

CITY OF THOMAS

**Sewer Revenue Bonds, Series 1997 A
(West Virginia SRF Program)**

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CITY OF THOMAS

SEWER REVENUE BONDS, SERIES 1997 A

(WEST VIRGINIA SRF PROGRAM)

BOND ORDINANCE

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CITY OF THOMAS

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF A NEW PUBLIC SEWERAGE SYSTEM OF THE CITY OF THOMAS AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$1,500,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 1997 A (WEST VIRGINIA SRF PROGRAM); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

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

ARTICLE I

STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01. Authority for this Ordinance. This Ordinance (together with any ordinance, order or resolution supplemental hereto or amendatory hereof, the "Bond Legislation") is enacted pursuant to the provisions of Chapter 16, Article 13 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"), and other applicable provisions of law.

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

A. The City of Thomas (the "Issuer") is a municipal corporation and political subdivision of the State of West Virginia in Tucker County of said State.

B. The Issuer does not now own or operate a public sewerage system, but desires to acquire, construct and operate such a system, and additions, extensions and improvements thereto. The inhabitants of the Issuer and surrounding area urgently require

that a public sewerage system be acquired and constructed as herein provided. Accordingly, it is deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer that there be constructed a new public sewerage system of the Issuer, consisting of a 150,000 gpd sewage treatment plant, a sewer interceptor and reconstruction of the collection system to separate storm flows from sanitary sewage, together with all appurtenant facilities (collectively, the "Project"), which constitute properties for the collection and transportation of liquid or solid wastes, sewage or industrial wastes (the Project and any further additions thereto or extensions thereof are herein called the "System"), in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have heretofore been filed with the Recorder of the Issuer.

C. The Issuer intends to permanently finance such costs of acquisition and construction of the Project through the issuance of its revenue bonds to the West Virginia Water Development Authority (the "Authority"), in connection with the West Virginia Water Pollution Control Revolving Fund program (the "SRF Program"), pursuant to the Act, in order to take advantage of the favorable terms available to the Issuer under the SRF Program.

D. It is deemed necessary for the Issuer to issue its Sewer Revenue Bonds, Series 1997 A (West Virginia SRF Program), in the total aggregate principal amount of not more than \$1,500,000 (the "Series 1997 A Bonds"), initially to be represented by a single bond, to permanently finance costs of acquisition and construction of the Project. The remaining costs of the Project shall be funded from the sources set forth in Section 2.01 hereof. Said costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor; interest upon the Series 1997 A Bonds prior to and during construction or acquisition and for a period not exceeding 6 months after completion of construction of the Project; amounts which may be deposited in the Series 1997 A Bonds Reserve Account (as hereinafter defined); engineering and legal expenses; expenses for estimates of costs and revenues, expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense, commitment fees, fees and expenses of the Authority, including the SRF Administrative Fee (as hereinafter defined), discount, initial fees for the services of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Series 1997 A Bonds and such other expenses as may be necessary or incidental to the financing herein authorized, the acquisition or construction of the Project and the placing of same in operation, and the performance of the things herein required or permitted, in connection with any thereof, provided, that reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Series 1997 A Bonds or the repayment of indebtedness incurred by the Issuer for such purposes shall be deemed Costs of the Project, as hereinafter defined.

E. The period of usefulness of the System after completion of the Project is not less than 20 years.

F. It is in the best interests of the Issuer that its Series 1997 A Bonds be sold to the Authority pursuant to the terms and provisions of a loan agreement by and among the Issuer, the Authority and the West Virginia Division of Environmental Protection, a division of the West Virginia Bureau of Environment (the "DEP"), in form satisfactory to the Issuer, the Authority and the DEP, to be approved hereby if not previously approved by resolution of the Issuer.

G. There are no outstanding obligations of the Issuer which will rank prior to or on parity with the Series 1997 A Bonds as to liens, pledge, source of and security for payment.

H. The estimated revenues to be derived in each year after completion of the Project from the operation of the System will be sufficient to pay all costs of operation and maintenance of the System and the principal of and interest on the Series 1997 A Bonds and all payments into all funds and accounts and other payments provided for herein, all as such terms are hereinafter defined.

I. The Issuer has complied with all requirements of West Virginia law and the Loan Agreement relating to authorization of the acquisition, construction and operation of the Project and the System and issuance of the Series 1997 A Bonds, or will have so complied prior to issuance of any thereof, including, among other things, the obtaining of a certificate of public convenience and necessity from the Public Service Commission of West Virginia by final order, the time for rehearing and appeal of which will either have expired prior to the issuance of the Series 1997 A Bonds or such final order will not be subject to appeal.

J. The Issuer is a governmental unit which has general taxing powers to finance operations of or facilities of the nature of the Project and the System; 95% or more of the Net Proceeds of the Series 1997 A Bonds are to be used for local governmental activities of the Issuer (or of a governmental unit the jurisdiction of which is entirely within the jurisdiction of the Issuer); and the Issuer, all subordinate entities, all entities which issue obligations on behalf of the Issuer, and all entities formed or, to the extent provided under Section 148 of the Code, herein defined, availed of, to avoid the purposes of Section 148(f)(4)(D) of the Code and all other entities benefiting thereby reasonably expect to issue less than \$5,000,000 aggregate principal amount of tax-exempt obligations (other than private activity bonds) during the calendar year in which the Series 1997 A Bonds are to be issued.

K. Pursuant to the Act, the Issuer has heretofore established a Sanitary Board, and the Sanitary Board has petitioned the Council to issue the Series 1997 A Bonds for the purposes set forth herein.

L. The Project has been grandfathered pursuant to Chapter 31, Article 15A of the West Virginia Code of 1931, as amended.

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Series 1997 A Bonds by the Registered Owners of the same from time to time, this Bond Legislation shall be deemed to be and shall constitute a contract between the Issuer and such Bondholders, and the covenants and agreements herein set forth to be performed by the Issuer shall be for the equal benefit, protection and security of the Bondholders of any and all of such Series 1997 A Bonds, all of which shall be of equal rank and without preference, priority or distinction between any one Bond and any other Bonds and by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

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

"Act" means, collectively, Chapter 16, Article 13 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended and in effect on the date of enactment hereof.

"Authority" means the West Virginia Water Development Authority, which is expected to be the original purchaser and Registered Owner of the Series 1997 A Bonds, or any other agency, board or department of the State that succeeds to the functions of the Authority.

"Authorized Officer" means the Mayor of the Issuer, or any other officer of the Issuer specifically designated by resolution of the Governing Body.

"Board" means the Sanitary Board of the Issuer.

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

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

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

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

"Bonds" means the Series 1997 A Bonds, and, where appropriate, any bonds on a parity therewith subsequently authorized to be issued hereunder or by another ordinance of the Issuer.

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

"Closing Date" means the date upon which there is an exchange of the Series 1997 A Bonds for the proceeds or at least a de minimis portion thereof representing the purchase price of the Series 1997 A Bonds from the Authority.

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

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

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

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

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

"Council" means the Council of the Issuer or any other governing body of the Issuer that succeeds to the functions of the Council as presently constituted.

"DEP" means 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 to the functions of the DEP.

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

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

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

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

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

"Grant" means all moneys received by the Issuer on account of any Grant.

"Gross Revenues" means the aggregate gross operating and non-operating revenues of the System, as hereinafter defined, determined in accordance with generally accepted accounting principles, after deduction of prompt payment discounts, if any, and reasonable provision for uncollectible accounts; provided that, "Gross Revenues" does not include any proceeds 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).

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

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

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

"Issuer" means the City of Thomas, a municipal corporation and political subdivision of the State of West Virginia, in Tucker County, West Virginia, and, unless the context clearly indicates otherwise, includes the Governing Body of the Issuer.

"Loan Agreement" means the Loan Agreement heretofore entered, or to be entered, into among the Authority, the DEP and the Issuer, providing for the purchase of the Series 1997 A Bonds from the Issuer by the Authority, the form of which shall be approved, and the execution and delivery by the Issuer authorized and directed or ratified by the Supplemental Resolution.

"Mayor" means the Mayor of the Issuer.

"Net Proceeds" means the face amount of the Series 1997 A Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds, if any, deposited in the Series 1997 A Bonds Reserve Account. For purposes of the Private Business Use limitations set forth herein, the term Net Proceeds shall include any amounts resulting from the investment of proceeds of the Series 1997 A Bonds, without regard to whether or not such investment is made in tax-exempt obligations.

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

"Nonpurpose Investment" means any Investment Property which is acquired with the gross proceeds or any other proceeds of the Series 1997 A Bonds and is not acquired in order to carry out the governmental purpose of the Series 1997 A Bonds.

"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, fiscal agents, the Depository Bank, the Registrar and Paying Agent (all 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 or redemption premium, if any, or interest on the Bonds, charges for depreciation, losses from the sale or other disposition of, or from any decrease in the value of, capital assets, amortization of debt discount or such miscellaneous deductions as are applicable to prior accounting periods.

"Outstanding" when used with reference to Bonds and as of any particular date, describes all Bonds being authenticated and delivered except (i) any Bond cancelled by the Bond Registrar at or prior to said date; (ii) any Bond for the payment of which moneys, equal to its principal amount and redemption premium, if applicable, with interest to the date of maturity or redemption shall be in trust hereunder, and set aside for such payment (whether upon or prior to maturity); (iii) any Bond deemed to have been paid as provided in Article X

hereof; (iv) for purposes of consents or other action by a specified percentage of Bondholders, any Bonds registered to the Issuer.

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

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

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

"Project" means the Project as described in Section 1.02B hereof.

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

- (a) Government Obligations;
- (b) Government Obligations which have been stripped of their unmatured interest coupons, interest coupons stripped from Government Obligations, and receipts or certificates evidencing payments from Government Obligations or interest coupons stripped from Government Obligations;
- (c) Bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Banks for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Bank System; Export-Import Bank of the United States; Federal Land Banks; Government National Mortgage Association; Tennessee Valley Authority; or Washington Metropolitan Area Transit Authority;
- (d) Any bond, debenture, note, participation certificate or other similar obligations issued by the Federal National Mortgage Association to the extent such obligation is guaranteed by the Government National

Mortgage Association or issued by any other federal agency and backed by the full faith and credit of the United States of America;

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

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

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

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

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

"Recorder" means the Recorder of the Issuer.

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

"Registrar" means the Bond Registrar.

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

"Renewal and Replacement Fund" means the Renewal and Replacement Fund established by Section 5.01 hereof.

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

"Series 1997 A Bonds" means the not more than \$1,500,000 in aggregate principal amount of Sewer Revenue Bonds, Series 1997 A (West Virginia SRF Program), of the Issuer, authorized by this Bond Legislation.

"Series 1997 A Bonds Reserve Account" means the Series 1997 A Bonds Reserve Account established in the Series 1997 A Bonds Sinking Fund pursuant to Section 5.02 hereof.

"Series 1997 A Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 1997 A Bonds in the then current or any succeeding year.

"Series 1997 A Bonds Sinking Fund" means the Series 1997 A Bonds Sinking Fund established by Section 5.02 hereof.

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

"SRF Program" means 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.

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

"State" means the State of West Virginia.

"Supplemental Resolution" means any resolution, ordinance or order of the Issuer supplementing or amending this Ordinance and, when preceded by the article "the," refers specifically to the supplemental resolution authorizing the sale of the Series 1997 A Bonds; provided, that any matter intended by this Ordinance to be included in the

Supplemental Resolution with respect to the Series 1997 A Bonds, and not so included may be included in another Supplemental Resolution.

"Surplus Revenues" means the Net Revenues not required by the Bond Legislation to be set aside and held for the payment of or security for the Series 1997 A Bonds or any other obligations of the Issuer, including, without limitation, the Renewal and Replacement Fund and the Series 1997 A Bonds Reserve Account.

"System" means, collectively, the Project initially, and the complete municipal sewage treatment and collection system of the Issuer, or any integral part thereof, and shall include any additions, betterments and improvements thereto hereafter acquired or constructed for said sewage treatment and collection system from any sources whatsoever, both within and without the Issuer.

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

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

ARTICLE II

AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF THE PROJECT

Section 2.01. Authorization of Acquisition and Construction of the Project. There is hereby authorized and ordered the acquisition and construction of the Project, at an estimated cost of \$2,750,000, in accordance with the plans and specifications which have been prepared by the Consulting Engineers, heretofore filed in the office of the Governing Body. The proceeds of the Series 1997 A Bonds hereby authorized shall be applied as provided in Article VI hereof. The Issuer has received bids and will enter into contracts for the acquisition and construction of the Project, compatible with the financing plan submitted to the SRF Program.

The cost of the Project is estimated not to exceed \$2,750,000, of which approximately \$1,500,000 will be obtained from proceeds of the Series 1997 A Bonds, approximately \$700,000 from a grant by the United States Department of Housing and Urban Development (Small Cities Block Grant through the State of West Virginia) and approximately \$550,000 from a grant by the United States Economic Development Administration.

ARTICLE III

AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND SALE OF BONDS; AUTHORIZATION AND EXECUTION OF LOAN AGREEMENT

Section 3.01. Authorization of Bonds. For the purposes of capitalizing interest on the Series 1997 A Bonds, funding a reserve account for the Series 1997 A Bonds, paying Costs of the Project not otherwise provided for and paying certain costs of issuance of the Series 1997 A Bonds and related costs, or any or all of such purposes, as determined by the Supplemental Resolution, there shall be issued the negotiable Series 1997 A Bonds of the Issuer, in an aggregate principal amount of not more than \$1,500,000. The Series 1997 A Bonds shall be issued as a single bond, designated "Sewer Revenue Bonds, Series 1997 A" (West Virginia SRF Program), and shall have such terms as set forth hereinafter and in the Supplemental Resolution. The proceeds of the Series 1997 A Bonds remaining after funding of the Series 1997 A Bonds Reserve Account (if funded from Bond proceeds) and capitalization of interest, if any, shall be deposited in or credited to the Bond Construction Trust Fund established by Section 5.01 hereof.

Section 3.02. Terms of Bonds. The Series 1997 A Bonds shall be issued in such principal amounts; shall bear interest, if any, at such rate or rates, not exceeding the then legal maximum, payable quarterly on such dates; shall mature on such dates and in such amounts; and shall be redeemable, in whole or in part, all as the Issuer shall prescribe in a Supplemental Resolution or as specifically provided in the Loan Agreement. The Series 1997 A Bonds shall be payable as to principal at the office of the Paying Agent, in any coin or currency which, on the dates of payment of principal is legal tender for the payment of public or private debts under the laws of the United States of America. Interest on the Series 1997 A Bonds, if any, shall be paid by check or draft of the Paying Agent or its agent, mailed to the Registered Owner thereof at the address as it appears on the books of the Bond Registrar, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner thereof.

