the United States, and the Constitution of the State of West Virginia, and that I will faithfully and impartially discharge the duties of Councilperson (Third Ward) of The City of St. Marys, for a term of four years, beginning July 1, 1995, to the best of my skill and judgment, so help me God.



Taken, subscribed and sworn to before me this the 5th day of July, 1995.



# City of St. Marys

418 Second Street  
ST. MARYS, WEST VIRGINIA 26170  
Phone: (304) 684-2401

Mayor  
Arthur G. Olds

City Manager  
Roy G. Hearn

City Recorder  
Linda K. Wilson

## Councilpersons

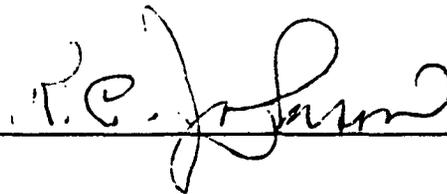
Ward I  
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Gene Dutton

Ward II  
Richard McCullough  
Jack Johnson

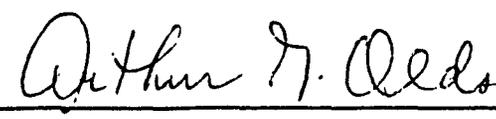
Ward III  
C. A. (Mike) Hendricks  
Art Boggs

STATE OF WEST VIRGINIA  
COUNTY OF PLEASANTS, TO-WIT:

I, R. C. "Jack" Johnson, do hereby solemnly swear that I will support the Constitution of the United States, and the Constitution of the State of West Virginia, and that I will faithfully and impartially discharge the duties of Second Ward Councilperson of The City of St. Marys, for a term of 4 (four) years, beginning July 1, 1993, to the best of my skill and judgment, so help me God.

  
\_\_\_\_\_

Taken, subscribed and sworn to before me this the 30<sup>th</sup> day of June, 1993.

  
\_\_\_\_\_

# City of St. Marys

418 Second Street  
ST. MARYS, WEST VIRGINIA 26170  
Phone: (304) 684-2401

Mayor  
Arthur G. Olds

City Manager  
Roy G. Hearn

City Recorder  
Linda K. Wilson

## Councilpersons

Ward I  
Brady Lamp  
Gene Dutton

Ward II  
Richard McCullough  
Jack Johnson

Ward III  
C. A. (Mike) Hendricks  
Art Boggs

STATE OF WEST VIRGINIA  
COUNTY OF PLEASANTS, TO-WIT:

I, Lyle Meeks, do hereby solemnly swear that I will support the Constitution of the United States, and the Constitution of the State of West Virginia, and that I will faithfully and impartially discharge the duties of First Ward Councilperson of The City of St. Marys, for a term of 4 (four) years, beginning July 1, 1993, to the best of my skill and judgment, so help me God.

Lyle S. Meeks

Taken, subscribed and sworn to before me this the 30<sup>th</sup> day of June, 1993.

Arthur G. Olds

# City of St. Marys

Mayor  
Louis F. Flade

418 Second Street  
ST. MARYS, WEST VIRGINIA 26170  
Phone: (304) 684-2401  
Fax: (304) 684-2463

City Manager  
Roy G. Hearn

City Recorder  
Linda K. Wilson

## Councilpersons

Ward I  
Lyle Meeks  
Gene Dutton

Ward II  
Richard McCullough  
Jack Johnson

Ward III  
C. A. (Mike) Hendricks  
Larry Burns

STATE OF WEST VIRGINIA  
COUNTY OF PLEASANTS, TO-WIT:

I, Dolores Stewart, do hereby solemnly swear that I will support the Constitution of the United States, and the Constitution of the State of West Virginia, and that I will faithfully and impartially discharge the duties of Councilperson (Second Ward) of The City of St. Marys, for a term of four years, beginning July 1, 95, to the best of my skill and judgment, so help me God.

Dolores Stewart

Taken, subscribed and sworn to before me this the 5th day of

July, 1995.

Louis F. Flade

"RESOLUTION ESTABLISHING RULES BY WHICH THE TIME AND PLACE OF ALL REGULARLY SCHEDULED MEETINGS AND THE TIME, PLACE AND PURPOSE OF ALL SPECIAL MEETINGS ARE TO BE MADE AVAILABLE, IN ADVANCE, TO THE PUBLIC AND NEWS MEDIA AND PROVIDING WHEN THIS RESOLUTION AND SUCH RULES SHALL TAKE EFFECT."

Be it Resolved and Ordered by Council of the City of St. Marys, Pleasants County, West Virginia:

Section 1. Statutory Mandate for These Rules. The rules established in and by this Resolution are mandated by and promulgated pursuant to Chapter 6, Article 9A, of the Code of West Virginia, 1931, as amended (herein called the "Act"), and other applicable provisions of law.

Section 2. Findings and Determinations. It is hereby found, determined and declared as follows:

(A) Section 3 of the Act requires each governing body, as defined in the Act, to promulgate rules by which the time and place of all regularly scheduled meetings and the time, place and purpose of all special meetings are made available, in advance, to the public and news media.

(B) The Council of the City of St. Marys, Pleasants County, West Virginia (herein called the "Council"), is a governing body within the meaning of the Act.

(C) Accordingly, it is hereby ordered that the rules set out in Section 3 hereof be promulgated and established as Rules of Procedure of the Council.

Section 3. Rules. The following are hereby promulgated and established as Rules of Procedure of the Council:

Rule No. 1. Notice of Regularly Scheduled Meetings. Immediately after adoption of this Resolution and in July of each year thereafter, the Council shall instruct the Recorder to, and the Recorder shall, post, and leave posted throughout the year to which it applies, at the regular meeting place where notices customarily are posted a notice setting forth the times and places of the Council's regularly scheduled meetings for the ensuing year. Such notice shall be of size and style sufficient to give notice and shall be of quality sufficient to withstand deterioration throughout the year to which it applies. Additional copies of the notice shall be delivered to the Recorder.

Also immediately after adoption of this Resolution and in July of each year thereafter, the Council shall instruct the Recorder to, and the Recorder shall, distribute to each of the newspapers, television stations, radio stations and other news media listed below a notice identical to that posted.

COPY

News Media

Address

St. Marys Oracle

P.O. Box 27  
St. Marys, WV 26170

a notice shall be considered distributed to a news medium when it has been addressed to such news medium at the address listed above, or at such other address as the news medium has in writing requested be used, marked or stamped with first class postage and deposited in the United States mail. In June of each year after the adoption of this Resolution, the Council shall review the above list and shall amend such list as needed, in the opinion of the Council, to reflect properly all the newspapers, television stations, radio stations and other news media that customarily cover news of the area served by the Council.

In the event of any modification in the time or place of a regularly scheduled meeting of the Council, notice of such modification shall be given to the public and news media by posting at the place and distributing to the new media in the manner set forth above, not less than three (3) days prior to the date of such regularly scheduled meeting, or, if such regularly scheduled meeting has been rescheduled for an earlier time, prior to the date of such rescheduled meeting, a notice setting forth such modification in the time or place of such regularly scheduled meeting. A copy of such notice shall be attached to and made a part of the minutes of the meeting for which such notice was given.

Notwithstanding the foregoing provisions, notice of the recess or adjournment of a regularly scheduled meeting and of the time and place for the continuation or reconvening thereof publicly given during such regularly scheduled meeting shall be adequate notice to the public and news media of the time and place thereof.

Provided, failure of the Recorder to comply exactly with the posting and distribution requirements hereof shall not invalidate the actions taken at the meeting for which such notice was posted and distributed if the Council shall determine that such posting and distribution were in substantial compliance herewith.

Rule 2. Notice of Special Meeting. Not less than three (3) but not more than eight (8) days prior to the date set for any special meeting of the Council, the Council shall instruct the Recorder to, and the Recorder shall, post on the door of the regular meeting place of the Council, and at such other place, if any, where notices customarily are posted

a notice setting forth the time, place and purpose or purposes of such special meeting. Business at such special meeting shall be limited to the purpose or purposes specified in said notice.

As soon as practical after the posting of said notice, but not less than three (3) days prior to the date set for such special meeting, the Recorder shall distribute to each of the newspapers, television stations, radio stations and other news media listed in Rule No. 1 hereof a notice identical to that posted. Amendments made to such list, as provided for in said Rule No. 1, shall be incorporated by reference in this Rule No. 2. A notice shall be considered distributed to a news medium when it has been addressed to such news medium at the address listed in said Rule No. 1, or at such other address as the news medium has in writing requested be used, marked or stamped with first class postage and deposited in the United States mail.

A copy of such notice posted and distributed pursuant to this Rule No. 2 shall be attached to and made a part of the minutes of the meeting for which such notice was given.

Notwithstanding the foregoing provisions, notice of the recess or adjournment of any special meeting and of the time and place for the continuation or reconvening thereof publicly given during such special meeting shall be adequate notice to the public and news media of the time and place thereof, the purpose or purposes therefor remaining the same.

Provided, failure of the Recorder to comply exactly with the posting and distribution requirements hereof shall not invalidate the actions taken at the meeting for which such notice was posted and distributed if the Council shall determine that such posting and distribution were in substantial compliance herewith.

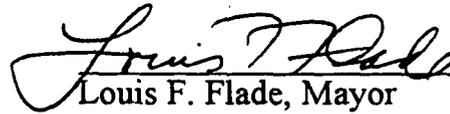
Rule No. 3. Emergency Meeting. A meeting as of the Council may be held without the notice to the public and news media required by Rule No. 1 and Rule No. 2 hereof only in the event of any emergency requiring immediate official action. The existence for such an emergency requiring immediate official action shall be determined by the Council and shall be attested to in a certificate by the Recorder describing such emergency and setting forth the reason or reasons immediate official action is required, which certificate shall be attached to and made a part of the minutes of such emergency meeting.

Section 4. Conflicting Provisions Repealed. All resolutions, orders and rules, or parts thereof, in conflict with the provisions of this Resolution are, to the extent of such conflicts, hereby repealed.

Section 5. Effective Time. This Resolution and the rules promulgated hereby shall take effect immediately upon the adoption hereof.

Introduced at Council Meeting: May 21, 1996

Adopted by Council: May 21, 1996

  
Louis F. Flade, Mayor

[SEAL]

  
Linda Wilson, Recorder/Treasurer

40436

cc: Art Beggs

COPY

Approved as  
written. 10-1-96.

-1-

Minutes of the regular session of the Common Council of The City of St. Marys, WV, held in  
Members on the 17th day of September, 1996.

Everyone stood for the PLEDGE OF ALLEGIANCE.

Mayor Flade called the meeting to order at 7:00 P.M.

Attending the meeting were: Mayor Flade, Cty Mgr Roy Hearn, Cty Rec Linda Wilson, Cty Atty  
Keith White, Chief of Police Dallas Flowers, Councilpersons: Jack Johnson, Gene Dutton,  
Larry Burns, Lyle Meeks and Dolores Stewart.

MINUTES:

Lyle Meeks made a motion to dispense with the reading of the minutes of the regular session  
of September 3, 1996, and approve them as written. Copies of those minutes had been  
distributed to members of council prior to tonight's meeting.

Larry Burns seconded.  
Motion passed unanimously.

Mayor Flade deviated from the regular order of the agenda, and recognized Samme Gee from  
Jackson & Kelly. Ms. Gee is our bond counsel for our upcoming financing.

Ms. Gee stated that she had prepared an ordinance to be considered by council tonight for  
first reading. Samme read by title only:

ORDINANCE AUTHORIZING THE ISSUANCE OF NOT MORE THAN \$60,000 IN AGGREGATE PRINCIPAL  
AMOUNT OF COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE REFUNDING BONDS, SERIES  
1996 A, OF THE CITY OF ST. MARYS TO BE USED TO REFUND THE CITY OF ST. MARYS COMBINED  
WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1982; AUTHORIZING THE ISSUANCE OF  
NOT MORE THAN \$128,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED WATERWORKS AND SEWERAGE  
SYSTEM REVENUE BONDS, SERIES 1996 B, OF THE CITY OF ST. MARYS TO BE USED, ALONG WITH  
OTHER FUNDS AND MONEYS OF, OR AVAILABLE TO, THE CITY OF ST. MARYS WHICH MAY BE LAWFULLY  
EXPENDED FOR SUCH PURPOSES, TO FINANCE THE COST OF SUCH DESIGN OF CERTAIN EXTENSIONS,  
ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE WASTEWATER TREATMENT FACILITY PORTION OF  
THE COMBINED WATERWORKS AND SEWERAGE SYSTEM OF THE CITY OF ST. MARYS AND TO PAY OTHER  
COSTS IN CONNECTION THEREWITH: PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR  
THE OWNERS OF SUCH BONDS: AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO  
THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A LOAN AGREEMENT OF LOAN  
AGREEMENTS RELATING TO SUCH BONDS: AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND  
PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATED THERETO.

Samme explained that the City has one outstanding bond in the amount of approximately  
\$57,000. Those bonds (issued in 1982) also bear interest at 10%. The First National Bank  
of St. Marys has offered to purchase the refunding bonds at an interest rate of 5½% at the  
same maturity date as our current outstanding bonds. Those are the series "A" bonds.

The series "B" bonds will be for a \$128,000 loan from the Water Development Authority  
which will be used to pay the engineers for the design of the improvements to the sewage  
treatment facility.

The two bonds will be issued at the same time and they will both be secured by a first lien  
on the net revenue of the combined waterworks and sewage system.

The accountant, Phil Postlewait, has issued a certificate that says that if the City does  
the refunding on the 1982 bonds, that the City's rates will be sufficient to meet the

coverage requirements to issue both the new A bonds and the B bonds.

The B bonds will be issued at a maturity date of 20 years from the completion of the project. The interest rate on the B bonds is 3%. The WDA will purchase those bonds, following the approval of the ordinance. The bond issue should be able to be closed very early in November. That should allow the City to go to bid in the spring.

Jack Johnson made a motion to pass the ordinance on first reading.  
Gene Dutton seconded.  
Motion passed unanimously.

Samme explained that council needs to have a first reading of the ordinance tonight. Then at the next council meeting they need to have the second reading of the ordinance and adopt it at that time. It will need to then be published twice for two consecutive weeks. A public hearing can then be held on October 15, 1996, at 7:00 P.M., prior to the regular council meeting. Samme went on to say that she would not be present for the second reading of the ordinance on October 1, 1996, unless someone wanted her to be there.

Cty Atty stated that it would not be necessary for her to be present for the second reading.

On another issue, Samme Gee informed council that the County Commission was going to close their bond issue tomorrow morning. At that time, their \$400,000 would be available for the Middle Island water project.

Mayor Flade returned to the regular order of the agenda.

OLD BUSINESS:

City Manager's Report

A. Update re: Run - Stadium Drive. Cty Mgr reported that the State was going to donate the 60" pipe for the project. The City would be doing the work.

B. Advice re: Response from property owners about quit-claim deeds. Cty Mgr reported that he has not gotten in touch with everyone. The ones that he has been able to contact, has all indicated that they would like to have their quit-claim deeds.

C. Quotes re: Generator - Cty Mgr stated that he had not obtained any quotes, yet.

Discussion was held concerning the survey for the run at the refinery. Lyle Meeks suggested that we might be able to get some grant monies for that project.

Cty Mgr reported that the project will probably have to be engineered.

Chief of Police Report

Gene Dutton asked about the speed limit on Sixth Street at the intersection of Rose Street.

Chief Flowers stated that it is a 25 MPH area. It is not, nor never has been a 15 MPH zone.

Gene Dutton suggested that the intersection of Rose and Sixth Street be designated as a 4-Way stop.

After some discussion, Gene Dutton made a motion to place stop signs on the four corners of Sixth and Rose Streets.

Lyle Meeks seconded.  
Motion passed unanimously.

Mr. Anderson, who was in attendance, asked if the traffic signs could be raised. Many signs not be seen from smaller vehicles if a big pick up, van, etc., is parked in front of the signs.

Also, Cty Mgr was asked to either replace faded signs, or get them painted.

City Recorder's Report

Cty Rec had nothing to report.

City Attorney's Report

Cty Atty explained that the letter from Worker's Compensation regarding Jim Taylor, simply means that the City has won the case.

B. Update re: Unemployment / Bob Jewell. Nothing new.

C. Update re: John Butler's city license. Cty Atty stated that there is a pre-trial conference on September 24, 1996.

D. Update re: TCI Ordinance - 2nd reading. It should be ready for next council meeting.

E. Update re: CSX Contracts - About worked out. Should go back to \$1.00 per year.

F. Update re: Richard Craig / replacing trees - Cty Atty is waiting for a trial date for him.

G. Update re: Condemnation on two properties. One is being torn down. The Noland property has not responded. We need to proceed on the condemnation.

H. Update re: Transporting prisoners to Tyler County jail - Still in negotiations.

I. Recommendation re: Bids for Donald Street Paving - Two bids were received. A meeting will be held next week to make the decision.

J. Advice re: Sewer Assessments to Chestnut Oaks residents - nothing new. Committee needs to meet.

K. Update re: Liens for mowing for Greg Myers and for the mound. Liens are ready for filing.

Lyle Meeks made a motion to go into executive session under 6-9A-4 of the WV Code for discussion of the pending lawsuit. The time was 7:44 P.M.

Gene Dutton seconded.  
Motion passed unanimously.

Regular session reconvened at 7:51 P.M.

NEW BUSINESS:

Discussions

A. Monongahela Power outages - Lyle Meeks stated that in the last month or two there have been a lot of power outages. Lyle asked that a letter be written to Mon Power and ask them to respond regarding the outages. These outages are in the vicinity of Cherry Street, (between 4th and 5th Streets), Morgan Avenue, and 6th Street.

B. Caller ID - Lyle Meeks stated that there are a lot of people who are wanting Caller ID. We should send a letter and ask them to respond to the request.

On another subject, Jack Johnson suggested that the city pass an ordinance whereby every city bill is charged a \$1.00 fee per month, for the purpose of resurfacing city streets.

Dolores Stewart stated that she would hate to pave the streets before the water lines had been replaced.

Lyle Meeks suggested that the City purchase a Bobcat with a grinder on the front of it. That way, we would not have to contract for the grinder.

Larry Burns said that council has brought this up many times and then it is dropped. We need to do something about the streets in town, and it needs done now. He stated that he would be in favor of \$2 or \$3 instead of \$1 per month.

Cty Atty and Cty Rec cautioned council about just raising the municipal service fee. The fees should be inacted through a separate ordinance just for street repaving.

Jack Johnson made a motion for Cty Atty to write an ordinance to charge \$2 per customer per month for street resurfacing.

Gene Dutton seconded.  
Motion passed unanimously.

#### Bids for roofing for City Hall

Two bids were received. Tri State Roofing & Sheet Metal Company submitted a bid for \$16,400.00.

Tri State Urethane, Inc. submitted a bid for \$6,116.10.

Jack Johnson made a motion to approve the bid for \$6,116.10.  
Gene Dutton seconded.  
Motion passed unanimously.

This was not a budgeted line item. It will come from surplus funds in General Fund. The surplus is on a City Hall capital expenditure line, anyway. No revisions should be needed.

#### Approval of Bills

Lyle Meeks made a motion to approve the bills for payment.  
Gene Dutton seconded.  
Motion passed unanimously.

Chief Flowers announced that there will be a meeting on Thursday morning at 8:00 a.m. at City Hall regarding the upcoming Band-O-Rama.

Mayor Flade announced that he would be on vacation from 6:00 a.m. on Thursday, September 19, 1996, through Friday, September 28, 1996.

Motion to adjourn at 8:15 p.m.

CITY OF ST. MARYS

BOND ORDINANCE

(Combined Waterworks and Sewerage System  
Revenue Refunding Bonds, Series 1996 A  
and  
Combined Waterworks and Sewerage System  
Revenue Bonds, Series 1996 B)



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BOND ORDINANCE

Introduced in Council

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Introduced by

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Passed by Council

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An Ordinance authorizing the issuance of not more than \$60,000 in aggregate principal amount of Combined Waterworks and Sewerage System Revenue Refunding Bonds, Series 1996 A, of the City of St. Marys to be used to refund the City of St. Marys Combined Waterworks and Sewerage System Revenue Bonds, Series 1982; authorizing the issuance of not more than \$128,000 in aggregate principal amount of Combined Waterworks and Sewerage System Revenue Bonds, Series 1996 B, of the City of St. Marys to be used, along with other funds and moneys of, or available to, the City of St. Marys which may be lawfully expended for such purposes, to finance the cost of such design of certain extensions, additions, betterments and improvements to the wastewater treatment facility portion of the combined waterworks and sewerage system of the City of St. Marys and to pay other costs in connection therewith; providing for the rights and remedies of and security for the owners of such bonds; authorizing execution and delivery of all documents relating to the issuance of such bonds; approving, ratifying and confirming a loan agreement or loan agreements relating to such bonds; authorizing the sale and providing for the terms and provisions of such bonds and adopting other provisions related thereto.

Be It Ordained by the Council of the City of St. Marys, West Virginia:

ARTICLE I

STATUTORY AUTHORITY, DEFINITIONS AND FINDINGS

Section 1.01. Authority of this Ordinance. This Ordinance is enacted pursuant to the provisions of Chapter 8, Article 20, and Chapter 22C, Article 2 of the Code of West Virginia, 1931, as amended (collectively, the "Act"), and other applicable provisions of law.

Section 1.02. Definitions. The following terms shall have the following meanings in this Ordinance unless the context expressly requires otherwise.

A. "Act" shall mean collectively Chapter 8, Article 20, and Chapter 22C, Article 2 of the Code of West Virginia, 1931, as amended and in effect on the date of enactment of this Ordinance.

B. "Authority" shall mean the West Virginia Water Development Authority, which is expected to be the original purchaser of the Series 1996 B Bonds on behalf of the Program, or any other agency of the State of West Virginia that succeeds to the function of the Authority.

C. "Bank" shall mean the bank set forth in a resolution supplemental hereto.

D. "Board" shall mean the Water and Sewer Board of the Issuer, as created and appointed by ordinance enacted by the Council of the Issuer pursuant to the provisions of Section 18 of the Act, and any successor thereto.

E. "Bond Construction Trust Fund" shall mean the fund created by Section 6.01 hereof.

F. "Bondholder" or "Owner of the Bonds" or "Registered Owners" or any similar term shall mean any person who shall be the registered owner of any Outstanding Bonds as hereinafter defined.

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

H. "Bond Year" shall mean the 12 month period beginning on the anniversary of the Closing Date in each year and ending on the day prior to the anniversary date of the Closing Date in the following year except that the first Bond Year shall begin on the Closing Date.

I. "Bonds" shall mean, collectively, the City of St. Marys Combined Waterworks and Sewerage System Revenue Refunding Bonds, Series 1996 A and the City of St. Marys Combined Waterworks and Sewerage System Revenue Bonds, Series 1996 B, originally authorized hereby, and any pari passu additional bonds hereafter issued within the terms, restrictions and conditions contained in this Ordinance.

J. "Closing Date" shall mean the date upon which there is an exchange of the Bonds for the proceeds or a portion of the proceeds representing the purchase of the Bonds.

K. "Code" shall mean the Internal Revenue Code of 1986, as amended, including the rules and regulations promulgated pursuant thereto or any predecessors or successors thereto.

L. "Commission" shall mean the West Virginia Municipal Bond Commission or any other agency of the State of West Virginia which succeeds to the functions of the Commission.

M. "Commitment Letter" shall mean the letter dated August 8, 1996, from The First National Bank of St. Marys advising of its intent to purchase the Series 1996 A Bonds.

N. "Completion Date" means the completion date of the Project, as defined in the SRF regulations.

O. "Consulting Engineers" shall mean S & S Engineers, Inc., Consulting Engineers, Charleston, West Virginia, or any engineer or firm of engineers which shall at any time hereafter be retained by the Issuer as Consulting Engineers for the System.

P. "Cost of Project" or "Costs" shall mean those costs described in Section 1.04(F) hereof to be a part of the cost of the design phase or the acquisition and construction phase of the Project, as the case may be, as hereinafter defined.

Q. "Council" shall mean the Council of the Issuer.

R. "Debt Service" shall mean the scheduled amount of interest and amortization of principal payable on the Series 1996 A Bonds and the Series 1996 B Bonds, as hereinafter defined, during the period of computation, excluding amounts scheduled during such period which relate to principal which has been retired before the beginning of such period.

S. "DEP" shall mean the West Virginia Division of Environmental Protection, a division of the West Virginia Bureau of Environment, or any other agency, board or department of the State that succeeds the function of the DEP.

T. "Depository Bank" shall mean the bank designated as such in the Supplemental Resolution, as hereinafter defined, and its successors and assigns.

U. "Excess Investment Earnings" shall mean an amount equal to the sum of:

(A) The excess of

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

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

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

V. "FDIC" shall mean the Federal Deposit Insurance Corporation and any successor to the functions of the FDIC.

W. "First National Bank" shall mean The First National Bank of St. Marys, which is expected to be the original purchaser and Registered Owner of the Series 1996 A Bonds.

X. "Fiscal Year" shall mean each twelve month period beginning on July 1 and ending on the succeeding June 30.

Y. "Fund" shall mean the "West Virginia Water Pollution Control Revolving Fund" established by the State, administered by the DEP and funded by capitalization grants awarded to the State pursuant to the federal Clean Water Act, as amended, for the purpose of establishing and maintaining a permanent perpetual fund for the construction, acquisition and improvement of wastewater treatment facilities.

Z. "Grant" shall mean any grant or grants received by the Issuer in aid of the cost of the design, acquisition and construction of the Project.

AA. "Grant Agreement" shall mean a written commitment for the payment of any Grant, specifying the amount of such Grant, the terms and conditions upon which such Grant is made and the date or dates or event or events upon which such Grant is repaid to the Issuer.

BB. "Grant Receipts" shall mean all monies received by the Issuer on account of any Grant.

CC. "Government Obligations" shall mean direct obligations of, or obligations the timely payment of the principal of and interest on which is guaranteed by, the United States of America.

DD. "Gross Revenues" shall mean the aggregate gross operating and non-operating revenues of the System, as hereinafter defined, determined in accordance with generally accepted accounting principles, after deduction of prompt payment discounts, if any, and reasonable provision for uncollectible accounts; provided, that "Gross Revenues" does not include any gains from the sale or other disposition of, or from any increase in the value of, capital assets (including Qualified Investments, as hereinafter defined) or any Tap Fees, as hereinafter defined, and for the furnishing by the Issuer of miscellaneous service.

EE. "Independent Accountants" shall mean any firm of certified public accountants which shall be retained by the Issuer as independent accountants for the System

or for any other purpose except keeping the accounts of the System in the normal operation of its business and affairs.

FF. "Investment Property" shall mean any security (as said term is defined in Section 165(g)(2)(A) or (B) of the Code), obligation, annuity contract or investment-type property or residential rental property for family units which is not located within the jurisdiction of the city and which is not acquired to implement a court ordered or approved housing desegregation plan, excluding, however, obligations the interest on which is excluded from gross income under Section 103 of the Code for federal income tax purposes other than specified private activity bonds as defined in Section 57(a)(5)(C) of the Code.

GG. "Issuer" shall mean the City of St. Marys, a municipal corporation of the State of West Virginia, and, when appropriate, also means the Council thereof and any department, board, organizing or instituting thereof in control of the management and operation of the System, as hereinafter defined.

HH. "Loan Agreement" shall mean the Water Pollution Control Revolving Fund Loan Agreement by and among the Authority, the DEP and the Issuer providing for the purchase of the Bonds from the Issuer by the Authority, the form of which will be attached to the Supplemental Resolution approving each series of bonds.

II. "Mayor" shall mean the Mayor of the Issuer.

JJ. "Net Proceeds" means the face amount of the Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds deposited in the Reserve Accounts. For purposes of the Private Business Use limitations set forth herein, the term Net Proceeds shall include any amounts resulting from the investment of proceeds of the Bonds, without regard to whether or not such investment is made in tax-exempt obligations.

KK. "Net Revenues" shall mean the balance of the Gross Revenues remaining after deduction of Operating Expenses, as hereafter defined.

LL. "Nonpurpose Investment" shall mean any Investment Property which is acquired with the Gross Proceeds of the Bonds and is not acquired in order to carry out the governmental purpose of the Bonds.

MM. "Operating Expenses" shall mean the reasonable, proper and necessary costs of repair, maintenance and operation of the System and includes, without limiting the generality of the foregoing, administrative, engineering, legal, auditing and insurance expenses, other than those capitalized as part of the Costs, fees and expenses of the Authority, DEP, fiscal agents, the Registrar and Paying Agent (both as hereinafter defined), other than those capitalized as part of the Costs, payments to pension or retirement funds, taxes and such other reasonable operating costs and expenses as should normally and regularly be included under generally accepted accounting principles; provided, that

"Operating Expenses" does not include payments on account of the principal of or redemption premium, if any, or interest on the Bonds, charges for depreciation, losses from the sale or other disposition of, or from any decrease in the value of, capital assets, amortization of debt discount or such miscellaneous deductions as are applicable to prior accounting periods.

NN. "Ordinance" or "this Ordinance" shall mean this ordinance as hereafter amended or supplemented.

OO. "Original Bonds" or "Bonds originally authorized hereby" or similar phrases shall mean the not more than \$60,000 in aggregate principal amount of Combined Waterworks and Sewerage System Revenue Refunding Bonds, Series 1996 A issued for the purpose of refunding the Series 1982 Bonds, as hereinafter defined, and not more than the \$128,000 Combined Waterworks and Sewerage System Revenue Bonds, Series 1996 B issued for the purpose of paying the Costs of the Project and for such other purposes permitted hereby and authorized by a resolution supplemental hereto.

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

QQ. "Parity Bonds" shall mean additional Bonds issued under the provisions and within the limitations prescribed by Section 8.08 hereof, payable from Net Revenues on a parity with the Original Bonds.

RR. "Paying Agent" shall mean the West Virginia Municipal Bond Commission or such other entity or authority as may be designated as a paying agent by the Issuer.

SS. "Prior Ordinance" shall mean the Ordinance enacted November 29, 1982, with respect to the Series 1982 Bonds, as hereinafter defined.

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

"incidental use", if any, of the proceeds of the issue and/or proceeds used for "qualified improvements", if any.

UU. "Program" shall mean the State's Water Pollution Control Revolving Fund Program, under which the Authority purchases the water pollution control revenue bonds of local governmental entities satisfying certain legal and other requirements with the proceeds of a capitalization grant award from the United States Environmental Protection Agency and funds of the State.

VV. "Project" shall mean the design of certain extensions, additions, betterments and improvements to the sewage portion of the System.

WW. "PSC" means the Public Service Commission of West Virginia and any successors to the functions thereof.

XX. "PSC Order" means the recommended decision of the PSC regarding the acquisition and construction of the Project which grants the Issuer a certificate of convenience and necessity and approval of financing.

YY. "Qualified Investments" shall mean 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 evidences of indebtedness issued by any of the following agencies: Banks for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Bank System; Export-Import Bank of the United States; Federal Land Banks; Government National Mortgage Association; the Tennessee Valley Authority; or the Washington Metropolitan Area Transit Authority;

(d) Any bond, debenture, note, participation certificate or other similar obligation 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 Federal Deposit Insurance Corporation ("FDIC"), shall be secured by a pledge of Government Obligations, provided, that said Government Obligations pledged either must mature as nearly as practicable coincident with the maturity of said time accounts or must

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

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

(g) Repurchase agreements, fully secured by investments of the types described in paragraphs (a) through (e), above, with banks or national banking associations which are members of FDIC or with government bond dealers recognized as primary dealers by the Federal Reserve Bank of New York, provided, that said investments securing said repurchase agreements either must mature as nearly as practicable coincident with the maturity of said repurchase agreements or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said repurchase agreements, and provided further that the owner 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 "consolidated fund" (or any distinct portion thereof) managed by the West Virginia State Board of Investments pursuant to Article 6, Chapter 12 of the Code of West Virginia, 1931, as amended; and

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

ZZ. "Recorder" shall mean the Recorder of the Issuer.

AAA. "Registrar" shall mean the entity or entities named as such in the Supplemental Resolution.

BBB. "Regulations" shall mean the regulations promulgated under the Code.

CCC. "Renewal and Replacement Fund" shall mean the fund created by Section 6.01(2) hereof.

DDD. "Reserve Accounts" shall mean, collectively, the accounts in the respective Sinking Funds, as hereinafter defined, created by Sections 6.02(1) and 6.02(2) hereof.

EEE. "Reserve Requirements" shall mean as of any date of calculation, the maximum amount of principal and interest, if any, which will become due on the Series 1996 A Bonds or the Series 1996 B Bonds in the then current or any succeeding Fiscal Year.

FFF. "Revenue Fund" shall mean the fund created in Section 6.01(1) hereof.

GGG. "Series 1982 Bonds" shall mean the Issuer's Combined Waterworks and Sewerage System Revenue Bonds, Series 1982, dated November 29, 1982, issued in the original principal amount of \$200,000 and outstanding on the date of introduction of this Ordinance in the amount of \$57,687, to be refunded by the Series 1996 A Bonds authorized hereunder.

HHH. "Series 1996 A Bonds" shall mean the not more than \$60,000 in aggregate principal amount of Combined Waterworks and Sewerage System Revenue Refunding Bonds, Series 1996 A of the Issuer.

III. "Series 1996 A Bonds Reserve Account" shall mean the Series 1996 A Bonds Reserve Account established in the Series 1996 A Bonds Sinking Fund pursuant to Section 6.02(1) hereof.

JJJ. "Series 1996 A Bonds Reserve Requirement" shall mean, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 1996 A Bonds in the then current or any succeeding year.

KKK. "Series 1996 B Bonds" shall mean the not more than \$128,000 in aggregate principal amount of Combined Waterworks and Sewerage System Revenue Bonds, Series 1996 B of the Issuer.

LLL. "Series 1996 B Bonds Reserve Account" shall mean the Series 1996 B Bonds Reserve Account established in the Series 1996 B Bonds Sinking Fund pursuant to Section 6.02(2) hereof.

MMM. "Series 1996 B Bonds Reserve Requirement" shall mean, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 1996 B Bonds in the then current or any succeeding year.

NNN. "Sinking Funds" shall mean, collectively, the funds created by Sections 6.02(1) and 6.02(2) hereof.

OOO. "SRF Administrative Fee" shall mean any administrative fee required to be paid pursuant to the Loan Agreement.

PPP. "SRF Regulations" shall mean the regulations set forth in Title 47, Series 31 of the West Virginia Code of State Regulations.

QQQ. "State" shall mean the State of West Virginia.

RRR. "Supplemental Resolution" shall mean any resolution, ordinance or order of the Issuer supplementing or amending this Ordinance and, when preceded by the article "the", refers specifically to the supplemental resolution or resolutions authorizing the sale of the Original Bonds; provided, that any matter intended by this Ordinance to be

included in the Supplemental Resolution with respect to the Original Bonds and not so included may be included in another Supplemental Resolution.

SSS. "Surplus Revenues" shall mean the net revenues not required by this Ordinance to be set aside and held for the payment of or security for the Bonds, including the Reserve Accounts and the Renewal and Replacement Fund.