Unless otherwise provided by the Supplemental Resolution, the Series 1997 A Bonds shall initially be issued in the form of a single bond, fully registered to the Authority, with a record of advances and a debt service schedule attached, representing the aggregate principal amount of the Series 1997 A Bonds, and shall mature in principal installments, all as provided in the Supplemental Resolution. The Series 1997 A Bonds shall be exchangeable at the option and expense of the Registered Owner for another fully registered Bond or Bonds of the same series in aggregate principal amount equal to the amount of said Bonds then Outstanding and being exchanged, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of said Bonds; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

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

Section 3.03. Execution of Bonds. The Series 1997 A Bonds shall be executed in the name of the Issuer by the Mayor, and the seal of the Issuer shall be affixed thereto or imprinted thereon and attested by the Recorder. In case any one or more of the officers who shall have signed or sealed the Series 1997 A Bonds shall cease to be such officer of the Issuer before the Series 1997 A Bonds so signed and sealed have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Series 1997 A Bonds may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Bonds shall hold the proper office in the Issuer, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

Section 3.04. Authentication and Registration. No Series 1997 A Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Bond Legislation unless and until the Certificate of Authentication and Registration on such Bond, substantially in the form set forth in Section 3.10 hereof shall have been manually executed by the Bond Registrar. Any such executed Certificate of Authentication and Registration upon any such Bond shall be conclusive evidence that such Bond has been authenticated, registered and delivered under this Bond Legislation. The Certificate of Authentication and Registration on any Series 1997 A Bond shall be deemed to have been executed by the Bond Registrar if manually signed by an authorized officer of the Bond Registrar, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all of the Bonds issued hereunder.

Section 3.05. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Series 1997 A Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Holder, in accepting the Series 1997 A Bonds shall be conclusively deemed to have agreed that such Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Holder shall further be conclusively deemed to have agreed that said Bonds shall be incontestable in the hands of a bona fide holder for value.

So long as the Series 1997 A Bonds remain outstanding, the Issuer, through the Bond Registrar or its agent, shall keep and maintain books for the registration and transfer of such Bonds.

The registered Series 1997 A Bonds shall be transferable only upon the books of the Bond Registrar, by the registered owner thereof in person or by his attorney duly authorized in writing, upon surrender thereto together with a written instrument of transfer satisfactory to the Bond Registrar duly executed by the registered owner or his duly authorized attorney.

In all cases in which the privilege of exchanging Series 1997 A Bonds or transferring the registered Series 1997 A Bonds are exercised, all Series 1997 A Bonds shall be delivered in accordance with the provisions of this Bond Legislation. All Series 1997 A Bonds surrendered in any such exchanges or transfers shall forthwith be cancelled by the Bond Registrar. For every such exchange or transfer of Series 1997 A Bonds, the Bond Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer and the cost of preparing each new Bond upon each exchange or transfer, and any other expenses of the Bond Registrar incurred in connection therewith, which sum or sums shall be paid by the Issuer. The Bond Registrar shall not be obliged to make any such exchange or transfer of Series 1997 A Bonds during the period commencing on the 15th day of the month next preceding an interest payment date on the Series 1997 A Bonds or, in the case of any proposed redemption of Series 1997 A Bonds, next preceding the date of the selection of Bonds to be redeemed, and ending on such interest payment date or redemption date.

Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Series 1997 A Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue, and the Bond Registrar shall, if so advised by the Issuer, authenticate and deliver, a new Bond of the same series and of like tenor as the Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Holder's furnishing satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer and the Bond Registrar may incur. All Bonds so surrendered shall be cancelled by the Bond Registrar and held for the account of the Issuer. If any such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the Issuer may pay the same, upon being indemnified as aforesaid, and if such Bond be lost, stolen or destroyed, without surrender thereof.

Section 3.07. Bonds not to be Indebtedness of the Issuer. The Series 1997 A 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 Holder or Holders of the Series 1997 A Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 1997 A Bonds or the interest, if any, thereon.

Section 3.08. Bonds Secured by Pledge of Net Revenues. The payment of debt service of the Series 1997 A Bonds shall be secured by a first lien on the Net Revenues derived from the operation of the System. Such Net Revenues in an amount sufficient to pay the principal of and interest, if any, on and other payments for the Series 1997 A Bonds and to make all other payments provided for in the Bond Legislation, are hereby irrevocably pledged to such payments as they become due.

Section 3.09. Delivery of Bonds. The Issuer shall execute and deliver the Series 1997 A Bonds to the Registrar, and the Registrar shall authenticate, register and deliver the Series 1997 A Bonds to the original purchasers upon receipt of the documents set forth below:

- A. If other than the Authority, a list of the names in which the Series 1997 A Bonds are to be registered upon original issuance, together with such taxpayer identification and other information as the Bond Registrar may reasonably require;
- B. A request and authorization to the Bond Registrar on behalf of the Issuer, signed by an Authorized Officer, to authenticate and deliver the Series 1997 A Bonds to the original purchasers;
- C. An executed and certified copy of the Bond Legislation;
- D. An executed copy of the Loan Agreement; and
- E. The unqualified approving opinion of bond counsel on the Series 1997 A Bonds.

Section 3.10. Form of Bonds. The text of the Series 1997 A Bonds shall be in substantially the following form, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted hereby, or by any Supplemental Resolution adopted prior to the issuance thereof:

(FORM OF BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
CITY OF THOMAS
SEWER REVENUE BOND,
SERIES 1997 A
(WEST VIRGINIA SRF PROGRAM)

No. AR-_____

\$_____

KNOW ALL MEN BY THESE PRESENTS: That the CITY OF THOMAS, a municipal corporation and political subdivision of the State of West Virginia in Tucker County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the West Virginia Water Development Authority (the "Authority") or registered assigns the sum of _____ DOLLARS (\$_____), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing _____ 1, 199____, as set forth on the "Schedule of Annual Debt Service" attached as EXHIBIT B hereto and incorporated herein by reference, with no interest. The SRF Administrative Fee (as defined in the hereinafter described Bond Legislation) shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing _____ 1, 199____, as set forth on EXHIBIT B attached hereto.

Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent").

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Division of Environmental Protection (the "DEP"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement by and among the Issuer, the Authority and the DEP, dated _____, 199____.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of a new public sewerage system for the Issuer (the "Project"); and (ii) to pay

certain costs of issuance of the Bonds of this Series and related costs. The Project, and any further additions, betterments or improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"), and a Bond Ordinance duly enacted by the Issuer on _____, 199____, and a Supplemental Resolution duly adopted by the Issuer on _____, 199____ (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, and from moneys in the reserve account created under the Bond Legislation for the Bonds (the "Series 1997 A Bonds Reserve Account"), and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay all operating expenses of the System and the principal of and interest, if any, on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest, if any, hereon except from said special fund provided from the Net Revenues, the moneys in the Series 1997 A Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds, and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds; provided however, that so long as there exists in the Series 1997 A Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding prior to or on a parity with the Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Bond Legislation, only upon the books of One Valley Bank, National Association, Charleston, West Virginia, as registrar (the "Registrar"), by the

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

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

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law and the Bond Legislation, shall be applied solely to payment of the costs of the Project and costs of issuance hereof described in the Bond Legislation, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the registered 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 at the issuance of this Bond do exist, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the Net Revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of this Bond.

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

IN WITNESS WHEREOF, the CITY OF THOMAS has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed and attested by its Recorder, and has caused this Bond to be dated _____, 199 ____.

[SEAL]

Mayor

ATTEST:

Recorder

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 1997 A Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: _____, 199 ____.

**ONE VALLEY BANK, NATIONAL
ASSOCIATION, as Registrar**

Authorized Officer

EXHIBIT A
RECORD OF ADVANCES

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

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 3.11. Sale of Bonds; Approval and Ratification of Execution of Loan Agreement. The Series 1997 A Bonds shall be sold to the Authority, pursuant to the terms and conditions of the Loan Agreement. If not so authorized by previous ordinance or resolution, the Mayor are specifically authorized and directed to execute the Loan Agreement in the form attached hereto as "Exhibit A" and made a part hereof, and the Recorder is directed to affix the seal of the Issuer, attest the same and deliver the Loan Agreement to the Authority, and any such prior execution and delivery is hereby authorized, approved, ratified and confirmed.

Section 3.12. "Amended Schedule A" Filing. Within 60 days following the Completion Date, the Issuer will file with the Authority a schedule in substantially the form of the "Amended Schedule A" to the Loan Agreement, setting forth the actual costs of the Project and sources of funds therefor.

ARTICLE IV

[RESERVED]

ARTICLE V

FUNDS AND ACCOUNTS; SYSTEM REVENUES AND APPLICATION THEREOF

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

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

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

- (1) Series 1997 A Bonds Sinking Fund; and
- (2) Within the Series 1997 A Bonds Sinking Fund, the Series 1997 A Bonds Reserve Account.

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

- (1) The Issuer shall first, each month, pay from the Revenue Fund the Operating Expenses of the System.
- (2) The Issuer shall next, on the first day of each month, commencing 3 months prior to the first date of payment of principal of the Series 1997 A Bonds, transfer from the Revenue Fund and remit to the Commission for deposit in the Series 1997 A Bonds Sinking Fund, an amount equal to 1/3rd of the amount of principal which will mature and become due on the Series 1997 A Bonds on the next ensuing quarterly principal payment date;

provided that, in the event the period to elapse between the date of such initial deposit in the Series 1997 A Bonds Sinking Fund and the next quarterly principal payment date is less than 3 months, then such monthly payments shall be increased proportionately to provide, 1 month prior to the next quarterly principal payment date, the required amount of principal coming due on such date.

(3) The Issuer shall next, on the first day of each month, commencing 3 months prior to the first date of payment of principal of the Series 1997 A Bonds, if not fully funded upon issuance of the Series 1997 A Bonds, transfer from the Revenue Fund and remit to the Commission for deposit in the Series 1997 A Bonds Reserve Account, an amount equal to 1/120th of the Series 1997 A Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 1997 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 1997 A Bonds Reserve Requirement.

(4) The Issuer shall next, on the first day of each month, commencing with the first month in which principal shall be payable from the Revenue Fund, transfer from the Revenue Fund to the Renewal and Replacement Fund, a sum equal to not less than 2 1/2% of the Gross Revenues each month, exclusive of any payments for account of any Reserve Account. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in accordance with Article VIII hereof. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, repairs, improvements or extensions to the System; provided that, any deficiencies in the Series 1997 A Bonds Reserve Account (except to the extent such deficiency exists because the required payments into such account have not, as of the date of determination of a deficiency, funded such account to the maximum extent required hereof) shall be promptly eliminated with moneys from the Renewal and Replacement Fund.

Moneys in the Series 1997 A Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest, if any, on the Series 1997 A Bonds as the same shall become due. Moneys in the Series 1997 A Bonds Reserve Account shall be used only for the purpose of paying principal of and interest, if any, on the Series 1997 A Bonds as the same shall come due, when other moneys in the Series 1997 A Bonds Sinking Fund are insufficient therefor, and for no other purpose.

All investment earnings on moneys in the Series 1997 A Bonds Sinking Fund and the Series 1997 A Bonds Reserve Account shall be returned, not less

than once each year, by the Commission to the Issuer, and such amounts shall, during construction of the Project, be deposited in the Bond Construction Trust Fund, and following completion of construction of the Project, shall be deposited in the Revenue Fund and applied in full, first to the next ensuing interest payment, if any, due on the Series 1997 A Bonds and then to the next ensuing principal payment due thereon.

Any withdrawals from the Series 1997 A Bonds Reserve Account which result in a reduction in the balance of the Series 1997 A Bonds Reserve Account to below the Series 1997 A Bonds Reserve Requirement shall be subsequently restored from the first Net Revenues available after all required payments have been made in full in the order set forth above.

As and when additional Bonds ranking on a parity with the Bonds are issued, provision shall be made for additional payments into the respective sinking fund sufficient to pay the interest on such additional parity Bonds and accomplish retirement thereof at maturity and to accumulate a balance in the appropriate reserve account in an amount equal to the maximum amount of principal and interest which will become due in any year for account of the Bonds of such series, including such additional Bonds.

The Issuer shall not be required to make any further payments into the Series 1997 A Bonds Sinking Fund or into the Series 1997 A Bonds Reserve Account therein when the aggregate amount of funds therein are at least equal to the aggregate principal amount of the Series 1997 A Bonds issued pursuant to this Bond Legislation then Outstanding and all interest, if any, to accrue until the maturity thereof.

The Commission is hereby designated as the fiscal agent for the administration of the Series 1997 A Bonds Sinking Fund and the Series 1997 A Bonds Reserve Account created hereunder, and all amounts required for said accounts shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein. All remittances made by the Issuer to the Commission shall clearly identify the fund or account into which each amount is to be deposited. If required by the Authority at anytime, the Issuer shall make the necessary arrangements whereby required payments into the Series 1997 A Bonds Sinking Fund and the Series 1997 A Bonds Reserve Account shall be automatically deducted from the Revenue Fund and transferred to the Commission on the dates required hereunder.

Moneys in the Series 1997 A Bonds Sinking Fund and the Series 1997 A Bonds Reserve Account shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

The Series 1997 A Bonds Sinking Fund, including the Series 1997 A Bonds Reserve Account therein, shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Series 1997 A Bonds and any additional Bonds ranking on a parity therewith that may be issued and Outstanding under the conditions and restrictions hereinafter set forth.

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

C. The Issuer shall on the first day of each month (if such day is not a business day, then the next succeeding business day), deposit with the Commission the required interest, principal and reserve payments with respect to the Series 1997 A Bonds and all such payments shall be remitted to the Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of this Bond Legislation. All remittances made by the Issuer to the Commission shall clearly identify the fund or account into which each amount is to be deposited. The Issuer shall on the first day of each month (if such day is not a business day, then the next succeeding business day), deposit with the Commission the SRF Administrative Fee as set forth in Schedule Y attached to the Loan Agreement.

D. The Issuer shall complete the "Monthly Payment Form," a form of which 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 5th day of such calendar month.

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

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

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

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

ARTICLE VI

BOND PROCEEDS; CONSTRUCTION DISBURSEMENTS

Section 6.01. Application of Bond Proceeds; Pledge of Unexpended Bond Proceeds. From the moneys received from the sale of the Series 1997 A Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. From the proceeds of the Series 1997 A Bonds, there shall first be deposited with the Commission in the Series 1997 A Bonds Sinking Fund, the amount, if any, set forth in the Supplemental Resolution as capitalized interest.

B. Next, from the proceeds of the Series 1997 A Bonds, there shall be deposited with the Commission in the Series 1997 A Bonds Reserve Account, the amount, if any, set forth in the Supplemental Resolution for funding of the Series 1997 A Bonds Reserve Account.

C. As the Issuer receives advances of the remaining moneys derived from the sale of the Series 1997 A Bonds, such moneys shall be deposited with the Depository Bank in the Bond Construction Trust Fund and applied solely to payment of the costs of the Project in the manner set forth in Section 6.02 hereof and until so expended, are hereby pledged as additional security for the Series 1997 A Bonds.

D. After completion of construction of the Project, as certified by the Consulting Engineers, and all costs have been paid, any remaining proceeds of the Series 1997 A Bonds shall be used to fund the Series 1997 A Bonds Reserve Account, if not funded upon issuance of the Series 1997 A Bonds, in an amount not to exceed the Series 1997 A Bonds Reserve Requirement; provided that, in no event shall more than 10% of the proceeds of the Series 1997 A Bonds be deposited in the Series 1997 A Bonds Reserve Account.

Section 6.02. Disbursements From the Bond Construction Trust Fund. On or before the Closing Date, the Issuer shall have delivered to the Authority and the DEP a report listing the specific purposes for which the proceeds of the Series 1997 A Bonds will be expended and the disbursement procedures for such proceeds, including an estimated monthly draw schedule. Payments for the costs of the Project shall be made monthly.