TTT. "System" shall mean the complete existing combined waterworks and sewerage system now owned by the Issuer, consisting of a waterworks system in its entirety or any integral part thereof, and a sewerage treatment and collection system, and shall include any extensions, additions, betterments and improvements thereto, including the wastewater treatment facility, hereafter acquired or constructed for said waterworks and sewerage system from any sources whatsoever, both within and without said Issuer.

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

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

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

Additional terms and phrases are defined in this Ordinance as they are used. Accounting terms not specifically defined herein shall be given meaning in accordance with general accepted accounting principles.

The terms "herein", "hereunder", "hereby", "hereto", "hereof" and any similar terms refer to this Ordinance; and the term "hereafter" means after the date of the enactment of this Ordinance.

Articles, sections and subsections mentioned by number only are the respective articles, sections and subsections of this Ordinance so numbered.

Section 1.03. Ordinance Constitutes Contract. In consideration of the acceptance of the Original Bonds and any other bonds authorized to be issued hereunder by those who shall own the same from time to time, this Ordinance shall be deemed to be and shall constitute a contract between the Issuer and such Bondholders, and the covenants and agreements herein set forth to be performed by said Issuer shall be for the equal benefit, protection and security of the legal owners of any and all of such Bonds, all of which shall

be of equal rank and without preference, priority or distinction between any one Bond and any other Bonds by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

Section 1.04. Findings. It is hereby found, determined and declared as follows:

A. The City of St. Marys, West Virginia, a municipal corporation and political subdivision of the State in Pleasants County of said State, now owns a combined waterworks and sewerage system consisting of a waterworks system in its entirety or any integral part thereof, including some or all of 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, and a sewage treatment plant or plants and some or all of collecting, intercepting and outlet sewers, lateral sewers, drains, force mains, conduits, pumping stations, ejector stations and all other appurtenances, extensions, additions and improvements necessary, appropriate, useful, convenient or incidental for the collection, treatment and disposal in a sanitary manner of sewage and industrial wastes (herein referred to as the "System").

B. In accordance with Section 18 of the Act, the System is under the supervision and control of the Water and Sewer Board of the Issuer (the "Board").

C. It is deemed necessary and desirable for the health, welfare and safety of the inhabitants of the Issuer that there be first designed and then acquired and constructed the Project, consisting of wastewater treatment plant upgrades, all of which will constitute extensions, additions, betterments and improvements to the System at an estimated cost not to exceed \$2,000,000, in accordance with the plans and specifications to be prepared by the Consulting Engineers, which plans and specifications following approval by DEP will be on file with the Issuer, and which Project is generally described in Exhibit A attached hereto and by this reference made a part hereof and will have an estimated useful life in excess of twenty (20) years.

D. The estimated revenues to be derived in each year after the enactment of this Ordinance from the operation of said System will be sufficient to pay all the costs of the operation and maintenance of said System, the principal of and interest on the Bonds and all sinking fund, reserve, renewal and replacement and other payments provided for in this Ordinance.

E. Pursuant to the Act, the Issuer is authorized and empowered to issue revenue refunding bonds to refund, pay or discharge all or any part of its outstanding revenue bonds. The Issuer is advised that present value debt service savings will be realized as a result of the refunding of the Series 1982 Bonds. The registered owner of the Series 1982 Bonds has agreed to the current refunding of said Series 1982 Bonds. The Issuer hereby determines that it will be to the benefit of the Issuer and its residents to refund on a current

basis the Series 1982 Bonds by paying in full the entire outstanding principal of, the redemption premium, if any, and the interest on, the Series 1982 Bonds, on the Closing Date, in the manner set forth herein with the proceeds of the Series 1996 A Bonds, in the maximum aggregate principal amount of not to exceed \$60,000, and other moneys of the Issuer, such Series 1996 A Bonds to be secured by and payable from the Net Revenues of the System, on a parity with the Series 1996 B Bonds.

F. It is in the best interests of the Issuer that its Series 1996 A Bonds be sold to the First National Bank pursuant to its Commitment Letter, attached hereto as Exhibit B and made a part hereof, to take advantage of the favorable terms available to the Issuer.

G. It is deemed necessary for the Issuer to issue its Series 1996 B Bonds in the aggregate principal amount of not more than \$128,000 to finance the costs of design of the Project herein described through the Program. Said costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor;; engineering, fiscal and legal expenses; expenses for estimates of cost and revenue; expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise; administrative expense, any fees or expenses of the Authority or DEP and any defaulted interest thereon, commitment fees, discount, initial fees for the service of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Original Bonds, and such other expenses as may be necessary or incidental to the financing herein authorized, the construction or acquisition of the Project and the placing of the same in operation, and the performance of the things herein required or permitted, in connection with any thereof; provided, that reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Original Bonds or the repayment of the indebtedness incurred by the Issuer for such purposes shall be deemed part of the Cost of the Project.

H. It is in the best interests of the Issuer that its Series 1996 B Bonds be sold to the West Virginia Water Development Authority pursuant to the terms and provisions of the Loan Agreement by and among the Authority, the DEP and the Issuer. At such time as the Issuer considers reasonable, it shall be in the best interests of the residents of the Issuer that Bonds for the acquisition and construction of the Project be issued pursuant to the terms and provisions of a loan agreement by and among the Issuer, the Authority and DEP or such other lenders as may be approved by an ordinance or supplemental resolution.

I. The Issuer has complied with all requirements of West Virginia law relating to the refunding of the Series 1982 Bonds, authorization of the design of the Project and the issuance of the Bonds for the refunding and design phase of the Project. The Issuer has received the approval of the West Virginia Infrastructure and Jobs Development Council.

J. The Code provides exceptions from the rebate provisions for issues of small governmental units meeting certain requirements. It is in the best interest of the Issuer and its inhabitants to qualify for the small governmental unit exception from the rebate

provisions for the Bonds issued for the design phase. Accordingly, it is hereby found and determined:

- (1) The Issuer is a governmental unit with general taxing powers.
- (2) The Original Bonds are not private activity bonds as defined by the Code.
- (3) Ninety-five percent (95%) or more of the net proceeds (as defined with respect to the Code) of the Original Bonds will be used for local governmental activities of the Issuer.
- (4) The Issuer reasonably expects that the aggregate face amount of all tax-exempt bonds (other than private activity bonds) issued by the Issuer and all subordinate entities thereof during the calendar year in which the Bonds for the refunding and design phase will be issued will not aggregately exceed \$5,000,000. The Issuer reasonably expects to issue the Bonds in calendar year 1996.

K. The Issuer will not permit, at any time, any of the proceeds of the Bonds or any other funds of the Issuer to be used directly or indirectly in a manner which would result in the exclusion of the Bonds from the treatment afforded by Section 103(a) of the Code.

L. The Issuer will file all statements, instruments and returns necessary to assure the tax-exempt status of the Bonds.

M. The Bonds will be federally guaranteed within the meaning of the Code.

N. It is reasonably anticipated that all proceeds of the Original Bonds will be spent within three years from the date of issuance.

O. The Issuer hereby finds and determines that the amount of tax-exempt obligations (other than private activity bonds) which it anticipates issuing during calendar year 1996 shall not exceed \$10,000,000 and therefore the Issuer hereby designates the Bonds as "qualified tax-exempt obligations" within the meaning of Section 265(b)(3) of the Code.

## ARTICLE II

### AUTHORIZATION OF REFUNDING

Section 2.01 Authorization of Refunding. The Series 1982 Bonds Outstanding as of the date of issuance of the Series 1996 A Bonds are hereby ordered to be refunded (paid in full), and the pledge of Net Revenues in favor of the Holders of such refunded Series 1982 Bonds imposed by the Prior Ordinance, the moneys in the funds and account created by such ordinance and any other funds pledged by such ordinance thereto are hereby ordered terminated, discharged and released upon full payment to the Holder of the Series 1982 Bonds of the principal of, redemption premium, if any, and interest on, the Series 1982 Bonds on the Closing Date with the proceeds of the Series 1996 A Bonds, together with other moneys available therefor. On the Closing Date, the amounts on deposit in the sinking fund, including the reserve account therein, and all other funds and accounts created and maintained on behalf of the Series 1982 Bonds shall be deposited in the Series 1996 A Bonds Reserve Account in an amount not to exceed the Series 1996 A Bonds Reserve Requirement as shall be set forth in the Supplemental Resolution or applied to the payment of the principal of and interest on the Series 1982 Bonds. Upon the payment and retirement of the Series 1982 Bonds, the amounts on deposit in the Renewal and Replacement Fund created and maintained under the Prior Ordinance shall be transferred to the Renewal and Replacement Fund created under this Ordinance.

### ARTICLE III

#### AUTHORIZATION OF DESIGN EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO SYSTEM

Section 3.01. Authorization of Design of Project. There is hereby authorized the design of plans and specifications for the Project by the Consulting Engineers as described in the Program application.

Section 3.02. Authorization of Extensions, Additions, Betterments and Improvements. There is hereby authorized the acquisition and construction of the Project in accordance with plans and specifications therefor prepared by the Consulting Engineers, to be approved by DEP and the Issuer and to be filed in the office of the Board.

Prior to issuing the Bonds for the acquisition and construction of the Project, the Issuer must receive acceptable bids or enter into contracts for the acquisition and construction of the Project, compatible with the financing plan submitted to the Program.

ARTICLE IV  
AUTHORIZATION, TERMS, EXECUTION  
AND REGISTRATION OF BONDS

Section 4.01. Authorization and Terms of Original Bonds. For the purposes of funding the reserve accounts, paying costs of issuance, refunding the Series 1982 Bonds and financing a portion of the costs of the design, acquisition and construction of the Project not otherwise provided for, there shall be issued the Original Bonds of the Issuer. The Original Bonds shall be issued in one or more series with the first two series to be designated "Combined Waterworks and Sewerage System Revenue Refunding Bonds, Series 1996 A" in an aggregate principal amount of not more than \$60,000 and "Combined Waterworks and Sewerage System Revenue Bonds, Series 1996 B" in an aggregate principal amount of not more than \$128,000. Each series of Original Bonds shall be dated as of the date of delivery thereof, shall bear such interest, shall mature at such times, not exceeding twenty-one (21) years after the date of issuance, and in such amount or amounts as shall be set out in the Debt Service Schedule for the Series 1996 A Bonds and Schedule X to the Loan Agreement for the Series 1996 B Bonds. The payment of principal and interest on the Series 1996 A Bonds shall be as set forth on the Debt Service Schedule. The Series 1996 B Bonds shall not bear interest during the construction period but interest shall commence accruing on the Completion Date as defined in the SRF Regulations, provided that the annual repayment of principal and payment of interest shall begin not later than one (1) year after the completion date. The repayment of principal and interest on the Series 1996 B Bonds shall be as set forth on Schedule Y to the Loan Agreement. The Original Bonds shall contain such other terms, provisions, conditions and limitations, all as provided by this Ordinance and the Loan Agreement and as the Council of the Issuer shall prescribe by resolution (or by supplemental or amendatory ordinance of said Council as said Council shall determine) adopted in connection with the sale of such Original Bonds.

The Bonds shall be payable as to principal at the principal office of the Paying Agent in any coin or currency which, on the dates of payment of principal is legal tender for the payment of public or private debts under the laws of the United States of America. Interest on the Bonds shall be paid by check or draft mailed to the Registered Owner thereof at the address as it appears on the books of the Bond Registrar, provided, that so long as the Authority is the owner of the Series 1996 B Bonds, interest on the Series 1996 B Bonds may be paid by wire transfer or other methods satisfactory to the Issuer, the Paying Agent and the Authority.

Unless otherwise provided by the Supplemental Resolution, the Series 1996 A Bonds shall be issued in the form of a single bond, fully registered to the First National Bank, with a payment record attached, representing the aggregate principal amount, and shall mature in principal installments, all as provided on the Debt Service Schedule and said Supplemental Resolution. Unless otherwise provided by the Supplemental Resolution, the Series 1996 B Bonds shall be issued in the form of a single bond, fully registered to the

Authority, with a record of advances and a payment record attached, representing the aggregate principal amount, and shall mature in principal installments, all as provided in the Loan Agreement and said Supplemental Resolution. The Bonds shall be exchangeable at the option and expense of the Bondholder for other fully registered Bonds in aggregate principal amount equal to the amount of said Bonds then Outstanding, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of said Bonds; provided, that the Authority and the First National Bank shall not be obligated to pay any expenses of such exchange.

Subsequent series of Bonds may be issued in fully registered form, in the denomination of \$5,000 or any integral multiple thereof, all as determined by a Supplemental Resolution. Said Bonds shall be dated as of the date specified in said Supplemental Resolution and shall bear interest from such date.

Section 4.02. Execution of Bonds. Said Bonds shall be executed in the name of the Issuer by the Mayor and attested by the Recorder, and the seal of the Issuer shall be affixed thereto or imprinted thereon. In case any one or more of the officers who shall have signed or sealed any of the Bonds shall cease to be such officer of the Issuer before the Bonds so signed and sealed have been sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Bonds may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Bonds shall hold the proper office in the Issuer, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

Section 4.03. Authentication and Registration. No Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Ordinance unless and until the Certificate of Authentication and Registration on such Bond, substantially in the form set forth in Section 4.08, shall have been duly manually executed by the Registrar. Any such executed Certificate of Authentication and Registration upon any such Bond shall be conclusive evidence that such Bond has been authenticated, registered and delivered under this Ordinance. The Certificate of Authentication and Registration on any Bond shall be deemed to have been executed by the Registrar if manually signed by an authorized officer of the Registrar, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all of the Bonds issued hereunder.

Section 4.04. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Bonds shall be, and have all of the qualities and incidents of, negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive owner, in accepting any of said Bonds shall be conclusively deemed to have agreed that such Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive owner shall further be conclusively deemed to have agreed that said Bonds shall be incontestable in the hands of a bona fide holder for value in the manner provided hereinafter in the form of said Bonds.

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

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

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

Section 4.05. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may in its discretion issue and deliver a new Bond in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Owner's furnishing the Issuer proof of ownership thereof and satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer may incur and the Registrar shall authenticate the new Bond. All Bonds so surrendered shall be cancelled by the Registrar and held for the account of the Issuer. If such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the Issuer may pay the same, upon being indemnified as aforesaid, and, if such Bond be lost, stolen, or destroyed, without surrender therefor.

Any such duplicate Bonds issued pursuant to this Section shall constitute original, additional contractual obligations on the part of the Issuer, whether or not the lost, stolen or destroyed Bonds be at any time found by anyone, and such duplicate Bonds shall be entitled to equal and proportionate benefits and rights as to lien and source of security for payment from the revenues pledged herein with all other Bonds issued hereunder.

Section 4.06. Bonds not to be Indebtedness of the Issuer. The Bonds shall not, in any event, be or constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Net Revenues derived from the operation of the System as herein provided. No Owner or Owners of any of the Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Bonds or any interest thereon.

Section 4.07. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of all the Original Bonds shall be secured forthwith equally and ratably with each other by a first lien on the Net Revenues derived from the System. Such Net Revenues in an amount sufficient to pay the principal of and interest on and other payments for the Bonds and to make the payments into the sinking funds and the reserve accounts therein and in the Renewal and Replacement Fund hereinafter established are hereby irrevocably pledged to the payment of the principal of and any interest on the Bonds as the same become due.

Section 4.08. Form of Original Bonds. The text of each series of Original Bonds shall be of substantially the following tenor, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted by this Ordinance or any subsequent resolution or ordinance adopted or enacted prior to the issuance thereof.

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[FORM OF THE ORIGINAL BOND]

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
COUNTY OF PLEASANTS  
CITY OF ST. MARYS  
COMBINED  
WATERWORKS AND SEWERAGE SYSTEM  
REVENUE REFUNDING BONDS, SERIES 1996 A

No. R-\_\_

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

KNOW ALL MEN BY THESE PRESENTS: That the City of St. Marys, a municipal corporation of the State of West Virginia, in Pleasants County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to The First National Bank of St. Marys (the "First National Bank"), or registered assigns, the sum of \_\_\_\_\_ (\$\_\_\_\_\_), in annual installments on the 1st day of \_\_\_\_\_ in each year commencing \_\_\_\_\_, 199\_, as set forth on the "Annual Schedule of Debt Service" attached as Exhibit A hereto and incorporated herein by reference.

Interest shall be payable in semiannual installments on the 1st day of \_\_\_\_\_ and the 1st day of \_\_\_\_\_, in each year commencing \_\_\_\_\_, 199\_, at the rate of five and one-half percent (5½%) per annum. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of principal, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, as Paying Agent. The interest on this Bond is payable by check or draft mailed to the First National Bank at the address as it appears on the books of the Registrar on the interest payment date or by such other method as shall be mutually agreeable so long as the First National Bank is registered owner hereof.

This Bond may be redeemed prior to its stated date of maturity in whole or in part; provided, however, that notice in writing of such redemption shall be given to the registered holder hereof by registered or certified mail not less than thirty days prior to the date fixed for redemption.

This Bond is issued (i) to refund the Issuer's Combined Waterworks and Sewerage System Revenue Bonds, Series 1982 and (ii) to pay certain costs of issuance hereof and related costs. This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 8, Article 20 of the West Virginia Code of 1931, as amended (the "Act"), an Ordinance duly enacted by the Issuer on the \_\_\_ day of \_\_\_\_\_, 1996, and a Supplemental Resolution adopted

by the Issuer on the \_\_ day of \_\_\_\_\_, 1996 (collectively called the "Ordinance"), and is subject to all the terms and conditions thereof. The Ordinance provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Ordinance.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1996 B (THE "SERIES 1996 B BONDS") ISSUED SIMULTANEOUSLY HEREWITH.

This Bond is payable only from and secured by a pledge of a first lien on the Net Revenues to be derived from the operation of the System on a parity with the pledge of Net Revenues in favor of the holders of the Series 1996 B Bonds, and moneys in the Reserve Accounts created under the Ordinance and unexpended proceeds of the Bonds (the "Bond Proceeds"). Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest thereon except from said special fund provided from the Net Revenues, the moneys in the Reserve Account and unexpended Bond proceeds. Pursuant to the Ordinance, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the amount required to pay the maximum amount due in any ensuing fiscal year of principal of and interest on all obligations on a parity with or prior to the Bonds including the Series 1996 B Bonds, payable from such revenues, provided however, that so long as there exists in the Reserve Accounts an amount equal to the maximum amount of principal and interest which will become due on the Bonds and any bonds on a parity therewith including the Series 1996 B Bonds in any succeeding fiscal year, respectively, an amount equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Ordinance. Remedies provided the registered owners of the Bonds are exclusively as provided in the Ordinance, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Ordinance, only upon the books of \_\_\_\_\_, \_\_\_\_\_, (the "Registrar"), kept for that purpose at the office of the Registrar, by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered owner or its attorney duly authorized in writing.

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

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law, shall be applied solely to the payment of the Costs of the Project described in the Ordinance or to the appurtenant sinking fund, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the owner of this Bond.

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

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

IN WITNESS WHEREOF, THE CITY OF ST. MARYS has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed or imprinted hereon and attested by its Recorder, and has caused this Bond to be dated \_\_\_\_\_, 1996.

THE CITY OF ST. MARYS

[SEAL]

By: \_\_\_\_\_  
Its: Mayor

ATTEST:

\_\_\_\_\_  
Recorder

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 1996 A Bonds described in the within-mentioned Ordinance and has been duly registered in the name of the registered owner set forth above.

\_\_\_\_\_

as Registrar

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

Dated: \_\_\_\_\_

EXHIBIT A

SCHEDULE OF ANNUAL DEBT SERVICE

[Form of Assignment]

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

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

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

\_\_\_\_\_

In the presence of:

\_\_\_\_\_

[FORM OF BOND]

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
COUNTY OF PLEASANTS  
CITY OF ST. MARYS  
WATERWORKS AND SEWERAGE SYSTEM  
REVENUE BONDS, SERIES 1996 B

No. R-\_\_

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

KNOW ALL MEN BY THESE PRESENTS: That the CITY OF ST. MARYS, a municipal corporation of the State of West Virginia, in Pleasants County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to West Virginia Water Development Authority (the "Authority"), or registered assigns, the sum of \_\_\_\_\_ (\$\_\_\_\_\_), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as Exhibit A hereto and incorporated herein by reference, in quarterly installments on the 1st day of March, the 1st day of June, the 1st day of September, and the 1st day of December in each year commencing \_\_\_\_\_, 199\_, as set forth on the "Schedule of Annual Debt Service" attached as Exhibit B hereto and incorporated herein by reference, with interest. The SRF Administrative Fee (as defined in the hereinafter described Ordinance) shall also be payable quarterly on the 1st day of March, the 1st day of June, the 1st day of September and the 1st day of December, commencing \_\_\_\_\_, 199\_, as set forth on Exhibit B attached hereto.

Interest on this Bond shall be zero (0%) percent from the date hereof until the Date of Completion of the Project, and after such date interest shall be payable on the 1st day of March, the 1st day of June, the 1st day of September, and the 1st day of December in each year beginning \_\_\_\_\_, 199\_, at the rate of \_\_\_\_\_ percent (\_\_\_%) per annum. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of principal, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the Paying Agent. The interest on this Bond is payable by check or draft mailed to the Authority at the address as it appears on the books of the Registrar on the 15th day of the month preceding an interest payment date or by such other method as shall be mutually agreeable so long as the Authority is registered owner hereof.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and as otherwise provided by the Loan Agreement dated \_\_\_\_\_, 1996, among the Authority, the DEP and the Issuer.

This Bond is issued (i) to pay costs of design of a wastewater treatment facility constituting improvements, additions, extensions and betterments to the existing combined waterworks and sewerage system of the Issuer (the "Project"), and (ii) to pay certain costs of issuance hereof and related costs. This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 8, Article 20 of the West Virginia Code of 1931, as amended (the "Act"), an Ordinance duly enacted by the Issuer on the \_\_\_ day of \_\_\_\_\_, 1996, and a Supplemental Resolution adopted by the Issuer on the \_\_ day of \_\_\_\_\_, 1996 (collectively called the "Ordinance"), and is subject to all the terms and conditions thereof. The Ordinance provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Ordinance.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE REFUNDING BONDS, SERIES 1996 A (THE "SERIES 1996 A BONDS") ISSUED SIMULTANEOUSLY HEREWITH.

This Bond is payable only from and secured by a pledge of a first lien on the Net Revenues to be derived from the operation of the System on a parity with the pledge of Net Revenues in favor of the holders of the Series 1996 A Bonds, and moneys in the Reserve Accounts created under the Ordinance and unexpended proceeds of the Bonds (the "Bond Proceeds"). Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest thereon except from said special fund provided from the Net Revenues, the moneys in the Reserve Account and unexpended Bond proceeds. Pursuant to the Ordinance, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the amount required to pay the maximum amount due in any ensuing fiscal year of principal of and interest on all obligations on a parity with or prior to the Bonds including the Series 1996 A Bonds, payable from such revenues, provided however, that so long as there exists in the Reserve Accounts an amount equal to the maximum amount of principal and interest which will become due on the Bonds and any bonds on a parity therewith including the Series 1996 A Bonds in any succeeding fiscal year, respectively, an amount equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Ordinance. Remedies provided the registered owners of the Bonds are exclusively as provided in the Ordinance, to which reference is here made for a detailed description thereof.

This Bond is transferable, as provided in the Ordinance, only upon the books of \_\_\_\_\_, \_\_\_\_\_, (the "Registrar"), kept for that purpose at the office of the Registrar, by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered owner or its attorney duly authorized in writing.

This Bond, under the provision of the Act is, and has provided all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law, shall be applied solely to the payment of the Costs of the Project described in the Ordinance or to the appurtenant sinking fund, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the owner of this Bond.

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

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

IN WITNESS WHEREOF, THE CITY OF ST. MARYS has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed or imprinted hereon and attested by its Recorder, and has caused this Bond to be dated \_\_\_\_\_, 1996.

THE CITY OF ST. MARYS

[SEAL]

By: \_\_\_\_\_  
Its: Mayor

ATTEST:

\_\_\_\_\_  
Recorder

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 1996 B Bonds described in the within-mentioned Ordinance and has been duly registered in the name of the registered owner set forth above.

\_\_\_\_\_  
as Registrar

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

Dated: \_\_\_\_\_

EXHIBIT A  
RECORD OF ADVANCES

Amount	Date	Amount	Date
(1) \$		(7) \$	
(2) \$		(8) \$	
(3) \$		(9) \$	
(4) \$		(10) \$	
(5) \$		(11) \$	
(6) \$		(12) \$	

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

EXHIBIT B

SCHEDULE OF ANNUAL DEBT SERVICE

[Form of Assignment]

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

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

\_\_\_\_\_

In the presence of:

\_\_\_\_\_

Section 4.09. Sale of Original Bonds; Ratification and Execution of Loan Agreement with Authority and DEP. The Series 1996 A Bonds shall be sold to the First National Bank. The Series 1996 B Bonds for each phase shall be sold to the Authority, pursuant to the respective terms and conditions of the Loan Agreement. As a ratification of the resolution of Council authorizing execution of the Loan Agreement, the Mayor is specifically authorized and directed to execute the Loan Agreement and the Recorder is directed to affix the seal of the Issuer, attest the same and deliver the Loan Agreement to the Authority and DEP. The Loan Agreement is specifically incorporated into this Ordinance.

Section 4.10. Certificate of Consulting Engineers. Prior to the issuance of the Series 1996 B Bonds, the Issuer must obtain the certificate of the Consulting Engineers in the form attached to the Loan Agreement to the effect that the Project has been or will be designed as provided in the Program application or constructed in accordance with the approved plans, specifications and design as submitted to the DEP and the Authority, as the case may be, the Project is or will be adequate for the purposes for which it was designed, and the funding plan as submitted to the DEP and the Authority is sufficient to pay the costs of the design or acquisition and construction, as the case may be, of the Project.

Section 4.11. Amended Schedule A Filing. Within 60 days following the Completion Date the Issuer will file with the Authority its schedule in substantially the form of "Amended Schedule A" to the Loan Agreement, setting forth the actual costs of the Project and sources of funds used therefor.

ARTICLE V  
[RESERVED]

ARTICLE VI  
SYSTEM REVENUES AND APPLICATION THEREOF

Section 6.01. Establishment of Funds and Accounts with Depository Bank. The following special funds or accounts are created with and shall be held by the Depository Bank:

- (1) Revenue Fund;
- (2) Renewal and Replacement Fund; and
- (3) Bond Construction Trust Fund.

Section 6.02. Establishment of Funds and Accounts with Commission. The following special funds or accounts are hereby established with the Commission for each series of Original Bonds:

- (1) Series 1996 A Bonds Sinking Fund;
  - (a) Within the Series 1996 A Bonds Sinking Fund, the Series 1996 A Bonds Reserve Account.
- (2) Series 1996 B Bonds Sinking Fund;
  - (a) Within the Series 1996 B Bonds Sinking Fund, the Series 1996 B Bonds Reserve Account.

Section 6.03. System Revenues; Flow of Funds. A. The entire Gross Revenues derived from the operation of the System shall be deposited upon receipt in the Revenue Fund. The Revenue Fund shall constitute a trust fund for the purposes provided in this Ordinance and shall be kept separate and distinct from all other funds of the Issuer and the Depository Bank and used only for the purposes and in the manner therein and herein provided.

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

(2) The Issuer shall next, on the first day of each month (i) commencing 6 months prior to the first date of payment of interest on the Series 1996 A Bonds for which interest has not been capitalized, apportion and set apart out of the Revenue Fund and remit to the Commission, for deposit in the Sinking Fund, a sum equal to 1/6th of the amount of interest which will become due on the Series 1996 A Bonds on the next ensuing semiannual interest payment date; provided, that, in the event the period to elapse

between the date of such initial deposit in the Sinking Fund and the next semiannual interest payment date is less than 6 months, then such monthly payments shall be increased proportionately to provide, one month prior to the next semiannual interest payment date, the required amount of interest coming due on such date, and (ii) on the first day of each month, commencing 12 months prior to the first date of payment of principal on the Series 1996 A Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Sinking Fund, a sum equal to 1/12th of the amount of principal which will mature and become due on said Series 1996 A Bonds on the next ensuing annual principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Sinking Fund and the next annual principal payment date is less than 12 months, then such monthly payments shall be increased proportionately to provide, one month prior to the next annual principal payment date, the required amount of principal coming due on such date. When additional series of Original Bonds are issued, the payment of interest and principal on said bonds shall be made simultaneously with the payments described in this Section 6.03(2) and to the extent that Net Revenues are insufficient to make all of the payments such payments shall be made pro rata among each series of Bonds.

(3) The Issuer shall next, on the first day of each month (i) commencing 3 months prior to the first date of payment of interest on the Series 1996 B Bonds for which interest has not been capitalized, apportion and set apart out of the Revenue Fund and remit to the Commission, for deposit in the Sinking Fund, a sum equal to 1/3rd of the amount of interest which will become due on the Series 1996 B Bonds on the next ensuing quarterly interest payment date; provided, that, in the event the period to elapse between the date of such initial deposit in the Sinking Fund and the next quarterly interest payment date is less than 3 months, then such monthly payments shall be increased proportionately to provide, one month prior to the next quarterly interest payment date, the required amount of interest coming due on such date, and (ii) on the first day of each month, commencing 3 months prior to the first date of payment of principal on the Series 1996 B Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Sinking Fund, a sum equal to 1/3rd of the amount of principal which will mature and become due on said Series 1996 B Bonds on the next ensuing quarterly principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Sinking Fund and the next quarterly principal payment date is less than 3 months, then such monthly payments shall be increased proportionately to provide, one month prior to the next quarterly principal payment date, the required amount of principal coming due on such date. When additional series of Original Bonds are issued, the payment of interest and principal on said bonds shall be made simultaneously with the payments described in this Section 6.03(3) and to the extent that Net Revenues are insufficient to make all of the payments such payments shall be made pro rata among each series of Bonds.

(4) The Issuer shall next transfer from the Revenue Fund and pay to the Commission on the first day of each month, commencing 12 months prior to the first date of payment of principal of the Series 1996 A Bonds, if not fully funded upon issuance of the Bonds, for deposit in the Series 1996 A Bonds Reserve Account, an amount equal to 1/120 of the Series 1996 A Bonds Reserve Requirement; provided, that no further payments shall

be made into the Series 1996 A Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 1996 A Bonds Reserve Requirement.

(5) The Issuer shall next transfer from the Revenue Fund and pay to the Commission on the first day of each month, commencing 3 months prior to the first date of payment of principal of the Series 1996 B Bonds, if not fully funded upon issuance of the Bonds, for deposit in the Series 1996 B Bonds Reserve Account, an amount equal to 1/120 of the Series 1996 B Bonds Reserve Requirement; provided, that no further payments shall be made into the Series 1996 B Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 1996 B Bonds Reserve Requirement.

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

Moneys in the Sinking Funds shall be used only for the purposes of paying principal of and interest on the Bonds as the same shall become due. Moneys in the Reserve Accounts in the Sinking Funds shall be used only for the purpose of paying principal of or interest on the Bonds, as the same shall come due, when other moneys in the Sinking Funds are insufficient therefor, and for no other purpose. Except for the funds required to be deposited in the Rebate Fund, all investment earnings on moneys in the Series 1996 A Bonds Reserve Account shall be transferred, not less than once each year, to the Series 1996 A Bonds Sinking Fund and all investment earnings on the moneys in the Series 1996 B Bonds Reserve Account shall be transferred, not less than once each year, to the Bond Construction Trust Fund prior to completion of the Project and thereafter, to the Series 1996 B Bonds Sinking Fund.

Any withdrawals from the Reserve Accounts which result in a reduction in the balance of the Reserve Accounts to an amount below the Reserve Requirements shall be subsequently restored from the first Net Revenues available after all required payments to the Sinking Funds for payment of debt service on the Bonds have been made in full.

B. As and when additional Bonds ranking on a parity with the Original Bonds are issued, provision shall be made for additional payments into the Sinking Funds

sufficient to pay any interest on such additional Bonds and accomplish retirement thereof at maturity and to accumulate a balance in the Reserve Accounts in an amount equal to the Reserve Requirements.

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

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

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

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

C. Whenever all of the required and provided transfers and payments from the Revenue Fund into the several special funds, as hereinabove provided, are current and there remains in said Revenue Fund a balance in excess of the estimated amounts required to be so transferred and paid into the Sinking Funds, including the Reserve Accounts therein, and the Renewal and Replacement Fund during the following month or such longer period as shall be required by the Act, such excess shall be considered as surplus revenues (the "Surplus Revenue"). Surplus Revenues may be used for any lawful purpose of the System.

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

Simultaneously with the deposit made to the Commission pursuant to Section 6.03(3) the Issuer shall remit to the Commission the SRF Administrative Fee in connection with the Series 1996 B Bonds.

The Issuer shall complete the "monthly payment form," which form is attached to the Loan Agreement as Exhibit F, and submit a copy of said form along with a copy of its payment check to the Authority by the fifth day of each calendar month for the Series 1996 B Bonds.

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

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

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

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

Section 6.04. Excess Bond Proceeds. The Issuer shall place any excess proceeds from the Series 1996 B Bonds not required for the Project Costs in the Series 1996 B Bonds Reserve Account to the extent that the balance therein is not equal to the Series 1996 B Bonds Reserve Requirement.

## ARTICLE VII

### APPLICATION OF ORIGINAL BOND PROCEEDS; FUNDS AND ACCOUNTS

Section 7.01. Application of Series 1996 A Bond Proceeds. From the moneys received from the sale of the Series 1996 A Bonds, the Issuer shall pay in full the principal of, redemption premium, if any, and interest on, the Series 1982 Bonds, to the Holder of the Series 1982 Bonds.

Section 7.02. Application of Series 1996 B Bond Proceeds. From the moneys received from time to time from the sale of any or all of the Series 1996 B Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. The amount of the proceeds which together with the earnings thereon shall be at least sufficient to pay interest on the Series 1996 B Bonds for the period specified in the Supplemental Resolution shall be deposited in the Series 1996 B Bonds Sinking Fund, if any; provided, that such period may not extend beyond the date which is six months after the estimated date of completion of construction of the Project.

B. Next, from the proceeds of the Series 1996 B Bonds, there shall be deposited with the Commission in the Series 1996 B Bonds Reserve Account the sum, if any, set forth in the Supplemental Resolution for funding of the Series 1996 B Bonds Reserve Account.

C. The remaining moneys derived from the sale of the Series 1996 B Bonds shall be deposited by the Issuer as received from time to time in the Bond Construction Trust Fund hereinafter established.

D. There is hereby created and established with the Depository Bank a special fund, designated the "Bond Construction Trust Fund". The Depository Bank shall act as a trustee and fiduciary for the Bondholder with respect to the Bond Construction Trust Fund and shall comply with all requirements with respect to the disposition of the Bond Construction Trust Fund set forth in this Ordinance. Except with respect to any transfers to the Rebate Fund, moneys in the Bond Construction Trust Fund shall be used solely to pay Costs of the Project and until so transferred or expended, are hereby pledged as additional security for the Bonds.

Section 7.03. Disbursements From the Bond Construction Trust Fund. On or before the Closing Date, the Issuer shall have delivered to the Authority a report listing the specific purposes for which the proceeds of the Series 1996 B Bonds will be expended and the disbursement procedures for such proceeds, including an estimated monthly draw schedule. Payments for Costs of the Project shall be made monthly.

Except as provided in Section 7.02 hereof, disbursements from the Series 1996 B Bond Construction Trust Fund shall be made only after submission to, and approval from, the Authority and the DEP of the following:

- (1) A "Payment Requisition Form," attached to the Loan Agreement as Exhibit C, and
- (2) a certificate, signed by the Mayor and the Consulting Engineers, stating:
  - (A) That none of the items for which the payment is proposed to be made has formed the basis for any disbursements theretofore made;
  - (B) That each item for which the payment is proposed to be made is or was necessary in connection with the Project and constitutes a Cost of the Project;
  - (C) That each of such costs has been otherwise properly incurred; and
  - (D) That payment for each of the items proposed is then due and owing.

In case any contract provides for the retention of a portion of the contract price, the Depository Bank shall disburse from the Bond Construction Trust Fund only the net amount remaining after deduction of any such portion. All payments made from the Bond Construction Trust Fund shall be presumed by the Depository Bank to be made for the purposes set forth in said certificate, and the Depository Bank shall not be required to monitor the application of disbursements from the Bond Construction Trust Fund. The Consulting Engineers shall from time to time file with the Depository Bank written statements advising the Depository Bank of its then authorized representative.

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

## ARTICLE VIII

### ADDITIONAL COVENANTS OF THE ISSUER

Section 8.01. General Covenants of the Issuer. All the covenants, agreements and provisions set forth in this Ordinance shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any owner or owners of the Bonds. In addition to the other covenants, agreements and provisions of this Ordinance, the Issuer hereby covenants and agrees with the owners of the Bonds as hereinafter provided in this Article VIII. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of said Bonds, or the interest thereon, is Outstanding and unpaid.

Section 8.02. Bonds not to be Indebtedness of the Issuer. The Bonds shall not be nor constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Ordinance. No Holder or Holders of any Bonds shall ever have the right to compel the exercise of the taxing power, if any, of the Issuer to pay said Bonds or the interest thereon.

Section 8.03. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of the Original Bonds issued hereunder shall be secured forthwith equally and ratably by a first lien on the Net Revenues derived from the operation of the System. The revenues derived from the System, in an amount sufficient to pay the principal of and interest on the Bonds herein authorized and to make the payments into the Sinking Funds, including the Reserve Accounts therein, and all other payments provided for in this Ordinance are hereby irrevocably pledged, in the manner provided herein, to the payment of the principal of and interest on the Bonds and for the other purposes provided in the Ordinance.

Section 8.04. Rates and Charges. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth in the rate ordinance of the Issuer enacted October 11, 1994 and as amended September 19, 1995.

Section 8.05. Rates. Prior to issuance of the Original Bonds, equitable rates or charges for the use of and service rendered by the System will be established all in the manner and form required by law, and copies of such rates and charges so established will be continuously on file with the Recorder, which copies will be open to inspection by all interested parties. The schedule of rates and charges shall at all times be adequate to produce Gross Revenues from said System sufficient to pay Operating Expenses and to make the prescribed payments into the funds created hereunder. Such schedule of rates and charges shall be changed and readjusted whenever necessary so that the aggregate of the rates and charges will be sufficient for such purposes. The Issuer shall take the necessary actions with respect to the imposition of rates at such times and with such provisions with respect to interest rate and maturity of the Bonds to finance the issuance of the Bonds as the purchaser

thereof shall require. In order to assure full and continuous performance of this covenant, with a margin for contingencies and temporary unanticipated reduction in income and revenues, the Issuer hereby covenants and agrees that the schedule of rates or charges from time to time in effect shall be sufficient (i) to provide for all reasonable expenses of operation, repair and maintenance of the System and (ii) to leave a balance each Fiscal Year equal to at least 115% of the maximum amount required in any succeeding Fiscal Year for payment of principal of and interest on the Bonds; provided that, in the event that an amount at least equal to or in excess of the Reserve Requirements is on deposit in the Reserve Accounts and the reserve accounts for the Bonds is funded at least at the requirement provided for in the Ordinance such balance each Fiscal Year need only equal at least 110% of the maximum amount required in any succeeding Fiscal Year for payment of principal of and interest on the Original Bonds.

Section 8.06. Completion, Operation and Maintenance; Schedule of Cost. The Issuer will expeditiously complete the Project and will maintain the System in good condition and will operate the same as a revenue-producing enterprise in an efficient and economical manner, making such expenditures for equipment and for renewal, repair and replacement as may be proper for the economical operation and maintenance thereof from the revenues of said System in the manner provided in the Ordinance.

Upon completion of the Project, the Issuer shall file with the Authority a schedule in substantially the form of Amended Schedule A to the Program loan application, setting forth the actual costs of the Project and sources of funds therefor.

Section 8.07. Sale of the System. The System may be sold, mortgaged, leased, or otherwise disposed of only as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient fully to pay or redeem at or prior to maturity all the Bonds Outstanding. The proceeds from such sale, mortgage, lease or other disposition of the System shall immediately be remitted to the Commission for deposit in the appropriate Sinking Funds, and the Issuer shall direct the Commission to apply such proceeds to the payment of principal and any interest at maturity of Bonds about to mature and to the redemption prior to maturity, at the earliest date permitted hereby and at the redemption price, of all other Outstanding Bonds. Any balance remaining after the redemption or payment of all the Bonds and interest thereon shall be remitted to the Issuer by the Commission unless necessary for the payment of other obligations of the Issuer payable out of the revenues of the System.

The foregoing provision notwithstanding, the Issuer shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. The Council may then, if it be so advised, as evidenced by certificates of the Consulting Engineers, by resolution duly adopted, approve and concur in such finding and provide for the sale of such property if the amount to be received therefor is not in excess of ten thousand dollars (\$10,000), or authorize such sale, lease or other disposition of such property upon public bidding if the

amount to be received therefor is in excess of ten thousand dollars (\$10,000) but not in excess of fifty thousand dollars (\$50,000). The proceeds of any such sale, lease or other disposition of such property, not in excess of \$10,000, shall be deposited in the Renewal and Replacement Fund. The proceeds derived from any such sale, lease or other disposition of such property, in excess of \$10,000 and not in excess of \$50,000, shall be remitted by the Issuer to the Commission for deposit in the appropriate Sinking Funds and shall be applied only to the redemption of Bonds of the last maturities then Outstanding or to the purchase of Bonds of the last maturities then Outstanding at prices not greater than the redemption price of such Bonds. Such payments of such proceeds into the Sinking Funds or the Renewal and Replacement Fund shall not reduce the amounts required to be paid into said funds by other provisions of this Ordinance.

No sale, lease or other disposition of the properties of the System shall be made by the Issuer if the proceeds to be derived therefrom shall be in excess of fifty thousand dollars (\$50,000) and insufficient to pay or redeem prior to maturity all the Bonds then Outstanding without the prior approval and consent in writing of the owners, or their duly authorized representatives, of sixty-six and two-thirds percent (66-2/3%) in amount of the Bonds then Outstanding. The Issuer shall prepare the form of such approval and consent for execution by the then owners of the Bonds, for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 8.08. Issuance of Other Obligations Payable out of Revenues and General Covenant Against Encumbrances. The Issuer shall not issue any other obligations whatsoever, except pari passu additional Bonds provided for in Section 8.09 hereof, payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Bonds; provided, however, that additional Parity Bonds may be issued as provided in Section 8.09 hereafter. All obligations hereafter issued by the Issuer payable from the revenues of the System, except such additional Parity Bonds, shall contain an express statement that such obligations are junior and subordinate as to lien on and source of and security for payment from such revenues and in all other respects, to the Bonds to the extent such are Outstanding; provided, that no such subordinate obligations shall be issued unless all payments required to be made into the respective Reserve Accounts and the Renewal and Replacement Fund at the time of the issuance of such subordinate obligations have been made and are current.

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

The Issuer shall give the Authority and the DEP prior written notice of its issuance of any other obligations to be used for the Project, payable from the revenues of the

System or from any grants for the Project, or any other obligations related to the Project or the System.

Section 8.09. Parity Bonds. A. No Parity Bonds payable out of the revenues of the System shall be issued after the issuance of any Bonds pursuant to this Ordinance, except under the conditions, in the manner herein provided and with the prior written consent of the Authority and the DEP and in compliance with the conditions and requirements herein provided.

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

No Parity Bonds shall be issued at any time, however, unless and until there has been procured and filed with the Recorder a written statement by Independent Accountants, based upon the necessary investigation and certification by the Consulting Engineers, reciting the conclusion that the net revenues actually derived, subject to the adjustments hereinafter provided, from the System during any twelve (12) consecutive months within the eighteen (18) months immediately preceding the date of the actual issuance of such Parity Bonds, plus the estimated average increased annual net revenues to be received in each of the three (3) succeeding years after the completion of the improvements to be financed by such additional Parity Bonds, shall not be less than one hundred fifteen percent (115%) of the maximum debt service in any succeeding year on the following:

- (1) Each series of Original Bonds then Outstanding;
- (2) Any Parity Bonds theretofore issued pursuant to the provisions contained in this Ordinance then Outstanding; and
- (3) The Parity Bonds then proposed to be issued.

The "estimated average increased annual net revenues to be received in each of the three (3) succeeding years," as that term is used in the computation provided in the above paragraph, shall refer only to the increased net revenues estimated to be derived from any increase in rates enacted by the Issuer, the time for appeal of which shall have expired prior to the date of delivery of such Parity Bonds, and shall not exceed the amount to be stated in a certificate of the Consulting Engineers, which shall be filed in the office of the Recorder prior to the issuance of such additional Parity Bonds.

The Net Revenues actually derived from the System during the twelve (12) consecutive month period hereinabove referred to may be adjusted by adding to such net revenues such additional net revenues which would have been received, in the opinion of the Consulting Engineers and the Independent Accountants as stated in a certificate jointly made

and signed by the Consulting Engineers and the Independent Accountants, on account of increased rates, rentals, fees and charges for the System enacted by the Issuer, the time for appeal of which shall have expired prior to issuance of such Parity Bonds.

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

All the covenants and other provisions of this Ordinance (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the owners of the Original Bonds and the owners of any Parity Bonds subsequently issued from time to time within the limitations of and in compliance with this Section. All the Bonds, regardless of the time or times of their issuance shall rank equally with respect to their respective liens on the revenues of the System, and their respective sources of and security for payment from said revenues, without preference of any Bond over any other. The Issuer shall comply fully with all the increased payments into the various funds created in this Ordinance required for and on account of such additional Bonds, in addition to the payments required for Bonds theretofore issued pursuant to this Ordinance.

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on the revenues of the System is subject to the prior and superior lien of the Outstanding Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from the revenues of the System, or any part thereof, which rank prior to or, except in the manner and under the conditions provided in this section, equally, as to lien on and source of and security for payment from such revenues, with the Bonds.

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

B. Notwithstanding the foregoing, the Issuer may issue Parity Bonds without compliance with any other conditions for the purpose of refunding prior to maturity any issues or series of the Bonds, provided that the annual debt service required on account of the refunding Bonds and the Bonds which are not refunded shall not be greater in any year in which the Bonds not refunded and the refunding Bonds are to be Outstanding than the annual debt service required in such year if the Bonds to be refunded were not so refunded.

With the written consent in advance of the Authority and anything to the contrary in this Section 8.09 notwithstanding, Parity Bonds may be authorized and issued by the Issuer pursuant to Supplemental Resolution solely to complete the Project as described in the Issuer's Program application to the Authority and DEP in accordance with the plans

and specifications, in the event that the Original Bonds should be insufficient, together with other funds lawfully available therefor, to pay all costs of acquisition and construction of the Project; provided, however, that, prior to the issuance of such Parity Bonds under the provisions of this paragraph, the Consulting Engineers shall file with the Recorder a certificate to the effect that additional funds are necessary for such purpose. All such Parity Bonds authorized and issued under the provisions of this paragraph shall be limited to the aggregate principal amount required to make up any deficiency in funds for payment of the construction costs to complete the Project, and the maturities of any such Parity Bonds shall be in years and amounts suggested by the Authority.

**Section 8.10. Insurance and Construction Bonds.** The Issuer will carry such insurance and in such amounts as is customarily carried with respect to works and properties similar to the System, with a reputable insurance carrier or carriers, against loss or damage by fire, explosion, hurricane, earthquake, cyclone, occupancy or other hazards and risks. The Issuer will require that each of its contractors and all subcontractors maintain, during the life of the construction contract, workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Authority and the DEP, so long as the Authority is the Owner of the Bonds. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance (fire and extended coverage) on a one hundred percent (100%) basis (completed value form) on the insurable portion of the Project, to protect the interests of the Issuer, the Authority, the prime contractor and all subcontractors as their interests may appear, in accordance with the Loan Agreement, during construction of the Project in the full insurable value thereof. In time of war, the Issuer shall also carry in said amount such insurance as may be available against loss or damage by the risks and hazards of war. The proceeds of all such insurance policies shall be disposed of as provided in the Ordinance and otherwise shall be placed in the Renewal and Replacement Fund and used only for the repair and restoration of the damaged or destroyed properties or for the other purposes provided herein for said Renewal and Replacement Fund. The Issuer will also carry liability insurance for damage or injury to persons or property in amounts adequate for such purposes and customarily carried with respect to works and properties similar to the System. The Issuer shall carry such other insurance as is required by the Authority and DEP and as set forth in the Loan Agreement, including but not limited to flood insurance and business interruption insurance, to the extent available at reasonable cost to the Issuer.

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

**Section 8.11. Consulting Engineers.** The Issuer shall provide and maintain competent and adequate resident engineering services satisfactory to the Authority and the DEP covering the supervision and inspection of the development and construction of the Project and bearing the responsibility of assuring that construction conforms to the plans, specifications and designs prepared by the Consulting Engineers. Such resident engineer

shall certify to the Authority, the DEP and the Issuer at the completion of construction that construction is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies. The Issuer shall require the Consulting Engineers to submit Recipient As-Built Plans, as defined in the SRF Regulations, to it within 60 days of the completion of the Project. The Issuer shall notify the DEP in writing of such receipt. The Issuer shall submit a Performance Certificate, the form of which is attached as Exhibit A to the Loan Agreement, and is incorporated herein by reference, to the DEP within 60 days of the end of the first year after the Project is completed.

The Issuer shall require the Consulting Engineers to submit the final Operation and Maintenance Manual, as defined in the SRF Regulations, to the DEP when the Project is 90% completed. The Issuer agrees that it will at all times provide operation and maintenance of the System to comply with any and all State and federal standards. The Issuer agrees that qualified operating personnel properly certified by the State will be employed before the Project is 25% complete and agrees that it will retain such a certified operator(s) to operate the System during the entire term of the Loan Agreement. The Issuer shall notify the DEP in writing of the certified operator employed at the 25% completion stage.

Section 8.12. Compliance With Loan Agreement, Rules and Regulations. The Issuer hereby covenants and agrees to perform and satisfy all terms and conditions of the Loan Agreement and to comply with all applicable laws, rules and regulations issued by the Authority, the DEP or other State, federal or local bodies in regard to the construction of the Project and operation, maintenance and use of the System.

Section 8.13. No Free Services. The Issuer will not render or cause to be rendered any free services of any nature by its System; and, in the event the Issuer or any department, agency, instrumentality, officer or employee of the Issuer shall avail itself or himself or herself of the facilities or services provided by the System or any part thereof, the same rates, fees or charges applicable to other customers receiving like services under similar circumstances shall be charged the Issuer and any such department, agency, instrumentality, officer or employee. Such charges shall be paid as they accrue, and the Issuer shall transfer from its general funds sufficient sums to pay such charges for service to any of its departments or properties. The revenues so received shall be deemed to be revenues derived from the operation of the System and shall be deposited and accounted for in the same manner as other revenues derived from such operation of the System.

Section 8.14. Enforcement of Collections. The Issuer will diligently enforce and collect all fees, rates, rentals or other charges for the services and facilities of the System and take all steps, actions and proceedings for the enforcement and collection of such fees, rates, rentals or other charges that shall become delinquent to the full extent permitted or authorized by the laws of the State of West Virginia. All such rates and charges, if not paid when due, shall become a lien on the premises served by the System.

Whenever any rates, rentals or charges for the services or facilities of the System, or of the waterworks system or sewerage system constituting a part thereof, shall remain unpaid for a period of thirty (30) days after the same shall become due and payable, the property and the owner thereof, as well as the user of the services and facilities, shall be delinquent until such time as all such rates and charges are fully paid. The Issuer further covenants and agrees that it will, to the full extent permitted by law, and any rules and regulations promulgated by the Public Service Commission of West Virginia applicable thereto, discontinue and shut off both the water and sewerage services and facilities of the System to all delinquent users of the services and facilities of the System, or of the waterworks system or sewerage system constituting a part thereof, and will not restore either water or sewerage services of the System until all delinquent charges for the service and facilities of the System, or of the waterworks system or sewerage system constituting a part thereof, plus reasonable interest penalty charges for the restoration of service, have been fully paid.

Section 8.15. No Competing Franchise. To the extent allowable by law, the Issuer will not grant or cause, consent to or allow the granting of, any franchise or permit to any person, firm, corporation or body, or agency or instrumentality whatsoever for the providing of any services which would compete with services provided by the System.

Section 8.16. Books, Records and Facilities. The Issuer shall keep complete and accurate records of the cost of acquiring the Project site and the costs of acquiring, constructing and installing the Project. The Issuer shall permit the Authority and the DEP, or their agents and representatives, to inspect all books, documents, papers and records relating to the Project and the System at all reasonable times for the purpose of audit and examination. The Issuer shall submit to the Authority and the DEP such documents and information as they may reasonably require in connection with the acquisition, construction and installation of the Project, the operation and maintenance of the System and the administration of the Loan Agreement or Grant Receipts or other sources of financing for the Project.

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

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

The accounting system for the System shall follow currently accepted accounting practices in accordance with the rules and regulations of the West Virginia Public Service Commission and the Act. Separate control accounting records shall be maintained by the Issuer. Subsidiary records as may be required shall be kept in the manner, on the forms, in the books, and along with other bookkeeping records as prescribed by the Issuer. The Issuer shall prescribe and institute the manner by which subsidiary records of the accounting system which may be installed remote from the direct supervision of the Issuer shall be reported to such agent of the Issuer as the Council shall direct.

The Issuer shall file with the Consulting Engineers and the Authority and DEP, and shall mail in each year to any owner or owners of Bonds requesting the same, an annual report containing the following:

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

(B) A balance sheet statement showing all deposits in all the funds and accounts provided for in this Ordinance with respect to said Bonds and the status of all said funds and accounts.

(C) The amount of any Bonds, Notes or other obligations Outstanding and secured by a lien on the Net Revenues of the System.

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be completely audited by Independent Accountants, shall mail upon request, and make available generally, the report of said Independent Accountants, or a summary thereof, to any owner or owners of Bonds issued pursuant to this Ordinance, and shall submit said report to the Authority and the DEP. The report of said audit shall include a statement that the Issuer is in compliance with the terms and provisions of the Act and the Loan Agreement and that the Issuer's revenues are adequate to meet its operation and maintenance expenses and debt service requirements.

The Issuer shall, commencing on the date contracts are executed for the construction of the Project and for two years following the completion of the Project, each month complete a Monthly Financial Report, the form of which is attached to the Loan Agreement as Exhibit B and is incorporated herein by reference, and forward a copy by the 10th of each month to the Authority and the DEP.

The Issuer shall, during construction of the Project, complete Payment Requisition Forms, the form of which is attached to the Loan Agreement as Exhibit C and is incorporated herein by reference, and forward a copy to the DEP in compliance with the Issuer's construction schedule.

The Board shall provide the DEP with all appropriate documentation to comply with any special conditions established by federal and/or state regulations as set forth in Exhibit E of the Loan Agreement or as promulgated from time to time.

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

Section 8.17. Operating Budget. The Board shall annually, at least 45 days preceding the beginning of each Fiscal Year, prepare and adopt by resolution a detailed, balanced budget of the estimated revenues and expenditures for operation and maintenance of the System during the succeeding Fiscal Year and shall submit a copy of such budget to the Authority and the DEP within thirty days of the adoption thereof. No expenditures for the operation and maintenance of the System shall be made in any Fiscal Year in excess of the amounts provided therefor in such budget without a written finding and recommendation by the Consulting Engineers, which finding and recommendation shall state in detail the purpose of and necessity for such increased expenditures for the operation and maintenance of the System, and no such increased expenditures shall be made until the Board shall have approved such finding and recommendation by a resolution duly adopted. No increased expenditures in excess of 10% of the amount of such budget shall be made except upon the further certificate of the Consulting Engineers that such increased expenditures are necessary for the continued operation of the System. The Issuer shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the Authority and to any Holder of any Bonds who shall file his address with the Issuer and request in writing that copies of all such budgets and resolutions be furnished him and shall make available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to any Holder of any Bonds or anyone acting for and in behalf of such Holder of any Bonds.

Section 8.18. Mandatory Connection. The mandatory use of the sewerage facilities portion of the System is essential and necessary to protect and preserve the public health, comfort, safety, convenience and welfare of the inhabitants and residents of, and the economy of, the Issuer and to assure the rendering harmless of sewage and water-borne waste matter produced or arising within the territory served by the System. Accordingly, every owner, tenant or occupant of any house, dwelling or building located near the System, where sewage will flow by gravity or be transported by such other methods approved by the State Department of Health from such house, dwelling or building into the System, to the extent permitted by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, shall connect with and use the sewerage facilities portion of the System and shall cease the use of all other means for the collection, treatment and disposal of sewage and waste matter from such house, dwelling or building where there is

such gravity flow or transportation by such other method approved by the State Department of Health and such house, dwelling or building can be adequately served by the sewerage facilities portion of the System, and every such owner, tenant or occupant shall, after a 30 day notice of the availability of the sewerage facilities portion of the System, pay the rates and charges established therefor.

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

Section 8.19. Compliance with Loan Agreement. The Issuer agrees to comply with all the terms and conditions of the Loan Agreement. Notwithstanding anything herein to the contrary, the Issuer will provide the DEP with copies of all documents submitted to the Authority.

Section 8.20. Tax Covenants. The Issuer hereby further covenants and agrees as follows:

A. PUBLIC PURPOSE BONDS. The Issuer shall use the Series 1996 A Bond proceeds solely for the refunding and as otherwise set forth herein. The Issuer shall use the Series 1996 B Bond proceeds solely for the Project and as otherwise set forth herein, and the Project will be solely operated as a public purpose and as local governmental activity of the Issuer.

B. PRIVATE ACTIVITY BOND COVENANT. The Issuer shall not permit at any time or times any of the proceeds of the Original Bonds or any other funds of the Issuer to be used directly or indirectly in a manner which would result in the exclusion of the Original Bonds from the treatment afforded by Section 103(a) of the Code by reason of the classification of the Bonds as "private activity bonds" within the meaning of the Code. The Issuer will take all actions necessary to comply with the Code in order to assure the tax-exempt status of the Original Bonds.

C. PRIVATE LOAN LIMITATION. The Issuer shall assure that not in excess of 5% of the Net Proceeds of the Original 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.

D. 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 Original Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

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

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

Section 8.21. Statutory Mortgage Lien. For the further protection of the Bondholders, 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 Original Bonds and shall be for the benefit of all Owners of the Original Bonds.

Section 8.22. Rebate Covenant. The Issuer is a governmental unit with general taxing powers to finance operations of or facilities of the nature of the Project and the System. As covenanted above, the Original Bonds are not private activity bonds within the meaning of the Code, and ninety-five percent (95%) or more of the net proceeds (as defined with respect to the Code) of the Original Bonds will be used for local governmental activities of the Issuer. The Issuer reasonably expects it and all its subordinate entities to issue less than \$5,000,000 in aggregate face amount of tax-exempt bonds (other than private activity bonds) during the calendar year, being 1996, in which the first series of Original Bonds are to be issued. Therefore, the Issuer believes that it is excepted from the rebate requirements of Section 148(f) of the Code. Notwithstanding the foregoing, if the Issuer is in fact subject to such rebate requirements, the Issuer hereby covenants to rebate to the United States the amounts required by the Code and to take all steps necessary to make such rebates as further described in Section 8.03. 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 tax-exempt status of interest on the Original Bonds.

Section 8.23. Securities Compliance. The Issuer will provide the Authority, in a timely manner, with any and all information that may be requested of it (including its annual audit report, financial statements, related information and notice of changes in usage and customer base ) so that the Authority may comply with the provisions of SEC Rule 15c2-12 (17CFR Part 240).

## ARTICLE IX

### INVESTMENT OF FUNDS; NON-ARBITRAGE

Section 9.01. Investments. Any moneys held as a part of the funds and accounts created by this Ordinance, other than the Revenue Fund, shall be invested and reinvested by the Commission, the Depository Bank, or such other bank or national banking association holding such fund or account, as the case may be, at the direction of the Issuer in any Qualified Investments to the fullest extent possible under applicable laws, this Ordinance, the need for such moneys for the purposes set forth herein and the specified restrictions and provisions set forth in this Section 9.01 and in Sections 9.02 and 9.03.

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

Section 9.02. Arbitrage. The Issuer covenants that (i) it will restrict the use of the proceeds of the Original Bonds in such manner and to such extent as may be necessary, in view of the Issuer's reasonable expectations at the time of issuance of the Original Bonds, so that the Original Bonds will not constitute "arbitrage bonds" under Section 148 of the Code, and (ii) it will take all actions that may be required of it (including, without implied limitation, the timely filing of a federal information return with respect to the Original Bonds so that the interest on the Original Bonds will be and remain excluded from gross income for federal income tax purposes, and will not take any actions which would adversely affect such exclusion.

Section 9.03. Tax Certificate and Rebate. The Issuer shall deliver a certificate of arbitrage, a tax certificate or other similar certificate to be prepared by nationally recognized bond counsel or tax counsel relating to payment of arbitrage rebate and other tax matters as a condition to issuance of the Original Bonds. In addition, the Issuer covenants to comply with all regulations from time to time in effect and applicable to the Original Bonds as may be necessary in order to maintain the exclusion from gross income for federal income tax purposes of interest on the Authority's bonds used to fund the purchase of the

1995 Subordinate Bonds and fully comply with Section 148(f) of the Code, and covenants to take such actions, and refrain from taking such actions, as may be necessary to fully comply with such 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.

If it is determined that the Issuer does not qualify for an exception to Section 148 of the Code or the Issuer is otherwise subject to rebate in connection with the Original Bonds, the Issuer shall calculate, annually, the rebatable arbitrage, determined in accordance with Section 148(f) of the Code. Upon completion of each such annual calculation, unless otherwise agreed by the Authority, the Issuer shall deposit, or cause to be deposited, with the Depository Bank in a separate fund designated the Rebate Fund, such sums as are necessary to cause the aggregate amount on deposit in the Rebate Fund to equal the sum determined to be subject to rebate to the United States, which, notwithstanding anything herein to the contrary, shall be paid from investment earnings on the underlying fund or account established hereunder and on which such rebatable arbitrage was earned or from other lawfully available sources. Notwithstanding anything herein to the contrary, the Rebate Fund shall be held free and clear of any lien or pledge hereunder, if any, and used only for payment of rebatable arbitrage to the United States. The Issuer shall pay, or cause to be paid, to the United States, from the Rebate Fund, the rebatable arbitrage in accordance with Section 148(f) of the Code and such Regulations. In the event that there are any amounts remaining in the Rebate Fund following all such payments required by the preceding sentence, the Depository Bank shall pay said amounts to the Issuer to be used for any lawful purpose of the System. The Issuer shall remit payments to the United States in the time and at the address prescribed by the regulations as the same may be from time to time in effect with such reports and statements as may be prescribed by such regulations. In the event that, for any reason, amounts in the Rebate Fund are insufficient to make the payments to the United States which are required, the Issuer shall assure that such payments are made by the Issuer to the United States, on a timely basis, from any funds lawfully available therefor. In addition, the Issuer shall cooperate with the Authority in preparing rebate calculations and in all other respects in connection with rebates and hereby consents to the performance of all matters in connection with such rebates by the Authority at the expense of the Issuer. To the extent not so performed by the Authority, the Issuer and the Depository Bank (at the expense of the Issuer) may provide for the employment of independent attorneys, accountants or consultants compensated on such reasonable basis as the Issuer or the Depository Bank may deem appropriate in order to assure compliance with this Section 9.03. The Issuer shall keep and retain, or cause to be kept and retained, records of the determinations made pursuant to this Section 9.03 in accordance with the requirements of Section 148(f) of the Code. In the event the Issuer fails to make such rebates as required, the Issuer shall pay any and all penalties and other amounts, from lawfully available sources, and obtain a waiver from the Internal Revenue Service, if necessary, in order to maintain the exclusion of interest on the Original Bonds from gross income for federal income tax purposes.

The Issuer shall submit to the Authority within 15 days following the end of each Bond Year a certified copy of its rebate calculation and certificate with respect thereto

or, if the Issuer qualifies for the small governmental issue exception to rebate or any other exception therefrom, then the Issuer shall submit to the Authority a certificate stating that it is exempt from such rebate provisions and that no event has occurred to its knowledge during the Bond Year which would make the Original Bonds subject to rebate. The Issuer shall also furnish to the Authority, at any time, such additional information relating to rebate as may be reasonably requested by the Authority, including information with respect to earnings on all funds constituting "gross proceeds" of the Bonds (as defined in the Code).

The Issuer shall furnish to the Authority, annually, at such time as it is required to perform its rebate calculations under the Code, a certificate with respect to its rebate calculations and, at any time, any additional information relating thereto as may be requested by the Authority and shall furnish to the Authority such information with respect to earnings on all funds constituting "gross proceeds" of the Bonds (as that term is defined in the Code) from time to time as the Authority may request.

Section 9.04. Restriction of Yield and Bond Proceeds. The Issuer shall comply with the yield restriction on Bond proceeds as set forth in Section 148 of the Code.

## ARTICLE X

### DEFAULT AND REMEDIES

Section 10.01. Events of Default. Each of the following events shall constitute an "Event of Default" with respect to the Bonds:

(A) If default occurs in the due and punctual payment of the principal of or interest on any series of Original Bonds; or

(B) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part relating to such Bonds set forth in this Ordinance, any supplemental resolution, or in such Bonds, and such default shall have continued for a period of 30 days after the Issuer shall have been given written notice of such default by any bank or banking association holding any fund or account hereunder or an owner of such Bonds; or

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

Section 10.02. Remedies. Upon the happening and continuance of any Event of Default with respect to any Bonds, any Registered Owner of such Bonds may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his or her rights and, in particular, (i) bring suit for any unpaid principal or interest then due, (ii) by mandamus or other appropriate proceeding enforce all rights of such registered Owners including the right to require the Issuer to perform its duties under the Act and the Ordinance relating thereto, including but not limited to the making and collection of sufficient rates or charges for services rendered by the System, (iii) bring suit upon such Bonds, (iv) by action at law or bill in equity require the Issuer to account as if it were the trustee of an express trust for the registered Owners of such Bonds, and (v) by action or bill in equity enjoin any acts in violation of the Ordinance with respect to such Bonds, or the rights of such registered Owners.

Section 10.03. Appointment of Receiver. Any Bondholder may, by proper legal action, compel the performance of the duties of the Issuer under the Ordinance and the Act, including the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any default in the payment of interest on any Bonds when the same shall become due, or in the payment of the principal of any Bond or Bonds, either at the specified date of maturity thereof or at a date set for redemption thereof, or otherwise in the performance of any covenant contained in the Ordinance other than as to such payment and such default shall continue for a period of thirty (30) days after written notice to the Issuer of such default, any Bondholder shall, in addition to all other remedies or rights, have the right by appropriate

legal proceedings to obtain the appointment of a receiver to administer the System on behalf of the Issuer, with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of the Bonds and any interest thereon, the deposits into the funds and accounts hereby established as herein provided and the payment of Operating Expenses of the System and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of the Ordinance and the Act.

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

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

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

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

## ARTICLE XI

### DEFEASANCE

Section 11.01. Defeasance of Bonds. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the Owners of all Bonds the principal thereof, and redemption premium, if applicable, and interest due or to become due thereon, at the times and in the manner stipulated therein and in the Ordinance, then the pledge of Net Revenues and any other moneys and securities pledged under this Ordinance and all covenants, agreements and other obligations of the Issuer to the Bondholders shall thereupon cease, terminate and become void and be discharged and satisfied.

Bonds for the payment of which either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the Paying Agent at the same or earlier time, shall be sufficient to pay, as and when due, the principal of and interest on the Bonds shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this Section. All Bonds shall, prior to the maturity thereof, be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section if there shall have been deposited with the Commission or its agents, either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with other moneys, if any, deposited with the Commission at the same time, shall be sufficient to pay when due the principal installments and interest due and to become due on said Bonds on and prior to the maturity dates thereof. Neither securities nor moneys deposited with the Commission pursuant to this Section nor principal or interest payments on any such securities shall be withdrawn or used for any purposes other than, and shall be held in trust for, the payment of the principal of and redemption premium, if applicable, on and interest on said Bonds; provided, that any cash received from such principal or interest payments on such securities deposited with the Commission, if not then needed for such purpose, shall, to the extent practicable, be reinvested in securities maturing at times and in amounts sufficient to pay when due the principal of and redemption premium, if applicable, on and interest to become due on said Bonds on and prior to such redemption date or maturity date thereof, as the case may be, and interest earned from such reinvestments shall be paid over to the Issuer, as received by the Commission, free and clear of any trust, lien or pledge. For the purpose of this Section, securities shall mean and include only Government Obligations.

## ARTICLE XII

### MISCELLANEOUS

Section 12.01. Modification or Amendment. No material modification or amendment of this Ordinance or of any ordinance or resolution amendatory hereof or supplemental hereto which would materially and adversely affect the rights of Bondholders shall be made without the consent in writing of the owners of two-thirds (2/3) or more in principal amount of the Bonds then Outstanding and to be affected by said modification; provided, however, that no change shall be made in the maturity of any Bond or Bonds or the rate of interest thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest out of the revenues of the System without the consent of the owner thereof. No amendment or modification shall be made which would reduce the percentage of the principal amount of Bonds required for consent to the above permitted amendments or modifications.

Section 12.02. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, such invalidity shall not affect any of the remaining provisions of this Ordinance.

Section 12.03. Repeal of Conflicting Ordinances. All ordinances, resolutions and orders, or parts thereof, in conflict with this Ordinance are to the extent of such conflict repealed.

Section 12.04. Covenant of Due Procedure. 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 final enactment and passage of this Ordinance do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Mayor, the Recorder and members of Council 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 12.05. Effective Date. This Ordinance shall take effect after passage, public hearing and otherwise in the manner prescribed by law.