Except as provided in Section 6.01 hereof, disbursements from the Bond Construction Trust Fund shall be made only after submission to, and approval from, the Authority and the DEP of the following:

(1) a completed and signed "Payment Requisition Form," a form of which is attached to the Loan Agreement as Exhibit C, and

(2) a certificate, signed by an Authorized Officer and the Consulting Engineers, stating:

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

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

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

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

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 VII

ADDITIONAL COVENANTS OF THE ISSUER

Section 7.01. General Covenants of the Issuer. All the covenants, agreements and provisions of this Bond Legislation shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any Holder or Holders of the Series 1997 A Bonds. In addition to the other covenants, agreements and provisions of this Bond Legislation, the Issuer hereby covenants and agrees with the Holders of the Series 1997 A Bonds as hereinafter provided in this Article VII. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of the Series 1997 A Bonds or the interest, if any, thereon is Outstanding and unpaid.

Section 7.02. Bonds not to be Indebtedness of the Issuer. The Series 1997 A 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 Bond Legislation. No Holder or Holders of the Series 1997 A Bonds, shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 1997 A Bonds or the interest, if any, thereon.

Section 7.03. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of the Series 1997 A Bonds shall be secured by a first lien on the Net Revenues derived from the operation of the System. The Net Revenues in an amount sufficient to pay the principal of and interest, if any, on the Series 1997 A Bonds and to make the payments into all funds and accounts and all other payments provided for in the Bond Legislation, are hereby irrevocably pledged, in the manner provided herein, to such payments as they become due, and for the other purposes provided in the Bond Legislation.

Section 7.04. 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 sewer rate ordinance of the Issuer duly enacted on September 24, 1996.

Section 7.05. Sale of the System. So long as the Series 1997 A Bonds are outstanding and except as otherwise required by law or with the written consent of the Authority, the System may not be sold, mortgaged, leased or otherwise disposed of except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to pay fully all the Bonds Outstanding, or to effectively defease this Bond Legislation in accordance with Article X hereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall, with respect to the Series 1997 A Bonds, immediately be remitted to the Commission for deposit in the sinking fund, and, with the written permission of the Authority, or in the event the Authority is no longer a

Bondholder, the Issuer shall direct the Commission to apply such proceeds to the payment of principal of and interest, if any, on the Bonds. Any balance remaining after the payment of all the Bonds and interest, if any, thereon shall be remitted to the Issuer by the Commission unless necessary for the payment of other obligations of the Issuer payable out of the revenues of the System.

The foregoing provision notwithstanding, the Issuer shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. Prior to any such sale, lease or other disposition of such property, if the amount to be received therefor is not in excess of \$50,000, the Issuer shall, by resolution duly adopted, determine that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof, and the Issuer may then provide for the sale of such property. The proceeds of any such sale shall be deposited in the Renewal and Replacement Fund. If the amount to be received from such sale, lease or other disposition of said property shall be in excess of \$50,000 but not in excess of \$200,000, the Issuer shall first, in writing, determine, upon consultation with the Consulting Engineers, that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof, and the Issuer may then, if it be so advised, by resolution duly adopted, authorize such sale, lease or other disposition of such property in accordance with the laws of the State. The proceeds of any such sale shall be deposited in the Renewal and Replacement Fund. The payment of such proceeds into the Renewal and Replacement Fund shall not reduce the amount required to be paid into such fund by other provisions of this Bond Legislation.

No sale, lease or other disposition of the properties of the System shall be made by the Issuer if the proceeds to be derived therefrom shall be in excess of \$200,000 and insufficient to pay all Bonds then Outstanding, without the prior approval and consent in writing of the Holders, or their duly authorized representatives, of the Bonds then Outstanding. The Issuer shall prepare the form of such approval and consent for execution by the then Holders of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 7.06. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. Except as provided for in Section 7.06 and Section 7.07 hereof, the Issuer shall not issue any other obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Bonds. All obligations issued by the Issuer after the issuance of the Bonds and payable from the revenues of the System, except such additional parity Bonds, shall contain an express statement that such obligations are junior and subordinate, as to lien on and source of and security for payment from such revenues and in all other respects, to the Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into all funds and accounts established by this

Bond Legislation have been made and are current at the time of the issuance of such subordinate obligations.

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

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

Section 7.07. Parity Bonds. No Parity Bonds, payable out of the revenues of the System, shall be issued after the issuance of the Series 1997 A Bonds pursuant to this Bond Legislation, without the prior written consent of the Authority and the DEP and without complying with the conditions and requirements herein provided.

All Parity Bonds issued hereunder shall be on a parity in all respects with the Series 1997 A Bonds.

No such Parity Bonds shall be issued except for the purpose of financing the costs of design, acquisition or construction of additions, extensions, improvements or betterments to the System or refunding the Series 1997 A Bonds issued pursuant hereto, 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 the Independent Certified Public Accountants reciting the conclusion that the Net Revenues actually derived, subject to the adjustments hereinafter provided for, from the System during any 12 consecutive months, within the 18 months immediately preceding the date of the actual issuance of such Parity Bonds, plus the estimated average increased annual Net Revenues expected to be received in each of the 3 succeeding years after the date of issuance of such Parity Bonds, if any, shall be not less than 115% of the largest aggregate amount that will mature and become due in any succeeding Fiscal Year for principal of and interest on the following:

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

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

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

All covenants and other provisions of this Bond Legislation (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the Holders of the Bonds and the Holders of any Parity Bonds subsequently issued from time to time within the limitations of and in compliance with this section. All the Series 1997 A Bonds, regardless of the time or times of their issuance, shall rank equally with respect to their lien on the Net Revenues of the System, and their source of and security for payment from the Net Revenues, without preference of any Bond over any other. The Issuer shall comply fully with all the increased payments into the various funds and accounts created in this Bond Legislation required for and on account of such Parity Bonds, in addition to the payments required for Bonds theretofore issued pursuant to this Bond Legislation.

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on the revenues of the System is subject to the prior and superior lien of the Series 1997 A Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from revenues of the System, or any part thereof, which rank prior to or, except in the manner and under the conditions provided in this section, equally, as to lien on and source of and security for payment from such revenues, with the Series 1997 A Bonds.

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

Section 7.08. 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 or any grants 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 Holder of a Bond or Bonds issued pursuant to this Bond Legislation shall have the right at all reasonable times to inspect the System and all parts thereof and all records, accounts and data of the Issuer relating thereto.

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

The Issuer shall file with the Consulting Engineers, the Authority and the DEP, or any other original purchaser of the Series 1997 A Bonds, and shall mail in each year to any Holder or Holders of the Series 1997 A Bonds, requesting the same, an annual report containing the following:

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

(B) A balance sheet statement showing all deposits in all the funds and accounts provided for in this Bond Legislation and the status of all said funds and accounts.

(C) The amount of any Bonds, notes or other obligations payable from the revenues of the System outstanding.

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be audited by Independent Certified Public Accountant in compliance with OMB Circular 128, or any successor thereof, and the Single Audit Act and shall mail upon request, and make available generally, the report of the Independent Certified Public Accountant, or a summary thereof, to any Holder or Holders of the Series 1997 A Bonds and shall submit said report to the Authority and the DEP, or any other original purchaser of the Series 1997 A Bonds. Such audit report submitted to the Authority and the DEP shall include a statement that the Issuer is in compliance with the terms and provisions of the Act, the Loan Agreement and this Bond Legislation and that the revenues of the System are adequate to meet the Issuer's Operating Expenses and debt service and reserve requirements.

The Issuer 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 Issuer 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 Issuer 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 7.09. Rates. Equitable rates or charges for the use of and service rendered by the System have been established all in the manner and form required by law, and copies of such rates and charges so established will be continuously on file with the Recorder, which copies will be open to inspection by all interested parties. The schedule of rates and charges shall at all times be adequate to produce Gross Revenues from said System sufficient to pay Operating Expenses and to make the prescribed payments into the funds created hereunder. Such schedule of rates and charges shall be changed and readjusted whenever necessary so that the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and continuous performance of this covenant, with a margin for contingencies and temporary unanticipated reduction in income and revenues, the Issuer hereby covenants and agrees that the schedule of rates or charges from time to time in effect shall be sufficient, together with other revenues of the System (i) to provide for all Operating Expenses of the System and (ii) to leave a balance each year equal to at least 115% of the maximum amount required in any year for payment of principal of and interest, if any, on the Series 1997 A Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Series 1997 A Bonds; provided that, in the event that an amount equal to the Series 1997 A Bonds Reserve Requirement is on deposit in the

Series 1997 A Reserve Account and any reserve accounts for obligations prior to or on a parity with the Series 1997 A Bonds are funded at least at the requirement therefor, such balance each year need only equal at least 110% of the maximum amount required in any year for payment of principal of and interest, if any, on the Series 1997 A Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds. In any event, the Issuer shall not reduce the rates or charges for services set forth in the rate ordinance described in Section 7.04.

Section 7.10. Operating Budget; Audit and Monthly Financial Report.

The Issuer shall annually, at least 45 days preceding the beginning of each Fiscal Year, prepare and adopt by resolution a detailed, balanced budget of the estimated revenues and expenditures for operation and maintenance of the System during the succeeding Fiscal Year and shall submit a copy of such budget to the Authority and the DEP within 30 days of adoption thereof. No expenditures for the operation and maintenance of the System shall be made in any Fiscal Year in excess of the amounts provided therefor in such budget without a written finding and recommendation by a registered professional engineer, which finding and recommendation shall state in detail the purpose of and necessity for such increased expenditures for the operation and maintenance of the System, and no such increased expenditures shall be made until the Issuer shall have approved such finding and recommendation by a resolution duly adopted. No increased expenditures in excess of 10% of the amount of such budget shall be made except upon the further certificate of a registered professional engineer that such increased expenditures are necessary for the continued operation of the System. The Issuer shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the Authority, the DEP and to any Holder of any Bonds who shall file his or her address with the Issuer and request in writing that copies of all such budgets and resolutions be furnished him or her and shall make available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to any Holder of any Bonds or anyone acting for and in behalf of such Holder of any Bonds.

In addition, the Issuer shall annually cause the records of the System to be audited by an Independent Certified Public Accountant in compliance with OMB Circular 128, or any successor thereto, and the Single Audit Act, the report of which audit shall be submitted to the Authority and which audit report shall include a statement that the Issuer is in compliance with the terms and provisions of the Act, this Bond Legislation and the Loan Agreement and that the revenues of the System are adequate to meet the Issuer's Operating Expenses and debt service and reserve requirements.

Commencing on the date contracts are executed for the acquisition and construction of the Project and for 2 years following the completion of the Project, the Issuer shall each month complete a "Monthly Financial Report," a form of which is attached to the Loan Agreement as Exhibit B, and forward a copy of such report to the Authority and the DEP by the 10th day of each month.

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

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, which have been approved by all necessary governmental bodies. Such resident engineer shall certify to the Authority, the DEP and the Issuer at the completion of construction that construction of the Project 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," a form of which is attached to the Loan Agreement as Exhibit A, 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 shall employ qualified operating personnel properly certified by the State before the Project is 25% complete and shall retain such a certified operator 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 7.12. No Competing Franchise. To the extent legally allowable, the Issuer will not grant or cause, consent to or allow the granting of, any franchise or permit to any person, firm, corporation, body, agency or instrumentality whatsoever for the providing of any services which would compete with services provided by the System.

Section 7.13. Enforcement of Collections. The Issuer will diligently enforce and collect all fees, rentals or other charges for the services and facilities of the System, and take all steps, actions and proceedings for the enforcement and collection of such

fees, rentals or other charges which shall become delinquent to the full extent permitted or authorized by the Act, the rules and regulations of the Public Service Commission of West Virginia and other laws of the State of West Virginia.

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

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

Section 7.15. Insurance and Construction Bonds. A. The Issuer hereby covenants and agrees that so long as the Series 1997 A Bonds remain Outstanding, the Issuer will, as an Operating Expense, procure, carry and maintain insurance with a reputable insurance carrier or carriers as is customarily covered with respect to works and properties similar to the System. Such insurance shall initially cover the following risks and be in the following amounts:

(1) FIRE, LIGHTNING, VANDALISM, MALICIOUS MISCHIEF AND EXTENDED COVERAGE INSURANCE, on all above-ground insurable portions of the System in an amount equal to the actual cost thereof. In time of war the Issuer will also carry and maintain insurance to the extent available against the risks and hazards of war. The proceeds of all such insurance policies shall be placed in the Renewal and Replacement Fund and used only for the repairs and restoration of the damaged or destroyed properties or for the other purposes provided herein for the Renewal and Replacement Fund. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance (fire and extended coverage) to protect the interests of the Issuer, the Authority, the prime contractor and all subcontractors as their respective interests may appear, in accordance with the Loan Agreement, during construction of the Project on a 100% basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Issuer, the contractors and subcontractors, as their interests may appear.

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

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

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

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

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

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

The Issuer shall also require all contractors engaged in the construction of the Project to carry such worker's compensation coverage for all employees working on the Project and public liability insurance, vehicular liability insurance and property damage insurance in amounts adequate for such purposes and as is customarily carried with respect to works and properties similar to the Project; provided that the amounts and terms of such coverage are satisfactory to the Authority and the DEP. In the event the Loan Agreement so requires, such insurance shall be made payable to the order of the Authority, the Issuer, the prime contractor and all subcontractors, as their interests may appear.

Section 7.16. Mandatory Connections. The mandatory use of the sewerage facilities portion of the System is essential and necessary for the protection and preservation of the public health, comfort, safety, convenience and welfare of the inhabitants and residents of, and the economy of, the Issuer and in order to assure the rendering harmless of sewage and water-borne waste matter produced or arising within the territory served by the System. Accordingly, every owner, tenant or occupant of any house, dwelling or building located near the System, where sewage will flow by gravity or be transported by such other methods approved by the State Division 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 matters from such house, dwelling or building where there is such gravity flow or transportation by such other method approved by the State Division 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 7.17. Completion of Project; Permits and Orders. The Issuer will complete the Project as promptly as possible and operate and maintain the System as a revenue-producing utility in good condition and in compliance with all federal and state requirements and standards.

The Issuer will obtain all permits required by state and federal laws for the acquisition and construction of the Project and all orders and approvals from the West Virginia Public Service Commission necessary for the acquisition and construction of the Project and the operation of the System.

Section 7.18. Compliance with Loan Agreement and Law. The Issuer agrees to comply with all the terms and conditions of the Loan Agreement and the Act. Notwithstanding anything herein to the contrary, the Issuer will provide the DEP with copies of all documents submitted to the Authority.

The Issuer also agrees to comply with all applicable laws, rules and regulations issued by the Authority, the DEP or other state, federal or local bodies in regard to the acquisition and construction of the Project and the operation, maintenance and use of the System.

Section 7.19. Tax Covenants. The Issuer hereby further covenants and agrees as follows:

A. **PRIVATE BUSINESS USE LIMITATION.** The Issuer shall assure that (i) not in excess of 10% of the Net Proceeds of the Series 1997 A Bonds are used for Private Business Use if, in addition, the payment of more than 10% of the principal or 10% of the interest due on the Series 1997 A Bonds during the term thereof is, under the terms of the Series 1997 A Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for a Private Business Use or in payments in respect of property used or to be used for a Private Business Use or is to be derived from payments, whether or not to the Issuer, in respect of property or borrowed money used or to be used for a Private Business Use; and (ii) and that, in the event that both (A) in excess of 5% of the Net Proceeds of the Series 1997 A Bonds are used for a Private Business Use, and (B) an amount in excess of 5% of the principal or 5% of the interest due on the Series 1997 A Bonds during the term thereof is, under the terms of the Series 1997 A Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for said Private Business Use or in payments in respect of property used or to be used for said Private Business Use or is to be derived from payments, whether or not to the Issuer, in respect of property or borrowed money used or to be used for said Private Business Use, then said excess over said 5% of Net Proceeds of the Series 1997 A Bonds used for a Private

Business Use shall be used for a Private Business Use related to the governmental use of the Project, or if the Series 1997 A Bonds are for the purpose of financing more than one project, a portion of the Project, and shall not exceed the proceeds used for the governmental use of that portion of the Project to which such Private Business Use is related, all of the foregoing to be determined in accordance with the Code.