Section 12.06. Statutory Notice and Public Hearing. Upon adoption hereof, the abstract of this Ordinance in the form set forth in Exhibit C attached hereto and incorporated herein by reference, shall be published once a week for two successive weeks within a period of fourteen consecutive days, with at least six full days intervening between each publication, in the St. Marys Oracle and The Pleasants Leader, newspapers of general circulation in the City of St. Marys, together with a notice stating that this Ordinance has been adopted and that the Issuer contemplates the issuance of the Bonds, and that any person interested may appear before the Issuer upon a certain date, not less than ten days subsequent

to the date of the first publication of such abstract of this Ordinance and notice, and present protests, and that a certified copy of this Ordinance is on file with the Issuer for review by interested persons during office hours of the Issuer. The Council hereby determines that the Abstract contains sufficient information as to give notice of the contents hereof. At such hearing, all objections and suggestions shall be heard and the Issuer shall take such action as it shall deem proper in the premises.

First Reading: September 17, 1996

Second Reading  
and Passage: October 1, 1996

Public Hearing: October 15, 1996

THE CITY OF ST. MARYS

(SEAL)

By: Louis T. Flade  
Mayor

ATTEST:

Linda K. Wilson  
Recorder

This Ordinance was placed into effect following the public hearing held on October 15, 1996.

CERTIFICATE OF TRUTH AND ACCURACY

I, the undersigned, as Recorder of the Issuer of St. Marys, Pleasants County, West Virginia, do hereby certify that the foregoing document is a true and accurate copy of the official record of the City of St. Marys, such records being in the custody of the undersigned and maintained at the City of St. Marys, Municipal Building, St. Marys, Pleasants County, West Virginia, and that the action taken by the Council in the foregoing document remains in full force and effect and has not been amended.

Dated this 15th day of October, 1996.

  
Recorder

[SEAL]

CHASFS3:47209

EXHIBIT A

Description of Project

The Project consists of the design of certain improvements to the Issuer's waste water treatment plant including a new grit chamber, mechanical bar screen, clarifier, belt filter press, UV disinfection, electric controls, laboratory equipment and all necessary applications thereto.

EXHIBIT B

Commitment Letter

The **1st**  
**FIRST NATIONAL BANK**  
**of St. Marys**

CARL A. GUTHRIE  
PRESIDENT

P. O. BOX 180 - ST. MARYS, WEST VIRGINIA 26170 - . (304) 684-2255

August 8, 1996

Louis F. Flake, Mayor  
City of St. Marys  
418 Second Street  
St. Marys, WV 26170

RE: City of St. Marys Water & Sewer Bonds, Series 1982

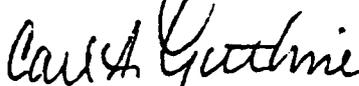
Dear Mayor Flade:

Please be advised that The First National Bank will purchase the "Refunding Bonds" designed to replace the above referenced issue with an outstanding balance of approximately \$57,600 for a term not to exceed the "Prior Bond" at a tax exempt interest rate of 5 1/2% per annum.

It is my understanding that this transaction will be consummated during the fourth quarter of 1996.

Thank you for the opportunity to provide this service to the City.

Sincerely,



Carl A. Guthrie  
President

CAG/sll

cc: Samme L. Gee, Esq.

## EXHIBIT C

### CITY OF ST. MARYS, WEST VIRGINIA

#### NOTICE OF PUBLIC HEARING and ABSTRACT OF BOND ORDINANCE

Notice is hereby given to any person interested that on October 1, 1996, the Council of the City of St. Marys, West Virginia (the "City") adopted an ordinance which:

1. Authorized the refunding of the Sewerage System Revenue Bonds, Series 1982 through the issuance of not more than \$60,000 in aggregate principal amount of Combined Waterworks and Sewerage System Revenue Refunding Bonds, Series 1996 A (the "Series 1996 A Bonds") to achieve an interest rate savings and authorized the design of certain extensions, additions, betterments and improvements (the "Project") to the existing wastewater treatment facility portion of the combined waterworks and sewerage system ("System") of the City and the financing of the permanent cost, not otherwise provided, thereof through the issuance of not more than \$128,000 in aggregate principal amount of Combined Waterworks and Sewerage System Revenue Bonds, Series 1996 B (the "Series 1996 B Bonds") (the Series 1996 A Bonds, together with the Series 1996 B Bonds are hereinafter collectively referred to as the "Bonds"). The refunding of the Series 1982 Bonds and design of the project was authorized to be financed with the Bonds proceeds.

2. Directed that the interest rate on the Series 1996 A Bonds shall be no more than five and one-half percent (5½%) per annum, that said Series 1996 A Bonds mature in not more than 20 years and that said Series 1996 A Bonds be sold for the par value thereof; and that such Series 1996 A Bonds be sold to the First National Bank of St. Marys.

3. Directed that the interest rate on the Series 1996 B Bonds shall be no more than three percentum (3%) per annum, that said Series 1996 B Bonds mature in not more than twenty years and that said Series 1996 B Bonds be sold for the par value thereof to the West Virginia Water Development Authority.

4. Directed the establishment of the Revenue Fund and the disposition of the System revenues; provided for the payment of operating expenses; provided for the payments of principal and interest when due; provided for the creation of the reserve accounts and a renewal and replacement fund; and provided for the use of excess funds of the System.

5. Provided for the disbursement of the Series 1996 B Bond proceeds and created a Bond Construction Trust Fund.

6. Pledged to payment of the Bonds the Net Revenues of the System.

7. Provided upon certain conditions for the issuance of additional bonds.

8. Provided for insurance coverage on the Project; provided that the City will render no free service; provided for the enforcement of collection of fees, rates, rentals or other charges for service.

9. Established the terms for defaults and the remedies of the Bondholders.

10. Provided for the modification or amendment of the Ordinance upon the terms and conditions set forth in the Ordinance.

The City contemplates the issuance of the Bonds described in, and under the conditions set forth in the Ordinance abstracted above. Any person interested may appear before the Council of the City of St. Marys at a regular meeting thereof at 7:00 p.m., prevailing time, on October 15, 1996 at the City Building, 418 Second Street, St. Marys, West Virginia, and present objections and be heard as to whether the above described Ordinance shall be put into effect.

A certified copy of the Ordinance as adopted by the Council of City on October 1, 1996, is on file in the Office of the City Recorder for review by interested persons during the regular office of such office, to-wit: 8:00 a.m. to 4:00 p.m. Mondays through Fridays.

/s/ Linda Wilson  
Recorder - City of St. Marys, West Virginia

COPY

Approved as  
written. 10-15-96

cc: Art Boggs

-1-

Minutes of the regular session of the Common Council of The City of St. Marys, WV, held in chambers on the 1st day of October, 1996.

Everyone stood for the PLEDGE OF ALLEGIANCE.

Mayor Flade called the meeting to order at 7:00 P.M.

Attending the meeting were: Mayor Flade, Cty Mgr Roy Hearn, Cty Rec Linda Wilson, Cty Atty Keith White, Chief of Police Dallas Flowers, Councilpersons: Jack Johnson, Gene Dutton, Larry Burns, Lyle Meeks, Dolores Stewart, and Mike Hendricks.

MINUTES:

Lyle Meeks made a motion to dispense with the reading of the minutes of the regular session of September 17, 1996, and approve them as written. Copies of those minutes had been distributed to members of council prior to tonight's meeting.

Gene Dutton seconded the motion.  
Motion passed unanimously.

Mayor Flade deviated from the regular order of the agenda and recognized Ilene Fricker and Dorothy Elder.

Ilene Fricker stated that she was present tonight to inform council that she had called the police on the 5th of September, 1996. She had asked them to bring a warrant. They had told her that they could not and would not make an arrest. Ilene explained that her neighbors were throwing grass on her driveway and on her house, and on her garage. She further explained that her attorney (Jim Powell) had told her that the matter was not a civil matter.

Cty Atty Keith White stated that it IS a civil matter, and he would talk to Jim Powell about it.

Dorothy Elder further stated that if this is a civil matter, then the citizens must spend money (that they do not have) on lawyers to protect their property and their rights. This is not right.

Chief Flowers stated that if the citizens cannot afford an attorney, the State will provide one for them, in some cases.

CORRESPONDENCE:

Letters from:

1. Solid Waste Management Board re: disposal of yard waste. On January 1, 1997, landfills in West Virginia will no longer be able to accept yard waste for disposal.

AFFIDAVITS OF PUBLICATION:

1. Advertisement for Bids...SMVFD '77 Dodge truck...Oracle 6/12/96 - Leader 6/15 & 22/96.
2. Advertisement for Bids...SMVFD roof repairs...Oracle 7/10 & 17/96 - Leader 7/13/96.
3. Legal Notice...sealed bids for paving...Leader 7/20 & 27/96 - Oracle 7/24 & 31/96.

Lyle Meeks made a motion to spread the affidavits of publication, as read, into the minutes.  
Gene Dutton seconded.  
Motion passed unanimously.

OLD BUSINESS:

City Manager's Report

- A. Update re: Run - Stadium Drive. Nothing new to report.
- B. Advice re: Response from property owners - quit claim deeds. Cty Mgr explained that he had one more person to talk to about the quit claim deeds.
- C. Quotes re: Generator. Cty Mgr reported that he did not have them completed.

Cty Mgr reported that the county water project was under way. Cty Mgr reported that they are projecting a December or January completion date.

Cty Rec reported that she had been told that a meeting was going to be called by Sammee Gee, before the next council meeting. It would be to discuss all of the pending projects and to determine exactly where each of the projects stood. Any and everyone who is involved with the projects would be asked to attend.

Regarding the City's stripping tower, Cty Mgr reported that he would be able to furnish the Mt. Carmel/Middle Island extension customers with water even if our water project, i.e. the stripping tower, was not completed.

Mayor Flade again deviated from the regular order of the agenda, and recognized Mr. Rick Umberger and Mr. Raleigh Shortt from Citizens Telecom.

Mr. Umberger explained to council that he had been asked by Cty Rec to appear before council tonight to discuss the possibility of getting Caller ID in St. Marys. Mr. Umberger stated that they had a three year plan in which to get Caller ID to all of their customers in WV. St. Marys is slated to be added in 1998. Caller ID will be an option which a customer can sign up for. The cost should be around \$6.00 per month per customer for Caller ID. Mr. Umberger further stated that if St. Marys had Caller ID today, the only phone numbers that would appear, would be the numbers in St. Marys and Belmont. By waiting a little longer, the technology will be there to access all phone numbers.

After considerable discussion, council asked Cty Rec to follow up with a letter to Citizens Telecom asking them to consider getting Caller ID to St. Marys as quickly as possible.

RETURN TO OLD BUSINESS:

Chief of Police Report

Chief Flowers stated that he has not heard from the Park Commission regarding when Trick-or-Treat would be held.

City Recorder's Report

Cty Rec stated that the Girl Scouts were going to be decorating the trees in the memorial park on Saturday, November 30, 1996. There were no objections.

Approval of Parade Permit

Cty Rec reported that the parade would be for the SMHS Homecoming on Friday, October 11, 1996 at 11:30 a.m., according to the application.

Mike Hendricks motioned to approve the permit.  
Dolores Stewart seconded. Motion passed unanimously.

City Attorney's Report

- A. Update re: Unemployment/Bob Jewell - Nothing to report.
- B. Update re: John Butler's city license - Pre-trial hearing is next week.
- C. TCI Ordinance - 2nd Reading - Cty Atty reported that we are going to wait to see what TCI does on October 7, 1996.
- D. Update re: CSX Contracts - Nothing new.
- E. Update re: Richard Craig / Replacing trees. - Waiting for a trial date.
- F. Update re: Condemnation on two properties - Suit will be filed on the Noland property.
- G. Update re: Transporting prisoners to Tyler Co. jail - Nothing new.
- H. Recommendation re: Bids for Donald Street Paving - There will be a meeting next Tuesday.
- I. Advice re: Sewer Assessments to Chestnut Oaks residents. - Nothing new.
- J. Update re: Liens for mowing of 1. Greg Myers, and 2. the Mound. Cty Rec reported the the owners of the mound had paid their bill.

Cty Atty will file the lien against Greg Myers.

K. Ordinance re: Street Paving Assessment of \$2. First Reading. Cty Atty stated that he had been in court all day, and he did not know where the ordinance was on his computer. If council so wished, they could have the first reading tonight, and he would bring the ordinance to Cty Rec, tomorrow.

Ja Johnson made a motion to pass the ordinance on first reading.  
Larry Burns seconded.  
Motion passed unanimously.

Bond Ordinance - Second Reading

Mayor Flade read the ordinance by title only.

Larry Burns made a motion to pass the bond ordinance upon second reading.  
Gene Dutton seconded.  
Motion passed unanimously.

NEW BUSINESS

Chief Flowers stated that he is having a problem with water drainage onto his property. Cty Mgr had told Chief Flowers that the water had to go through the property, there was no other way to divert the water. Chief Flowers stated that he had purchased the pipe in which the water is to run. The pipe cost \$1287.60. Chief Flowers asked the city to purchase the catch basin for \$557.00. He would have it installed.

Lyle Meeks made a motion to purchase the catch basin.  
Larry Burns seconded the motion.  
Motion passed unanimously.

Approval of Bills

Cty Rec explained that there are two invoices to be approved, in addition to the bill approval list. The two invoices are from Keith White for \$1500.00 each. They are legitimate expenses with regard to the Mt. Carmel and Middle Island projects. Council needs to approve the invoices. They will be submitted to MOVRC for payment.

47 1900.00 ea.

Mike Hendricks made a motion to approve the two invoices for payment.  
Gene Dutton seconded the motion.  
Motion passed unanimously.

Mike Hendricks stated that the following items should be placed on the next agenda for discussion:

1. Airconditioning at the marina.
2. Traffic lights on the four-lane.
3. Painting the tanks at the refinery.
4. Leonard Collins' junk yard.
5. 45 MPH speed limit up to Bryan Drive.

Mike Hendricks made a motion to approve the bills for payment.  
Lyle Meeks seconded.  
Motion passed unanimously.

Lyle Meeks motioned to adjourn at 8:00 P.M.





Minutes of the regular session of the Common Council of The City of St. Marys, WV, held in chambers on the 15th day of October, 1996.

Everyone stood for the PLEDGE OF ALLEGIANCE.

Mayor Flade called the meeting to order at 7:00 P.M.

Mayor Flade opened the public hearing and stated that the purpose of the hearing was to receive public comments or objections to the proposed bond issues.

Mayor Flade recognized Chris Callas from Jackson & Kelly.

Chris stated that he was present to take care of a few items before the bond ordinance can actually go into affect.

Chris went on to indicate that the affidavits of publication for the hearing, have been provided. Those affidavits are to be made a part of the record. By doing so, they will serve as proof that the statutory requirements have been met for notice of this meeting.

Chris asked if there have been any comments received, either written or orally, in regard to this bond ordinance.

There have been no comments received.

Mayor Flade read by title only:

AN ORDINANCE AUTHORIZING THE ISSUANCE OF NOT MORE THAN \$60,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE REFUNDING BONDS, SERIES 1996 A, OF THE CITY OF ST. MARYS TO BE USED TO REFUND THE CITY OF ST. MARYS COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1982: AUTHORIZING THE ISSUANCE OF NOT MORE THAN \$128,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1996 B, OF THE CITY OF ST. MARYS TO BE USED, ALONG WITH OTHER FUNDS AND MONEYS OF, OR AVAILABLE TO, THE CITY OF ST. MARYS WHICH MAY BE LAWFULLY EXPENDED FOR SUCH PURPOSES, TO FINANCE THE COST OF SUCH DESIGN OF CERTAIN EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE WASTEWATER TREATMENT FACILITY PORTION OF THE COMBINED WATERWORKS AND SEWERAGE SYSTEM OF THE CITY OF ST. MARYS AND TO PAY OTHER COSTS IN CONNECTION THEREWITH; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A LOAN AGREEMENT OR LOAN AGREEMENTS RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATED THERETO.

Lyle Meeks made a motion that the ordinance as read on this third reading, be put into affect.

Gene Dutton seconded.

Motion passed unanimously.

\*--Present at the meeting were: Mayor Flade, Cty Mgr Roy Hearn, Cty Rec Linda Wilson, Chief of Police Dallas Flowers, Councilpersons: Jack Johnson, Gene Dutton, Larry Burns, Lyle Meeks, Dolores Stewart and Mike Hendricks; Janelle Burwell from MOVRC was also present.

Chris further stated that there will be a supplemental resolution that will need to be passed at the next regular council meeting.

Lyle Meeks made a motion to close the public meeting, seconded by Gene Dutton.

Motion passed unanimously.

Lyle Meeks made a motion to recess at 7:05 P.M. The purpose of the recess was to give the Mayor and City Recorder time to get the bond documents signed and copied to Chris Callas.

Regular session reconvened at 7:17 P.M.

MINUTES:

Lyle Meeks made a motion to dispense with the reading of the minutes of the regular session of October 1, 1996, and approve them as written. Copies of those minutes had been distributed to members of council prior to tonight's meeting.

Larry Burns seconded.

Motion passed unanimously.

Mayor Flade recognized Janelle Burwell from Regional Council.

Janelle stated that she was present to get approval of some invoices from the water project. A drawdown is being prepared to get the money for these invoices. A resolution has been prepared for the purpose of approving the invoices.

Mayor Flade read the resolution.

WHEREAS, The City of St. Marys is presently undertaking a project for the Mt. Carmel Ridge Water Extension Project; and,

WHEREAS, The City of St. Marys has been presented with invoices for services rendered in connection with this project.

NOW THEREFORE BE IT RESOLVED THAT after careful review and consideration, The City of St. Marys hereby approves these invoices.

J. C. BOSELY CONSTRUCTION, INC.	\$ 78,519.65
MID OHIO VALLEY REGIONAL COUNCIL	8,238.46
AMERICAN GEOTECH, INC.	2,500.00
S & S ENGINEERS, INC.	2,470.00
KEITH WHITE, ATTORNEY-AT-LAW	3,800.00

NOW THEREFORE BE IT FURTHER RESOLVED that the Mayor of the City of St. Marys is hereby authorized to request funds from the Pleasants County Commission and to pay said invoices from funds received.

APPROVED THIS 15th DAY OF OCTOBER, 1996.

Signed by Louis Flade, Mayor, and attested by Linda Wilson, Clerk.

Larry Burns made a motion to approve the resolution.

Gene Dutton seconded.

Motion passed unanimously.

CORRESPONDENCE:

Letters from:

1. Zepora Hughes regarding the charge for the marina building. Cty Rec explained that Zepora had the building rented on Friday, Saturday and Sunday. She wanted to set up the

quilts and get ready for the quilt show on Thursday evening.

The Red Cross had the building rented for Thursday afternoon. As soon as they were to be done with the building, Zepora was supposed to move in and begin setting up. The Red Cross got out a little later than they originally said they would be done. Zepora began moving in much earlier than she was supposed to.

In the past, the marina building has always been rented as all day or any portion of the day. The building has been scheduled many times for two functions in the same day. In the past, both functions were required to pay the full fee.

Jack Johnson stated that he had been there when Zepora began setting up. She began putting up tables and before long, there wasn't room for the Red Cross. Some people who were there to give blood, just left...there was too much confusion. Jack stated that she began moving in before 5:00 P.M.

Cty Rec stated that Zepora had paid for Friday, Saturday, and Sunday. She does not feel that she should have to pay for Thursday. Cty Rec explained that she had talked to Zepora at the time that the building was being rented. At that time, Zepora had said that this is just a show. A few quilts may be sold, but Zepora stated that it was a SHOW. All of this information was given to the marina committee. A fee of \$50 was suggested based on the information. The committee approved it.

Chief Flowers stated that he felt that it was a commercial endeavor. He felt that she should pay the \$50.00, and if she ever has another show, she should be billed the commercial rate.

Mike Hendricks made a motion that she should be billed the commercial rate, if she does not wish to pay the \$50.00.

Larry Burns seconded.

Motion passed unanimously.

2. ITT HARTFORD INSURANCE regarding loss control visit on 10/21/96. The letter states: In areas of the city where the city and the county share common areas (the county park) specific areas of responsibilities should be clearly determined. For example the city has authority and responsibility of all roads and the county has the authority and responsibility to maintain the park and all equipment. I discussed this with the county commissioners and they are in full agreement. Signed Ronald E. Pivirotto.

Cty Rec stated that Cty Atty will need to deal with this.

Considerable discussion regarding the pending law suit from Doc Gerber, ensued. Cty Rec explained that according to Mr. Pivirotto, when a claims-history was run on the City of St. Marys, there was no claim showing up regarding Doc Gerber. Cty Rec stated that Cty Atty might arrive shortly. Perhaps he could shed some light on this.

OLD BUSINESS:

City Manager's report:

A. Update regarding the run on Stadium Drive. Cty Mgr stated that the pipe for the project should be in soon.

B. Update regarding the quit claim deed request by Thelma Park. Cty Mgr reported that everyone had been contacted and they all want quit-claim deeds.

C. Update regarding the quotes for a generator - Nothing new.

Lyle Meeks made a motion to grant the quit claim deeds that were requested by Thelma Park. Dolores Stewart seconded. Motion passed unanimously.

Mayor Flade reported that he has been told that there is a company that is looking at using some of the storage tanks at the refinery to store products.

Regarding the condition of the tanks, Cty Mgr stated that he had been told that some of the tanks out front are scheduled to be taken down.

Discussion ensued regarding improvements that need to be made to City Hall. Indoors, the walls need painted, ceiling tiles need replaced, the squad room needs to be fixed. There are some improvements needed outdoors, also.

Lyle Meeks stated that he would like to see the improvements made before the Christmas Parade.

#### Chief of Police Report

Chief Flowers stated that the Band-O-Rama had gone very well.

Also, the Halloween festivities are scheduled for Wednesday, October 30, 1996.

Lyle Meeks suggested that we try to get back to working with the park to come up with the festivities. This year, council was just told when it would be. Many people call City Hall for information. We don't usually have the information that we need to respond to the inquiries.

Cty Rec stated that on that same note, the City never knows when the Christmas Parade is going to be. City Hall receives many phone calls and we have no clue of what is being planned.

On another subject, there was discussion regarding the loud stereo systems that are being played in cars. Chief Flowers stated that he would let his officers know to crack down on them.

#### City Recorder's Report

Cty Rec had nothing to report.

#### Discussions re:

A. Air conditioning at the marina. Mike Hendricks stated that the last time that the Red Cross was down there, they had the thermostat set at 60 degrees. That is too cold. People were complaining.

Cty Rec suggested that a sign could be posted to the effect that the temperature is not to be set outside of certain parameters, to be determined by council.

Mike Hendricks suggested that the police officer on duty could go in every so often and check on the temperature of the building. Another option might be to send a letter to the Red Cross and explain that if the temperature is set below "whatever", then that person would be required to pay more for the building.

Cty Rec was instructed to write to Rick McCullough and let him know that it is his responsibility to keep the temperature set at a reasonable setting during the blood drives. He and Mike Hendricks can get together and discuss it further.

B. Traffic lights on the four lane. - Mike Hendricks asked when we accepted responsibility for those.

Cty Mgr stated that we have taken care of them since 1972.

C. Painting the tanks at the refinery. Mike Hendricks stated that it is time to get them painted. We have the St. Marys Conference coming to town in 1997. Those tanks look very bad. Mike Hendricks stated that they need to be written a letter.

D. Leonard Collins' junk yard - Mike Hendricks stated that his property needs to be cleaned up.

He comes in and gets a city license to sell "stuff", every year, stated Cty Rec. When asked if Cty Rec could refuse to issue a license until the place was cleaned up, Cty Rec replied that Cty Atty would need to comment on that.

Cty Mgr stated that he would go down and talk to Leonard and tell him that he is going to have to get that place cleaned up.

Regarding cleaning up property, council expressed their appreciation for the improvements that Doug and Jessie Wilson had made to their florist and gift shop. Cty Rec was asked to send them a letter of appreciation.

E. 45 MPH speed limit up to Bryan Drive. Mike Hendricks stated that it was a good idea, but it should be extended up to city limits. Traffic is congested up at the A-1 Shop Mart, too.

Jack Johnson explained that he and the Mayor had called the highway department and asked them to check the area the next time they were up in the area. As a result, they are the ones who made the change, based on their investigation. (The DOH)

Jack stated that he would call the highway department and see if the 45 MPH speed zone could be extended north to the city limits.

NEW BUSINESS:

Budget Revisions

Cty Rec explained the two inter-related budget revisions. Cty Rec stated that after closing the 96 FY, and printing the reports, she had discovered that she had received Ad Valorem taxes as 2% Utility Taxes. The Ad Valorem taxes should have been split between General Fund and Special Levy Fund. The end result, is that all of the monies were received into General Fund, thereby overstating the fund balance at the end of the year. On the other hand, Special Levy Fund's fund balance was understated by \$2552.00.

The other thing that this revision does is to appropriate two things that were received in 97 FY, but have not been appropriated. One is the balance of the funds that have not been spent on the riverbank erosion project. That amount was \$1571.00. That check came from the federal government. The other check received was for \$4894.00 for the balance of the flood expenditures. That check came from FEMA.

Larry Burns made a motion to approve the budget revisions.

Mike Hendricks seconded.

Motion passed unanimously.

City Attorney arrived and council returned to OLD BUSINESS.

City Attorney's Report

- A. Update re: Unemployment/ Bob Jewell. Nothing new to report.
- B. Update re: John Butler's city license. A hearing is scheduled.
- C. TCI Ordinance - 2nd reading - Cty Atty will bring it to next meeting.
- D. Update re: CSX Contracts - Nothing new.
- E. Update re: Richard Craig / replacing trees. Nothing new.
- F. Update re: Condemnation on two properties - Condemnation on the Noland property is ready to be signed by the judge.
- G. Update re: Transporting prisoners to Tyler County jail. - Nothing new.
- H. Recommendation re: Bids for Donald Street Paving - There is a meeting on Thursday. There should be a recommendation for the next council meeting.
- I. Advice re: Sewer Assessments to Chestnut Oaks residents - Meeting is 10/22/96 at 1:00 P.M.
- J. Update re: Lien for mowing Greg Myers' property - Lien has been filed.
- K. Ordinance re: Street Paving Assessment of \$2; 2nd reading.

Considerable discussion ensued regarding the ordinance...whether this was a good time to do this; was there any other way to get money to repave the streets, etc.

Mayor Flade recommended that we take another look at the "Round-up" program, too. It does not generate large sums of money, and it is a voluntary program, but every dollar helps.

Mayor Flade read by title only:

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF ST. MARYS, WEST VIRGINIA, TO AMEND ARTICLE 917.03 AND 917.04 OF THE CODIFIED ORDINANCES OF THE CITY OF ST. MARYS, WEST VIRGINIA.

Lyle Meeks made a motion to approve the ordinance upon second reading.

Gene Dutton seconded.

Motion passed unanimously.

Cty Atty reported that he is going to have present at the next meeting, the attorney who is representing council on the civil case.

There was discussion regarding the fact that our local paper does not cover the council meetings. The citizens of St. Marys never know what is going on. The ordinance passed tonight to begin charging a \$2 fee for street paving, has never been in the paper. People know nothing about it.

Mayor Flade stated that he would contact someone from River Times and see if they would begin covering the meetings.

RETURN TO NEW BUSINESS:

Approval of Bills

Lyle Meeks made a motion to approve the bills, seconded by Mike Hendricks. Motion passed.

Motion to adjourn at 8:55 P.M.

# PUBLISHER'S CERTIFICATE

State of West Virginia, Pleasants County, to-wit:

I, James E. McGoldrick, publisher of THE ST. MARYS GRACE, a weekly newspaper, published in the city of St. Marys, county and state aforesaid, and being of general circulation in St. Marys, West Virginia, and of general circulation throughout Pleasants County, West Virginia, do hereby certify that the attached

## CITY OF ST. MARYS, WEST VIRGINIA NOTICE OF PUBLIC HEARING AND ABSTRACT OF BOND ORDINANCE

has been published in said paper

two

consecutive weeks

Beginning

October 2,

19 96

and

ending

October 9,

19 96

Printer's Fee \$ 97.02

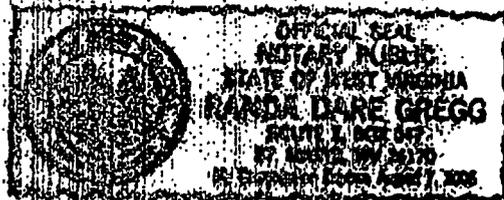
Subscribed and sworn to before me, this

*James E. McGoldrick*  
14 day of Oct 19 1996

*Randa Dare Gregg*  
Notary Public

My Commission expires

*Aug 7 2006*



**NOTICE OF PUBLIC HEARING AND ABSTRACT OF BOND ORDINANCE**  
The following is a summary of the ordinance proposed for adoption by the City of St. Marys, West Virginia, on October 1, 1996, at a regular meeting of the City Council, held at 7:00 p.m. in the regular office of such office, to-wit: 1500 S.W. 1500 S.W. in Marietta, through Friday, October 11, 1996, Second, to-wit: St. Marys, West Virginia, and regular sessions, and the subject as to which the above described Ordinance shall be put to a vote.  
A certified copy of the Ordinance as adopted by the Council of the City of St. Marys, West Virginia, on October 1, 1996, is on file in the Office of the City Recorder for review by interested persons wishing the regular office of such office, to-wit: 1500 S.W. 1500 S.W. in Marietta, through Friday, October 11, 1996, Second, to-wit: St. Marys, West Virginia, and regular sessions, and the subject as to which the above described Ordinance shall be put to a vote.  
City of St. Marys, West Virginia  
RC-2, 9-0-104, 124

# PUBLISHER'S CERTIFICATE

State of West Virginia, Pleasants County to-wit:

I, James B. McGoldrick, publisher of the PLEASANTS COUNTY LEADER, a weekly newspaper published in the City of St. Marys, West Virginia, and State aforesaid, and being of general circulation throughout Pleasants County, West Virginia, do hereby certify that the annexed

## CITY OF ST. MARYS, WEST VIRGINIA NOTICE OF PUBLIC HEARING AND ADOPTION OF BOND ORDINANCE

has been published in said paper \_\_\_\_\_ consecutive weeks

Beginning \_\_\_\_\_ 19 96, and

ending \_\_\_\_\_ 19 96

Printer's Fee \$ 97.02

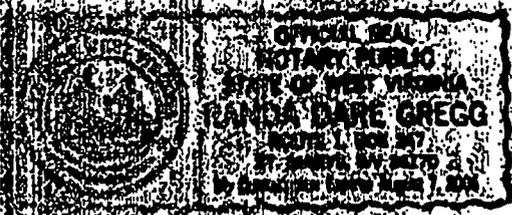
Subscribed and sworn to before me, this \_\_\_\_\_

*James B. McGoldrick*  
\_\_\_\_\_ of \_\_\_\_\_ OCT. 1996

*Linda Dare Gregg*  
\_\_\_\_\_  
Notary Public

My Commission expires \_\_\_\_\_

*August 11, 2006*



On the 10th day of October, 1996, I, James B. McGoldrick, publisher of the PLEASANTS COUNTY LEADER, a weekly newspaper published in the City of St. Marys, West Virginia, and State aforesaid, and being of general circulation throughout Pleasants County, West Virginia, do hereby certify that the annexed CITY OF ST. MARYS, WEST VIRGINIA, NOTICE OF PUBLIC HEARING AND ADOPTION OF BOND ORDINANCE has been published in said paper \_\_\_\_\_ consecutive weeks beginning \_\_\_\_\_ 19 96, and ending \_\_\_\_\_ 19 96. Printer's Fee \$ 97.02. Subscribed and sworn to before me, this \_\_\_\_\_ day of \_\_\_\_\_ 1996. James B. McGoldrick, Publisher. Linda Dare Gregg, Notary Public. My Commission Expires August 1, 2006.

SUPPLEMENTAL RESOLUTION

Introduced in Council

November 6, 1996

Introduced by

Louis F. Flade, Mayor

Adopted by Council

November 6, 1996

SUPPLEMENTAL RESOLUTION PROVIDING AS TO DATES, MATURITIES, INTEREST RATES, PRINCIPAL PAYMENT SCHEDULES, SALE PRICES, AND OTHER TERMS OF THE CITY OF ST. MARYS COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE REFUNDING BONDS, SERIES 1996 A AND THE CITY OF ST. MARYS COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1996 B, DESIGNATING A REGISTRAR, PAYING AGENT, AND DEPOSITORY BANK; APPROVING A LOAN AGREEMENT WITH RESPECT TO THE SERIES 1996 B BONDS; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the Council (the "Council") of The City of St. Marys, West Virginia (the "City") has duly and officially adopted a Bond Ordinance on October 1, 1996, (the "Ordinance"), entitled:

AN ORDINANCE AUTHORIZING THE ISSUANCE OF NOT MORE THAN \$60,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE REFUNDING BONDS, SERIES 1996 A, OF THE CITY OF ST. MARYS TO BE USED TO REFUND THE CITY OF ST. MARYS COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1982; AUTHORIZING THE ISSUANCE OF NOT MORE THAN \$128,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1996 B, OF THE CITY OF ST. MARYS TO BE USED, ALONG WITH OTHER FUNDS AND MONEYS OF, OR AVAILABLE TO, THE CITY OF ST. MARYS WHICH MAY BE LAWFULLY

EXPENDED FOR SUCH PURPOSES, TO FINANCE THE COST OF SUCH DESIGN OF CERTAIN EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE WASTEWATER TREATMENT FACILITY PORTION OF THE COMBINED WATERWORKS AND SEWERAGE SYSTEM OF THE CITY OF ST. MARYS AND TO PAY OTHER COSTS IN CONNECTION THEREWITH; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A LOAN AGREEMENT OR LOAN AGREEMENTS RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATED THERETO.

WHEREAS, the Ordinance provides for the issuance of the Combined Waterworks and Sewerage System Revenue Refunding Bonds, Series 1996 A (the "Series 1996 A Bonds") and the Combined Waterworks and Sewerage System Revenue Bonds, Series 1996 B (the "Series 1996 B Bonds") (collectively, the "Bonds") of the City of St. Marys in aggregate principal amount not to exceed \$60,000 and \$128,000, respectively, all in accordance with Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended (the "Act"), and the Ordinance and the terms of the Loan Agreement entered into between the Issuer, the West Virginia Water Development Authority and the West Virginia Division of Environmental Protection, a division of the West Virginia Bureau of Environment for the Series 1996 B Bonds (the "Loan Agreement"), but requires that the interest rates and sale price of the Bonds should be established by a supplemental resolution and that other matters relating to the Bonds be herein provided for; and

WHEREAS, the First National Bank of St. Marys ("First National Bank") proposes to purchase the Series 1996 A Bonds; and

WHEREAS, West Virginia Water Development Authority ("WDA") proposes to purchase the Series 1996 B Bonds; and

WHEREAS, the Council of the City deems it essential and desirable that this resolution (the "Supplemental Resolution"), be adopted and that the Ordinance be placed into

effect and that the price of and the interest rate on the Bonds be fixed hereby in the manner stated herein, and that other matters relating to the Bonds be herein provided for;

WHEREAS, capitalized terms not otherwise defined shall have the meanings given such terms in the Ordinance.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ST. MARYS:

Section 1. It is hereby found and determined:

(A) That the Abstract and Notice was duly published in The St. Marys Oracle and The Pleasants County Leader, newspapers of general circulation in the City of St. Marys with the first publication thereof being on October 2, 1996 and October 5, 1996, respectively, which first publications were not less than ten (10) days before the day set by the Ordinance and Notice for the public hearing at which interested persons might appear before the Council of the City and present protests and suggestions and with the last publications thereof being on October 9, 1996 and October 12, 1996, respectively, which last publication dates were prior to said date set by the Ordinance and Notice for the public hearing, and a copy of the Affidavit of Publications reflecting such publications are attached hereto and incorporated herein;

(B) That in accordance with the Ordinance and the Notice, the Clerk of the City has maintained in her office a certified copy of the Ordinance for review by interested persons during the regular office hours of such office;

(C) That, in Council chambers, City Building, St. Marys, West Virginia on Tuesday, October 15, 1996, at 7:00 p.m. prevailing time, in accordance with the Ordinance and Notice, the Council met for the purpose of hearing protests and suggestions regarding whether the Ordinance should be put into effect and heard all protests and suggestions with regard thereto;

(D) That, at the public hearing, no significant reasons were presented that could require modification or amendment of the Ordinance and no written protest with regard thereto was filed by 30 percent or more of the freeholders of the City; and

(E) The Ordinance shall be put into effect as of the date hereof and the Bonds contemplated thereby shall be issued, all as provided in the Ordinance and this Supplemental Resolution.

**Section 2.** Pursuant to the Ordinance, the Act, and this Supplemental Resolution, the Bonds shall be in the aggregate principal amount of \$49,000 and \$128,000, respectively, with the following provisions:

(A) The Series 1996 A Bond shall be originally issued in the form of a single bond, numbered AR-1 in the principal amount of \$49,000. The Series 1996 A Bond shall be dated the date of delivery thereof, shall bear interest at the rate of five and one-half percent (5½%) from the date of delivery. Interest shall be payable in semiannual installments on the 1st day of January and the 1st day of July, in each year commencing January 1, 1997. Principal installments are payable as set forth on the "Annual Schedule of Debt Service" attached to the Bond. The Series 1996 A Bond shall be subject to redemption prior to maturity, upon payment of principal and interest, provided that notice in writing shall be given to the registered holder hereof.

The proceeds of the Series 1996 A Bond (\$49,000), along with the sum of \$7,751.07 from the Sinking Fund (including the Reserve Account therein) for the Series 1982 A Bonds (the "Prior Bonds"), shall be wired by the West Virginia Municipal Bond Commission (the "Commission") to the First National Bank of St. Marys, for the purpose of paying the principal and interest due on the Prior Bonds. From the balance remaining in the Sinking Fund for the Prior Bonds (including the Reserve Account therein) after the above-referenced transfer, the Commission is further authorized to transfer the sum of \$9,698.94 to the Series 1996 A Reserve Account; transfer the sum of \$351.85 to the Series 1996 A Revenue Account for interest due on the Series 1996 A Bonds from November 13, 1996 to December 31, 1996; and transfer the remaining sum of \$628.84 to the Series 1996 A Revenue Fund.

(B) The Series 1996 B Bond shall be originally issued in the form of a single bond, numbered BR-1 in the principal amount of \$128,000. The Series 1996 B Bond shall be dated the date of delivery thereof, shall bear interest at the rate of two percent (2%) from the date of delivery. Principal and interest is payable quarterly on September 1, December 1, March 1 and June 1 of each of the years, 1997 through 2017, inclusive and with the final payment on September 1, 2017 and in the amounts set forth on Schedule X attached to the Loan Agreement and incorporated therein by reference, commencing December 1, 1997. The Series 1996 B Bond shall be subject to redemption upon the written consent of the Authority, upon payment of principal, interest and redemption premium, if any, and subject to the other requirements provided in the Loan Agreement, as long as the Authority or DEP shall be the registered owner of the Series 1996 B Bond.

(C) The Bonds shall be executed by Mayor of the City by his manual signature and attested by the City Recorder of the City by her manual signature and the seal of the City shall be impressed thereon. The seal impressed upon this Resolution is hereby

adopted as the official seal of the City. The Series 1996 A Bond shall be sold to First National Bank in accordance with the terms of the Commitment Letter at a price equal to 100% of the principal amount thereof. The Series 1996 B Bond shall be sold to the Authority in accordance with the terms of the Loan Agreement at a price equal to 100% of the principal amount thereof.

Section 3. All other provisions relating to the Bonds shall be as provided in the Ordinance, and the Bonds shall be in substantially the form provided in the Ordinance with such changes, insertions and omissions as may be approved by the Mayor of the City. The execution of the Bonds by the Mayor shall be conclusive evidence of such approval.

Section 4. The City does hereby ratify, approve and accept the Commitment Letter from the First National Bank regarding the purchase of the Series 1996 A Bonds, a copy of which is incorporated herein by reference.

Section 5. The City does hereby ratify, approve and accept the Loan Agreement including the "Schedule X" attached thereto regarding the Series 1996 B Bonds, a copy of which is incorporated herein by reference, and the execution and delivery by the Mayor of the Loan Agreement and the performance of the obligations contained therein, on behalf of the City have been and are hereby authorized, approved and directed.

Section 6. The City hereby appoints and designates The First National Bank of St. Marys, St. Marys, West Virginia, as the Depository Bank, as provided in the Ordinance.

Section 7. The City hereby appoints and designates The First National Bank of St. Marys, St. Marys, West Virginia, as Registrar for the Bonds.

Section 8. The City hereby appoints and designates the West Virginia Municipal Bond Commission (the "Commission"), Charleston, West Virginia as Paying Agent for the Bonds.

Section 9. The Mayor and the City Recorder are hereby authorized and directed to execute and deliver such other documents and certificates, including the Registrar's Agreement, required or desirable in connection with the Bonds hereby and by the Ordinance approved and provided for, to the end that the Series 1996 A Bonds may be delivered to the First National Bank pursuant to the Commitment Letter and the Series 1996 B Bonds may be delivered to the Authority pursuant to the Loan Agreement on or about November 13, 1996.

**Section 10.** The Series 1996 A Bonds Reserve Account shall be funded solely by the transfer from the sinking fund, including the reserve account therein, and all other funds and accounts created and maintained on behalf of the Series 1982 Bonds in an amount not to exceed \$9,698.94, the Series 1996 A Bonds Reserve Requirement.

**Section 11.** Upon the payment and retirement of the Series 1982 Bonds, the all amounts on deposit in the Renewal and Replacement Fund shall be transferred to the Renewal and Replacement Fund created under the Ordinance for the Bonds.

**Section 12.** The Issuer has either (a) funded the Series 1996 B Bonds Reserve Account to the Series 1996 B Bonds Reserve Requirement or (b) created the Series 1996 B Bonds Reserve Account which will be funded with equal payments made on a monthly basis over a 10-year period until such Series 1996 B Bonds Reserve Account holds an amount equal to the Series 1996 B Bonds Reserve Requirement. Moneys in the Series 1996 B Bonds Reserve Account and the Series 1996 B Bonds Sinking Fund will be used solely to pay principal of and interest on the Series 1996 B Bonds and will be not available to pay costs of the Project.

**Section 13.** The Issuer hereby determines that it will be to the benefit of the Issuer and its residents to refund on a current basis the Series 1982 Bonds to take advantage of the favorable terms available to the Issuer.

**Section 14.** The financing of the Project in part with proceeds of the Bonds is in the public interest, serves a public purpose of the City and will promote the health, welfare and safety of the residents of the City.

**Section 15.** The City hereby directs the Depository Bank to initially invest all monies in the funds and accounts established under the Bond Resolution in Qualified Investments further directed by the City.

**Section 16.** The City does hereby find and determine that the amount of bonds, other than private activity bonds which it and all subordinate entities anticipate issuing during calendar year 1996, shall not exceed \$10,000,000 and therefore the City hereby designates the Series 1996 A Bonds as "qualified-tax-exempt obligations" for purposes of Section 265(b) of the Code.

**Section 17.** The City shall not permit at any time or times any of the proceeds of the Bonds or any other funds of the City to be used directly or indirectly in a manner which would result in the exclusion of the Bonds from the treatment afforded by Section 103(a) of the Internal Revenue Code of 1986, as amended, and any regulations promulgated thereunder or under any predecessor thereto (the "Code"), by reason of the classification of

the Bonds as a "private activity bond" within the meaning of the Code. The City will take all actions necessary to comply with the Code and Treasury Regulations to be promulgated thereunder.

Section 18. This Supplemental Resolution shall be effective immediately upon adoption.

Dated: November 6, 1996

THE CITY OF ST. MARYS

By: Louis F. Hode  
Mayor

[SEAL]

Linda K. Wilson  
City Recorder

51255

Minutes of the regular session of the Common Council of The City of St. Marys, WV, held in chambers on the 6th day of November, 1996.

Everyone stood for the PLEDGE OF ALLEGIANCE.

Mayor Flade called the meeting to order at 7:00 P.M.

Attending the meeting were: Mayor Flade, Cty Mgr Roy Hearn, Cty Rec Linda Wilson, Chief of Police Dallas Flowers, City Atty Keith White, Councilpersons: Jack Johnson, Gene Dutton, Larry Burns, Lyle Meeks, Dolores Stewart, and Mike Hendricks.

MINUTES:

Lyle Meeks made a motion to dispense with the reading of the minutes of the regular session of October 15, 1996, and to dispense with the reading of the minutes of the public meeting of October 15, 1996, and approve them as written. Copies of both sets of minutes had been distributed to members of council prior to tonight's meeting.

Gene Dutton seconded the motion.  
Motion passed unanimously.

Mayor Flade deviated from the regular agenda, and recognized Charlie Knight from the volunteer fire department.

Charlie explained that there were several problems with the fire department building. First, during the recent high winds, several of the awnings had been damaged. Charlie explained that he had gotten an estimate on the awnings and wanted to know if the repairs had to be bid. The estimate is from The Bay Shop for \$1134.00.

Atty stated that insurance projects do not have to be bid. We need to meet the requirements of our insurance company, though.

Charlie went on to explain that the steps on the back of the building are in bad shape. Someone is going to get hurt. The supports are broken. New steps need to be installed and they should be handicap accessible. Charlie further stated that the VFD has not been able to locate the survey stakes. The VFD needs to know where their property lines are so that a handicap ramp can be designed.

Cty Atty stated that the deed should be on record and he would check it out and have an answer by Friday.

Mayor Flade recognized members of the Sixth Street community. They were petitioning council to patrol Sixth Street more closely. Children are playing in the area all the time. The residents are afraid that the children are going to get hit by speeding cars. Young adults are driving much too fast on Sixth Street. The young adults are also terrorizing the residents in the Senior Citizens' building.

Chief Flowers stated that patrolling the area does not work. If the police car is in the area, the kids behave. The police department would patrol the area, but the best way to get the kids, is if someone can get a license number and file a complaint.

Regarding the kids playing their car sound systems too loud, there was some discussion about increasing the fines dramatically. Chief Flowers asked that council wait and see if catching a few more of them, might not help. If it does not, then council can increase the fine.

Mayor Flade recognized Samme Gee from Jackson and Kelly.

Samme stated that council had adopted the bond ordinance at the October 1st, 1996 meeting. Following the adoption, there were two publications of the abstract of the ordinance and of the notice of the public hearing. At the last council meeting, there was a public meeting regarding the comments that the public had with respect to the refunding of the 1982 bonds and the new bonds for the wastewater project design.

Before council tonight, is a supplemental resolution. On page 3, the resolution finds and determines that council did publish the notice; that council did have a public meeting on October 15, 1996; that there were no written or verbal protests; and that council could place this ordinance into effect.

On page 4 under section 2a, the first bond (the 1996A bond) will be in the amount of \$49,000. That money, along with funds that the City has with the WV Municipal Bond Commission will be used to pay off the 1982 Bonds. The series A bonds will bear an interest rate of 5½%. They will be payable on the first day of January and the first day of July of each year, commencing with an interest payment on January 1, 1997. There will be a debt service schedule attached to the bond that will show that the bond will pay off on January 1, 2003. That is the same schedule that this bond would have been paid off. However, it will be paid off at a substantially reduced rate.

The second paragraph (2b) provides that Series 1996B bond is in the amount of \$128,000; that it is bearing interest at a rate of 2%, with a 1% administrative fee; that the City will pay principal and interest quarterly...September 1, December 1, and March 1 of each year, starting in 1997 with the final payment being on September 1, 2007. A debt service schedule will be attached to that bond.

In section 2, council is authorizing the mayor and recorder to sign all documents so that the A bonds can be sold to the First National Bank in St. Marys (of course with their commitment letter), and the B bonds will be sold to the WV Water Development Authority in accordance with the loan agreement that council has already approved.

Section 3 ratifies all of the material in the bond ordinance.

Section 4, again, ratifies and accepts the commitment from the First National Bank.

Section 5 approves the loan agreement and schedules, which have all previously been done.

Section 6 appoints and designates The First National Bank of St. Marys, WV, as the Depository Bank.

Section 7 appoints the First National Bank of St. Marys, WV, as the Registrar bank for the new bond issue.

Section 8 appoints the WV Municipal Bond Commission as the paying agent. That is required by the WDA.

Section 9 authorizes everything to be delivered on or about November 13, 1996.

On the top of page 6, we are providing that out of the funds from the refunding, that the City will use \$9698.94 to fund the reserve fund for the series 1996A bonds as required by the bank. That is equivalent to one year's principal and interest. As a practical matter, on July 1, 2002, there will be enough money in the bank to pay those bonds off.

Section 13, again, that the refunding and the new money series are for the benefit of the people in the community.

Section 16, the City is determining that during the calendar year 1996, <sup>they</sup> do not intend to issue more than 10 million dollars in tax exempt bonds, and therefore are designating the

bonds as bank qualified for the purposes of the Internal Revenue Code. That allows the bank to give us the lower interest rate that they did.

Section 16 provides that the Council will not allow the bonds to be used in any matter that would cause them to be arbitrage bonds or private activity bonds under the terms of the Internal Revenue Code.

Samme explained that the amount of bonds that the City has outstanding from 1982 is \$54,743.80. The interest due up to the closing date of November 13, 1996, is \$2007.27. That gives the City a total of \$56,751.07. The City currently has \$10,060.93 in the reserve account with the WV Municipal Bond Commission. The City has \$8,369.77 in the revenue (or sinking) fund. Dollars from those funds will be transferred to add to the \$49,000 that the City is borrowing from the bank, to come up with the amount that is actually due (\$56,751.07). The debt service reserve fund requirement will also be transferred from that amount (the \$9,698.94), and basically that will leave at the Bond Commission, right at \$1000.00 which will be available for the City to use to pay the debt service on January 1, 1997.

Samme explained that by refunding the 1982 series, the payment to the Bond Commission will be reduced by around \$100.00 per month. Samme explained that she had informed City Rec that a payment will not be made in November or December of this year. Payments from the refunding issue will commence in January, 1997. Between the two (refunding the bond and also not making a payment in November or December) the City is saving about \$10,000.

Samme at this time asked for a motion to approve the supplemental resolution.

Lyle Meeks made a motion to approve the supplemental resolution, as presented.  
Gene Dutton seconded.

Motion passed unanimously.

Samme stated that on November 13, 1996, at 10:30 a.m., the bond closing will be held in council chambers.

Motion to recess at 7:21 P.M.

Regular session reconvened at 7:40 P.M.

Mayor Flade recognized Janelle Burwell from Regional Council. Janelle explained that she was asking council to approve the resolution for Drawdown #2 on the Mt. Carmel/Middle Island project.

Mayor Flade read the resolution:

WHEREAS, the City of St. Marys is presently undertaking a project for the Mt. Carmel Ridge Water Extension Project; and,

WHEREAS, the City of St. Marys has been presented with invoices for services rendered in connection with this project.

NOW THEREFORE BE IT RESOLVED THAT after careful review and consideration, the City of St. Marys hereby approves these invoices.

J. C. Bosley Construction, Inc.	\$133,797.55
S & S Engineers, Inc.	20,330.00

NOW THEREFORE BE IT FURTHER RESOLVED that the Mayor of the City of St. Marys is hereby authorized to request funds from the Pleasants County Commission and to pay said invoices from funds received.

APPROVED THIS 6th DAY OF NOVEMBER, 1996.

Signed by Louis F. Flade, Mayor. Attested by Linda K. Wilson, City Recorder.

Jack Johnson made a motion to approve the resolution.

Lyle Meeks seconded.

Motion passed unanimously.

Janelle explained that the invoice to Bosley would be paid from the S.C.B.G. The invoice from S & S Engineers will be paid from the County Bonds.

Mayor Flade returned to the regular order of the agenda.

CORRESPONDENCE:

Letters from:

1. Sweeney & Summers regarding Charles R. Ruckman.

Cty Atty explained that the city has nothing in this. The City has quit-claimed any rights they had to this property. If Mr. and Mrs. Ruckman had any problems, it is with their next door neighbors.

Cty Mgr explained that he had copied the letter to council. Mrs. Ruckman had been in and talked to him and she wanted council to be made aware that she thought that she had gotten "ripped off" on that piece of property.

2. WV KIDS COUNT regarding membership. The organization is asking the City to join. The was no interest.

OLD BUSINESS:

City Manager's Report

A. Update re: Run on Stadium Drive - Cty Mgr reported that there are supposed to be 12 out of 15 joints of pipe that have been received. The City needs to pick it up.

B. Quotes re: Generators - Cty Mgr reported that he had gotten two quotes. One from Knickerbacher for \$28,660. That is not installed. The other one is from Penn Power Systems for \$12,428. Cty Mgr stated that Penn Power is a supplier. That is why their bid is lower. The generator has not been budgeted. It would be purchased from surplus funds.

Cty Mgr explained that another option might be to buy another small generator to supply the other half of City Hall. Then purchase a small generator to run the radio shack. The price would be about half of these quotes...around \$7000. Cty Mgr would pursue this option.

C. Update re: Clean up of Leonard Collins' property. Cty Mgr said that he had talked to Leonard, twice. Cty Mgr asked if we could give him 30 days, and if it is not cleaned up by then, the City would clean it up and send him the bill.

Cty Atty stated that we could do that.

Cty Rec asked if we could deny Leonard Collins a city license, for any reason. Cty Rec thought that he may be classified better as a junk dealer. That fee is \$25 per year.

Cty Atty stated that he would check into it and see what he could do.

Cty Mgr had asked Leonard what he was going to do with the used lumber that he was stock piling. Leonard is planning to burn it in his wood stove this winter. Cty Mgr stated that he told Leonard that it cannot be burned in the wood stove. It has paint on it.

Cty Mgr asked what to do to get rid of the old air compressor. Cty Mgr would like to purchase it from the City.

Cty Mgr was advised that he should submit a bid. He should put it out for bids.

#### Chief of Police Report

Chief Flowers submitted a written report.

Chief Flowers stated that Halloween went over very well. There were, however, a number of Halloween decorations stolen.

Mike Hendricks stated that for next year, Halloween is on a Friday night. That is football game night. Maybe next year we could have it on Thursday night, again. Maybe we could get the festivities moved back to the downtown area...march the parade down Main Street. Maybe the merchants would want to stay open.

Cty Mgr reported that he had taken his grandchildren up to ride the hay ride in the park. As soon as the tractor stopped, the older kids all jumped on and would not let the little kids on the tractor. They should alternate between the younger children and the older ones.

Lyle Meeks stated that perhaps this is one thing that could be resolved if the City got more involved and worked more with the county park.

#### City Recorder's Report

Cty Rec reported that the Public Service Commission has scheduled a hearing on November 19, 1996, at 1:00 P.M. Cty Rec did not know what that hearing is about. Cty Rec stated that she would contact the PSC and find out what the hearing is about. She would put a note in all of council's boxes to let them know.

Cty Rec asked for permission to attend the election seminar on December 6, 1996, in Charleston. The fee for the seminar is \$20.

Dolores Stewart made a motion to allow Cty Rec to attend the seminar.

Mike Hendricks seconded.

Motion passed unanimously.

With reference to the elections next year, the special levy election is in March. Cty Rec asked Cty Atty if they could get together and draft an ordinance for first reading at the next council meeting. Cty Atty said that would be fine.

On another matter, Cty Mgr stated that at 4:32 a.m., the high water alarm went off in the dispatcher's office. The dispatcher did not notify the water department. When the waterman went up to do his rounds, he discovered that it was overflowing.

Chief Flowers stated that he would talk to the dispatcher that had been on duty and find out why no one was notified.

Gene Dutton stated (on another subject) that he would like to see water breaks repaired as soon as they are reported...not wait until the next morning.

City Mgr stated that it usually depends on the size of the water leak, whether it gets fixed right of way, or whether it can wait until morning. If it is a small leak, Cty Mgr asks the police department to keep an eye on it to make sure that it does not develop into a large leak.

Lyle Meeks stated that it is not easy to fix water leaks after dark. It is also more dangerous. If it can go until daylight, it would be better.

Gene Dutton stated that if possible, the water should be shut off if it won't be fixed right of way.

#### City Attorney's Report

- A. Update re: Unemployment / Bob Jewell. Nothing new.
- B. Update re: John Butler's City License. There was a hearing on that, on Monday. The court gave each side 30 days to file a brief. Then the matter will be decided by the court.
- C. TCI Ordinance - 2nd reading- Cty Atty did not bring it with him.
- D. Update re: CSX Contracts. - Cty Atty thought that was about worked out. The City should not have to pay the increased fees.
- E. Update re: Richard Craig / replacing trees. Nothing new.
- F. Update re: Condemnation on two properties. Cty Atty stated that the condemnation on the Noland property is ready to go. As soon as the order is signed, the City will advertise to tear it down.
- G. Update re: Transporting prisoners to Tyler County jail - Cty Atty thought that it would be worked out in December.
- H. Recommendation re: Bids for Donald Street Paving - Cty Atty reported that the residents had voted unanimously to accept the bid from Mark Williams Blacktopping, for \$39,000.00. The City will borrow the money. There will be a lien placed on everyone's property on Donald Street, based on frontage.
- I. Update re: Sewer Assessments to Chestnut Oaks residents. - Cty Atty reported that he was doing the same thing with those assessments. He is going to approach the banks with both of those projects at the same time.
- J. Update re: Lien for mowing Greg Myers' property - That has been filed. If he tries to borrow money or sells the property, we will get paid.
- K. Quit Claim Deeds (requested by Thelma Park). - Cty Atty has not started on that.
- L. Update re: Copies of all deeds to the City - Cty Atty has not started on that.
- M. Advice re: Recommendation from ITT HARTFORD - Cty Atty did not have a problem with drawing up an agreement between the City and the County. He would look into it.

Cty Atty reported that he and Mike Hendricks had attended a meeting of the Pleasants County Development Authority concerning the new proposed use of the Colin Anderson Center. The purpose of the meeting was to explain to people what the facility was going to be used for. That was the one thing that was never determined.

The only thing that they stated for sure, was that there would not be any serious felons at the facility.

In another part of the facility, they are proposing that a diagnostic unit be put in. This is where the juveniles would be evaluated for further processing. That facility would be a secured facility.

Regarding the staffing, the issue was never resolved..."they" would get back to the Development Authority regarding the staffing.

Cty Atty reported that the co-existence of the recycling center with the detention center, was not permitted to be discussed.

Lyle Meeks stated that there are a lot of things that the public is not aware of. The city council went on record and unanimously voted to oppose the Juvenile Detention Center. No one knows that. The press is never at city council meetings.

Lyle Meeks then made a motion that Mayor Flade ask the reporter for the RIVER TIMES to start attending our council meetings and cover them in his paper.

Dolores Stewart seconded.  
Motion passed unanimously.

Cty Atty reported that the meeting had been recorded. All of the questions and answers are supposed to be transcribed and put in the local paper.

Mike Hendricks suggested that council should appoint City Attorney to go to Development Authority meetings instead of him. Meetings such as the one that just took place...not regular Development Authority meetings.

Lyle Meeks made a motion to appoint Cty Atty as an alternate as a City representative on the Pleasants County Development Authority.

Gene Dutton seconded.  
Motion passed unanimously.

Cty Atty reported that the facility would not be a privately run facility. It will be run by the State of WV.

NEW BUSINESS:

Resolution re: Street Light Agreement with Monongahela Power. Cty Atty said there was no problem with the agreement. It is a renewal of the previous 10 year agreement. Cty Atty stated that he did not feel that we would be able to negotiate with these people. We could always let them know that they are not living up to their end of the contract. They are not fixing street lights in a timely fashion.

Mike Hendricks made a motion to approve the agreement.  
Dolores Stewart seconded.  
Motion passed unanimously.

Approval of Bid for equipment for VFD

	FAN	PANTS	NOZZLE
Finley Fire Equipment	\$1490.00*	\$309.00*	\$459.00
Ashby Fire Equipment	No Bid	No Bid	446.00*
Dills Fire & Safety	No Bid	No Bid	492.00

Mike Hendricks made a motion to approve the low bids (\*) for the equipment.  
Lyle Meeks seconded.  
Motion passed unanimously.

Approval of Bills

Mike Hendricks made a motion to approve the bills for payment.  
Dolores Stewart seconded.  
Motion passed unanimously.

Lyle Meeks motioned to adjourn.

A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ST. MARYS TO EXECUTE THE LOAN AGREEMENT IN CONNECTION WITH THE PROPOSED COMBINED WATERWORKS AND SEWERAGE SYSTEM PROJECT

WHEREAS, the Council (the "Council") of The City of St. Marys (the "City") anticipates receiving a loan agreement (the "Loan Agreement") to be entered into with respect to the sewer system design project (the "Project") as described under the proposed "City of St. Marys Combined Waterworks and Sewerage System Revenue Bonds Ordinance" (the "Ordinance"); and

WHEREAS, the Council of the City has reviewed the loan agreement to be entered into among the City, the West Virginia Water Development Authority (the "Authority") and the West Virginia Division of Environmental Protection, a division of the West Virginia Bureau of Environment;

WHEREAS, it is in the best interest of the City and its residents to expedite the Project and enter into the Loan Agreement;

NOW, THEREFORE, Be It Resolved by the Council of The City of St. Marys, West Virginia, as Follows:

1. That the Mayor is hereby authorized and directed to execute the Loan Agreement and the Recorder is directed to affix the seal, attest the same and deliver the Loan Agreement to the Authority.

2. The Bonds referred to in the Loan Agreement shall be issued only if Council shall enact its proposed "City of St. Marys Combined Waterworks and Sewerage System Revenue Bonds Ordinance."

3. This Resolution shall become effective immediately upon adoption.

Adopted by the Council of the City of St. Marys at a meeting held on the 20th day of August, 1996.

The City of St. Marys

Louis T. Wade  
Mayor

[SEAL]

Sissi K. Wilson  
Recorder

**COPY**

LOAN AGREEMENT

THIS WATER POLLUTION CONTROL REVOLVING FUND LOAN AGREEMENT (the "Loan Agreement"), made and entered into in several counterparts, by and among the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY, a governmental instrumentality and body corporate of the State of West Virginia (the "Authority"), the WEST VIRGINIA DIVISION OF ENVIRONMENTAL PROTECTION, a division of the West Virginia Department of Commerce, Labor and Environmental Resources (the "DEP"), and the local government designated below (the "Local Government").

CITY OF ST. MARYS

---

(Local Government)

W I T N E S S E T H:

WHEREAS, the United States Congress under Title VI of the federal Clean Water Act, as amended (the "Clean Water Act"), has provided for capitalization grants to be awarded to states for the express purpose of establishing and maintaining state water pollution control revolving funds for the construction, acquisition and improvement of wastewater treatment facilities;

WHEREAS, pursuant to the provisions of Chapter 20, Article 5I, of the Code of West Virginia, 1931, as amended (the "Act"), the State of West Virginia (the "State") has established a state water pollution control revolving fund program (the "Program") to direct the distribution of loans to particular local governments pursuant to the Clean Water Act;

WHEREAS, under the Act the DEP is designated the instrumentality to enter into capitalization agreements with the United States Environmental Protection Agency ("EPA") to accept capitalization grant awards and DEP has been awarded capitalization grants to partially fund the Program;

WHEREAS, under the Act and under the direction of DEP, the Authority has established a permanent perpetual fund known as the "West Virginia Water Pollution Control Revolving Fund" (hereinafter the "Fund");

WHEREAS, pursuant to the Act, the Authority and DEP are empowered to make loans from the Fund to local governments for the acquisition or construction of wastewater treatment projects by

such local governments, all subject to such provisions and limitations as are contained in the Clean Water Act and the Act;

WHEREAS, the Local Government constitutes a local government as defined by the Act;

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

WHEREAS, the Local Government is authorized and empowered by the statutes of the State to construct, operate and improve a wastewater treatment project and to finance the cost of constructing or acquiring the same by borrowing money to be evidenced by revenue bonds issued by the Local Government;

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

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

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

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

## ARTICLE I

### Definitions

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

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

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

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

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

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

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

1.8 "Program" means the wastewater treatment facility acquisition, construction and improvement program coordinated through the capitalization grants program established under the Clean Water Act and administered by DEP.

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

1.10 "SRF Regulations" means the regulations set forth in Title 47, Series 31 of the West Virginia Code of State Regulations.

1.11 "System" means the wastewater treatment facility owned by the Local Government, of which the Project constitutes all or to which the Project constitutes an improvement, and any improvements thereto hereafter constructed or acquired from any sources whatsoever.

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

## ARTICLE II

### The Project and the System

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

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

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

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

2.5 The Local Government shall keep complete and accurate records of the cost of acquiring the Project site and the costs of constructing, acquiring and installing the Project. The Local Government shall permit the Authority and DEP, acting by and through their Directors or duly authorized agents and representatives, to inspect all books, documents, papers and records relating to the Project and the System at any and all reasonable times for the purpose of audit and examination, and the Local Government shall submit to the Authority and DEP such documents and information as it may reasonably require in connection with the construction, acquisition and installation of

the Project, the operation and maintenance of the System and the administration of the Loan or of any State and federal grants or other sources of financing for the Project.

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

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

2.8 The Local Government shall require that each of its contractors and all subcontractors maintain, during the life of the construction contract, workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Authority and DEP. Until the Project facilities are completed and accepted by the Local Government, the Local Government or (at the option of the Local Government) the contractor shall maintain builder's risk insurance (fire and extended coverage) on a one hundred percent (100%) basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Local Government, the prime contractor and all subcontractors, as their interests may appear. If facilities of the System which are detrimentally affected by flooding are or will be located in designated special flood or mudslide-prone areas and if flood insurance is available at a reasonable cost, a flood insurance policy must be obtained by the Local Government on or before the Date of Loan Closing, as hereinafter defined, and maintained so long as any of the Local Bonds are outstanding. Prior to commencing operation of the Project, the Local Government must also obtain, and maintain so long as any of the Local Bonds are outstanding, business interruption insurance if available at a reasonable cost.

2.9 The Local Government shall provide and maintain competent and adequate resident engineering services satisfactory to the Authority and DEP covering the supervision and inspection of the development and construction of the Project and bearing the responsibility of assuring that construction conforms to the plans, specifications and designs prepared by the Consulting Engineers, which have been approved by all necessary governmental bodies. Such resident engineer shall certify to the Authority, DEP and the

Local Government at the completion of construction that construction is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies. The Local Government shall require the Consulting Engineers to submit Recipient As-Built Plans, as defined in the SRF Regulations, to it within 60 days of the completion of the Project. The Local Government shall notify DEP in writing of such receipt. The Local Government shall submit a Performance Certificate, the form of which is attached hereto as Exhibit A, and being incorporated herein by reference, to DEP within 60 days of the end of the first year after the Project is completed.

2.10 The Local Government shall require the Consulting Engineers to submit the final Operation and Maintenance Manual, as defined in the SRF Regulations, to DEP when the Project is 90% completed. The Local Government agrees that it will at all times provide operation and maintenance of the System to comply with any and all State and federal standards. The Local Government agrees that qualified operating personnel properly certified by the State will be employed before the Project is 25% complete and agrees that it will retain such a certified operator(s) to operate the System during the entire term of this Loan Agreement. The Local Government shall notify DEP in writing of the certified operator employed at the 25% completion stage.

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

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

2.13 The Local Government, during construction of the Project, shall complete Payment Requisition Forms, the form of which is attached hereto as Exhibit C and incorporated herein by reference, and forward a copy of each Form to DEP in compliance with the Local Government's construction schedule.

### ARTICLE III

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

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

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

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

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

(d) The Local Government shall either have received bids or entered into contracts for the construction of the Project, which are in an amount and otherwise compatible with the plan of financing described in the Application; provided, that, if the Loan will refund an interim financing of construction, the Local Government must either be constructing or have constructed its Project for a cost and as otherwise compatible with the plan of financing described in the Application; and, in either case, the Authority and DEP shall have received a certificate of the Consulting Engineers to such effect, the form of which certificate is attached hereto as Exhibit D;

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

(f) The Local Government shall have obtained all requisite orders of and approvals from the Public Service Commission of West Virginia (the "PSC") necessary for the construction of the Project and operation of the System, and the Authority and DEP shall have received an opinion of counsel to the Local Government, which may be local counsel to the Local

Government, bond counsel or special PSC counsel but must be satisfactory to the Authority and DEP, to such effect;

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

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

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

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

3.2 Subject to the terms and provisions of this Loan Agreement, the rules and regulations promulgated by the Authority and DEP, including the SRF Regulations, or any other appropriate State agency and any applicable rules, regulations and procedures promulgated from time to time by the federal government, it is hereby agreed that the Authority shall make the Loan to the Local Government and the Local Government shall accept the Loan from the

Authority, and in furtherance thereof it is agreed that the Local Government shall sell to the Authority and the Authority shall make the Loan by purchasing the Local Bonds in the principal amount and at the price set forth in Schedule X hereto. The Local Bonds shall have such further terms and provisions as described in Article IV hereof.

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

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

3.5 The Local Government understands and acknowledges that it is one of several local governments which have applied to the Authority and DEP for loans to finance wastewater treatment projects and that the obligation of the Authority to make any such loan is subject to the Local Government's fulfilling all of the terms and conditions of this Loan Agreement on or prior to the Date of Loan Closing and to the requirements of the Program. The Local Government specifically recognizes that the Authority will not purchase the Local Bonds unless and until sufficient funds are available in the Fund to purchase all the Local Bonds and that, prior to such purchase, the Authority may purchase the bonds of other local governments set out in the State Project Priority List, as defined in the SRF Regulations. The Local Government further specifically recognizes that all loans will be originated in conjunction with the SRF Regulations and with the approval of DEP.

3.6 The Local Government shall provide DEP with the appropriate documentation to comply with the special conditions established by federal and state regulations as set forth in Exhibit E hereto at such times as are set forth in Exhibit E.