B. PRIVATE LOAN LIMITATION. The Issuer shall assure that not in excess of 5% of the Net Proceeds of the Series 1997 A Bonds are used, directly or indirectly, to make or finance a loan (other than loans constituting Nonpurpose Investments) to persons other than state or local government units.

C. FEDERAL GUARANTEE PROHIBITION. The Issuer shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Series 1997 A Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

D. INFORMATION RETURN. The Issuer will file all statements, instruments and returns necessary to assure the tax-exempt status of the Series 1997 A Bonds and the interest, if any, thereon, including, without limitation, the information return required under Section 149(e) of the Code.

E. FURTHER ACTIONS. The Issuer will take any and all actions that may be required of it (including, without limitation, those deemed necessary by the Authority) so that the interest, if any, on the Series 1997 A Bonds will be and remain excludable from gross income for federal income tax purposes, and will not take any actions, or fail to take any actions (including, without limitation, those deemed necessary by the Authority), the result of which would adversely affect such exclusion.

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

ARTICLE VIII

INVESTMENT OF FUNDS; NON ARBITRAGE

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

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

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

Section 8.02. Arbitrage and Tax Exemption. The Issuer covenants that (i) it shall not take, or permit or suffer to be taken, any action with respect to the gross or other proceeds of the Series 1997 A Bonds which would cause the Series 1997 A Bonds to be "arbitrage bonds" within the meaning of 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 Series 1997 A Bonds) so that the interest, if any, on the Series 1997 A Bonds will be and remain excludable from gross income for

federal income tax purposes, and will not take any actions which would adversely affect such exclusion.

Section 8.03. Small Issuer Exemption from Rebate of Excess Investment Earnings to the United States. In accordance with Section 148 (f)(4)(D) of the Code, the Issuer covenants that it is a governmental unit with general taxing powers; that no part of the Series 1997 A Bonds are private activity bonds; that 95% or more of the Net Proceeds of the Series 1997 A Bonds are to be used for local governmental activities of the Issuer (or of a governmental unit the jurisdiction of which is entirely within the jurisdiction of the Issuer); and that the aggregate face amount of all the tax-exempt obligations (other than private activity bonds) issued by the Issuer during the calendar year in which the Series 1997 A Bonds are issued does not and will not exceed \$5,000,000, determined in accordance with Section 148(f)(4)(D) of the Code and the Regulations from time to time in effect and applicable to the Series 1997 A Bonds. For purposes of the first paragraph of Section 8.03 and for purposes of applying Section 148(f)(4)(D) of the Code, the Issuer and all entities which issue obligations on behalf of the Issuer shall be treated as one issuer; all obligations issued by a governmental unit to make loans to other governmental units with general taxing powers not subordinate to such unit shall, for purposes of applying this first paragraph of Section 8.03 and Section 148(f)(4)(D) of the Code, be treated as not issued by such unit; all obligations issued by a subordinate entity shall, for purposes of applying this first paragraph of Section 8.03 and Section 148(f)(4)(D) of the Code to each other entity to which such entity is subordinate, be treated as issued by such other entity; and an entity formed (or, to the extent provided by the Secretary, as set forth in the Code, availed of) to avoid the purposes of such Section 148(f)(4)(D) of the Code and all other entities benefiting thereby shall be treated as one issuer.

Notwithstanding the foregoing, if in fact the Issuer is subject to the rebate requirements of Section 148(f) of the Code, and not exempted from such requirements, the Issuer covenants to make, or cause to be made, all rebate calculations, computations and payments in the time, manner and as required in Section 148(f) of the Code and the Regulations from time to time in effect and applicable to the Series 1997 A Bonds and otherwise covenants and agrees to comply with the provisions of such Section 148(f) of the Code and the Regulations from time to time in effect and applicable to the Series 1997 A Bonds. In the event of a failure to pay the correct rebate amount, the Issuer will pay from any lawful sources available therefor, to the United States such amount, plus a penalty equal to 50% of the rebate amount not paid, plus interest on that amount unless waived. In order to provide for the administration of this paragraph, the Issuer may provide for the employment of independent attorneys, accountants and consultants compensated on such reasonable basis as the Issuer may deem appropriate.

The Issuer shall furnish to the Authority, annually, and at such time as it is required to perform its rebate calculations under the Code, a certificate with respect to its rebate calculations and, at any time, any additional information relating thereto as may be

requested by the Authority. In addition, the Issuer shall cooperate with the Authority in preparing any required rebate calculations and in all other respects in connection with rebates and hereby consents to the performance of all matters in connection with such rebates by the Authority at the expense of the Issuer.

The Issuer shall submit to the Authority within 15 days following the end of each Bond Year a certified copy of its rebate calculation or, if the Issuer qualifies for the small governmental issue exception to rebate, the Issuer shall submit a certificate stating that it is exempt from the rebate provisions and that no event has occurred to its knowledge during the Bond Year which would make the Series 1997 A Bonds subject to rebate. The Issuer shall also furnish 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 such term "gross proceeds" is defined in the Code).

ARTICLE IX

DEFAULT AND REMEDIES

Section 9.01. Events of Default. Each of the following events shall constitute an "Event of Default" with respect to the Series 1997 A Bonds:

(1) If default occurs in the due and punctual payment of the principal of or interest, if any, on any Series 1997 A Bonds; or

(2) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on their respective parts relating to the Series 1997 A Bonds set forth in this Bond Legislation, any supplemental resolution or in the Series 1997 A Bonds, and such default shall have continued for a period of 30 days after the Issuer or Issuer, as appropriate shall have been given written notice of such default by the Commission, the Depository Bank, the Registrar, the Paying Agent or any other Paying Agent or a Holder of a Bond; or

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

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

Section 9.03. Appointment of Receiver. Any Registered Owner of a Bond may, by proper legal action, compel the performance of the duties of the Issuer under the Bond Legislation and the Act, including, the completion of the Project and after commencement of operation of the System, the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any Event of Default with respect to such Bonds, any

Registered Owner of a Bond shall, in addition to all other remedies or rights, have the right by appropriate legal proceedings to obtain the appointment of a receiver to administer the System or to complete the acquisition and construction of the Project on behalf of the Issuer, with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of Operating Expenses of the System, the payment of the Bonds and interest and the deposits into the funds and accounts hereby established, and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of this Bond Legislation and the Act.

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

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

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

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

ARTICLE X

DEFEASANCE

Section 10.01. Defeasance of Bonds. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the Holders of the Series 1997 A Bonds, the principal of and interest due or to become due thereon, if any, at the times and in the manner stipulated therein and in this Bond Legislation, then the pledge of Net Revenues and other moneys and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series 1997 A Bonds shall thereupon cease, terminate and become void and be discharged and satisfied, except as may otherwise be necessary to assure the exclusion of interest, if any, on the Series 1997 A Bonds from gross income for federal income tax purposes.

Series 1997 A Bonds for the payment of which either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the Paying Agent at the same or earlier time, shall be sufficient, to pay as and when due either at maturity or at the next redemption date, the principal installments of and interest on such Series 1997 A Bonds shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section. All Series 1997 A Bonds shall, prior to the maturity thereof, be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section if there shall have been deposited with the Commission or its agent, either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with other moneys, if any, deposited with the Commission at the same time, shall be sufficient to pay when due the principal installments of and interest, if any, due and to become due on said Series 1997 A Bonds on and prior to the next redemption date or the maturity dates thereof. Neither securities nor moneys deposited with the Commission pursuant to this section nor principal or interest payments on any such securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal installments of and interest on said Series 1997 A Bonds; provided, that any cash received from such principal or interest payments on such securities deposited with the Commission or its agent, if not then needed for such purpose, shall, to the extent practicable, be reinvested in securities maturing at times and in amounts sufficient to pay when due the principal installments of and interest, if any, to become due on the Series 1997 A Bonds on and prior to the next redemption date or the maturity dates thereof, and interest earned from such reinvestments shall be paid over to the Issuer as received by the Commission or its agent, free and clear of any trust, lien or pledge. For the purpose of this section, securities shall mean and include only Government Obligations.

ARTICLE XI

MISCELLANEOUS

Section 11.01. Amendment or Modification of Bond Legislation. Prior to the issuance of the Bonds, this Ordinance may be amended or supplemented in any way by the Supplemental Resolution. Following issuance of the Bonds, no material modification or amendment of this Ordinance, or of any ordinance, resolution or order amendatory or supplemental hereto, that would materially and adversely affect the respective rights of Registered Owners of the Bonds shall be made without the consent in writing of the Registered Owners of 66-2/3% or more in principal amount of the Bonds so affected and then Outstanding; provided, that no change shall be made in the maturity of any Bond or Bonds or the rate of interest, if any, thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest, if any, out of the funds herein respectively pledged therefor without the consent of the respective Registered Owner thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of Bonds required for consent to the above-permitted amendments or modifications. Notwithstanding the foregoing, this Bond Legislation may be amended without the consent of any Bondholder as may be necessary to assure compliance with Section 148(f) of the Code relating to rebate requirements or otherwise as may be necessary to assure the excludability of interest, if any, on the Series 1997 A Bonds from gross income of the holders thereof.

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

Section 11.03. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Ordinance should be held invalid by any court of competent jurisdiction, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance, the Supplemental Resolution or the Series 1997 A Bonds.

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

Section 11.05. Conflicting Provisions Repealed. All ordinances, orders or resolutions and or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

Section 11.06. Covenant of Due Procedure, Etc. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the adoption of this Ordinance do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Mayor, the Recorder and members of the Governing Body were at all times when any actions in connection with this Ordinance occurred and are duly in office and duly qualified for such office.

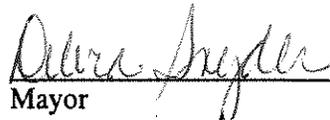
Section 11.07. Effective Date. This Ordinance shall take effect immediately following public hearing and final reading hereof.

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

Passed on First Reading: November 11, 1997

Passed on Second Reading: November 25, 1997

Passed on Final Reading
Following Public
Hearing: December 9, 1997



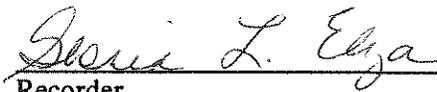
Mayor

CERTIFICATION

Certified a true copy of an Ordinance duly enacted by the Council of the CITY OF THOMAS on the 9th day of December, 1997.

Dated: December 17, 1997.

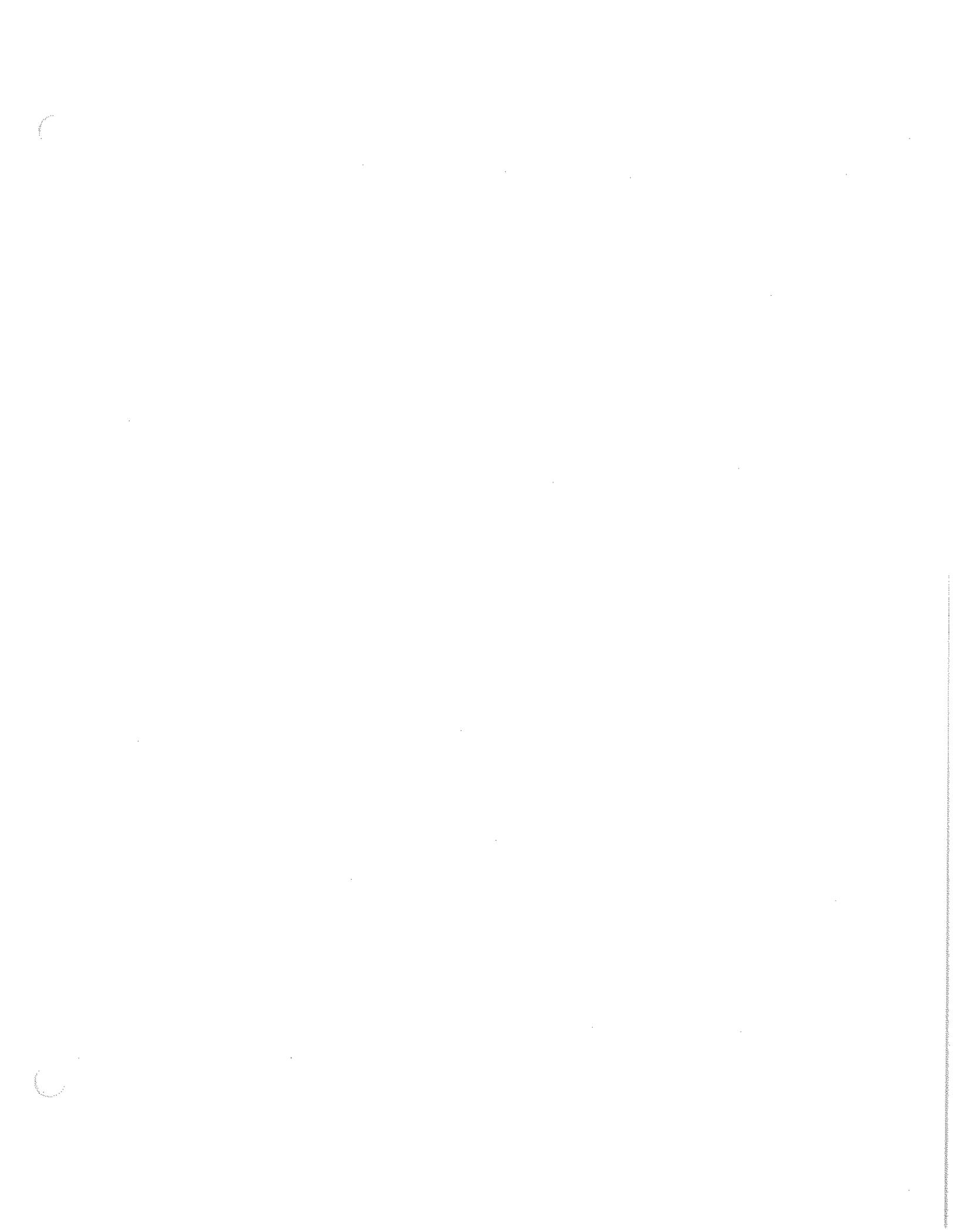
[SEAL]


Recorder

10/28/97
896820/94001

EXHIBIT A

Loan Agreement is included in bond transcript as Document 3.



CITY OF THOMAS

Sewer Revenue Bonds, Series 1997 A
(West Virginia SRF Program)

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNT, DATE, MATURITY DATE, INTEREST RATE, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICE AND OTHER TERMS OF THE SEWER REVENUE BONDS, SERIES 1997 A (WEST VIRGINIA SRF PROGRAM), OF THE CITY OF THOMAS; RATIFYING AND APPROVING A LOAN AGREEMENT RELATING TO SUCH BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the city council (the "Governing Body") of the City of Thomas (the "Issuer"), has duly and officially adopted and enacted a bond ordinance, effective December 9, 1997 (the "Bond Ordinance"), entitled:

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF A NEW PUBLIC SEWERAGE SYSTEM OF THE CITY OF THOMAS AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$1,500,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 1997 A (WEST VIRGINIA SRF PROGRAM); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE

Section 8. Series 1997 A Bonds proceeds in the amount of \$-0- shall be deposited in the Series 1997 A Bonds Sinking Fund, as capitalized interest.