## ARTICLE IV

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

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

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

(i) to pay Operating Expenses of the System;

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

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

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

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

(b) Covenants substantially as follows:

(i) That the Local Bonds shall be secured by the net revenues from the System;

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

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

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

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

a lien on or payable from the revenues of the System prior to the Local Bonds and with the written consent of the Authority and DEP; provided, however, that additional parity bonds may be issued to complete the Project, as described in the Application as of the date hereof, without regard to the foregoing;

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

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

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

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

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

(xi) That the Local Government shall annually cause the records of the System to be audited by an independent certified public accountant or independent public accountant and shall submit the report of said audit to the Authority and DEP, which report shall include a statement that the Local Government is in compliance with the terms and provisions of the Local Act and this Loan Agreement and that the Local Government's revenues are adequate to meet its operation and maintenance expenses and debt service requirements;

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

(xiii) That, to the extent authorized by the laws of the State and the rules and regulations of the PSC,

prospective users of the System shall be required to connect thereto;

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

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

(xvi) That the Local Government shall on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the West Virginia Municipal Bond Commission (the "Commission") its required interest, principal and reserve fund payment. The Local Government shall complete the Monthly Payment Form, attached hereto as Exhibit F and incorporated herein by reference, and submit a copy of said form along with a copy of the check to the Authority by the 5th day of such calendar month;

(xvii) That the Commission shall serve as paying agent for all Local Bonds;

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

(xix) That the Local Government shall have obtained the certificate of the Consulting Engineers to the effect that the Project has been or will be constructed in accordance with the approved plans, specifications and design as submitted to the Authority, the Project is adequate for the purposes for which it was designed and the funding plan as submitted to the Authority is

sufficient to pay the costs of acquisition and construction of the Project; and

(xx) That the Local Government shall, to the full extent permitted by applicable law and the rules and regulations of the West Virginia Public Service Commission, terminate the services of any water facility owned by it to any customer of the System who is delinquent in payment of charges for services provided by the System and will not restore the services of the water facility until all delinquent charges for the services of the System have been fully paid or, if the water facility is not owned by the Local Government, then the Local Government shall enter into a termination agreement with the water provider.

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

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

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

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

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

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

#### ARTICLE V

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

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

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

5.3 In the event the Local Government defaults in any payment due to the Authority pursuant to Section 4.2 hereof, the amount of such default shall bear interest at the interest rate of the installment of the Loan next due, from the date of the default until the date of the payment thereof.

5.4 The Local Government hereby irrevocably covenants and agrees with the Authority that, in the event of any default

hereunder by the Local Government, the Authority may exercise any or all of the rights and powers granted under Section 5 of the Act, including without limitation the right to impose, enforce and collect directly charges upon users of the System.

## ARTICLE VI

### Other Agreements of the Local Government

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

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

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

6.4 The Local Government hereby covenants that it will rebate any amounts required by Section 148 of the Internal Revenue Code of 1986, as amended, and will take all steps necessary to make any such rebates. In the event the Local Government fails to make any such rebates as required, then the Local Government shall pay any and all penalties, obtain a waiver from the Internal Revenue

Service and take any other actions necessary or desirable to preserve the exclusion from gross income for federal income tax purposes of interest on the Local Bonds.

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

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

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

## ARTICLE VII

### Miscellaneous

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

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

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

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



Attest:

Date: September 18, 1996

Linda K. Wilson  
Its Recorder

WEST VIRGINIA DIVISION OF ENVIRONMENTAL PROTECTION

By: Barbara S Taylor  
Its: Chief, Office of Water Resources

Date: 9/23/96

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

(SEAL)

By: Daniel B. Yankosky  
Its: Director

Date: September 10, 1996

Attest:

Barbara B Meadows  
Secretary-Treasurer

APPROVED AS TO FORM PRIOR TO  
ACKNOWLEDGEMENT THEREOF, THIS  
25th day of August, 1992.

Attorney General  
BY: Dawn E Wayfield  
DEPUTY ATTORNEY GENERAL

EXHIBIT A

Certificate of Performance  
for  
Publicly Owned Treatment Works

I. As required by the Clean Water Act under Title VI, Section 602(b)(6), and the Loan Agreement, the Local Government does hereby certify that it has :

- a. Provided to the WV DEP written notification of the actual date of initiation of operation. This date of initiation was on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.
- b. Utilized the services of \_\_\_\_\_,  
our prime engineer who either:
  - \_\_\_\_\_ Supervised our project construction; and/or
  - \_\_\_\_\_ Provided architectural and engineering services during construction.

For a period of twelve (12) months following the initiation of operations, the prime engineer provided the following services:

- 1) Directed project operation and maintenance; and
- 2) Trained operating personnel and prepared the required curricula and training materials, and revised the operation and maintenance manual(s); and
- 3) Advised the Local Government on the status of the project meeting performance standards.

II. The Local Government, having access to and control of all the necessary data, and having monitored the construction of this project, hereby certifies that the project built under this Loan Agreement meets:

- a. The specifications for which the project was planned, designed, and built.
- b. The effluent limitations contained in its NPDES permit, if applicable.

\_\_\_\_\_  
Local Government Name

\_\_\_\_\_  
Local Government Representative's Name and Title

\_\_\_\_\_  
Date

EXHIBIT B

[Form of Monthly Financial Report]

[Name of Local Government]

[Name of Bond Issue]

Fiscal Year - \_\_\_\_\_

Report Month: \_\_\_\_\_

	<u>ITEM</u>	<u>CURRENT MONTH</u>	<u>YEAR TO DATE</u>	<u>BUDGET YEAR TO DATE</u>	<u>DIFFERENCE</u>
1.	Gross Revenues Collected				
2.	Operation and Maintenance Expense				
3.	Other Bond Debt Payments (including Reserve Fund deposits)				
4.	SRF Bond Payments (include Reserve Fund deposits)				
5.	Renewal and Replacement Fund Deposit				
6.	Funds available for capital construction				

Witnesseth my signature this \_\_\_\_ day of \_\_\_\_\_, 19\_\_.

[Name of Local Government]

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

EXHIBIT C

PAYMENT REQUISITION FORM

(TO BE PROVIDED BY DEP FOR EACH PROJECT)

EXHIBIT D

FORM OF CERTIFICATE OF CONSULTING ENGINEER

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

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

I, \_\_\_\_\_, Registered Professional Engineer, West Virginia License No. \_\_\_\_\_, of \_\_\_\_\_, Consulting Engineers, \_\_\_\_\_, hereby certify that my firm is engineer for the acquisition and construction of \_\_\_\_\_ to the \_\_\_\_\_ system (herein called the "Project") of \_\_\_\_\_ (the "Issuer") to be constructed primarily in \_\_\_\_\_ County, West Virginia, which construction and acquisition are being permanently financed in part by the above-captioned bonds (the "Bonds") of the Issuer. Capitalized words not defined herein shall have the meaning set forth in the \_\_\_\_\_ passed by the \_\_\_\_\_ of the Issuer on \_\_\_\_\_, 19\_\_\_\_, effective \_\_\_\_\_, 19\_\_\_\_, and the Loan Agreement by and among the Issuer, the West Virginia Water Development Authority (the "Authority"), and the West Virginia Division of Environmental Protection ("DEP") dated \_\_\_\_\_, 19\_\_\_\_.

1. The Bonds are being issued for the purpose of \_\_\_\_\_ (the "Project").

2. The undersigned hereby certifies that (i) the Project will be constructed in accordance with the approved plans, specifications and designs prepared by my firm and as described in the application submitted to the Authority requesting the Authority to purchase the Bonds (the "Application") and approved by all necessary governmental bodies, (ii) the Project is adequate for the purpose for which it was designed and has an estimated useful life of at least twenty years, (iii) the Issuer has received bids for the construction of the Project which are in an amount and otherwise compatible with the plan of financing described in the Application and my firm has ascertained that all contractors have made required provisions for all insurance and payment and performance bonds and that such insurance policies or binders and such bonds have been verified by my firm for accuracy, (iv) the Issuer has obtained all permits required by the laws of the State and the federal government necessary for the construction of the Project, (v) the rates and charges for the System as adopted by the \_\_\_\_\_ of the Issuer are sufficient to comply with the provisions

of Subsection 4.1(b) of the Loan Agreement, (vi) the net proceeds of the Bonds, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants irrevocably committed therefor, are sufficient to pay the costs of construction and acquisition of the Project as set forth in the Application, and (vii) attached hereto as Exhibit A is the final amended "Schedule A - Total Cost of Project and Sources of Funds" for the Project.

WITNESS my signature on this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_

By \_\_\_\_\_

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

[SEAL]

EXHIBIT E

[Special Conditions]

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

The recipient agrees to refund the 1982 Water and Sewer Revenue Bonds, which had an outstanding balance of \$57,687 at June 30, 1996.

EXHIBIT F

[Monthly Payment Form]

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

Re: [Name of bond issue]

Dear Sirs:

The following deposits were made to the West Virginia  
Municipal Bond Commission on behalf of [Local Government] on  
\_\_\_\_\_, \_\_\_\_.

Sinking Fund:

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

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

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

Reserve Fund: \$ \_\_\_\_\_

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

[Name of Local Government]

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

Enclosure: copy of check(s)

EXHIBIT G

[Opinion of Bond Counsel for Local Government]

[To Be Dated as of Date of Loan Closing]

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

Gentlemen:

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

We have examined a certified copy of proceedings and other papers relating to (i) the authorization of a loan agreement dated \_\_\_\_\_, 19\_\_\_\_, including all schedules and exhibits attached thereto (the "Loan Agreement"), between the Local Government and the West Virginia Water Development Authority (the "Authority") and (ii) the issue of a series of revenue bonds of the Local Government, dated \_\_\_\_\_, 19\_\_ (the "Local Bonds"), to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Local Bonds are in the principal amount of \$\_\_\_\_\_, issued in the form of one bond registered as to principal and interest to the Authority, with interest payable \_\_\_\_\_ 1, \_\_\_\_\_ 1, \_\_\_\_\_ 1, and \_\_\_\_\_ 1 of each year, beginning \_\_\_\_\_ 1, 19\_\_, at the respective rate or rates and with principal payable in installments on \_\_\_\_\_ 1 in each of the years, all as follows:

<u>Year</u>	<u>Installment</u>	<u>Interest Rate</u>
-------------	--------------------	----------------------

The Local Bonds are issued for the purpose of \_\_\_\_\_  
\_\_\_\_\_ and paying certain issuance and other costs in connection therewith.

We have also examined the applicable provisions of \_\_\_\_\_  
\_\_\_\_\_ of the Code of West Virginia, 1931, as amended (the "Local Statute"), and the bond \_\_\_\_\_ duly enacted by the Local Government on \_\_\_\_\_ (the "Local

Act"), pursuant to and under which Local Statute and Local Act the Local Bonds are authorized and issued, and the Loan Agreement that has been undertaken. The Local Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Local Act and the Loan Agreement.

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

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

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

3. The Local Government is a duly organized and presently existing \_\_\_\_\_, with full power and authority to construct and acquire the Project and to operate and maintain the System referred to in the Loan Agreement and to issue and sell the Local Bonds, all under the Local Statute and other applicable provisions of law.

4. The Local Government has legally and effectively enacted the Local Act and all other necessary \_\_\_\_\_ in connection with the issuance and sale of the Local Bonds. The Local Act contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

5. The Local Bonds are valid and legally enforceable special obligations of the Local Government, payable from the net revenues of the System referred to in the Local Act and secured by a [first] lien on and pledge of the net revenues of said System, all in accordance with the terms of the Local Bonds and the Local Act, and have been duly issued and delivered to the Authority.

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

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

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

Very truly yours,

SCHEDULE X

DESCRIPTION OF BONDS

Principal Amount of Bonds	\$ 128,000
Purchase Price of Bonds	\$ 128,000

Interest on the Bonds shall be zero percent from the date of delivery to and including August 31, 1997. Principal and interest on the Bonds is payable quarterly, commencing December 1, 1997, at a rate of 2% per annum. Quarterly payments will be made thereafter on each September 1, December 1, March 1 and June 1 as set forth on Schedule Y attached hereto and incorporated herein by reference. As of the date of this Loan Agreement, it is the Authority's and DEP's understanding that the Local Government has ~~{no other obligations outstanding which have a lien as to the source of and security for payment equal to or superior to the lien being granted by the Bonds or {provide list of outstanding debt}}~~. \*

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

The Bonds will be fully registered in the name of the West Virginia Water Development Authority as to principal and interest and such Bonds shall grant the Authority a first lien on the net revenues of the Local Government's system.

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

\* City of St. Marys' 1996 Water and Sewer Refunding Bonds.

SCHEDULE Y

City of St. Marys \$128,000 2% interest rate, 1% annual fee DEBT SERVICE SCHEDULE				
DATE	PRINCIPAL	COUPON	INTEREST	DEBT SERVICE
9/01/1997	-	-	-	-
12/01/1997	1,305.22	2.00000X	640.00	1,945.22
3/01/1998	1,311.75	2.00000X	633.47	1,945.22
6/01/1998	1,318.31	2.00000X	626.92	1,945.23
9/01/1998	1,324.90	2.00000X	620.32	1,945.22
12/01/1998	1,331.52	2.00000X	613.70	1,945.22
3/01/1999	1,338.18	2.00000X	607.04	1,945.22
6/01/1999	1,344.87	2.00000X	600.35	1,945.22
9/01/1999	1,351.60	2.00000X	593.63	1,945.23
12/01/1999	1,358.35	2.00000X	586.87	1,945.22
3/01/2000	1,365.14	2.00000X	580.08	1,945.22
6/01/2000	1,371.97	2.00000X	573.25	1,945.22
9/01/2000	1,378.83	2.00000X	566.39	1,945.22
12/01/2000	1,385.72	2.00000X	559.50	1,945.22
3/01/2001	1,392.65	2.00000X	552.57	1,945.22
6/01/2001	1,399.62	2.00000X	545.60	1,945.22
9/01/2001	1,406.61	2.00000X	538.61	1,945.22
12/01/2001	1,413.65	2.00000X	531.57	1,945.22
3/01/2002	1,420.72	2.00000X	524.51	1,945.23
6/01/2002	1,427.82	2.00000X	517.40	1,945.22
9/01/2002	1,434.96	2.00000X	510.26	1,945.22
12/01/2002	1,442.13	2.00000X	503.09	1,945.22
3/01/2003	1,449.34	2.00000X	495.88	1,945.22
6/01/2003	1,456.59	2.00000X	488.63	1,945.22
9/01/2003	1,463.87	2.00000X	481.35	1,945.22
12/01/2003	1,471.19	2.00000X	474.03	1,945.22
3/01/2004	1,478.55	2.00000X	466.67	1,945.22
6/01/2004	1,485.94	2.00000X	459.28	1,945.22
9/01/2004	1,493.37	2.00000X	451.85	1,945.22
12/01/2004	1,500.84	2.00000X	444.38	1,945.22
3/01/2005	1,508.34	2.00000X	436.88	1,945.22
6/01/2005	1,515.88	2.00000X	429.34	1,945.22
9/01/2005	1,523.46	2.00000X	421.76	1,945.22
12/01/2005	1,531.08	2.00000X	414.14	1,945.22
3/01/2006	1,538.74	2.00000X	406.49	1,945.23
6/01/2006	1,546.43	2.00000X	398.79	1,945.22
9/01/2006	1,554.16	2.00000X	391.06	1,945.22
12/01/2006	1,561.93	2.00000X	383.29	1,945.22
3/01/2007	1,569.74	2.00000X	375.48	1,945.22
6/01/2007	1,577.59	2.00000X	367.63	1,945.22
9/01/2007	1,585.48	2.00000X	359.74	1,945.22
12/01/2007	1,593.41	2.00000X	351.81	1,945.22
3/01/2008	1,601.37	2.00000X	343.85	1,945.22
6/01/2008	1,609.38	2.00000X	335.84	1,945.22
9/01/2008	1,617.43	2.00000X	327.79	1,945.22
12/01/2008	1,625.51	2.00000X	319.71	1,945.22
3/01/2009	1,633.64	2.00000X	311.58	1,945.22
6/01/2009	1,641.81	2.00000X	303.41	1,945.22
9/01/2009	1,650.02	2.00000X	295.20	1,945.22
12/01/2009	1,658.27	2.00000X	286.95	1,945.22
3/01/2010	1,666.56	2.00000X	278.66	1,945.22

City of St. Marys  
\$128,000  
2% interest rate, 1% annual fee

DEBT SERVICE SCHEDULE

DATE	PRINCIPAL	COUPON	INTEREST	DEBT SERVICE
6/01/2010	1,674.89	2.00000%	270.33	1,945.22
9/01/2010	1,683.27	2.00000%	261.95	1,945.22
12/01/2010	1,691.68	2.00000%	253.54	1,945.22
3/01/2011	1,700.14	2.00000%	245.08	1,945.22
6/01/2011	1,708.64	2.00000%	236.58	1,945.22
9/01/2011	1,717.19	2.00000%	228.03	1,945.22
12/01/2011	1,725.77	2.00000%	219.45	1,945.22
3/01/2012	1,734.40	2.00000%	210.82	1,945.22
6/01/2012	1,743.07	2.00000%	202.15	1,945.22
9/01/2012	1,751.79	2.00000%	193.43	1,945.22
12/01/2012	1,760.55	2.00000%	184.67	1,945.22
3/01/2013	1,769.35	2.00000%	175.87	1,945.22
6/01/2013	1,778.20	2.00000%	167.02	1,945.22
9/01/2013	1,787.09	2.00000%	158.13	1,945.22
12/01/2013	1,796.02	2.00000%	149.20	1,945.22
3/01/2014	1,805.00	2.00000%	140.22	1,945.22
6/01/2014	1,814.03	2.00000%	131.19	1,945.22
9/01/2014	1,823.10	2.00000%	122.12	1,945.22
12/01/2014	1,832.21	2.00000%	113.01	1,945.22
3/01/2015	1,841.38	2.00000%	103.85	1,945.23
6/01/2015	1,850.58	2.00000%	94.64	1,945.22
9/01/2015	1,859.84	2.00000%	85.39	1,945.23
12/01/2015	1,869.13	2.00000%	76.09	1,945.22
3/01/2016	1,878.48	2.00000%	66.74	1,945.22
6/01/2016	1,887.87	2.00000%	57.35	1,945.22
9/01/2016	1,897.31	2.00000%	47.91	1,945.22
12/01/2016	1,906.80	2.00000%	38.42	1,945.22
3/01/2017	1,916.33	2.00000%	28.89	1,945.22
6/01/2017	1,925.91	2.00000%	19.31	1,945.22
9/01/2017	1,935.54	2.00000%	9.68	1,945.22
<b>TOTAL</b>	<b>128,000.00</b>	<b>-</b>	<b>27,617.66</b>	<b>155,617.66</b>

\*Plus a one-percent annual administrative fee paid quarterly in the amount of \$172.61. The total administrative fee over the life of the loan is \$13,808.80.

**YIELD STATISTICS**

Accrued Interest from 09/01/1997 to 09/01/1997...	-
Average Life.....	10.788 YEARS
Bond Years.....	1,380.88
Average Coupon.....	2.0000000%
Net Interest Cost (NIC).....	2.0000000%
Bond Yield for Arbitrage Purposes.....	3.0112510%
True Interest Cost (TIC).....	2.0050000%
Effective Interest Cost (EIC).....	3.0112510%



STATE OF WEST VIRGINIA  
WATER DEVELOPMENT AUTHORITY

1201 DUNBAR AVENUE  
DUNBAR, WV 25064

Telephone (304) 558-3612  
Telecopier (304) 558-0299

September 11, 1995

Mr. Todd E. Hooker  
Mid-Ohio Valley Regional Council  
P.O. Box 247  
Parkersburg WV 26101

PRELIMINARY APPLICATION -  
CITY OF ST. MARYS (SEWER PROJECT)

The West Virginia Infrastructure and Jobs Development Council (the "Council") has reviewed the Preliminary Application for the above-referenced project and has determined that the project is technically and financially feasible within the guidelines of the Act. (See attached Sewer Assessment Committee comments.)

The Council recommends that the City of St. Marys pursue a State Revolving Fund loan of \$1,886,000 from the Division of Environmental Protection to finance this project. This letter does not constitute funding approval by that agency.

If you have any questions, please contact Daniel Yonkosky, Director of the Water Development Authority, who serves as chairman of the Council's Funding Committee.

*Daniel B. Yonkosky*  
for

RUSSELL L. ISAACS, CHAIRMAN  
WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL

c Mike Johnson, Division of Environmental Protection

## THE CITY OF ST. MARYS

**\$49,000 COMBINED WATERWORKS AND SEWERAGE SYSTEM  
REVENUE REFUNDING BONDS, SERIES 1996 A**

**\$128,000 COMBINED WATERWORKS AND SEWERAGE SYSTEM  
REVENUE BONDS, SERIES 1996 B**

## CERTIFICATE OF:

1. TERMS
2. NO LITIGATION
3. GOVERNMENTAL APPROVALS AND BIDDING
4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS
5. SIGNATURES
6. RATES
7. INCUMBENCY AND OFFICIAL NAME
8. LAND AND RIGHTS-OF-WAY
9. MEETINGS
10. INSURANCE
11. LOAN AGREEMENT
12. TRUTH AND ACCURACY
13. SPECIMEN BONDS
14. BOND PROCEEDS
15. PRIVATE USE OF FACILITIES
16. NO FEDERAL GUARANTY
17. IRS INFORMATION RETURNS
18. CONFLICT OF INTEREST
19. CLEAN WATER ACT
20. COUNTERPARTS

We, the undersigned MAYOR and the undersigned RECORDER of The City of St. Marys, West Virginia (herein called the "Issuer"), and the undersigned ATTORNEY for the Issuer, hereby certify in connection with the single, fully registered The City of St. Marys Combined Waterworks and Sewerage System Revenue Refunding Bonds, Series 1996 A, numbered AR-1, dated the date hereof, in the principal amount of \$49,000 and bearing interest at the rate of five and one-half percent (5½ %) per annum (the "Series 1996 A Bonds") and The City of St. Marys Combined Waterworks and Sewerage System Revenue Bonds, Series 1996 B, numbered BR-1, dated the date hereof, in the principal amount of \$128,000 and bearing interest at the rate of two percent (2%) per annum (the "Series 1996 B Bonds," and collectively with the Series 1996 A Bonds, the "Bonds"), as follows:

1. TERMS: All capitalized words and terms used in this Certificate and not otherwise defined shall have the same meaning as in the Bond Ordinance duly passed by

the Council (the "Council") of the Issuer on October 1, 1996, and the Supplemental Resolution adopted November 6, 1996, relating to the Bonds (collectively, the "Ordinance"), and the Loan Agreement (the "Loan Agreement") entered into among the Issuer, the Division of Environmental Protection ("DEP") and the West Virginia Water Development Authority (the "Authority"), dated September 23, 1996 for the Series 1996 B Bonds.

2. **NO LITIGATION:** No controversy or litigation of any nature is now pending, or, to the knowledge of any of the undersigned, threatened, restraining, enjoining or affecting the refunding of the Series 1982 Bonds or the issuance and delivery of the Bonds; nor questioning the proceedings and authority by which the Council of the Issuer authorized the issuance and sale of the Bonds; nor affecting the validity of the Bonds or any provisions made or authorized for the payment thereof; nor questioning the existence of the Issuer or the title of the members or officers of the Issuer or of the Council thereof to their respective offices; nor questioning the design of certain extensions, improvements or betterments to the existing sewerage portion of the combined waterworks and sewerage system of the Issuer financed in part by the proceeds of sale of the Series 1996 B Bonds (herein called the "Project"), nor operation by the Issuer of the Project (the Project and any further extensions, additions, improvements or betterments thereto, herein collectively called the "System"), nor challenging the collection or use of the revenues of the System or the pledge of the revenues to the Bonds.

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

4. **NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS:** There has been no adverse change in the financial condition of the Issuer since September 23, 1996. As of April 11, 1990, the outstanding 1965 and 1973 Water and Sewer Bonds of the Issuer secured by a lien on Net Revenues had been defeased or paid in full.

The Series 1996 A Bonds are being issued for the purpose of current refunding the Issuer's Combined Waterworks and Sewerage System Revenue Bonds, Series 1982. The Series 1996 B Bonds are being issued for the purpose of designing certain extensions, improvements or betterments to the existing sewerage portion of the combined waterworks and sewerage system of the Issuer. The Series 1996 A Bonds and Series 1996 B Bonds will be on a parity as to liens, pledge and source of and security for payment on the Net Revenues of the System.

5. **SIGNATURES:** The undersigned Mayor and Recorder are the duly elected or appointed, qualified and serving officers of the Issuer as indicated by the official titles opposite their signatures below, and were duly authorized to execute and seal the Bonds for the Issuer. The seal impressed upon the Bonds and this Certificate is the duly authorized, proper and only seal of the Issuer.

6. **RATES:** The current rates were enacted by ordinance adopted October 11, 1994, and as amended September 19, 1995, and the Issuer has complied with all requirements of the Public Service Commission to make the rates valid and effective and such rates are in full force and effect. The time for appeal of such Ordinance has expired and there has been no appeal thereof.

7. **INCUMBENCY AND OFFICIAL NAME:** The proper corporate title of the Issuer is "The City of St. Marys", and it is a municipal corporation of the State of West Virginia in Pleasants County of said State. The governing body of the Issuer is its Common Council, consisting of six Council members and the Mayor. The Recorder is the ex-officio Clerk of the Common Council. The names and dates of commencement and termination of terms of office for all such officials during these Bond proceedings, including current terms, are listed below:

<u>Office</u>	<u>Name</u>	<u>Date Of Commencement Of Office</u>	<u>Date Of Termination Of Office</u>
Mayor	Louis F. Flade	07/01/93	06/30/97
Council Member	Larry Burns	07/01/93	06/30/97
Council Member	Paul E. Dutton	07/01/95	06/30/99
Council Member	C. A. (Mike) Hendricks	07/01/95	06/30/99
Council Member	Ransel (Jack) Johnson	07/01/93	06/30/97
Council Member	Lyle Meeks	07/01/93	06/30/97
Council Member	Dolores Stewart	07/01/95	06/30/99

The duly appointed and acting City Recorder is Linda Wilson. The duly appointed and acting City Attorney is Keith White, Esquire, St. Marys, West Virginia.

8. **LAND AND RIGHTS-OF-WAY:** All land in fee simple and all rights-of-way and easements necessary for the construction of the Project and the operation and maintenance of the System have been acquired or can and will be acquired by purchase or, if necessary, by condemnation by the Issuer, and are adequate for such purposes and are not or will not be subject to any liens, encumbrances, reservations or exceptions that would adversely affect or interfere in any way with the use thereof for such purposes. The costs thereof, including costs of any properties that may have to be acquired by condemnation are, in the opinion of all the undersigned, within the ability of the Issuer to pay for the same without jeopardizing the security of or payments on the Bonds.

9. **MEETINGS:** All actions, ordinances, resolutions, orders and agreements taken, adopted and entered into by or on behalf of the Issuer in any way connected with the issuance of the bonds, design, construction, acquisition, operation and financing of the Project were authorized or adopted at meetings of the Council duly and regularly or specifically called and held pursuant to all applicable statutes and the rules of procedure of Council, and a quorum of duly appointed, qualified and acting members of the Council was present and acting at all times during all such meetings. All notices required to be posted and/or published were so posted and/or published.

10. **INSURANCE:** The Issuer will maintain or, as appropriate, will require all contractors to maintain Worker's Compensation, public liability and property damage insurance, standard hazard insurance, builder's risk insurance, flood insurance and business interruption insurance, where applicable, in accordance with the Ordinance.

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

12. **TRUTH AND ACCURACY:** As of the date hereof, Louis F. Flade, Mayor and Linda Wilson, Recorder hereby certify that the copies of documents previously or on the date hereof certified by them as being true and accurate are true and accurate as of the date hereof and that none of such documents has been repealed, rescinded, amended or otherwise modified.

13. **SPECIMEN BONDS:** Attached hereto as Exhibit A and Exhibit B are specimens of the Bonds which, except as to execution and authentication, are identical in all respects with such Bonds this day delivered to First National Bank and the Authority, respectively, and being substantially in the form prescribed in the Ordinance.

14. **BOND PROCEEDS:** On the date hereof, the Issuer received \$49,000 from First National Bank, being the principal amount of the Series 1996 A Bonds and the Issuer received \$48,000 from the Authority and the DEP, being a portion of the principal amount of the Series 1996 B Bonds and more than a de minimus amount of the proceeds of the Series 1996 B Bonds. The balance of the principal amount of the Series 1996 B Bonds will be advanced to the Issuer as design of the Project progresses.

15. **PRIVATE USE OF FACILITIES:** The Issuer shall at all times take, and refrain from taking, and shall not fail to take, any and all actions necessary in order to assure the initial and continued tax-exempt status of the Bonds and the interest thereon. Less than 10% of the proceeds of the Bonds will be used, directly or indirectly, for any private

business use, and less than 10% of the payment of principal of, or the interest on, such issue, under the terms of such issue or any underlying arrangement, is, directly or indirectly, secured by any interest in property used or to be used for a private business use, payments in respect of such property, or to be derived from payments (whether or not to the Issuer) in respect of property, or borrowed money, used or to be used for a private business use. None of the proceeds of the Bonds will be used, directly or indirectly, for any private business use which is not related to the governmental use of the proceeds of the Bonds, including the disproportionate related business use of the proceeds of the Bonds, and none of the payment of principal on, or the interest on, such issue, under the terms of any underlying arrangement, is, directly or indirectly, secured by any interest in property used, or to be used for a private business use, payments in respect of such property or to be derived from payments (whether or not to the Issuer) in respect of property, or borrowed money, used or to be used for a private business use with respect to such private business use, which is not related to any government use of such proceeds, including the disproportionate business use of the issue of the Bonds. None of the proceeds of the issue of the Bonds will be used, directly or indirectly, to make or finance loans to persons other than governmental units. For purposes of this paragraph, private business use means use, directly or indirectly, in a trade or business carried on by any person, including related persons, other than a governmental unit or other than use as a member of the general public. All of the foregoing shall be determined in accordance with and within the meaning of the Internal Revenue Code of 1986, as amended, including any successor provisions and rules and regulations thereunder (the "Code").

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

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

18. **CONFLICT OF INTEREST:** No officer or employee of the Issuer has a substantial financial interest, direct, indirect or by reason of ownership of stock in any corporation, in any contract with the Issuer or in the sale of any land, materials, supplies or services to the Issuer or to any contractor supplying the Issuer, relating to the Bonds, the Ordinance, 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.

19. **CLEAN WATER ACT:** The Project as described in the Ordinance complies with Sections 208 and 303(e) of the Clean Water Act.

20. **COUNTERPARTS:** This Certificate may be executed in counterpart and such parts shall be deemed to be the Certificate.

WITNESS our signatures and the official corporate seal of The City of St. Marys, West Virginia on this 13th day of November, 1996.

[SEAL]

Signature

Official Title

Louis T. Glade

Mayor

Linda K. Wilson

Recorder

\_\_\_\_\_

City Attorney

CHASFS3:52379

WITNESS our signatures and the official corporate seal of The City of St. Marys, West Virginia on this 13th day of November, 1996.

[SEAL]

Signature

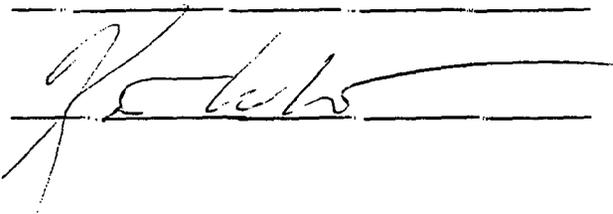
Official Title

\_\_\_\_\_

Mayor

\_\_\_\_\_

Recorder

\_\_\_\_\_

City Attorney

CHASE83-52379

NUMBER  
AR-1



"SPECIMEN"

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
COUNTY OF PLEASANTS  
THE CITY OF ST. MARYS  
COMBINED  
WATERWORKS AND SEWERAGE SYSTEM  
REVENUE REFUNDING BONDS, SERIES 1996 A

No. AR-1

\$49,000

**KNOW ALL MEN BY THESE PRESENTS:** That The City of St. Marys, a municipal corporation of the State of West Virginia, in Pleasants County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to The First National Bank of St. Marys (the "First National Bank"), or registered assigns, the sum of Forty Nine Thousand Dollars (\$49,000), in semi-annual installments on the 1st day of January and the 1st day of July in each year commencing July 1, 1997, as set forth on the "Annual Schedule of Debt Service" attached as Exhibit A hereto and incorporated herein by reference.

Interest shall be payable in semiannual installments on the 1st day of January and the 1st day of July, in each year commencing January 1, 1997, at the rate of five and one-half percent (5½%) per annum. Principal installments of and interest on this Bond are payable in any coin or currency which, on the respective dates of payment of principal and interest, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, as Paying Agent. The interest on this Bond is payable by check or draft mailed to the First National Bank at the address as it appears on the books of the Registrar on the interest payment date or by such other method as shall be mutually agreeable so long as the First National Bank is registered owner hereof.

This Bond may be redeemed prior to its stated date of maturity in whole or in part; provided, however, that notice in writing of such redemption shall be given to the

registered holder hereof by registered or certified mail not less than thirty days prior to the date fixed for redemption.

This Bond is issued to currently refund the Issuer's Combined Waterworks and Sewerage System Revenue Bonds, Series 1982 (the "Prior Bonds"). This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 8, Article 20 of the West Virginia Code of 1931, as amended (the "Act"), an Ordinance duly passed by the Issuer on the 1st day of October, 1996, and a Supplemental Resolution adopted by the Issuer on the 6th day of November, 1996 (collectively called the "Ordinance"), and is subject to all the terms and conditions thereof. The Ordinance provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Ordinance.

**THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1996 B (THE "SERIES 1996 B BONDS") ISSUED SIMULTANEOUSLY HEREWITH.**

This Bond is payable only from and secured by a pledge of a first lien on the Net Revenues to be derived from the operation of the System on a parity with the pledge of Net Revenues in favor of the holders of the Series 1996 B Bonds, and moneys in the Reserve Account created under the Ordinance and unexpended proceeds of the Bonds (the "Bond Proceeds"). Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest thereon except from said special fund provided from the Net Revenues, the moneys in the Reserve Account and unexpended Bond proceeds. Pursuant to the Ordinance, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the amount required to pay the maximum amount due in any ensuing fiscal year of principal of and interest on all obligations on a parity with or prior to the Bonds including the Series 1996 B Bonds, payable from such revenues, provided however, that so long as there exists in the Reserve Accounts an amount equal to the maximum amount of principal and interest which will become due on the Bonds and any bonds on a parity therewith including the Series 1996 B Bonds in any succeeding fiscal year, respectively, an amount equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Ordinance. Remedies provided

the registered owners of the Bonds are exclusively as provided in the Ordinance, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Ordinance, only upon the books of The First National Bank of St. Marys, St. Marys, West Virginia ("Registrar"), kept for that purpose at the office of the Registrar, by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered owner or its attorney duly authorized in writing.

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

This Bond has been properly designated by the Issuer as a "qualified tax-exempt obligation" as defined in Section 265(b)(3)(B) of the Code.

All money received from the sale of this Bond, shall be applied solely to the payment of the Prior Bonds as described in the Ordinance, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the owner of this Bond.