Section 9. Series 1997 A Bonds proceeds in the amount of \$-0- shall be deposited in the Series 1997 A Bonds Reserve Account.

Section 10. The balance of the proceeds of the Bonds shall be deposited in or credited to the Bond Construction Trust Fund as received from time to time for payment of the costs of the Project, including costs of issuance of the Bonds and related costs.

Section 11. The Mayor and the Recorder are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Bonds hereby and by the Bond Ordinance approved and provided for, to the end that the Bonds may be delivered on or about December 17, 1997, to the Authority pursuant to the Loan Agreement.

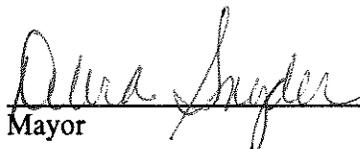
Section 12. The acquisition and construction of the Project and the financing thereof in part with proceeds of the Bonds is in the public interest, serves a public purpose of the Issuer and will promote the health, welfare and safety of the residents of the Issuer.

Section 13. The Issuer does hereby ratify, approve and accept all contracts relating to the financing, acquisition and construction of the Project.

Section 14. The Issuer hereby determines to invest all moneys in the funds and accounts established by the Bond Ordinance held by the Depository Bank until expended, in repurchase agreements or time accounts, secured by a pledge of Government Obligations, and therefore, the Issuer hereby directs the Depository Bank to take such actions as may be necessary to cause such moneys to be invested in such repurchase agreements or time accounts until further directed in writing by the Issuer. Moneys in the Series 1997 A Bonds Sinking Fund, including the Series 1997 A Bonds Reserve Account therein, shall be invested by the West Virginia Municipal Bond Commission in the West Virginia Consolidated Fund.

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

Adopted this 9th day of December, 1997.



Mayor

TERMS AND PROVISIONS OF SUCH BONDS AND
ADOPTING OTHER PROVISIONS RELATING THERETO.

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

WHEREAS, the Bond Ordinance provides for the issuance of Sewer Revenue Bonds, Series 1997 A (West Virginia SRF Program), of the Issuer, in the aggregate principal amount not to exceed \$1,500,000 and has authorized the execution and delivery of a loan agreement relating to the Bonds (the "Loan Agreement"), by and among the Issuer, the West Virginia Water Development Authority (the "Authority") and the West Virginia Division of Environmental Protection (the "DEP"), all in accordance with Chapter 16, Article 13 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"); and in the Bond Ordinance it is provided that the form of the Loan Agreement and the exact principal amount, date, maturity date, interest rate, interest and principal payment dates, sale price and other terms of the Bonds should be established by a supplemental resolution pertaining to the Bonds; and that other matters relating to the Bonds be herein provided for;

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

WHEREAS, the Bonds are proposed to be purchased by the Authority pursuant to the Loan Agreement; and

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

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

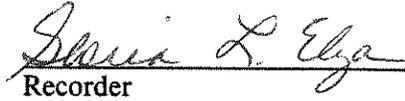
Section 1. Pursuant to the Bond Ordinance and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the Sewer

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Council of the City of Thomas on the 9th day of December, 1997.

Dated: December 17, 1997.

[SEAL]


Recorder

11/03/97
896820/94001

Revenue Bonds, Series 1997 A (West Virginia SRF Program), of the Issuer, originally represented by a single Bond, numbered AR-1, in the principal amount of \$1,500,000. The Bonds shall be dated the date of delivery thereof, shall finally mature June 1, 2019, and shall bear no interest. The principal of the Bonds shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 1999, and ending June 1, 2019, and in the amounts as set forth in "Schedule Y" attached to the Loan Agreement and incorporated in and made a part of the Bonds. The Bonds shall be subject to redemption upon the written consent of the Authority and the DEP, and upon payment of the redemption premium, if any, and otherwise in compliance with the Loan Agreement, so long as the Authority shall be the registered owner of the Bonds.

Section 2. All other provisions relating to the Bonds and the text of the Bonds shall be in substantially the form provided in the Bond Ordinance.

Section 3. The Issuer does hereby approve and shall pay the administrative fee equal to 1% of the principal amount of the Bonds set forth in the "Schedule Y" attached to the Loan Agreement.

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

Section 5. The Issuer does hereby appoint and designate One Valley Bank, National Association, Charleston, West Virginia, to serve as Registrar (the "Registrar") for the Bonds under the Bond Ordinance and does approve and accept the Registrar's Agreement to be dated the date of delivery of the Bonds, by and between the Issuer and the Registrar, and the execution and delivery of the Registrar's Agreement by the Mayor, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, approved and directed.

Section 6. The Issuer does hereby appoint and designate the West Virginia Municipal Bond Commission, Charleston, West Virginia, to serve as Paying Agent for the Bonds under the Bond Ordinance.

Section 7. The Issuer does hereby appoint and designate Miners & Merchants Bank, Thomas, West Virginia, to serve as Depository Bank under the Bond Ordinance.

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 Bureau of Environment (the "DEP"), and the local government designated below (the "Local Government").

CITY OF THOMAS
(Local Government)

WITNESSETH:

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 planning, design, construction, acquisition and/or 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 Loan with attachments and exhibits and an Amended Application for a 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 the 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, 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 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 the same or of a different section, subsection, paragraph, clause, phrase or other provision of this Loan Agreement.

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

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

7.7 This Loan Agreement shall terminate upon the earlier of:

(i) written notice of termination to the Local Government from either the Authority or DEP;

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

(iii) payment in full of the principal of and interest on the Loan and of any fees and charges owed by the Local Government to the Authority or DEP; provided that the amount of the Loan made under this Loan Agreement in any succeeding fiscal year is contingent upon funds being appropriated by the legislature or otherwise being available to make the Loan. In the event funds are not appropriated or otherwise available to make all of the Loan, the responsibility of the Authority and DEP to make all the Loan is terminated; provided further that the obligation of the Local Government to repay the amount of the Loan made by the Authority and DEP as set forth in (iii) above is not terminated due to such non-funding on any balance on the Loan. The DEP agrees to use its best efforts to have the amount contemplated under this Loan Agreement included in its budget. Non-appropriation or non-funding shall not be considered an event of default under the Loan Agreement.

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

City of Thomas
[Proper Name of Local Government]

(SEAL)

By: *Delva Snyder*
Its: Mayor

Attest:

Date: October 30, 1997

Sandra L. Ely
Its Recorder

WEST VIRGINIA DIVISION OF ENVIRONMENTAL PROTECTION

By: *Barbara J. Jule*
Its: Chief, Office of Water Resources

Date: 11/3/97

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

(SEAL)

By: *Daniel B. Zerkosky*
Its: Director

Attest:

Date: October 24, 1997

Barbara B. Meadows
Secretary-Treasurer

APPROVED AS TO FORM PRIOR TO
ACKNOWLEDGEMENT THEREOF, THIS
25th day of September 97
DARRELL V. MCGRAW, JR.
ATTORNEY GENERAL
By: *Dawn Wayfield*
DEPUTY ATTORNEY GENERAL

EXHIBIT A

[Form of Performance Certificate]

[TO BE PROVIDED BY DEP]

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>BUDGET 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 ____, ____.

[Name of Local Government]

By: _____
Authorized Officer

EXHIBIT C

PAYMENT REQUISITION FORM

(All Copies 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

A. 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.

B. **AUDIT REQUIREMENT** (Supplement to Article IV 4.1 (b) (xi)) - The loan recipient that receives \$25,000 or more in a fiscal year must obtain audits in accordance with the Single Audit Act of 1984 and OMB Circular 128. Financial statement audits are required once all funds have been received by the loan recipient.

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	\$ 1,500,000
Purchase Price of Bonds	\$ 1,500,000

Interest on the Bonds shall be zero percent from the date of delivery ~~to and including~~ Sept. 1, 1999. ~~Principal and interest on the Bonds is payable quarterly,~~ Principal and interest on the Bonds is payable quarterly, commencing Sept. 1, 1999, at a rate of 0% 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 [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]. (See attached schedule)

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.

SCHEDULE Y

Thomas, West Virginia
 \$1,500,000.00 SRF Loan
 20 Years, 0% Interest, 1% Admin. Fee

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Total P+I
6/01/1999	-	-	-
9/01/1999	18,750.00	-	18,750.00
12/01/1999	18,750.00	-	18,750.00
3/01/2000	18,750.00	-	18,750.00
6/01/2000	18,750.00	-	18,750.00
9/01/2000	18,750.00	-	18,750.00
12/01/2000	18,750.00	-	18,750.00
3/01/2001	18,750.00	-	18,750.00
6/01/2001	18,750.00	-	18,750.00
9/01/2001	18,750.00	-	18,750.00
12/01/2001	18,750.00	-	18,750.00
3/01/2002	18,750.00	-	18,750.00
6/01/2002	18,750.00	-	18,750.00
9/01/2002	18,750.00	-	18,750.00
12/01/2002	18,750.00	-	18,750.00
3/01/2003	18,750.00	-	18,750.00
6/01/2003	18,750.00	-	18,750.00
9/01/2003	18,750.00	-	18,750.00
12/01/2003	18,750.00	-	18,750.00
3/01/2004	18,750.00	-	18,750.00
6/01/2004	18,750.00	-	18,750.00
9/01/2004	18,750.00	-	18,750.00
12/01/2004	18,750.00	-	18,750.00
3/01/2005	18,750.00	-	18,750.00
6/01/2005	18,750.00	-	18,750.00
9/01/2005	18,750.00	-	18,750.00
12/01/2005	18,750.00	-	18,750.00
3/01/2006	18,750.00	-	18,750.00
6/01/2006	18,750.00	-	18,750.00
9/01/2006	18,750.00	-	18,750.00
12/01/2006	18,750.00	-	18,750.00
3/01/2007	18,750.00	-	18,750.00
6/01/2007	18,750.00	-	18,750.00
9/01/2007	18,750.00	-	18,750.00
12/01/2007	18,750.00	-	18,750.00
3/01/2008	18,750.00	-	18,750.00
6/01/2008	18,750.00	-	18,750.00
9/01/2008	18,750.00	-	18,750.00
12/01/2008	18,750.00	-	18,750.00
3/01/2009	18,750.00	-	18,750.00
6/01/2009	18,750.00	-	18,750.00
9/01/2009	18,750.00	-	18,750.00
12/01/2009	18,750.00	-	18,750.00
3/01/2010	18,750.00	-	18,750.00
6/01/2010	18,750.00	-	18,750.00

Thomas, West Virginia
 \$1,500,000.00 SRF Loan
 20 Years, 0% Interest, 1% Admin. Fee

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Total P+I
9/01/2010	18,750.00	-	18,750.00
12/01/2010	18,750.00	-	18,750.00
3/01/2011	18,750.00	-	18,750.00
6/01/2011	18,750.00	-	18,750.00
9/01/2011	18,750.00	-	18,750.00
12/01/2011	18,750.00	-	18,750.00
3/01/2012	18,750.00	-	18,750.00
6/01/2012	18,750.00	-	18,750.00
9/01/2012	18,750.00	-	18,750.00
12/01/2012	18,750.00	-	18,750.00
3/01/2013	18,750.00	-	18,750.00
6/01/2013	18,750.00	-	18,750.00
9/01/2013	18,750.00	-	18,750.00
12/01/2013	18,750.00	-	18,750.00
3/01/2014	18,750.00	-	18,750.00
6/01/2014	18,750.00	-	18,750.00
9/01/2014	18,750.00	-	18,750.00
12/01/2014	18,750.00	-	18,750.00
3/01/2015	18,750.00	-	18,750.00
6/01/2015	18,750.00	-	18,750.00
9/01/2015	18,750.00	-	18,750.00
12/01/2015	18,750.00	-	18,750.00
3/01/2016	18,750.00	-	18,750.00
6/01/2016	18,750.00	-	18,750.00
9/01/2016	18,750.00	-	18,750.00
12/01/2016	18,750.00	-	18,750.00
3/01/2017	18,750.00	-	18,750.00
6/01/2017	18,750.00	-	18,750.00
9/01/2017	18,750.00	-	18,750.00
12/01/2017	18,750.00	-	18,750.00
3/01/2018	18,750.00	-	18,750.00
6/01/2018	18,750.00	-	18,750.00
9/01/2018	18,750.00	-	18,750.00
12/01/2018	18,750.00	-	18,750.00
3/01/2019	18,750.00	-	18,750.00
6/01/2019	18,750.00	-	18,750.00
TOTAL	1,500,000.00	-	1,500,000.00 *

*Plus \$1,898.44 one-percent administrative fee paid quarterly.
 Total fee paid over the life of the loan is \$151,875.20.

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

FINAL
9-3-97

Entered: August 14, 1997

CASE NO. 96-1253-S-CN

CITY OF THOMAS

Application for a certificate of convenience and necessity to construct a 150,000 gpd sewage treatment plant, to construct a sewer interceptor to pick up existing sewage outfall which goes directly into the Blackwater River, to reconstruct the City's collection system to separate storm flows from sanitary sewage.

RECOMMENDED DECISION

PROCEDURE

On October 8, 1996, the City of Thomas (City or Applicant), a municipal corporation, filed an application for a certificate of convenience and necessity to construct a 150,000 gpd sewage treatment plant, to construct a sewer interceptor to pick up existing sewage outfall which goes directly into the Blackwater River and to reconstruct the City's collection system to separate storm flows from sanitary sewage.

The City estimates that construction will cost approximately \$2,250,000, and will be financed by a Small Cities Block grant in the amount of \$450,000; an Economic Development Administration grant in the amount of \$500,000; and a State Revolving Fund loan in the amount of \$1,300,000. The City also proposed an increase in its rates and charges.

By Order entered October 10, 1996, the City was directed to give notice of the filing of the application by publishing a copy of the October 10, 1996 Order once in a newspaper duly qualified by the Secretary of State, published and of general circulation in Tucker County, making due return to the Commission of proper certification of publication. The publication indicated that anyone desiring to make objection to the application must do so, in writing, within thirty (30) days after publication of the notice.

On October 12, 1996, the Commission received a letter from Karen Evans, a former recorder of the City of Thomas, containing a protest to the City's proposed rates. Ms. Evans advised that the residents are being charged \$14.10 per month on their present water bill for sewage for a system that has not been constructed.

On October 22, 1996, the City filed a public notice of change in rates by municipalities and a copy of a press release regarding the rate ordinance.

On October 24, 1996, the Commission received a protest from Jerome Burch regarding the City's rate ordinance which would increase the monthly charge from \$14.10 to \$19.50.

On October 31, 1996, the Commission received an affidavit of publication indicating that the Notice of Filing was published in The Parsons Advocate, a newspaper of general circulation in Tucker County, on October 23, 1996.

On November 1, 1996, Commission Staff filed its First Set of Interrogatories, Data Request or Request of Information.

By Order entered November 8, 1996, this matter was referred to the Division of Administrative Law Judges for a decision to be rendered on or before June 16, 1997.

On November 12, 1996, the Commission received answers to Staff's First Set of Interrogatories.

On November 13, 1996, Commission Staff filed its Initial Joint Staff Memorandum recommending that the matter be referred to the Division of Administrative Law Judges.

On November 22, 1996, Commission Staff filed an Initial Joint Staff Memorandum requesting that Case No. 96-1309-S-C, Jerome E. Burch v. City of Thomas, be consolidated with this application.

By Order issued December 3, 1996, this matter was consolidated with Case No. 96-1253-S-CN and referred to the Division of Administrative Law Judges for a decision to be rendered on or before June 16, 1997.

On January 6, 1997, Staff filed its Second Set of Interrogatories or Request for Information. On January 15, 1997, the City of filed its response to Staff's Second Set of Interrogatories.

On January 24, 1997, the City filed an intergovernmental agreement between the City of Thomas and the Tucker County Solid Waste Authority (Authority).

By Procedural Order issued on March 11, 1997, this application and Case No. 96-1309-S-C were set for hearing to be held on April 10, 1997, in the Meeting Room, Second Floor, City Hall, Thomas, Tucker County, to commence at 9:30 a.m. It was further directed that the City of Thomas give notice of said hearing in a newspaper duly qualified by the Secretary of State, published and of general circulation in Tucker County, once a week for two (2) successive weeks with the last publication being no later than April 2, 1997.

By Commission Order entered on April 7, 1997, the Commission granted a motion filed jointly by the City of Thomas, Commission Staff and the Authority to redesignate the filing date of Case No. 96-1253-S-CN from

October 8, 1996, to January 8, 1997, and to extend the decision due date to August 15, 1997. Tucker County Solid Waste Authority also filed a set of interrogatories and data requests.

On April 8, 1997, the Commission received a copy of a letter from the West Virginia Division of Environmental Protection (DEP) to the Mayor of Thomas indicating that the plans and specifications filed with that agency on November 25, 1996, are approvable as submitted.

On April 10, 1997, the hearing convened as schedule with Pat A. Nichols, Esquire, and James D. Gray, Esquire, appearing on behalf of the City of Thomas, and J. Joseph Watkins, Esquire, of the Commission's Legal Division, appeared on behalf of Commission Staff.

On April 17, 1997, the Staff of the Public Service Commission of West Virginia filed a motion to extend the Administrative Law Judge's due date in Case No. 96-1309-S-C.

By Commission Order entered on April 18, 1997, the Commission extended the Administrative Law Judge's due date of June 16, 1997, in Case No. 96-1309-S-C, until August 15, 1997, and severed the consolidation of Case Nos. 96-1253-S-CN and 96-1309-S-C.

On May 28, 1997, the Applicant filed correspondence from the Chairman of the Tucker County Solid Waste Authority indicating that it did not wish to participate in the project. The Applicant requested that DEP and Staff file their final approval of the plans and specifications, excluding the Authority.

On June 24, 1997, Staff filed its Final Joint Staff Memorandum. Staff noted that, since the Tucker County Solid Waste Authority no longer wishes to participate in the project, the proposed project should be approved.

On July 11, 1997, Staff advised that it would not be filing briefs in this matter and would rely on its testimony at the April 10, 1997 hearing and the Final Joint Staff Memorandum, filed post-hearing on June 24, 1997. On July 15, 1997, the Applicant also advised that it would not be filing briefs.

EVIDENCE

Prior to the hearing, William Miller, the attorney originally retained by Jerome Burch, advised that he is the Prosecuting Attorney of Tucker County. In that capacity, he is usually the attorney for the Tucker County Solid Waste Authority. He withdrew as attorney of record and Mr. Burch requested that his complaint be severed from the certificate application so that he may be represented by counsel in the complaint case. He was willing to allow the certificate application to go forward. (Tr., pp. 7-8). The Administrative Law Judge announced for the record that E. Dandridge McDonald had filed an appearance as counsel for the Tucker County Solid Waste Authority and filed motions with the Commission, but did not appear at the hearing. His motion to intervene was held in abeyance and the hearing was continued. (Tr., pp. 8, 9).

The Applicant advised that the notice of hearing was published in the Parsons Advocate, for two consecutive weeks. (Tr., pp. 9-10; Applicant Ex. No. 7). Mr. Burch was granted intervenor status in the application proceeding and the hearing proceeded. (Tr., p. 10).

Several persons made comments regarding the certificate application. The first person to make comments was Karen Evans. Ms. Evans had a copy of the City's December 14, 1993 minutes. Ron Smith was the engineer for the project. She read a portion of the minutes that provided "no additional charges will be made to residents until the fall of 1994, when the plant is completed". She has been a resident of Thomas for fifteen years and her property had been flooded eight times by the sewer system. She complained that she did not receive assistance from the City and that the only help she received was from the Fire Department. She complained about the \$14.10 per month charge and asked where the money was going, because she has not seen any lines installed. Ms. Evans was the City's Recorder a portion of the time during the controversy. (Tr., p. 12; Intervenor Ex. No. 1). The minutes were marked as Intervenor Exhibit No. 1. (Tr., pp. 13-14).

Mr. Ron Clark lives on a hill a block or so from Ms. Evans. He also complained about the \$14.10 per month charge collected by the City. He questioned whether the certificate filing included the treatment of the leachate from the landfill. (Tr., p. 15). Mr. Clark explained that, at a council meeting in the spring of 1995, a number of the neighbors in the Euclid Avenue and Carr Avenue area voiced a concern about water overrun in the area. The citizens believed that a storm drain with a catch basin was needed near the Carr area. They were told that a storm drain would be installed and tied into the existing line at the top of Cagney Boulevard; however, no drain was installed. (Tr., p. 90). Many of the problems regarding Ms. Evans' property on Quail Ridge Road are a result of the lack of drains. All the storm water is flowing into the system at the new fire house. The fire company installed a 24-inch conduit next to the fire house to take care of the flow. (Tr., pp. 90-91). The City Council passed an ordinance in February of 1995 to collect funds for the installation of storm drains. Mr. Clark is concerned about statements made by the engineering firm and the council members that there were no plans to install storm drains. Mr. Clark's statement was marked and received into evidence as Intervenor Exhibit No. 2. (Tr., p. 91).

Jason Nelson of Railroad Hill explained that one of the sewer system plans was designed to be located at the end of Coketon, out of the City's corporate limits. The location of the facility has been moved to the middle of the City. He is concerned about the odor. He feels the project should be relocated out of the City's corporate limits and include the Coketon area. (Tr., pp. 16-17).

The first person to testify on behalf of the Applicant was Frederick Hypes, Chief Engineer of the Construction Assistance Program, Office of Water Resources, Division of Environmental Protection (DEP). (Tr., pp. 19-20). Mr. Hypes has investigated the City's discharge problem for the last few years. (Tr., p. 20). DEP's role in the matter is both regulatory and financial. The City did not have a national pollution discharge elimination system (NPDES) permit, which is a violation of law. The discharge of raw sewage into the Blackwater River is in violation of Chapter 22 of the West Virginia Code, as well as the Federal Clean Water Act. DEP has entered into

a consent decree with the City before the Tucker County Circuit Court to have the City eliminate its discharge of raw sewage into the Blackwater River. (Tr., p. 21). The agreement provides that DEP's suit against the City will be suspended if the City constructs a new interceptor and treatment plant and ceases and desists from discharging untreated sewage into the Blackwater River. Penalties are to be assessed if the City fails to live up to the terms of the agreement. The violations DEP filed against the City were provided in Applicant Exhibit No. 2, a copy of the Consent Decree entered by the Tucker County Circuit Court. (Tr., p. 23; Applicant Ex. No. 2).

The State Revolving Fund program started assisting the City in solving its problems through the design of its sewage treatment facility. The State Revolving Fund section of DEP provides low interest loans to communities such as the City of Thomas to aid in the construction of needed sewage treatment plants. (Tr., p. 24). After dispensing with problems involving the first engineering firm, the City hired Thrasher Engineering and redesigned its plans and specifications for the project. The new plans were tentatively approved by DEP in November of 1996. (Tr., pp. 26-27; Applicant Ex. No. 3). The DEP has not formally approved the application because, subsequent to the submittal of the drawings, the City entered into discussions with the Tucker County Solid Waste Authority to determine if leachate from the landfill could be treated at the facility. Since acceptance of the leachate would require modifications of the plans, DEP has withheld final approval until a decision regarding the disposal of the leachate is reached. The formality of approving the document is all that will be required, if the leachate is not treated at the facility. (Tr., pp. 27-28, 32, 33).

Mr. Hypes explained that the site location in the 1977 study was an acceptable site for the facility. The 1977 site is downstream from the current site. DEP believes the present site location will not produce foul and obnoxious odors in the City. If the facility is not properly operated, concerns regarding the site location and odors in the City are viable. However, if the facility is not operated properly, the City will be out of compliance and subject to enforcement action. (Tr., pp. 28-29). Mr. Hypes testified that he made an on-site investigation of the original site, but is more familiar with the proposed site. He believes the proposed site meets the current design requirements and he does not anticipate odor problems with the plant site. DEP investigated the potential odor problem when reviewing the plans and specifications for the project. Mr. Hypes testified that the DEP "would not approve a facility that is going to cause a problem in the place that it is located". (Tr., p. 29).

DEP believes the proposed plant is necessary and that the public convenience and necessity will be served by construction of the project. (Tr., p. 30). It is satisfied with the cost and the construction design data. Mr. Hypes believes that the plant will enhance and protect the health and welfare of the residents of the City of Thomas and the area in general. (Tr., p. 30). The facilities will help remove fecal coliform contaminations of the Blackwater River, as well as dissolved oxygen problems presently caused by the City's actions. The elimination of the untreated sewage will make recreational water contact safe for the public in general. (Tr., pp. 30-31).

The area known as "Coketon" is outside the City's municipal boundaries. However, a few of the Coketon residents will be served by the project. Only the customers outside the city limits that can be served by gravity will be served. The customers that live below the break in the grade will not be served, since DEP's lawsuit deals strictly with the corporate limits of the City of Thomas. (Tr., p. 31). Portions of the City's present sewer system are going to remain in operation. The designed plan is primarily an interceptor project in which the City runs pipelines to collect waste from the hill areas and transports the waste to the treatment plant. There will not be a great deal of line replacement in the City. (Tr., p. 35).

DEP would like to see the Tucker County Solid Waste Authority included in the project, if the project can still be bid in the 1997 calendar year with the Authority's participation. Mr. Hypes believes there is a 90-day window available to complete negotiations, redesign or take whatever steps would be necessary to include the authority in the project. (Tr., p. 33). DEP does not feel that the addition of the Authority will directly impact the cost to the individual customers. However, the Authority could provide extra revenue to the City's "bare bones" budget. Additional revenue generated from the Authority will allow the City to adequately and safely staff the facility, as well as maintain the collection system. (Tr., p. 34).

Several options are available regarding the financing necessary to include the Authority in the project. (Tr., p. 35). Since the leachate flow from the landfill can affect the City's long-term costs, DEP believes potential problems would most easily be eliminated by changing the project design. The proposed changes would address the Authority's high volume. (Tr., p. 36). The City will be allowed to receive the landfill's leachate only after the City is granted a modification to its NPDES permit, which would specifically authorize the Authority's type of waste. Leachate contains biological waste and, typically, is much stronger than household sewage. Before the waste could be transported to the City's system, the leachate would have to undergo pretreatment to bring the concentration of the waste down to that of domestic sewage. Leachate also involves the treatment of heavy metals which requires a pretreatment to prevent the waste from disrupting the operation of the treatment plant. Mr. Hypes believes effluent from leachate, after it has been pretreated, is not significantly more dangerous than any other effluent from residences or businesses. While the discharge is materially different, it is not dangerous. (Tr., p. 38). DEP believes that the most desirable environmental benefits will be derived by serving both the City and the Authority through the project. (Tr., pp. 39-40). DEP requested that the decision be delayed thirty days before authorizing the City to proceed with the proposed project, in order to evaluate the possibility of the inclusion of the Authority's waste. (Tr., p. 39).

When questioned as to the differences between the first engineer's plan and the presently proposed plan for the project, Mr. Hypes explained that the first proposal was the construction of what is known as "constructive wetland treatment systems". DEP did not feel that the proposal complied with EPA requirements for the design of that facility. The present design is a conventional aerated lagoon system which DEP feels is a proven treatment facility that meets the design requirements needed for the City of Thomas. Mr. Hypes confirmed that construction costs for the two systems are

different. If the Authority is served by the City's treatment plant, it will be required to construct a pumping station and extend a force main line from its facilities to the City's treatment plant. Mr. Hypes believes the Authority should be responsible for the pretreatment facilities of the leachate. The Authority's NPDES permit will have to be modified, as well as the City's, to allow the acceptance of the waste. The required modifications to the City's system for the permit may cost as much as \$400,000. (Tr., p. 42).

The Authority's inclusion in the project has been an issue since the initial filing of this application, but membership on the Authority's board has changed, as well as the information provided to the City. (Tr., p. 43). Mr. Hypes is not familiar with any types of applications that the Authority may have filed regarding the modification of its facilities regarding pretreatment or leachate treatment. (Tr., p. 44). The Authority's present operation is not connected with the City's application. The Tucker County Solid Waste Authority presently hauls its leachate to Fairmont by truck for disposal. (Tr., p. 45).

Since the City is not in a position to fund the \$30,000 in design changes or the additional \$400,000 in project costs, DEP believes the Authority should be responsible for those fees in order to include its waste disposal with this project. (Tr., p. 45). As far as DEP is concerned, the Authority should be responsible for financing anything which would result in a redesign of the proposed project that is involved with the transportation or treatment of leachate. (Tr., p. 48). Mr. Hypes believes the proposed facility is capable of accepting additional customers if growth occurs in the area. (Tr., p. 46). He is not aware of any funds granted by the EDA and was not aware of any documentation regarding any grant funds. He was not aware of any contingency fee the City is to collect. (Tr., pp. 31-33).

The next person to testify on behalf of the Applicant was Kenneth Moran, a Professional Engineer employed as a chief engineer by Thrasher Engineering. (Tr., pp. 50, 51). The project's present design includes a mixed pond-type system. (Tr., p. 52). A copy of a letter dated April 2, 1997, from DEP to Thrasher Engineering, was provided indicating that the plans and specifications for the project were acceptable. (Applicant Ex. No. 4). The interest rate for the State Revolving Fund loan of \$1.3 million has dropped from 3% to 1% for a period of 20 years. SRF reduced its interest rate because the average bill based on 4,500 gallons was projected to be \$29.25. (Tr., p. 54; Applicant Ex. No. 5). The change in debt service should lower the debt approximately \$17,000 per year. (Tr., p. 56).

Mr. Moran was asked to review and prepare a cost differential and rate proposal in the event that the Authority would become one of the City's customers. (Tr., p. 57; Staff Ex. No. 6). The Authority is presently paying \$22 per 1,000 gallons to truck its leachate to the City of Fairmont. It also pays the trucking costs of \$2.75 per mile per round trip of approximately 272 miles per truck. (Tr., pp. 57-58). Depending on the season, the Authority sends between two and four trucks to Fairmont each day. Mr. Moran foresees a potential cost saving for the Authority. (Tr., p. 58). However, the Authority has not agreed to pay the engineering firm for new designs. Mr. Moran believes that the designs could be done in approximately 30 days. (Tr., p. 59).