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

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

IN WITNESS WHEREOF, THE CITY OF ST. MARYS has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed or imprinted hereon and attested by its Recorder, and has caused this Bond to be dated November 13, 1996.

THE CITY OF ST. MARYS

[SEAL]

By: Louis T. Glade  
Its: Mayor

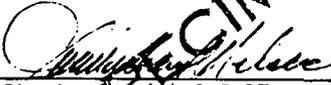
ATTEST:

Linda K. Wilson  
Recorder

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 1996 A Bonds described in the within-mentioned Ordinance and has been duly registered in the name of the registered owner set forth above.

THE FIRST NATIONAL BANK OF ST. MARYS,  
as Registrar

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

Dated: November 13, 1996.

**EXHIBIT A****SCHEDULE OF ANNUAL DEBT SERVICE**

	<b>Interest</b>	<b>Principal</b>
1/97	351.85	-0-
7/97	1,347.50	3,501.97
1/98	1,251.20	3,598.27
7/98	1,152.24	3,697.23
1/99	1,050.57	3,798.90
7/99	946.10	3,903.37
1/00	838.76	4,010.71
7/00	728.46	4,121.01
1/01	615.13	4,234.34
7/01	498.69	4,350.78
1/02	379.04	4,470.43
7/02	256.11	4,593.36
1/03	129.79	4,719.63

[Form of Assignment]

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

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

\_\_\_\_\_

In the presence of:

\_\_\_\_\_

BR-1



**"SPECIMEN"**

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
COUNTY OF PLEASANTS  
THE CITY OF ST. MARYS  
WATERWORKS AND SEWERAGE SYSTEM  
REVENUE BONDS, SERIES 1996 B

No. BR-1

\$128,000

KNOW ALL MEN BY THESE PRESENTS: That THE CITY OF ST. MARYS, a municipal corporation of the State of West Virginia, in Pleasants County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to West Virginia Water Development Authority (the "Authority"), or registered assigns, the sum of One Hundred Twenty-Eight Thousand (\$128,000), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as Exhibit A hereto and incorporated herein by reference, in quarterly installments on the 1st day of March, the 1st day of June, the 1st day of September, and the 1st day of December in each year commencing December 1, 1997, as set forth on the "Schedule of Annual Debt Service" attached as Exhibit B hereto and incorporated herein by reference, with interest. The SRF Administrative Fee (as defined in the hereinafter described Ordinance) shall also be payable quarterly on the 1st day of March, the 1st day of June, the 1st day of September and the 1st day of December, commencing December 1, 1997, as set forth on Exhibit B attached hereto.

Interest on this Bond shall be zero (0%) percent from the date hereof until the Date of Completion of the Project, and after such date interest shall be payable on the 1st day of March, the 1st day of June, the 1st day of September, and the 1st day of December in each year beginning December 1, 1997, at the rate of two percent (2%) per annum. Principal installments and interest on this Bond are payable in any coin or currency which, on the respective dates of payment of principal, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia

Municipal Bond Commission, as Paying Agent. The interest on this Bond is payable by check or draft mailed to the Authority at the address as it appears on the books of the Registrar on the 15th day of the month preceding an interest payment date or by such other method as shall be mutually agreeable so long as the Authority is registered owner hereof.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and as otherwise provided by the Loan Agreement dated September 10, 1996, among the Authority, the DEP and the Issuer.

This Bond is issued (i) to pay costs of design of a wastewater treatment facility constituting improvements, additions, extensions and betterments to the existing combined waterworks and sewerage system of the Issuer (the "Project"), and (ii) to pay certain costs of issuance hereof and related costs. This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 8, Article 20 of the West Virginia Code of 1931, as amended (the "Act"), an Ordinance duly passed by the Issuer on the 1st day of October, 1996, and a Supplemental Resolution adopted by the Issuer on the 6th day of November, 1996 (collectively called the "Ordinance"), and is subject to all the terms and conditions thereof. The Ordinance provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Ordinance.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE REFUNDING BONDS, SERIES 1996 A (THE "SERIES 1996 A BONDS") ISSUED SIMULTANEOUSLY HEREWITH.

This Bond is payable only from and secured by a pledge of a first lien on the Net Revenues to be derived from the operation of the System on a parity with the pledge of Net Revenues in favor of the holders of the Series 1996 A Bonds, and moneys in the Reserve Account created under the Ordinance and unexpended proceeds of the Bonds (the "Bond Proceeds"). Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest thereon except from said special fund provided from the Net Revenues, the moneys in the Reserve Account and unexpended Bond proceeds. Pursuant to the Ordinance, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the amount required to pay the maximum amount due in any ensuing fiscal year of principal of and interest on all obligations on a parity with or prior to the Bonds including the Series 1996 A Bonds, payable from such revenues,

provided however, that so long as there exists in the Reserve Account an amount equal to the maximum amount of principal and interest which will become due on the Bonds and any bonds on a parity therewith including the Series 1996 A Bonds in any succeeding fiscal year, respectively, an amount equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Ordinance. Remedies provided the registered owners of the Bonds are exclusively as provided in the Ordinance, to which reference is here made for a detailed description thereof.

This Bond is transferable, as provided in the Ordinance, only upon the books of The First National Bank of St. Marys, St. Marys, West Virginia (the "Registrar"), kept for that purpose at the office of the Registrar, by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered owner or its attorney duly authorized in writing.

This Bond, under the provision of the Act is, and has provided all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law, shall be applied solely to the payment of the Costs of the Project described in the Ordinance or to the appurtenant sinking fund, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the owner of this Bond.

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

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

BR-1

IN WITNESS WHEREOF, THE CITY OF ST. MARYS has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed or imprinted hereon and attested by its Recorder, and has caused this Bond to be dated November 13, 1996.

THE CITY OF ST. MARYS

[SEAL]

By: *Frank Flade*  
Its: Mayor

ATTEST:

*Linda G. Wilson*  
Recorder

BR-1

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 1996 B Bonds described in the within-mentioned Ordinance and has been duly registered in the name of the registered owner set forth above.

THE FIRST NATIONAL BANK OF ST. MARYS,  
as Registrar

By: *[Signature]*  
Its Authorized Officer

Dated: November 13, 1996

BR-1

EXHIBIT A

RECORD OF ADVANCES

Amount	Date	Amount	Date
(1) \$ 48,000.00	11/13/96	(7) \$	
(2) \$		(8) \$	
(3) \$		(9) \$	
(4) \$		(10) \$	
(5) \$		(11) \$	
(6) \$		(12) \$	

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

BR-1

EXHIBIT B

SCHEDULE OF ANNUAL DEBT SERVICE

DATE	PRINCIPAL	INTEREST	TOTAL	DEBT SERVICE
9/01/1997				
12/01/1997	1,309.22	2.000000	648.00	1,945.22
3/01/1998	1,311.79	2.000000	633.47	1,945.22
6/01/1998	1,318.31	2.000000	626.92	1,945.22
9/01/1998	1,324.90	2.000000	620.32	1,945.22
12/01/1998	1,331.52	2.000000	613.79	1,945.22
3/01/1999	1,338.18	2.000000	607.24	1,945.22
6/01/1999	1,344.87	2.000000	600.67	1,945.22
9/01/1999	1,351.60	2.000000	594.07	1,945.22
12/01/1999	1,358.38	2.000000	587.45	1,945.22
3/01/2000	1,365.21	2.000000	580.80	1,945.22
6/01/2000	1,372.07	2.000000	574.13	1,945.22
9/01/2000	1,378.98	2.000000	567.44	1,945.22
12/01/2000	1,385.92	2.000000	560.73	1,945.22
3/01/2001	1,392.90	2.000000	554.00	1,945.22
6/01/2001	1,399.92	2.000000	547.25	1,945.22
9/01/2001	1,406.98	2.000000	540.48	1,945.22
12/01/2001	1,414.08	2.000000	533.69	1,945.22
3/01/2002	1,421.22	2.000000	526.88	1,945.22
6/01/2002	1,428.40	2.000000	520.05	1,945.22
9/01/2002	1,435.62	2.000000	513.20	1,945.22
12/01/2002	1,442.88	2.000000	506.33	1,945.22
3/01/2003	1,449.18	2.000000	499.44	1,945.22
6/01/2003	1,455.52	2.000000	492.53	1,945.22
9/01/2003	1,461.90	2.000000	485.60	1,945.22
12/01/2003	1,468.32	2.000000	478.65	1,945.22
3/01/2004	1,474.78	2.000000	471.68	1,945.22
6/01/2004	1,481.28	2.000000	464.69	1,945.22
9/01/2004	1,487.82	2.000000	457.68	1,945.22
12/01/2004	1,494.40	2.000000	450.65	1,945.22
3/01/2005	1,501.02	2.000000	443.60	1,945.22
6/01/2005	1,507.68	2.000000	436.53	1,945.22
9/01/2005	1,514.38	2.000000	429.44	1,945.22
12/01/2005	1,521.12	2.000000	422.33	1,945.22
3/01/2006	1,527.90	2.000000	415.20	1,945.22
6/01/2006	1,534.72	2.000000	408.05	1,945.22
9/01/2006	1,541.58	2.000000	400.88	1,945.22
12/01/2006	1,548.48	2.000000	393.69	1,945.22
3/01/2007	1,555.42	2.000000	386.48	1,945.22
6/01/2007	1,562.40	2.000000	379.25	1,945.22
9/01/2007	1,569.42	2.000000	372.00	1,945.22
12/01/2007	1,576.48	2.000000	364.73	1,945.22
3/01/2008	1,583.58	2.000000	357.44	1,945.22
6/01/2008	1,590.72	2.000000	350.13	1,945.22
9/01/2008	1,597.90	2.000000	342.80	1,945.22
12/01/2008	1,605.12	2.000000	335.45	1,945.22
3/01/2009	1,612.38	2.000000	328.08	1,945.22
6/01/2009	1,619.68	2.000000	320.69	1,945.22
9/01/2009	1,627.02	2.000000	313.28	1,945.22
12/01/2009	1,634.40	2.000000	305.85	1,945.22
3/01/2010	1,641.82	2.000000	298.40	1,945.22
6/01/2010	1,649.28	2.000000	290.93	1,945.22
9/01/2010	1,656.78	2.000000	283.44	1,945.22
12/01/2010	1,664.32	2.000000	275.93	1,945.22
3/01/2011	1,671.90	2.000000	268.40	1,945.22
6/01/2011	1,679.52	2.000000	260.85	1,945.22
9/01/2011	1,687.18	2.000000	253.28	1,945.22
12/01/2011	1,694.88	2.000000	245.69	1,945.22
3/01/2012	1,702.62	2.000000	238.08	1,945.22
6/01/2012	1,710.40	2.000000	230.45	1,945.22
9/01/2012	1,718.22	2.000000	222.80	1,945.22
12/01/2012	1,726.08	2.000000	215.13	1,945.22
3/01/2013	1,733.98	2.000000	207.44	1,945.22
6/01/2013	1,741.92	2.000000	199.73	1,945.22
9/01/2013	1,749.90	2.000000	192.00	1,945.22
12/01/2013	1,757.92	2.000000	184.25	1,945.22
3/01/2014	1,766.00	2.000000	176.48	1,945.22
6/01/2014	1,774.12	2.000000	168.69	1,945.22
9/01/2014	1,782.28	2.000000	160.88	1,945.22
12/01/2014	1,790.48	2.000000	153.05	1,945.22
3/01/2015	1,798.72	2.000000	145.20	1,945.22
6/01/2015	1,807.00	2.000000	137.33	1,945.22
9/01/2015	1,815.32	2.000000	129.44	1,945.22
12/01/2015	1,823.68	2.000000	121.53	1,945.22
3/01/2016	1,832.08	2.000000	113.60	1,945.22
6/01/2016	1,840.52	2.000000	105.65	1,945.22
9/01/2016	1,849.00	2.000000	97.68	1,945.22
12/01/2016	1,857.52	2.000000	89.69	1,945.22
3/01/2017	1,866.08	2.000000	81.68	1,945.22
6/01/2017	1,874.68	2.000000	73.65	1,945.22
9/01/2017	1,883.32	2.000000	65.60	1,945.22
12/01/2017	1,892.00	2.000000	57.53	1,945.22
3/01/2018	1,900.72	2.000000	49.44	1,945.22
6/01/2018	1,909.48	2.000000	41.33	1,945.22
9/01/2018	1,918.28	2.000000	33.20	1,945.22
12/01/2018	1,927.12	2.000000	25.05	1,945.22
3/01/2019	1,936.00	2.000000	16.88	1,945.22
6/01/2019	1,944.92	2.000000	8.69	1,945.22
9/01/2019	1,953.88	2.000000	0.48	1,945.22
12/01/2019	1,962.88	2.000000		1,945.22
TOTAL	128,000.00		27,617.66	135,617.66

\*Plus a one-percent annual administrative fee paid quarterly in the amount of \$172.61. The total administrative fee over the life of the loan is \$13,808.80.

BR-1

[Form of Assignment]

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

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

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

\_\_\_\_\_

In the presence of:

\_\_\_\_\_

53691

## THE CITY OF ST. MARYS

\$49,000 COMBINED WATERWORKS AND SEWERAGE SYSTEM  
REVENUE REFUNDING BONDS, SERIES 1996 A

\$128,000 COMBINED WATERWORKS AND SEWERAGE SYSTEM  
REVENUE BONDS, SERIES 1996 B

CERTIFICATE OF RECORDER AS TO TRUTH  
AND ACCURACY OF DOCUMENTS DELIVERED

I, the undersigned Linda Wilson, the permanent, duly appointed Recorder of the City of St. Marys, West Virginia (the "Issuer"), hereby certify that the copies of the following documents being delivered in connection with the closing of the sale of the \$49,000 The City of St. Marys Combined Waterworks and Sewerage System Revenue Refunding Bonds, Series 1996 A (the "Series 1996 A Bonds") and the \$128,000 The City of St. Marys Combined Waterworks and Sewerage System Revenue Bonds, Series 1996 B (the "Series 1996 B Bonds," collectively with the Series 1996 A Bonds, the "Bonds"), are, as of the date hereof, true and accurate copies of the originals of those documents maintained on file with the Issuer and delivered in the transcript of proceedings, and that said documents are still in full force and effect as of the date hereof and have not been repealed, rescinded, superseded, amended or modified in any way unless the document effecting such repeal, rescission, supersedence, amendment or modification is also listed below:

1. Charter of the Issuer.
2. Rules of Procedure.
3. Oaths of Office of the Mayor and members of Council.
4. Rate Ordinance.
5. Resolution Authorizing Mayor to Sign Loan Agreement adopted by Council on August 20, 1996.
6. Loan Agreement dated September 23, 1996.
7. Minutes of the September 17, 1996, meeting of Council regarding the first reading of the Bond Ordinance.
8. Bond Ordinance (the "Ordinance") passed by Council on October 1, 1996.

9. Minutes of the October 1, 1996, meeting of Council wherein the Ordinance was adopted.

10. Affidavits of publication of the abstract and notice of the Ordinance published in the St. Marys Oracle and The Pleasants County Leader.

11. Minutes of the October 15, 1996, meeting of Council wherein the Public Hearing was held and the Ordinance became effective.

12. Supplemental Resolution adopted by Council on November 6, 1996, authorizing the sale of the Bonds.

13. Minutes of the November 6, 1996, meeting of Council wherein the Supplemental Resolution was adopted.

14. West Virginia Infrastructure and Jobs Development Council Approval Letter.

15. Commitment Letter from The First National Bank of St. Marys.

WITNESS my signature and the official seal of The City of St. Marys, West Virginia as of the 13th day of November, 1996.

  
\_\_\_\_\_  
RECORDER, THE CITY OF ST. MARYS

(SEAL)

CHASFS3:52380

**THE CITY OF ST. MARYS**

**\$49,000 COMBINED WATERWORKS AND SEWERAGE SYSTEM  
REVENUE REFUNDING BONDS, SERIES 1996 A**

**\$128,000 COMBINED WATERWORKS AND SEWERAGE SYSTEM  
REVENUE BONDS, SERIES 1996 B**

**CERTIFICATE AS TO NON-ARBITRAGE**

I, Louis F. Flade, Mayor of The City of St. Marys, West Virginia (the "Issuer"), being one of the officials of the Issuer duly charged with the responsibility for the issuance of \$49,000 aggregate principal amount of Combined Waterworks and Sewerage System Revenue Refunding Bonds, Series 1996 A (the "Series 1996 A Bonds") and the \$128,000 aggregate principal amount of Combined Waterworks and Sewerage System Revenue Bonds, Series 1996 B (the "Series 1996 B Bonds," and collectively with the Series 1996 A Bonds, the "Bonds") of the Issuer, dated November 13, 1996, 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 Bonds. I am familiar with the facts, circumstances and estimates herein certified and am duly authorized to execute and deliver this certificate on behalf of the Issuer.

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

3. The Issuer has not been notified by the Internal Revenue Service of any listing or proposed listing of it as an issuer and 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 November 13, 1996, the date on which the Bonds are to be physically delivered in exchange for the issue price thereof, and to the best of my knowledge and belief, the expectations of the Issuer set forth herein are reasonable.

5. In the Bond Ordinance (the "Ordinance") pursuant to which the Bonds are issued, the Issuer has covenanted to make no use of the proceeds of the Bonds which would cause the Bonds to be "arbitrage bonds" within the meaning of the Code.

6. The Series 1996 A Bonds were sold on November 13, 1996, to The First National Bank of St. Marys. The Series 1996 B Bonds were sold on November 13, 1996, to the West Virginia Water Development Authority (the "Authority") pursuant to a loan

agreement dated September 23, 1996, by and among the Issuer, the Authority and the West Virginia Division of Environmental Protection (the "DEP").

7. The Series 1996 A Bonds are being delivered simultaneously with the delivery of this certificate and are issued for the purposes of currently refunding the Series 1982 Bonds. The Series 1996 B Bonds are being delivered simultaneously with the delivery of this certificate and are issued for the purposes of (i) paying costs, not otherwise provided, of the design of certain extensions, improvements and betterments to the existing public sewage portion of the combined waterworks and sewerage system of the Issuer (the "Project"), and (ii) paying costs of issuance and other costs in connection therewith.

8. The Series 1982 Bonds are being paid in full on the date hereof. The refunding is being done to effect a savings in the net interest costs of the Issuer. The Issuer shall, within 30 days following delivery of the Series 1996 B Bonds, enter into agreements which require the Issuer to expend in excess of \$100,000 on the Project constituting a substantial binding commitment or has already done so. Design of the Project will proceed with due diligence to completion, and, with the exception of proceeds deposited in a reserve account for the Series 1996 B Bonds, if any, all of the proceeds from the sale of the Series 1996 B Bonds, together with any investment earnings thereon, with the exception of the reserve account deposits, if any, will be expended for payment of Costs of the Project on or before September 1, 1997. Design of the Project is expected to be completed by September 1, 1997.

9. The sources and uses of funds for currently refunding the Series 1982 Bonds are as follows:

SOURCES

Series 1996 A Bonds Proceeds	\$ 49,000.00
Series 1982 Sinking Fund (including Reserve Account)	\$ <u>18,430.70</u>
<b>TOTAL SOURCES</b>	<b>\$ 67,430.70</b>

USES

Payoff of Series 1982 A Principal	\$ 54,743.80
Payoff of Series 1982 A Interest to 11/13/96	\$ 2,007.27
Series 1996 A Reserve Account	\$ 9,698.94
Series 1996 A Sinking Fund	\$ 628.84
Interest Due on Series 1996 A Bonds from 11/13/96 to 12/31/96	\$ <u>351.85</u>
<b>TOTAL USES</b>	<b>\$ 67,430.70</b>

10. The total cost of the Project is estimated at \$128,000. Sources and uses of funds for the Project are as follows:

SOURCES

Series 1996 B Bond Proceeds	\$ 128,000
TOTAL SOURCES	\$ 128,000

USES

Technical Services	\$120,000
Costs of Issuance	\$ <u>8,000</u>
TOTAL USES	\$ 128,000

The amount of Project costs is estimated to be at least equal to the gross proceeds of the Series 1996 B Bonds. Except for the proceeds of the Series 1996 B Bonds and as otherwise provided in the Ordinance, no other funds of the Issuer will be available to meet costs of the Project, and no balances are available to meet such costs in any account which may, without legislative or judicial action, be invaded to pay such expenditures without a legislative, judicial or contractual requirement that such account be reimbursed.

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

The following special funds or accounts are created with and shall be held by, the Depository Bank:

- (1) Revenue Fund;
- (2) Renewal and Replacement Fund; and
- (3) Bond Construction Trust Fund.

The following special funds or accounts are established with the Commission:

- (1) Series 1996 A Bonds Sinking Fund; and

(a) Within the Series 1996 A Bonds Sinking Fund, the Series 1996 A Bonds Reserve Account.

- (2) Series 1996 B Bonds Sinking Fund;

(a) Within the Series 1996 B Bonds Sinking Fund, the Series 1996 B Bonds Reserve Account.

12. Pursuant to Article VII of the Ordinance, the proceeds of the Bonds will be deposited as follows:

Series 1996 A Bonds:

(1) From the moneys received from the sale of the Series 1996 A Bonds and funds held at the Municipal Bond Commission, the Issuer will pay in full the principal of, redemption premium, if any, and interest on, the Series 1982 Bonds, to the Holder(s) of the Series 1982 Bonds.

Series 1996 B Bonds:

(1) Bond proceeds in the amount of \$0 will be deposited in the Series 1996 B Bonds Sinking Fund as capitalized interest and applied to payment of interest on the Bonds for a period not to exceed six month following completion thereof.

(2) Bond proceeds in the amount of \$0 will be deposited with the Municipal Bond Commission in the Reserve Account.

(3) The balance of the proceeds of the Bonds will be deposited as received from time to time in the Bond Construction Trust Fund and applied solely to payment of Costs of the Project including but not limited to payment of cost of issuance.

13. Moneys held in the respective Sinking Funds will be used solely to pay principal of and interest on the Bonds as the same shall become due. Moneys in the respective Reserve Accounts in the Sinking Funds shall be used only for the purpose of paying principal of and interest on the Bonds, as the same shall become due, when other moneys in the Sinking Funds are insufficient therefor, and for no other purpose. All investment earnings on moneys in the Series 1996 A Bonds Sinking Fund and Reserve Account shall be transferred, not less than once each year to the Revenue Fund. All investment earnings on moneys in the Series 1996 B Bonds Sinking Fund and Reserve Account shall be transferred, not less than once each year to the Bond Construction Trust Fund prior to completion of the Project, and thereafter into the Revenue Fund.

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

property producing a yield in excess of the yield on the Bonds, have been or will be pledged to payment of the Bonds. Less than 10% of the proceeds of the Bonds will be deposited in the Reserve Accounts or any other reserve or replacement fund. The amounts deposited in the Reserve Accounts from time to time by the Issuer will not exceed the maximum annual principal and interest on the Bonds and will not exceed 125% of average annual principal and interest on the Bonds. Amounts in the Reserve Accounts, not to exceed 10% of the proceeds of the Bonds, if invested, will be invested without yield limitation. The establishment of the Reserve Accounts are required by the Authority, is vital to its purchase of the Bonds and is reasonably required to assure payments of debt service on the Bonds.

15. The Issuer plans to issue the notice to proceed for the Project on or about November 13, 1996, and planning and design will commence on or about November 14, 1996. Work with respect to the planning and design of the Project will proceed with due diligence to completion. Planning and design is expected to be completed within one year.

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

17. All of the proceeds of the Series 1996 B Bonds will be expended on the Project within 13 months from the date of issuance thereof.

18. Any money deposited in the Sinking Funds for payment of the principal and interest on the Bonds (other than the Reserve Accounts 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 Sinking Funds (other than in the Reserve Account therein) will be spent within a 1-year period beginning the date of receipt.

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

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

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

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

23. The original proceeds of the Bonds will not exceed the amount necessary for the purposes of the issues.

24. 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 calendar year 1996 and has issued no other tax-exempt obligations during the current calendar year and the Issuer believes that it may avail itself of the "small governmental issuer" exception to rebate.

25. The Issuer shall use the proceeds of the Series 1996 A Bonds solely for the purpose of refunding the Series 1982 Bonds and the proceeds of the Series 1996 B Bonds solely for the Project, and the Project will be operated solely for a public purpose as a local governmental activity of the Issuer.

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

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

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

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

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

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

32. The Issuer shall submit to the Authority within thirty (30) days following the end of the Issuer's bond year a certified copy of its rebate calculation or if the Issuer qualifies for the small governmental issuer exception to rebate, then the Issuer shall submit to the Authority a certificate stating that it is exempt from the rebate provisions and that no event has occurred to its knowledge during the bond year which would make the Bonds subject to rebate.

33. The Issuer expects that no part of the Project financed by the Series 1996 B Bonds will be sold or otherwise disposed of prior to the last maturity date of the Series 1996 B Bonds.

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

35. Jackson & Kelly 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 Bonds.

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

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, I have set my hand this 13th day of November, 1996.

THE CITY OF ST. MARYS

By Louis T. Flade  
Mayor

CHASFS3:52381

## THE CITY OF ST. MARYS

\$128,000 COMBINED WATERWORKS AND SEWERAGE SYSTEM  
REVENUE BONDS, SERIES 1996 BCERTIFICATE OF CONSULTING ENGINEER

I, A. M. Sanghavi, Registered Professional Engineer, West Virginia License No. 6177, of S&S Engineers, Inc., Charleston, West Virginia, hereby certify that my firm is engineer for the design of certain additions, improvements and betterments to the existing sewerage facilities of the combined waterworks and sewerage system (herein called the "Project") of the City of St. Marys (the "Issuer") to be constructed primarily in Pleasants County, West Virginia, which design is being permanently financed by the above-captioned Series 1996 B Bonds (the "Series 1996 B Bonds") of the Issuer. Capitalized words not defined herein shall have the meaning set forth in the Ordinance passed by the Council of the Issuer on October 1, 1996, effective October 15, 1996, and the Loan Agreement by and among the Issuer, the West Virginia Water Development Authority (the "Authority"), and the West Virginia Division of Environmental Protection ("DEP") dated September 23, 1996.

1. The Series 1996 B Bonds are being issued for the purpose of financing a portion of the costs of the design of wastewater treatment plant upgrades (the "Project") and paying costs of issuance.

2. The undersigned hereby certifies that (i) the Project will be planned and designed in accordance as provided in the application prepared by my firm and as described in the application submitted to the Authority requesting the Authority to purchase the Series 1996 B Bonds (the "Application") and approved by all necessary governmental bodies, (ii) the Project is adequate for the purpose for which it will be planned and designed and has an estimated useful life of at least twenty years, (iii) the Issuer has obtained all permits required by the laws of the State and the federal government necessary for the design of the Project, (iv) the rates and charges for the System as adopted by the Council of the Issuer are sufficient to comply with the provisions of Subsection 4.1(b) of the Loan Agreement, (v) the net proceeds of the Series 1996 B Bonds, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto are sufficient to pay the costs of design of the Project as set forth in the Application, and (vi) attached hereto as Exhibit A is the final amended "Schedule A - Total Cost of Project and Sources of Funds" for the Project.

WITNESS my signature on this 13th day of November, 1996.

S&S ENGINEERS, INC.

By *Amsangmi*  
West Virginia License No. 6177

[SEAL]



CHASFS3:52382

SCHEDULE A

NAME OF GOVERNMENTAL AGENCY: City of St. Marys

ESTIMATED TOTAL COST OF PROJECT, SOURCES OF FUNDS  
AND COST OF FINANCING

A. Cost of Project

1. Construction	\$	_____
2. Technical Services	\$	<u>120,000.00</u>
3. Legal and Fiscal	\$	_____
4. Administrative	\$	_____
5. Site and Other Lands	\$	_____
6. Step I and/or Step II (Design) or Other Loan Repayment (Specify Type: _____)	\$	<u>-0-</u>
7. Interim Financing Costs	\$	_____
8. Contingency	\$	_____
9. Total of Lines 1 Through 8	\$	_____

\$ 120,000.00

B. Sources of Funds

10. Federal Grants: <sup>1</sup> (Specify Sources)	_____	\$	_____
11. State Grants: <sup>1</sup> (Specify Sources)	_____	\$	_____
	_____	\$	_____
	_____	\$	_____
12. Other Grants: <sup>1</sup> (Specify Sources)	_____	\$	_____
13. Any Other Source <sup>2</sup> (Specify)	_____	\$	<u>0</u>

\$ -0-

14. Total of Lines 10 Through 13 \$ -0-

15. Net Proceeds Required from Bond Issue  
(Line 9 Less than 14) \$ 120,000.00

C. Cost of Financing

16. Capitalized Interest (Construction period plus six months)	\$	_____
17. Funded Reserve Account: <sup>3</sup>	\$	_____
18. Other Costs: <sup>4</sup> Bond Counsel, Admin.	\$	<u>8,000.00</u> <i>AMS</i>
	\$	_____

\$ 8,000.00

19. Total Cost of Financing (lines 16 through 18) \$ 8,000.00

20. Size of Bond Issue (Line 15 plus Line 19) \$ 128,000.00

\* not allowable for State Revolving Fund Assistance

City of St. Marys  
By Louis T. Flade  
Mayor

*Amsanghavi*  
Ashok M. Sanghavi, P.E., DEE  
S & S Engineers, Inc.

PHILIP R. POSTLEWAIT, JR.

CERTIFIED PUBLIC ACCOUNTANT

P.O. BOX 1281

PARKERSBURG, WEST VIRGINIA 26102

TELEPHONE (304) 422-7444

FACSIMILE (304) 422-4911

AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS

WEST VIRGINIA SOCIETY CERTIFIED PUBLIC ACCOUNTANTS

**CITY OF ST. MARYS**

**\$49,000 COMBINED WATERWORKS AND SEWERAGE SYSTEM  
REVENUE REFUNDING BONDS, SERIES 1996 A  
AND  
\$128,000 COMBINED WATERWORKS AND SEWERAGE SYSTEM  
REVENUE BONDS, SERIES 1996 B**

**CERTIFICATE OF ACCOUNTANT AS TO COVERAGE**

Philip R. Postlewait, Jr., Certified Public Accountant, has reviewed the combined water and sewer service rates of the City of St. Marys, West Virginia (the "Issuer") and historic customer usage. It is my opinion that those rates are adequate to pay operation and maintenance expenses, and to meet the debt service coverage requirements of the Combined Waterworks and Sewerage System Revenue Refunding Bonds, Series 1996 A and the Combined Waterworks and Sewerage System Revenue Bonds, Series 1996 B, and the Bond Ordinance adopted by the Council on October 1, 1996, effective October 15, 1996, and a Supplemental Resolution subsequently adopted by the Council on November 6, 1996, and are sufficient to comply with the provisions of the Loan Agreement entered into by and among the Issuer, the West Virginia Division of Environmental Protection, and the West Virginia Water Development Authority on September 23, 1996.

WITNESS my signature as of this 13th day of November, 1996.



Philip R. Postlewait, Jr.  
Certified Public Accountant

**THE CITY OF ST. MARYS****\$49,000 COMBINED WATERWORKS AND SEWERAGE SYSTEM  
REVENUE REFUNDING BONDS, SERIES 1996 A****\$128,000 COMBINED WATERWORKS AND SEWERAGE SYSTEM  
REVENUE BONDS, SERIES 1996 B****REGISTRAR'S AGREEMENT**

**THIS REGISTRAR'S AGREEMENT, dated as of the 13th day of November, 1996, by and between THE CITY OF ST. MARYS, WEST VIRGINIA, a municipal corporation (the "Issuer"), and THE FIRST NATIONAL BANK OF ST. MARYS, St. Marys, West Virginia (the "Registrar").**

**WHEREAS, the Issuer has, contemporaneously with the execution hereof, issued and sold its \$49,000 The City of St. Marys Combined Waterworks and Sewerage System Revenue Refunding Bonds, Series 1996 A (the "Series 1996 A Bonds") in the form of one bond, numbered AR-1, in fully registered form and the \$128,000 The City of St. Marys Combined Waterworks and Sewerage System Revenue Bonds, Series 1996 B (the "Series 1996 B Bonds," collectively with the Series 1996 A Bonds, the "Bonds"), in the form of one bond, numbered BR-1, in fully registered form, pursuant to a Bond Ordinance duly passed October 1, 1996, and a Supplemental Resolution adopted November 6, 1996 (collectively, the "Ordinance");**

**WHEREAS, capitalized words and terms used in this Registrar's Agreement and not otherwise defined herein shall have the respective meanings given them in the Ordinance, a copy of which is attached as Exhibit A hereto and incorporated herein by reference;**

**WHEREAS, the Ordinance provides for an appointment by the Issuer of a Registrar for the Bonds; and**

**WHEREAS, the Issuer desires to appoint, and by the Ordinance and this Registrar's Agreement does appoint, the Registrar to act as Registrar under the Ordinance and to take certain other actions hereinafter set forth;**

**NOW, THEREFORE, it is agreed by and between the parties hereto as follows:**

**1. Upon the execution of this Registrar's Agreement by the Issuer and the Registrar and during the term hereof, the Registrar does accept and shall have and carry out the powers and duties of Registrar, for the Bonds, all as set forth in the Ordinance, such duties including, among other things, the duties to authenticate, register and deliver Bonds**

upon original issuance and when properly presented for exchange or transfer, and shall do so with the intention of maintaining the exclusion of interest on the Primary Bonds from gross income for federal income tax purposes, in accordance with any rules and regulations promulgated by the United States Treasury Department or by the Municipal Securities Rulemaking Board or similar regulatory bodies as the Issuer advises it of and with generally accepted industry standards.

2. The Registrar agrees to furnish the Issuer with appropriate records of all transactions carried out by it as Registrar and to furnish the Issuer with the names and specimen signatures of the Registrar's authorized officers for the purposes of acting as the Registrar and with such other information and reports as the Issuer may from time to time reasonably require.

3. The Registrar shall have no responsibility or liability for any action taken by it at the specific direction of the Issuer.

4. As compensation for acting as Registrar pursuant to this Registrar's Agreement, the Issuer hereby agrees to pay to the Registrar, from time to time, the compensation for services rendered as provided in the annexed schedule and reimbursement for reasonable expenses incurred in connection with this Registrar's Agreement.

5. It is intended that this Registrar's Agreement shall carry out and implement provisions of the Ordinance with respect to the Registrar. In the event of any conflict between the terms of this Registrar's Agreement and the Ordinance, the terms of the Ordinance shall govern.

6. The Issuer and the Registrar each warrants and represents that it is duly authorized and empowered to execute and enter into this Registrar's Agreement and that neither such execution nor the performance of its duties hereunder or under the Ordinance will violate any order, decree or agreement to which it is a party or by which it is bound.

7. This Registrar's Agreement may be terminated by either party upon 60 days' written notice sent by registered or certified mail to the other party, at the following respective address:

Issuer:

The City of St. Marys  
418 Second Street  
St. Marys, West Virginia 26170

**REGISTRAR:**

The First National Bank of St. Marys  
401 Second Street  
P.O. Box 463  
St. Marys, WV 26170

The Issuer and the Registrar shall notify the other in writing of any change of address.