Mr. Moran believes the City's proposed project can go forward without the inclusion of the Authority. (Tr., p. 59). The average flow design is based upon 150,000 gallons per day, leaving approximately 60,000 to 70,000 gallons per day for growth potential. (Tr., p. 60). The present system is designed for upgrade by either changing the air requirements in the tanks or by switching to a clarifying system, which could possibly eliminate the pond design. (Tr., p. 61). Mr. Moran believes that it is possible that the plant would wear out before growing out of the City's needs. (Tr., p. 61).

The present project is designed to install some new sanitary sewer lines leaving the existing sewer lines for storm drains. Converting the old sewer lines to storm lines in essence creates new storm drain lines. However, the project is not designed specifically to install storm drains. (Tr., pp. 62-63, 65). Mr. Moran explained that an interceptor sewer system includes a main line or main trunk line which follows the river to pick up multiple points which then transfer the run off to the plant. (Tr., p. 63). Not all storm water and sanitary sewage lines will be separated by the proposed system. However, the plant is designed to accommodate the portions of the storm water that will be flowing into the system. The plant is designed to allow a peak flow of 600,000 gallons per day. Any amount of flow over 600,000 gallons per day is to be bypassed to the river, which is allowed by the City's NPDES permit. (Tr., p. 64). Changes have been incorporated in two problem areas around the Fellowship Church and the City Building. (Tr., pp. 65, 66). Mr. Moran estimated that approximately 40 to 50 residents will be affected by construction in order to install the system. Therefore, every customer will not be connected to a new line. (Tr., p. 66). The present storm drains will remain at their present locations and will not enter the plant. (Tr., pp. 67-68).

The next person to testify on behalf of the Applicant was H. Wood Thrasher, owner and President of Thrasher Engineering. Mr. Thrasher explained the different sewage collection systems and stated that many municipalities in West Virginia have combined storm water and sewer line systems. The proposed interceptor collection system will collect combined flows and take it to a treatment plant where it is treated and discharged. The nature of this project is to install new lines in the most cost-effective areas to carry sewage. (Tr., p. 72).

The last person to testify on behalf of the Applicant was the City's new Mayor, Deborah Snyder. (Tr., p. 73, 74). The Mayor feels that the proposed project will relieve many of the health and safety problems the City is experiencing and that granting the certificate as proposed is in the public interest. (Tr., pp. 74-75). The Mayor explained that, prior to her appointment, a sewer ordinance was passed on October 25, 1994, establishing a rate with a \$14.10 minimum charge. A determination was made that the rate ordinance was not properly passed because the City of Thomas did not have a legal sewer system. The ordinance was amended to call the fee a storm drain diversion fee in January of 1995. The ordinance was finally passed on March 31, 1995. The City starting collecting the fee in April of 1995. A third ordinance was passed in order to keep the temporary \$14.10 minimum charge in effect. After the sewer system is constructed and put on line, the City is to charge its customers a charge per 1,000 gallons and eliminate the minimum charge. (Tr., pp. 75-76). The Mayor does not believe that any funds were ever collected under the October 1994 ordinance. The City's most recent ordinance was passed September 24, 1996, under a different administration.

(Tr., p. 77). An affidavit of publication indicating that the City's ordinance was published and an affidavit of posting executed by former Mayor Nelson were introduced into evidence as Applicant Exhibit Nos. 7 and 8. (Tr., pp. 78-81).

The Mayor confirmed that a \$200 preconstruction tap fee is currently being collected from the customers. The City's sewer ordinance provides for a \$450 after construction tap fee. The most recent ordinance reads: "The rates, fees, charges and delayed payment penalty charges provided herein shall be effective upon substantial completion of the sewer facilities, but in no event prior to 45 days after the enactment hereof." The Mayor explained that the customers are being given an opportunity to pay the \$200 tap fee prior to the substantial completion of the sewer facility. The \$200 preconstruction tap fee is being put into an interest-bearing account and the customers are being given an opportunity to make payments and apply for low income reimbursement from the Department of Housing and Urban Development (HUD). Individuals can pay the \$200 preconstruction tap fee until June 1, 1997. (Tr., p. 83; Applicant Ex. No. 7).

The Mayor believes that all agencies providing the City with some type of funding have provided proper confirmation of the funding. (Tr., p. 85). She testified that the City is charging everyone a tap fee, whether the person is one of the 30 to 40 persons who will receive a new physical connection or not. (Tr., p. 88).

Staff's first witness was Randy Lengyel, a Utility Analyst in the Case Control Section of the Water and Wastewater Division of the Public Service Commission. (Tr., pp. 95-96). Mr. Lengyel conducted a field investigation regarding the application and the complaint filed by Jerome Burch. (Tr., p. 96). Staff confirmed receipt of the committal letters from the funding institutions and the filing of the Rule 42 exhibit and rate ordinances passed by the City. (Tr., p. 97). The committal letter for the State Revolving Fund loan dated April 16, 1996, is in the amount of \$762,000 at 3% interest for a period of 40 years. Staff acknowledged verbal confirmation of the amendment of the SRF loan. The Commission does not have written confirmation of the \$1.3 million SRF loan. (Tr., p. 97). Staff has reviewed the revenues to be generated by the City based on the 1996 ordinance and believes they are sufficient to cover the project and loan payment. (Tr., p. 98). Staff also believes that, if the interest rate on the loan is reduced from 3% to 1%, more cash will be available. Staff's review did not include any type of contingency based upon the Tucker County Solid Waste Authority being included as part of the project. Staff did not receive any information prior to the day of the hearing involving operation and maintenance expenses or anything else that might financially change as a result of the inclusion of the Authority. Staff recommended approval of the project as proposed, excluding the Authority's involvement. (Tr., p. 99).

Mr. Lengyel testified that the project, as proposed, is economically feasible, based upon the City's most recently passed rate ordinance and the grants and loans that are to be used to finance the project. (Tr., p. 125). He also confirmed that, as of January 1997, the City had \$35,368.80 in its checking account, if funds are needed to reimburse the storm drain or sewer fees. (Tr., p. 127). Mr. Lengyel examined Applicant Exhibit No. 5 and indicated that the information seems to verify that the amended funding from

the SRF loan was sufficient, but he did not know the exact effect it would have on the City's cash flow. (Tr., p. 100).

Staff called, as its last witness, Ingrid Ferrell, a Technical Analyst with the Public Service Commission. Ms. Ferrell reviewed the design report for the project. She was assigned to review the project plans and specifications, to determine whether they met the needs of the City; whether the project was necessary; and how operation and maintenance expenses were calculated, to determine if they are appropriate for the project. She reviewed Thrasher Engineering's design. The plans and specifications on file with the Commission do not include the Tucker County Solid Waste Authority's participation in the project. (Tr., p. 102). She explained that Staff usually waits for final approval from DEP before recommending approval of a project, but, in the past, has made its approval contingent upon DEP's approval. She did not recommend approval of the proposed plans and specifications because of the proposed inclusion of the Authority. She indicated that some redesign of the plant would be necessary in order to include the Authority's participation in the project. However, she did believe that Staff could recommend approval of the proposed project if the Authority is not involved in the process. (Tr., p. 103). She stated that Staff would need a couple of weeks to review any proposed changes. (Tr., p. 104).

Ms. Ferrell addressed Staff's concerns regarding the tap fees for this project. Tap fees are usually utilized to offset the cost of the physical connection of a customer's service line to a sewer system or water system. The City's proposed tap fee contains typical sewer tap language and fees. After hearing the testimony, Staff realized that not all customers are going to actually have to be physically connected to the new lines. Staff did not know whether the customers should be treated as new customers or current customers. The customers who will receive the new physical connections have been receiving the same service as the City's other customers and will continue to do so. She explained that, when residents are physically connected to a sewer system and sell their property, the new purchaser does not pay a tap fee charge when he/she applies for service. (Tr., pp. 104-106). Ms. Ferrell defined an existing sewer system as one that would carry sewage away to a treatment facility. Staff acknowledged that there are other situations in the State, like the City of Thomas, where collection systems have existed, but the sewage is not treated. (Tr., p. 107). She deferred Staff's opinion on the issue to the Legal Division.

Ms. Ferrell confirmed that the proposed system is a combined sewer and storm water system and believes that the proposed sewer plant will be in the public interest. (Tr., p. 109). Ms. Ferrell believes that Staff will recommend approval of the project, but should not do so until it has the opportunity to review any filings regarding the Authority. (Tr., p. 108).

Mr. Jerome E. Burch, the Intervenor, made a statement. Mr. Burch stated that, on March 21, 1995, the City of Thomas passed an ordinance which included a \$14.10 fee which affected the citizens of Thomas, as well as some of the citizens in Coketon. The citizens were led to believe that the money collected was to be used for the installation of storm drain lines. The charge of the temporary rate of \$14.10 was for the installation of storm drains to divert run off water in preparation of the City's new sewage plant. The ordinance further provided that the rate would be charged until

the completion of the new sewage system, at which time the sewage ordinance would come into effect. He asserted that the citizens were led to believe that the money will be placed in a separate interest-bearing account to be used for storm drain purposes only. He feels the citizens were told that the storm drain lines were necessary to prevent an unacceptable amount of storm water from entering the sewage system. Additional storm water in the sewer system would make it impossible for the City of Thomas to stay in compliance with DEP regulations. The citizens were also told that the storm drains would be in place prior to the construction of the sewage system. The citizens supported the proposal because they believed that, if they would go ahead and pay the \$14.10 per month, their monthly sewer bills would be lowered. As time passed, the citizens began questioning where the collected money was being spent. Mr. Burch investigated and discovered that a separate account had not been set up for the money. He also discovered that the \$14.10 was being used for items other than the installation of storm drains. He requested that the Public Service Commission audit the account. (Tr., pp. 111-113).

The citizens of Thomas have been paying \$14.10 per month for the past 24 months for the installation of storm drains prior to the construction of the proposed sewage system, although that installation did not occur. The only record Mr. Burch could find in the Sewer Prep Account, pertaining to the installation of storm drains, was for the purchase of pipes for drains around the new volunteer fire department building, in the amount of \$4,026.62. (Tr., p. 113). He believes that the City has been in violation of the Public Service Commission guidelines since May of 1987. (See, Tr., p. 114).

Mr. Burch voiced his concerns with the seven families in the City of Coketon being required to pay the storm drain fee and being required to connect to the proposed sewer system; the engineering firm's denial of a plan for storm drain lines; DEP's involvement in the types of systems submitted for review and the effects on the charges and increases; and city officials receiving money from the City for work they performed for the City. Mr. Burch believes the City should bid its work prior to the performance to prevent conflicts of interest. He asked that such practices be investigated. He protested the multiple occupancy clause because he owns an apartment building with four efficiency apartments and an additional unit which has an apartment and an office. He explained that the rentals are short-term and vacant the majority of the time. Presently only one meter serves the whole building. (Tr., pp. 115-118).

Mr. Burch feels that the business transactions by the City between July 1994 and November of 1996, are illegal and feels that former Mayor Nelson was illegally elected. (Tr., p. 119). He requested that the City of Thomas be directed to return the money collected by the \$14.10 charge, plus interest, because it was not used for the designated purposes. Mr. Burch testified that he had no objection to the construction of the sewer treatment plant, but is concerned with the ordinances and multiple occupancy clause buildings that are to be used for the project. (Tr., p. 123).

DISCUSSION

Commission Staff has recommended approval of this project in a Final Joint Staff Memorandum filed after the hearing, on June 24, 1997. In that

Memorandum, Staff advised that the City has received approval from DEP for the original plans and specifications. Staff accepted the approval as evidence that the project is designed in accordance with current engineering practices. Mr. Burch, the Intervenor, testified that he did not oppose the construction of the facility, only the use of the storm drain fee and the multiple occupancy clause. On August 5, 1997, a settlement was reached between the City of Thomas and Mr. Burch regarding his complaint in Case No. 96-1309-S-C. The complaint deals with the \$14.10 charge the City was collecting from its customers. Since that agreement has been filed with the Commission and Staff has reviewed the document, the Administrative Law Judge feels the issue has been resolved and does not effect this application. Also, the multiple occupancy clause in the City's ordinance is in line with the Commission's rules and regulations and can not be altered by this Administrative Law Judge. Therefore, the application as filed should be approved.

A concern was voiced regarding the location of the site for the facility. While the Administrative Law Judge is concerned about the location of the site, she has no evidence to evaluate a relocation of the location site. She notes that Mr. Hypes testified that DEP "would not approve a facility that is going to cause a problem in the place that it is located."

The last issue to address is Staff's position regarding the City's tap fees. Staff's witness, Ingrid Ferrell, raised certain concerns regarding the assessment of the fee and deferred the matter to Staff's Legal Division. However, Staff's Final Joint Staff Memorandum did not address the concerns. So, the question remains, can the City of Thomas charge all of its customers a tap fee for this system or can the City of Thomas charge only the 40 - 50 customers receiving the new connections a tap fee?

The Administrative Law Judge has determined that the City may charge the preconstruction tap fee to its customers, if a tap fee has never been paid for the properties in question. If any customers paid a sewer tap fee in the past, they should not be required to pay an additional tap fee. However, any customer claiming prior payment of a sewer tap fee to the City must provide sufficient evidence that the fee has been paid.

FINDINGS OF FACT

1. On October 8, 1996, the City of Thomas, a municipal corporation, filed an application for a certificate of convenience and necessity to construct a 150,000 gpd sewage treatment plant, to construct a sewer interceptor to pick up existing sewage outfall which goes directly into the Blackwater River and to reconstruct the City's collection system to separate storm flows from sanitary sewage. (See, Application; Final Joint Staff Memorandum filed June 24, 1997).

2. The project will cost approximately \$2,300,000. (See, Application; Final Joint Staff Memorandum filed June 24, 1997).

3. Notice of the proposed project was published in The Parsons Advocate, a newspaper of general circulation in Tucker County, on March 26, 1997, in accordance with West Virginia Code §24-2-11. The City also

provided proof of proper publication and posting of the municipal rate ordinance. (See, Affidavit of Publication filed October 31, 1996; Applicant Ex. Nos. 7 and 8; Tr., pp. 5, 80-81).

4. Financing for the project consists of a West Virginia State Revolving Fund loan in the amount of \$1,300,000 for a period of twenty (20) years at an interest rate not to exceed one percent (1%); a Small Cities Block grant in the amount of \$450,000; and an Economic Development Administration grant in the amount of \$550,000. (See, Tr., pp. 97-98; Final Joint Staff Memorandum filed June 24, 1997; Applicant's Exhibit No. 5).

5. Staff reviewed the plans and specifications of the purposed project and found no conflicts with the Commission's rules and regulations. The City received approval from the Department of Environmental Protection for the proposed plans and Commission Staff accepted said approval as evidence that the project is designed in accordance with current engineering practices. (See, Final Joint Staff Memorandum filed June 24, 1997).

6. The project is economically feasible and necessary. (See, Final Joint Staff Memorandum filed June 24, 1997; Tr., pp. 30, 109, 125).

7. Staff recommended approval of the project. (See, Final Joint Staff Memorandum filed June 24, 1997; Tr., p. 103).

CONCLUSIONS OF LAW

1. The public convenience and necessity require the issuance of a certificate of convenience and necessity to the City of Thomas to construct a 150,000 gpd sewage treatment plant; to construct a sewer interceptor to pick up existing sewage outfall which goes directly into the Blackwater River; and to reconstruct the City's collection system to separate storm flows from sanitary sewage.

2. It is reasonable to approve the financing of the project, being a State Revolving Fund loan in the amount of \$1,300,000 for a period of twenty (20) years, at an interest rate not to exceed one percent (1%); a Small Cities Block grant in the amount of \$450,000 and an Economic Development Administration grant in the amount of \$550,000.