8. The Registrar is hereby requested and authorized to authenticate and deliver the Bonds in accordance with the Ordinance.

IN WITNESS WHEREOF, THE CITY OF ST. MARYS and THE FIRST NATIONAL BANK OF ST. MARYS have respectively caused this Registrar's Agreement to be signed in their names and on their behalf, all as of the day and year first above-written.

THE CITY OF ST. MARYS

By Louis T. Flade  
Mayor

THE FIRST NATIONAL BANK OF ST. MARYS

By Richard Helver  
Its Authorized Officer

CHASFS3:52384

**EXHIBIT A**

**See Bond Ordinance (Tab No. 6)**

CHASFS3:52384

## THE CITY OF ST. MARYS

\$49,000 COMBINED WATERWORKS AND SEWERAGE SYSTEM  
REVENUE REFUNDING BONDS, SERIES 1996 A

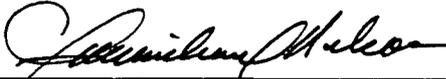
\$128,000 COMBINED WATERWORKS AND SEWERAGE SYSTEM  
REVENUE BONDS, SERIES 1996 B

ACCEPTANCE OF DUTIES OF DEPOSITORY BANK

The First National Bank of St. Marys with its principal office in St. Marys, West Virginia, hereby accepts appointment as Depository Bank in connection with a Bond Ordinance of The City of St. Marys, West Virginia duly passed on October 1, 1996, effective October 15, 1996, and the Supplemental Resolution adopted November 6, 1996 (collectively, the "Ordinance"), authorizing issuance of The City of St. Marys Combined Waterworks and Sewerage System Revenue Refunding Bonds, Series 1996 A and the Combined Waterworks and Sewerage System Revenue Bonds, Series 1996 B, dated November 13, 1996, in the aggregate principal amounts of \$49,000 and \$128,000, respectively (the "Bonds") and agrees to perform all duties of Depository Bank, all as set forth in said Ordinance.

Witness my signature as of the 13th day of November, 1996.

THE FIRST NATIONAL BANK OF ST. MARYS

By   
\_\_\_\_\_  
Vice President

THE CITY OF ST. MARYS

\$49,000 COMBINED WATERWORKS AND SEWERAGE SYSTEM  
REVENUE REFUNDING BONDS, SERIES 1996 A

\$128,000 COMBINED WATERWORKS AND SEWERAGE SYSTEM  
REVENUE BONDS, SERIES 1996 B

REQUEST AND AUTHORIZATION AS TO AUTHENTICATION  
AND DELIVERY OF THE BONDS

November 13, 1996

The First National Bank of St. Marys  
401 Second Street  
P.O. Box 463  
St. Marys, WV 26170

Ladies and Gentlemen:

We herewith hand to you, duly executed, \$49,000 City of St. Marys Combined Waterworks and Sewerage System Revenue Refunding Bonds, Series 1996 A, in the form of one bond number AR-1 (the "Series 1996 A Bonds") and the \$128,000 City of St. Marys Combined Waterworks and Sewerage System Revenue Bonds, Series 1996 B, in the form of one bond numbered BR-1 (the "Series 1996 B Bonds," collectively with the Series 1996 A Bonds, the "Bonds") of The City of St. Marys, West Virginia (the "City"), authorized to be issued under and pursuant to the Bond Ordinance, duly passed by the Council of the City on October 1, 1996, effective October 15, 1996, and a Supplemental Resolution adopted by the Council on November 6, 1996 (collectively, the "Ordinance").

You are hereby requested and authorized to register, authenticate and deliver the Series 1996 A Bonds on behalf of the City to The First National Bank of St. Marys and the Seires 1996 B Bonds on behalf of the City to the West Virginia Water Development Authority.

THE CITY OF ST. MARYS

(SEAL)

By Louis T. Rade  
Mayor

Attest:

Linda K. Wilson  
Recorder, The City of St. Marys

## THE CITY OF ST. MARYS

\$49,000 COMBINED WATERWORKS AND SEWERAGE SYSTEM  
REVENUE REFUNDING BONDS, SERIES 1996 A

\$128,000 COMBINED WATERWORKS AND SEWERAGE SYSTEM  
REVENUE BONDS, SERIES 1996 B

CERTIFICATE OF REGISTRATION OF BONDS

I, F. Michael Nelson, Vice President of The First National Bank of St. Marys, St. Marys, West Virginia, as Registrar (the "Registrar"), hereby certify that on the 13th day of November, 1996, the bond of The City of St. Marys, West Virginia in the principal amount of \$49,000 designated "The City of St. Marys Combined Waterworks and Sewerage System Revenue Refunding Bonds, Series 1996 A," numbered AR-1, and dated the date hereof was registered as to principal and interest in the name of "The First National Bank of St. Marys" and the bond of The City of St. Marys, West Virginia in the principal amount of \$128,000 designated "The City of St. Marys Combined Waterworks and Sewerage System Revenue Bonds, Series 1996 B," and numbered BR-1, dated as of the date hereof, was registered as to principal and interest in the name of "West Virginia Water Development Authority" in the books of the City kept for that purpose at our office, by a duly authorized officer on behalf of The First National Bank of St. Marys, St. Marys, West Virginia, as Registrar.

WITNESS my signature as of the 13th day of November, 1996.

THE FIRST NATIONAL BANK OF ST. MARYS  
as Registrar

By   
\_\_\_\_\_  
F. Michael Nelson  
Vice President

\$49,000  
THE CITY OF ST. MARYS  
COMBINED WATERWORKS AND SEWERAGE SYSTEM  
REVENUE REFUNDING BONDS, SERIES 1996 A

REGISTRATION FORM

Bondholder	Bond Number	Amount	Date	Initial
The First National Bank of St. Marys P.O. Box 180 St. Marys, WV 26170	AR-1	\$49,000	November 13, 1996	

\$128,000  
THE CITY OF ST. MARYS  
COMBINED WATERWORKS AND SEWERAGE SYSTEM  
REVENUE BONDS, SERIES 1996 B

REGISTRATION FORM

Bondholder	Bond Number	Amount	Date	Initial
West Virginia Water Development Authority 1201 Dunbar Avenue Dunbar, West Virginia	BR-1	\$128,000	November 13, 1996	<i>Jam</i>

THE CITY OF ST. MARYS

\$49,000 COMBINED WATERWORKS AND SEWERAGE SYSTEM  
REVENUE REFUNDING BONDS, SERIES 1996 A

RECEIPT FOR BONDS

The undersigned, F. Michael Nelson, Vice President of The First National Bank of St. Marys (the "Bank"), hereby certifies as follows:

1. On the 13th day of November, 1996, in St. Marys, West Virginia, the Bank received the entire original issue of \$49,000 in aggregate principal amount of The City of St. Marys Combined Waterworks and Sewerage System Revenue Refunding Bonds, Series 1996 A (the "Bonds"), said Bond being dated the 13th day of November, 1996; issued in the form of one bond, fully registered to the Bank, and numbered AR-1.

2. At the time of receipt of such Bond, it had been executed by Louis F. Flade, as Mayor of The City of St. Marys, by manual signature, and attested by Linda Wilson as Recorder of The City of St. Marys, by manual signature, and the official seal of said City had been impressed upon the Bond.

IN WITNESS WHEREOF, F. Michael Nelson, Vice President, duly signed and delivered this receipt on behalf of The First National Bank of St. Marys on the 13th day of November, 1996.

THE FIRST NATIONAL BANK OF ST. MARYS

By   
F. Michael Nelson  
Vice President

## THE CITY OF ST. MARYS

**\$128,000 CITY OF ST. MARYS COMBINED WATERWORKS  
AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1996 B****RECEIPT FOR BONDS**

The undersigned, Barbara B. Meadows, Secretary-Treasurer of the West Virginia Water Development Authority, for and on behalf of the West Virginia Water Development Authority (the "Authority"), hereby certifies as follows:

1. On the 13th day of November, 1996, in St. Marys, West Virginia, the Authority received the entire original issue of \$128,000 in aggregate principal amount of The City of St. Marys Combined Waterworks and Sewerage System Revenue Bonds, Series 1996 B (the "Bonds"), said Bond being dated the 13th day of November, 1996; issued in the form of one bond, fully registered to the Authority, and numbered BR-1.

2. At the time of receipt of such Bonds, they had been executed by Louis F. Flade, as Mayor of The City of St. Marys, by manual signature, and attested by Linda Wilson as Recorder of The City of St. Marys, by manual signature, and the official seal of said City had been impressed upon each Bond.

IN WITNESS WHEREOF, Barbara B. Meadows duly signed and delivered this receipt on behalf of the West Virginia Water Development Authority on the 13th day of November, 1996.

WEST VIRGINIA WATER DEVELOPMENT  
AUTHORITY

By Barbara B Meadows  
Secretary-Treasurer

THE CITY OF ST. MARYS

\$49,000 COMBINED WATERWORKS AND SEWERAGE SYSTEM  
REVENUE REFUNDING BONDS, SERIES 1996 A  
AND  
\$128,000 COMBINED WATERWORKS AND SEWERAGE SYSTEM  
REVENUE BONDS, SERIES 1996 B

RECEIPT FOR BOND PROCEEDS

The undersigned Louis F. Flade, Mayor of The City of St. Marys (the "City"), hereby certifies as follows:

1. The City has received and hereby acknowledges receipt from The First National Bank of St. Marys (the "Bank"), as original purchaser of the \$49,000 City of St. Marys Combined Waterworks and Sewerage System Revenue Refunding Bonds, Series 1996 A, of \$49,000 being the purchase price of the Series 1996 A Bonds.

2. The City has received and hereby acknowledges receipt from the West Virginia Water Development Authority (the "Authority"), as original purchaser of the \$128,000 City of St. Marys Combined Waterworks and Sewerage System Revenue Bonds, Series 1996 B, of \$48,000 being more than a de minimus portion of the purchase price of \$128,000. The City understands that the remaining proceeds will be advanced to the City from time to time as design proceeds to completion.

IN WITNESS WHEREOF, The City of St. Marys has caused this receipt to be executed by its Mayor on this 13th day of November, 1996.

THE CITY OF ST. MARYS

By Louis F. Flade  
MAYOR

<b>Part I Reporting Authority</b>		If Amended Return, check here <input type="checkbox"/>	
1 Issuer's name The City of St. Marys	2 Issuer's employer identification number 55 6000247	3 Number and street (or P.O. box if mail is not delivered to street address) 418 Second Street	4 Report number G19-96-1
5 City, town, or post office, state, and ZIP code St. Marys, West Virginia 26170	6 Date of issue November 13, 1996	7 Name of issue \$49,000 City of St. Marys Combined Waterworks and Sewerage System Revenue Refunding Bonds, Series 1996 A	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 49,000
13 <input checked="" type="checkbox"/> Environment (including sewage bonds) (Sewer)		14
14 <input type="checkbox"/> Housing		15
15 <input 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	1-2003	5.50 %	4,719.63	4,719.63			
20 Entire issue			49,000	49,000	3.9113 years	5.50 %	4.980 %

<b>Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)</b>		21	-0-
21 Proceeds used for accrued interest		22	49,000
22 Issue price of entire issue (enter amount from line 20, column (c))		23	-0-
23 Proceeds used for bond issuance costs (including underwriters' discount)		24	-0-
24 Proceeds used for credit enhancement		25	-0-
25 Proceeds allocated to reasonably required reserve or replacement fund		26	49,000
26 Proceeds used to currently refund prior issues		27	-0-
27 Proceeds used to advance refund prior issues		28	49,000
28 Total (add lines 23 through 27)		29	-0-
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>	
30 Enter the remaining weighted average maturity of the bonds to be currently refunded	4.74607 years
31 Enter the remaining weighted average maturity of the bonds to be advance refunded	N/A years
32 Enter the last date on which the refunded bonds will be called	November 13, 1996
33 Enter the date(s) the refunded bonds were issued	November 29, 1982

<b>Part VI Miscellaneous</b>		34	-0-
34 Enter the amount of the state volume cap allocated to the issue under section 141(b)(5)		35	49,000
35 Enter the amount of the bonds designated by the issuer under section 265(b)(3)(B)(i)(II) (small issuer exception)		36a	-0-
36a Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (see instructions)		37a	-0-
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			
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

*Louis T. Flade*  
 Signature of issuer's authorized representative

11-13-96  
 Date

Louis Flade, Mayor  
 Type or print name and title

<b>Part I Reporting Authority</b>			If Amended Return, check here <input type="checkbox"/>	
1 Issuer's name The City of St. Marys		2 Issuer's employer identification number 55 6000247		
3 Number and street (or P.O. box if mail is not delivered to street address) 418 Second Street		Room/suite	4 Report number G19 96 - 2	
5 City, town, or post office, state, and ZIP code St. Marys, West Virginia 26170		6 Date of issue November 13, 1996		
7 Name of issue \$128,000 City of St. Marys Combined Waterworks and Sewerage System Revenue Bonds, Series 1996 B		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		13 128,000
13 <input checked="" type="checkbox"/> Environment (including sewage bonds) (Sewer)		14
14 <input type="checkbox"/> Housing		15
15 <input 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	9-1-2017	2.00%	1,935.54	1,935.54			
20 Entire issue			128,000.00	128,000.00	10.788 years	↓ %	2.00 %

<b>Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)</b>		3,01125
21 Proceeds used for accrued interest		21 -0-
22 Issue price of entire issue (enter amount from line 20, column (c))		22 128,000
23 Proceeds used for bond issuance costs (including underwriters' discount)	8,000	
24 Proceeds used for credit enhancement	-0-	
25 Proceeds allocated to reasonably required reserve or replacement fund	-0-	
26 Proceeds used to currently refund prior issues	-0-	
27 Proceeds used to advance refund prior issues	-0-	
28 Total (add lines 23 through 27)		28 8,000
29 Nonrefunding proceeds of the issue (subtract line 28 from line 22 and enter amount here)		29 120,000

<b>Part V Description of Refunded Bonds (Complete this part only for refunding bonds.)</b>		
30 Enter the remaining weighted average maturity of the bonds to be currently refunded		N/A years
31 Enter the remaining weighted average maturity of the bonds to be advance refunded		N/A 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>		34 N/A
34 Enter the amount of the state volume cap allocated to the issue under section 141(b)(5)		35 N/A
35 Enter the amount of the bonds designated by the issuer under section 265(b)(3)(B)(i)(ii) (small issuer exception)		36a N/A
36a Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (see instructions)		
b Enter the final maturity date of the guaranteed investment contract		37a N/A
37 Pooled financings: a Proceeds of this issue that are to be used to make loans to other governmental units		
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

*Louis T. Flade*  
 Signature of issuer's authorized representative

11-13-96  
 Date

Louis Flade, Mayor  
 Type or print name and title

**WV MUNICIPAL BOND COMMISSION**

Suite 300 - L & S Building  
812 Quarrier Street  
Charleston, WV 25301  
(304) 348-3971

**NEW ISSUE REPORT FORM**

**Date of Report:** November 13, 1996

**(See Reverse for Instructions)**

**ISSUE:** City of St. Marys Combined Waterworks and Sewerage System Revenue Refunding Bonds, Series 1996 A and Combined Waterworks and Sewerage System Revenue Bonds, Series 1996 B

**ADDRESS:** 418 Second Street, St. Marys, WV 26170 **COUNTY:** Pleasants

**PURPOSE:** New Money  (1996 B)

**OF ISSUE:** Refunding  **Refunds issue(s) dated:** November 13, 1996

**ISSUE DATE:** November 13, 1996 **CLOSING DATE:** November 13, 1996

**ISSUE AMOUNT:** \$ \$49,000 (1996 A) \$128,000 (1996 B) **RATE:** 5.50% and 2.00%, respectively

**1st DEBT SERVICE DUE:** January 1, 1997 (A&B) **1st PRINCIPAL DUE:** July 1, 1997 (A)

**1st DEBT SERVICE AMOUNT:** \$351.85 (A) **PAYING AGENT:** Municipal Bond Commission  
\$1,945.22 (B)

**ISSUERS**

**BOND COUNSEL:** Jackson & Kelly

**Contact Person:** Samme L. Gee, Esq.

**Phone:** (304) 340-1318

**CLOSING BANK:** First National Bank of

**Contact Person:** St. Marys Mike Nelson

**Phone:** (304) 684-2255

**UNDERWRITERS**

**BOND COUNSEL:** \_\_\_\_\_

**Contact Person:** \_\_\_\_\_

**Phone:** \_\_\_\_\_

**ESCROW TRUSTEE:** \_\_\_\_\_

**Contact Person:** \_\_\_\_\_

**Phone:** \_\_\_\_\_

**KNOWLEDGEABLE ISSUER CONTACT**

**Contact Person:** Linda Wilson

**Position:** City Recorder

**Phone:** (304) 684-2401

**OTHER:** \_\_\_\_\_

**Contact Person:** \_\_\_\_\_

**Function:** \_\_\_\_\_

**Phone:** \_\_\_\_\_

<b>DEPOSITS TO MBC AT CLOSE:</b>	<b>Accrued Interest:</b>	\$ _____
<b>TRANSFERS BY</b>	<b>Capitalized Interest:</b>	\$ _____
By <input type="checkbox"/> Wire	<b>Reserve Account:</b>	\$ <u>9,698.94 (Series 1996 A)</u>
<input type="checkbox"/> Check	<b>Other: Revenue Fund</b>	\$ <u>628.84 (Series 1996 A)</u>

**REFUNDS & TRANSFERS BY MBC AT CLOSE:**

By <input checked="" type="checkbox"/> Wire	<b>To Escrow Trustee:</b>	\$ _____
<input type="checkbox"/> Check	<b>To Issuer:</b>	\$ _____
<input type="checkbox"/> IGT	<b>To Cons. Invest. Fund:</b>	\$ _____
	<b>To Other: Bondholder</b>	\$ <u>7,751.07</u>

**NOTES:** MBC to wire to First National Bank of St. Marys (the Series 1982 Bondholder) \$7,751.07 at close. MBC to transfer \$9,698.94 to the Series 1996 A Reserve Account, \$351.85 to the Series 1996 A Revenue Account for interest due January 1, 1997, and \$628.84

**FOR MUNICIPAL BOND COMMISSION USE ONLY:**

**DOCUMENTS**

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

**TRANSFERS**

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

\*, the balance remaining to the Series 1996 A Revenue Fund.

The **1st**  
**FIRST NATIONAL BANK**  
**of St. Marys**

F. MICHAEL NELSON  
VICE PRESIDENT

P. O. BOX 180 • ST. MARYS, WEST VIRGINIA 26170 • • (304) 684-2255

November 13, 1996

City of St. Marys  
418 Second Street  
St. Marys, West Virginia 26170

Jackson & Kelly  
P. O. Box 553  
Charleston, West Virginia 25322

Re: City of St. Marys \$49,000 Combined Waterworks and  
Sewerage System Revenue Refunding Bonds, Series 1996 A

Gentlemen:

Please be advised that I represent and certify that I am F Michael Nelson  
Vice-President of The First National Bank of St. Marys (the "Purchaser") and am duly  
authorized to execute this letter on behalf of the Purchaser. The Purchaser is purchasing on  
this date the \$49,000 in aggregate principal amount of the City of St. Marys, West Virginia,  
\$49,000 Combined Waterworks and Sewerage System Revenue Refunding Bonds, Series  
1996 A (the "Bonds"). The Bonds are being issued pursuant to a Ordinance passed by the  
Council of the City of St. Marys (the "Issuer") on October 1, 1996, and effective October 15,  
1996, as supplemented by a supplemental resolution adopted by the Council of the Issuer on  
November 6, 1996 (collectively, the "Ordinance"). The Bonds are payable from and secured  
by a first lien on the revenues derived from the operation of the Issuer's existing combined  
waterworks and sewerage system (the "System") on a parity with the Series 1996 B Bonds  
issued simultaneously with the Series 1996 A Bonds. The Bonds are being issued for the  
purpose of refunding the Issuer's Combined Waterworks and Sewerage System Revenue  
Bonds, Series 1982. In connection with its purchase of the Bonds, the Purchaser has  
reviewed the Bonds, the Ordinance, and such other agreements, instruments and other  
matters as the Purchaser has considered material to its decision to purchase the Bonds.

1. The Purchaser understands that the Bonds do not  
represent a general obligation of the Issuer, but are payable  
solely from the revenues derived from the operation of the  
System.

2. The Purchaser understands that the Bonds have  
not been registered under the Securities Act of 1933, as  
amended, or under any other federal or state securities law, and

that such registration is not legally required. The Purchaser is purchasing the Bonds for its own account for investment and with no present intention of distributing or selling the Bonds or any interest therein.

3. The Purchaser is familiar with the business of the Issuer and has had access during the course of the transaction and prior to the purchase of the Bonds to sufficient information relative to the Issuer and in particular the operation of the System to form an investment judgment and is relying on its own knowledge and investigation of the facts and circumstances relating to the purchase of the Bonds.

4. The Purchaser acknowledges that the Issuer is organized and operating pursuant to applicable West Virginia law. In connection with its operations, the Purchaser holds an extensive portfolio of investments and other securities issued by West Virginia entities. The Purchaser has knowledge and experience in financial and business matters and is capable of evaluating the merits and risks of purchasing the Bonds.

5. The Purchaser has had access to all information regarding the Issuer and the System that Purchaser has deemed material in connection with its evaluation of and decision to purchase the Bonds.

6. The Bonds, the Ordinance, and the other certificates, documents and opinions delivered in connection with the issuance of the Bonds contain terms and are in form acceptable to the Purchaser.

Very truly yours,

  
Vice-President  
The First National Bank of St. Marys

## THE CITY OF ST. MARYS

\$49,000 COMBINED WATERWORKS AND SEWERAGE SYSTEM  
REVENUE REFUNDING BONDS, SERIES 1996 A

\$128,000 COMBINED WATERWORKS AND SEWERAGE SYSTEM  
REVENUE BONDS, SERIES 1996 B

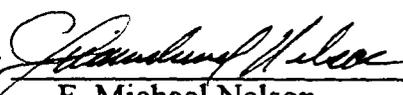
WAIVER OF NOTICE OF REDEMPTION

The undersigned, F. Michael Nelson, Vice President of The First National Bank of St. Marys (the "Bank"), sole owner of The City of St. Marys Combined Waterworks and Sewerage System Bonds, Series 1982, hereby certifies as follows:

1. The Bank hereby consents to the current refunding of the Series 1982 Bonds; and
2. The Bank hereby waives the prior written notice by registered or certified mail of the notice of redemption of the Series 1982 Bonds required pursuant to Section 2.02 of the Prior Ordinance.

WITNESS my signature on behalf of said Bank this 13th day of November, 1996.

THE FIRST NATIONAL BANK OF ST. MARYS

By   
F. Michael Nelson  
Vice President

THE CITY OF ST. MARYS

\$49,000 COMBINED WATERWORKS AND SEWERAGE SYSTEM  
REVENUE REFUNDING BONDS, SERIES 1996 A

\$128,000 COMBINED WATERWORKS AND SEWERAGE SYSTEM  
REVENUE BONDS, SERIES 1996 B

CERTIFICATE OF PAYMENT OF PRIOR BONDS

The undersigned, F. Michael Nelson, Vice President of The First National Bank of St. Marys (the "Bank"), sole owner of The City of St. Marys (the "Issuer") Combined Waterworks and Sewerage System Revenue Bonds, Series 1982 (the "Series 1982 Bonds"), dated November 29, 1982, in the principal amount of \$200,000, hereby certifies that it has this date received the sum of \$56,751.07 from the Issuer and that such sum is sufficient to pay the entire outstanding principal amount of and interest accrued on the Series 1982 Bonds to the date hereof and hereby discharges the liens, pledges and encumbrances securing the Series 1982 Bonds.

Dated this 13th day of November, 1996.

THE FIRST NATIONAL BANK OF ST. MARYS

By   
F. Michael Nelson  
Vice President

# JACKSON & KELLY

ATTORNEYS AT LAW

1800 LAIDLEY TOWER

P. O. BOX 553

CHARLESTON, WEST VIRGINIA 25322

TELEPHONE 304-340-1000 TELECOPIER 304-340-1130

WRITER'S DIRECT DIAL NO.

300 FOXCROFT AVENUE  
MARTINSBURG, WEST VIRGINIA 25401  
TELEPHONE 304-853-0800

256 RUSSELL AVENUE  
NEW MARTINSVILLE, WEST VIRGINIA 26155  
TELEPHONE 304-455-1751

6000 HAMPTON CENTER  
MORGANTOWN, WEST VIRGINIA 26505  
TELEPHONE 304-599-3000

700 EAST WASHINGTON STREET  
CHARLES TOWN, WEST VIRGINIA 25414  
TELEPHONE 304-728-8088

800 GARFIELD AVENUE  
PARKERSBURG, WEST VIRGINIA 26102  
TELEPHONE 304-422-1418

1880 LINCOLN STREET  
DENVER, COLORADO 80264  
TELEPHONE 303-637-0003

175 EAST MAIN STREET  
LEXINGTON, KENTUCKY 40565  
TELEPHONE 606-255-9500

2401 PENNSYLVANIA AVENUE N.W.  
WASHINGTON, D.C. 20037  
TELEPHONE 202-973-0200

1000 TECHNOLOGY DRIVE  
FAIRMONT, WEST VIRGINIA 26564  
TELEPHONE 304-368-2000

*Jackson & Kelly is a member of Lex  
Mundi, a global association of more  
than 120 independent law firms.*

November 13, 1996

The First National Bank of St. Marys  
401 Second Street  
P.O. Box 463  
St. Marys, WV 26170

4.1

West Virginia Division of Environmental  
Protection  
Division of Water Resources  
617 Broad Street  
Charleston, WV 25301

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

Re: City of St. Marys \$49,000 Combined Waterworks and  
Sewerage System Revenue Refunding Bonds, Series 1996 A  
and \$128,000 Combined Waterworks and Sewerage System  
Revenue Bonds, Series 1996 B

Ladies and Gentlemen:

We are bond counsel to The City of St. Marys (the "Issuer"), a municipal corporation.

We have examined a certified copy of proceedings and other papers relating to (i) the issue of a series of bonds of the Issuer, dated November 13, 1996 (the "Series 1996 A Bonds"), to be purchased by The First National Bank of St. Marys (the "First National Bank"), (ii) the authorization of a loan agreement dated September 23, 1996, including all schedules and exhibits attached thereto (the "Loan Agreement"), by and among the Issuer, the West Virginia Division of Environmental Protection and the West Virginia Water Development Authority (the "Authority"), and (iii) the issue of a series of bonds of the Issuer, dated November 13, 1996 (the "Series 1996 B Bonds"), to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Series 1996 A

The First National Bank of St. Marys  
West Virginia Division of Environmental  
Protection  
West Virginia Water Development  
Authority  
November 13, 1996  
Page 2

Bonds are in the principal amount of \$49,000, issued in the form of one bond registered as to principal and interest to the First National Bank, with both principal and interest payable each January 1 and July 1, commencing January 1, 1997, at the rate of five and one-half percent (5½ %) per annum and as set forth in the Debt Service Schedule attached to the Series 1996 A Bond. The Series 1996 B Bonds are in the principal amount of \$128,000, issued in the form of one bond registered as to principal and interest to the Authority, with both principal and interest payable September 1, December 1, March 1 and June 1 of each year, beginning December 1, 1997, at the rate of two percent (2%) per annum and a 1% administrative fee as set forth in "Schedule Y," attached to the Loan Agreement and incorporated in and made a part of the Series 1996 B Bonds. The Series 1996 B Bonds bear no interest during the design period.

The Series 1996 A Bonds are issued for the purpose of refunding the Issuer's Combined Waterworks and Sewerage System Revenue Bonds, Series 1982 Bonds (the "Series 1982 Bonds"). The Series 1996 B Bonds are issued for the purpose of paying a portion of the costs of the design of certain additions, betterments and improvements for the existing public sewerage facilities of the combined waterworks and sewerage system of the Issuer (the "Project") and paying certain issuance and other costs in connection therewith.

We have also examined the applicable provisions of Chapter 8, Article 20 and Chapter 22C, Article 2 of the Code of West Virginia, 1931, as amended (the "Local Statute"), and the Bond Ordinance duly passed by the Issuer on October 1, 1996, as supplemented on November 6, 1996 (collectively, the "Local Act"), pursuant to and under which Local Statute and Local Act the Bonds are authorized and issued, and the Loan Agreement that has been undertaken. The Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Local Act and for the Series 1996 B Bonds as also set forth in the Loan Agreement.

In connection with the issuance of the Bonds, the Issuer has executed a Certificate as to Arbitrage, dated as of the date hereof (the "Certificate as to Arbitrage"), which, among other things, sets forth restrictions on the investment and expenditure of the Bond proceeds and earnings thereon, to ensure that the arbitrage requirements of the Internal Revenue Code of 1986, as amended, and regulations thereunder (collectively, the "Code"), necessary to establish and maintain the excludability of interest on the Bonds from gross income for federal income tax purposes, are and will continue to be met.

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

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

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

3. The Issuer is a duly organized and presently existing municipal corporation and political subdivision of the State of West Virginia, with full power and authority to refund the Series 1982 Bonds, design, construct and acquire the Project and to operate and maintain the System referred to in the Loan Agreement and to issue and sell the Bonds, all under the Local Statute and other applicable provisions of law.

4. The Issuer has legally and effectively enacted the Local Act and all other necessary resolutions in connection with the issuance and sale of the Bonds. The Local Act contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

5. The Bonds are valid and legally enforceable special obligations of the Issuer, payable from the net revenues of the System referred to in the Local Act and on parity with each other and secured by a first lien on and pledge of the net revenues of said System, all in accordance with the terms of the Bonds and the Local Act, and have been duly issued and delivered to the First National Bank and the Authority.

6. Under existing laws, regulations, public rulings, and judicial decisions, interest on the Bonds is excludable from the gross income of the owners thereof 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 (just defined for federal income tax purposes), such interest is taken into account in determining the adjusted current earnings. The opinions set forth above are subject to the condition that the Issuer comply, on a continuing basis, with all covenants, certifications, expectations and representations set forth in the Ordinance, the Certificate as

The First National Bank of St. Marys  
West Virginia Division of Environmental  
Protection  
West Virginia Water Development  
Authority  
November 13, 1996  
Page 4

to Non-Arbitrage, and other certificates relating to tax-exemption and all requirements of Code that must be satisfied subsequent to the issuance of the Bonds in order that interest thereon be, or continue to be, excludable from gross income for federal income tax purposes. Failure to comply with certain of such Code provisions or covenants, certifications, expectations, or representations may cause the interest on the Bonds to be includable in gross income for federal income tax purposes retroactive to the date of issuance of the Bonds. We express no opinion regarding other federal tax consequences arising with respect to the Bonds.

7. The Issuer has designated the Series 1996 A Bonds as "qualified tax-exempt obligations" for purposes of the Code, and has covenanted that it does not reasonably expect to issue more than \$10,000,000 of tax-exempt obligations (other than private activity bonds and obligations issued to currently refund any obligations of the Issuer to the extent the amount of the refunding obligation does not exceed the outstanding amount of the refunded obligations) during the calendar year 1996. Therefore, the Series 1996 A Bonds are "qualified tax-exempt obligations" within the meaning of Section 265(b)(3) of the Code.

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

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

We have examined executed and authenticated Bonds numbered AR-1 and BR-1, and in our opinion the form of said bonds and their execution and authentication are regular and proper.

Very truly yours,

*Jackson & Kelly*

**BRYANT & WHITE**

**ATTORNEYS AT LAW**

**110 WASHINGTON STREET**

**P. O. BOX 176**

**ST. MARYS, WEST VIRGINIA 26170-0176**

**CARL P. BRYANT  
KEITH WHITE**

**304-684-2219  
FAX 304-684-9428**

**November 13, 1996**

**West Virginia Division of Environmental  
Protection  
Division of Water Resources  
617 Broad Street  
Charleston, WV 25301**

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

**Jackson & Kelly  
P. O. Box 553  
Charleston, WV 25322**

**Re: City of St. Marys \$49,000 Combined Waterworks and Sewage  
System Revenue Refunding Bonds, Series 1996 A and  
\$128,000 Combined Waterworks and Sewage Revenue Bonds,  
Series 1996 B**

**Ladies and Gentlemen:**

**I am the City Attorney for the City of St. Marys, West Virginia (the "Issuer").  
As such counsel, I have examined copies of the approving opinion of Jackson &  
Kelly, as bond counsel, relating to the above-captioned bonds of the Issuer (the  
"Bonds"), the Loan Agreement by and among the West Virginia Development  
Authority (the "Authority"), the West Virginia Division of Environmental Protection  
(the "DEP"), and the Issuer, dated September 23, 1996, and a Bond Ordinance duly  
passed by the Council (the "Council") of the Issuer on October 1, 1996, effective  
October 15, 1996, as supplemented by a Supplemental Resolution adopted  
November 6, 1996 (collectively, the "Ordinance"), and other documents relating to  
the Bonds. Terms used in said opinions, the Loan Agreement, and Ordinance and  
not otherwise defined herein have the same meaning herein.**

I am of the opinion that:

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

2. The members of the Common Council were duly and properly elected or appointed and are thereby authorized to act on behalf of the Issuer.

3. The Ordinance has been duly enacted by the Common Council of the Issuer and is in full force and effect.

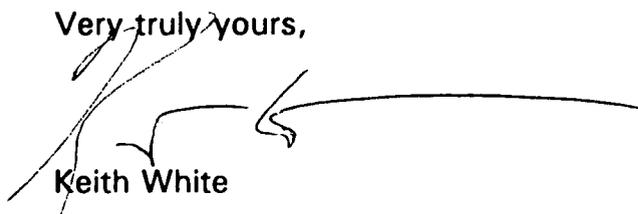
4. The Issuer has received or will have received all permits, licenses, approvals and authorizations necessary for the issuance of the Bonds, design of the Project, operation of the System and imposition of rates and charges, including, without limitation, the receipt of all requisite orders and approvals from the Public Service Commission of West Virginia (the "PSC"), and has taken any other action required for the imposition of such rates and charges, including, without limitation, the enactment of an ordinance prescribing such rates and charges. A Certificate of Convenience and Necessity is not required for the design of the Project.

5. The execution and delivery of the Bonds and the Loan Agreement and the consummation of the transactions contemplated by the Loan Agreement, and the carrying out of the terms thereof, do not and will not in any material respect conflict with or constitute on the part of the Issuer a breach of or default under any agreement or other instrument to which the Issuer is a party or any existing law, regulation, court order or consent decree to which the Issuer is subject.

6. The Issuer has received all the necessary permits, license, approvals and authorizations that are presently obtainable to design the Project.

7. To the best of my knowledge, there is no action, suit, proceeding or investigation at law or in equity before or by any court, public council or body, pending or threatened, wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by or the validity of the Bonds or the collection or pledge of the Net Revenue therefor.

Very truly yours,

A handwritten signature in black ink, appearing to read "Keith White". The signature is written in a cursive style and is positioned above the printed name "Keith White". A long horizontal line extends from the end of the signature to the right, ending in a small arrowhead pointing left towards the signature.

KW/msr