3. The City's present rates are sufficient, but not more than sufficient, to support the project.

ORDER

IT IS, THEREFORE, ORDERED that the application filed by the City of Thomas, a public utility, to construct a 150,000 gpd sewage treatment plant, to construct a sewer interceptor to pick up existing sewage outfall which goes directly into the Blackwater River, and to replace portions of the City's collection system to separate storm flows from sanitary sewage, be, and hereby is, granted, subject to the receipt of written approval by the Department of Environmental Protection of the project's plans and specification. Said written confirmation of DEP's approval shall be filed within ten (10) days of the date that this order becomes final.

IT IS FURTHER ORDERED that the financing for the project, being a West Virginia State Revolving Fund loan in the amount of \$1,300,000 for a period of twenty (20) years at an interest rate of one percent (1%); a Small Cities Block grant in the amount of \$450,000; and an Economic Development Administration grant in the amount of \$550,000, be, and hereby is, approved.

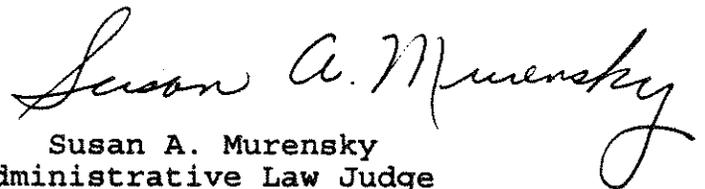
IT IS FURTHER ORDERED that, if there is a change in any of the terms, conditions, financing or scope of the proposed project, the City of Thomas shall notify the Public Service Commission and file for Commission approval of the revised project or financing prior to construction.

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

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

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

Any party may request waiver of the right to file exceptions to an Administrative Law Judge's order by filing an appropriate petition in writing with the Secretary. No such waiver will be effective until approved by order of the Commission, nor shall any such waiver operate to make any Administrative Law Judge's Order or Decision the order of the Commission sooner than five (5) days after approval of such waiver by the Commission.


Susan A. Murensky
Administrative Law Judge

SAM:dfs

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 12th day of December, 1997.

CASE NO. 96-1253-S-CN (Reopened)

CITY OF THOMAS

Application for a certificate of convenience and necessity to construct a sewage treatment plant.

COMMISSION ORDER

By Recommended Decision entered August 14, 1997, which became a final order of the Commission on September 3, 1997, the Commission granted the City of Thomas (City) a certificate of public convenience and necessity to construct a 150,000 gallon per day (GPD) wastewater treatment plant (the Project). The Commission's order further approved the City's proposed financing for the \$2.3 million Project, which consisted of the following: (1) a \$1.3 million loan from the State Revolving Fund (SRF); (2) a Small Cities Block Grant (SCBG) of \$450,000; and (3) a \$550,000 grant from the West Virginia Economic Development Authority (WVEDA).

On November 4, 1997, the City filed a petition to reopen this proceeding in order to obtain Commission approval of an additional \$450,000 in financing for the Project. The City alleges that revised construction costs and bids received have resulted in higher costs than originally anticipated. The City has applied for an additional \$200,000 in loans from the SRF (total \$1.5 million) and a \$250,000 increase in SCBG grants (total \$700,000). The City indicates that its rates will not need to be increased due to increased construction costs.

On November 10, 1997, Commission Staff filed a Further Joint Staff Memorandum, recommending that the Commission retain the case, pending Staff's final recommendations, since the City anticipates closing on its finances on December 17, 1997.

On November 25, 1997, Staff filed a Further Joint Staff Memorandum advising the Commission that it was serving a data request upon the City to obtain additional information.

On December 3, 1997, the City filed information purporting to respond to Staff's data requests with the Commission. Such information included: (1) a copy of an executed Water Pollution Control Revolving Fund Loan Agreement confirming a \$1.5 million

Public Service Commission of West Virginia

SRF loan at 1%; and (2) a copy of a grant award for the West Virginia Development Office confirming an increase in the amount of the City's grant to \$750,000.

On December 12, 1997, Staff filed a Further Final Joint Staff Memorandum recommending that the City's petition to for approval of additional financing should be approved. Staff specifically noted that the City has passed a rate ordinance, has adequate cash flow coverage, has commitment letters for the additional financing and is not changing the scope of the project. As a final matter, Staff recommended that if there are any more changes in the financing for, or scope of the project, that the City be required to seek prior approval from the Commission.

UPON CONSIDERATION WHEREOF, the Commission concludes that the City's November 4, 1997 petition to reopen this proceeding and seeking Commission approval of its increased financing should be granted. The Commission concludes that the City's proposed additional financing for the Project should be approved.

IT IS, THEREFORE, ORDERED that the City of Thomas's November 4, 1997 petition to reopen this proceedings should be, and hereby is, granted.

IT IS FURTHER ORDERED that the increased financing sought by the City be approved.

IT IS FURTHER ORDERED that if there are any more changes in the financing for, or scope of the project, that the City be required to seek prior approval from the Commission.

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

A True Copy, Teste:

Sandra Neal
Sandra Neal
Executive Secretary

ARC

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CITY OF THOMAS

Sewer Revenue Bonds, Series 1997 A
(West Virginia SRF Program)

CROSS-RECEIPT FOR BOND AND BOND PROCEEDS

The undersigned authorized representative of the West Virginia Water Development Authority (the "Authority"), for and on behalf of the Authority, and the undersigned Mayor of the City of Thomas (the "Issuer"), for and on behalf of the Issuer, hereby certify as follows:

1. On the 17th day of December, 1997, the Authority received the entire original issue of \$1,500,000 principal amount of the Sewer Revenue Bonds, Series 1997 A (West Virginia SRF Program), of the Issuer (the "Bonds"), issued as a single, fully registered Bond, numbered AR-1, and dated December 17, 1997.

2. At the time of such receipt of the Bonds upon original issuance, the Bonds had been executed by the Mayor and the Recorder of the Issuer, by their respective manual signatures, and the official seal of the Issuer had been affixed upon the Bonds.

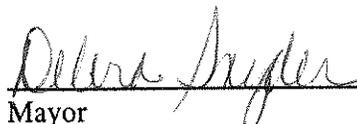
3. The Issuer has received and hereby acknowledges receipt from the Authority, as the original purchaser of the Bonds, of \$126,550, being a portion of the principal amount of the Bonds. The balance of the principal amount of the Bonds will be advanced by the Authority and the West Virginia Division of Environmental Protection to the Issuer as acquisition and construction of the Project progresses.

WITNESS our respective signatures on this 17th day of December, 1997.

WEST VIRGINIA WATER DEVELOPMENT
AUTHORITY


Authorized Representative

CITY OF THOMAS


Mayor

12/08/97
896820/94001

CITY OF THOMAS

Sewer Revenue Bonds, Series 1997 A
(West Virginia SRF Program)

DIRECTION TO AUTHENTICATE AND DELIVER BONDS

One Valley Bank, National Association,
as Bond Registrar
Charleston, West Virginia

Ladies and Gentlemen:

There are delivered to you herewith:

- (1) Bond No. AR-1, constituting the entire original issue of the City of Thomas Sewer Revenue Bonds, Series 1997 A (West Virginia SRF Program), in the principal amount of \$1,500,000, dated December 17, 1997 (the "Bonds"), executed by the Mayor and the Recorder of the City of Thomas (the "Issuer") and bearing the official seal of the Issuer, authorized to be issued under and pursuant to a Bond Ordinance duly enacted by the Issuer on December 9, 1997, and a Supplemental Resolution duly adopted by the Issuer on December 9, 1997 (collectively, the "Bond Legislation");
- (2) A copy of the Bond Legislation authorizing the above-described Bond issue, duly certified by the Recorder of the Issuer;
- (3) Executed counterparts of the loan agreement dated October 24, 1997, by and among the West Virginia Water Development Authority (the "Authority"), the West Virginia Division of Environmental Protection (the "DEP") and the Issuer (the "Loan Agreement"); and
- (4) An executed opinion of nationally recognized bond counsel regarding the validity of the Loan Agreement and the Bonds.

You are hereby requested and authorized to deliver the Bonds to the Authority upon payment to the Issuer of the sum of \$126,550, representing a portion of the principal amount of the Bonds. Prior to such delivery of the Bonds, you will please cause the Bonds to be authenticated and registered by an authorized officer, as Bond Registrar, in accordance with the form of Certificate of Authentication and Registration thereon.

Dated this 17th day of December, 1997.

CITY OF THOMAS



Mayor

12/08/97
896820/94001

(SPECIMEN BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
CITY OF THOMAS
SEWER REVENUE BOND,
SERIES 1997 A
(WEST VIRGINIA SRF PROGRAM)

No. AR-1

\$1,500,000

KNOW ALL MEN BY THESE PRESENTS: That the CITY OF THOMAS, a municipal corporation and political subdivision of the State of West Virginia in Tucker County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the West Virginia Water Development Authority (the "Authority") or registered assigns the sum of ONE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$1,500,000), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 1999, as set forth on the "Schedule of Annual Debt Service" attached as EXHIBIT B hereto and incorporated herein by reference, with no interest. The SRF Administrative Fee (as defined in the hereinafter described Bond Legislation) shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 1999, as set forth on EXHIBIT B attached hereto.

Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent").

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Division of Environmental Protection (the "DEP"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement by and among the Issuer, the Authority and the DEP, dated October 24, 1997.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of a new public sewerage system for the Issuer (the "Project"); and (ii) to pay certain costs of issuance of the Bonds of this Series and related costs. The Project, and any further additions, betterments or improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes

of the State of West Virginia, including particularly Chapter 16, Article 13 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"), and a Bond Ordinance duly enacted by the Issuer on December 9, 1997, and a Supplemental Resolution duly adopted by the Issuer on December 9, 1997 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, and from moneys in the reserve account created under the Bond Legislation for the Bonds (the "Series 1997 A Bonds Reserve Account"), and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay all operating expenses of the System and the principal of and interest, if any, on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest, if any, hereon except from said special fund provided from the Net Revenues, the moneys in the Series 1997 A Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds, and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds; provided however, that so long as there exists in the Series 1997 A Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding prior to or on a parity with the Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Bond Legislation, only upon the books of One Valley Bank, National Association, Charleston, West Virginia, as registrar (the "Registrar"), by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered owner or its attorney duly authorized in writing.

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

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law and the Bond Legislation, shall be applied solely to payment of the costs of the Project and costs of issuance hereof described in the Bond Legislation, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the registered 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 at the issuance of this Bond do exist, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the Net Revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of this Bond.

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

IN WITNESS WHEREOF, the CITY OF THOMAS has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed and attested by its Recorder, and has caused this Bond to be dated December 17, 1997.

[SEAL]

Mayor

ATTEST:

Recorder

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 1997 A Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: December 17, 1997.

ONE VALLEY BANK, NATIONAL
ASSOCIATION, as Registrar

Authorized Officer

EXHIBIT B

SCHEDULE OF ANNUAL DEBT SERVICE

Thomas, West Virginia
\$1,500,000.00 SRF Loan
20 Years, 0% Interest, 1% Admin. Fee

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Total P+I
6/01/1999	-	-	-
9/01/1999	18,750.00	-	18,750.00
12/01/1999	18,750.00	-	18,750.00
3/01/2000	18,750.00	-	18,750.00
6/01/2000	18,750.00	-	18,750.00
9/01/2000	18,750.00	-	18,750.00
12/01/2000	18,750.00	-	18,750.00
3/01/2001	18,750.00	-	18,750.00
6/01/2001	18,750.00	-	18,750.00
9/01/2001	18,750.00	-	18,750.00
12/01/2001	18,750.00	-	18,750.00
3/01/2002	18,750.00	-	18,750.00
6/01/2002	18,750.00	-	18,750.00
9/01/2002	18,750.00	-	18,750.00
12/01/2002	18,750.00	-	18,750.00
3/01/2003	18,750.00	-	18,750.00
6/01/2003	18,750.00	-	18,750.00
9/01/2003	18,750.00	-	18,750.00
12/01/2003	18,750.00	-	18,750.00
3/01/2004	18,750.00	-	18,750.00
6/01/2004	18,750.00	-	18,750.00
9/01/2004	18,750.00	-	18,750.00
12/01/2004	18,750.00	-	18,750.00
3/01/2005	18,750.00	-	18,750.00
6/01/2005	18,750.00	-	18,750.00
9/01/2005	18,750.00	-	18,750.00
12/01/2005	18,750.00	-	18,750.00
3/01/2006	18,750.00	-	18,750.00
6/01/2006	18,750.00	-	18,750.00
9/01/2006	18,750.00	-	18,750.00
12/01/2006	18,750.00	-	18,750.00
3/01/2007	18,750.00	-	18,750.00
6/01/2007	18,750.00	-	18,750.00
9/01/2007	18,750.00	-	18,750.00
12/01/2007	18,750.00	-	18,750.00
3/01/2008	18,750.00	-	18,750.00
6/01/2008	18,750.00	-	18,750.00
9/01/2008	18,750.00	-	18,750.00
12/01/2008	18,750.00	-	18,750.00
3/01/2009	18,750.00	-	18,750.00
6/01/2009	18,750.00	-	18,750.00
9/01/2009	18,750.00	-	18,750.00
12/01/2009	18,750.00	-	18,750.00
3/01/2010	18,750.00	-	18,750.00
6/01/2010	18,750.00	-	18,750.00

Thomas, West Virginia
 \$1,500,000.00 SRF Loan
 20 Years, 0% Interest, 1% Admin. Fee

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Total P+I
9/01/2010	18,750.00	-	18,750.00
12/01/2010	18,750.00	-	18,750.00
3/01/2011	18,750.00	-	18,750.00
6/01/2011	18,750.00	-	18,750.00
9/01/2011	18,750.00	-	18,750.00
12/01/2011	18,750.00	-	18,750.00
3/01/2012	18,750.00	-	18,750.00
6/01/2012	18,750.00	-	18,750.00
9/01/2012	18,750.00	-	18,750.00
12/01/2012	18,750.00	-	18,750.00
3/01/2013	18,750.00	-	18,750.00
6/01/2013	18,750.00	-	18,750.00
9/01/2013	18,750.00	-	18,750.00
12/01/2013	18,750.00	-	18,750.00
3/01/2014	18,750.00	-	18,750.00
6/01/2014	18,750.00	-	18,750.00
9/01/2014	18,750.00	-	18,750.00
12/01/2014	18,750.00	-	18,750.00
3/01/2015	18,750.00	-	18,750.00
6/01/2015	18,750.00	-	18,750.00
9/01/2015	18,750.00	-	18,750.00
12/01/2015	18,750.00	-	18,750.00
3/01/2016	18,750.00	-	18,750.00
6/01/2016	18,750.00	-	18,750.00
9/01/2016	18,750.00	-	18,750.00
12/01/2016	18,750.00	-	18,750.00
3/01/2017	18,750.00	-	18,750.00
6/01/2017	18,750.00	-	18,750.00
9/01/2017	18,750.00	-	18,750.00
12/01/2017	18,750.00	-	18,750.00
3/01/2018	18,750.00	-	18,750.00
6/01/2018	18,750.00	-	18,750.00
9/01/2018	18,750.00	-	18,750.00
12/01/2018	18,750.00	-	18,750.00
3/01/2019	18,750.00	-	18,750.00
6/01/2019	18,750.00	-	18,750.00
TOTAL	1,500,000.00	-	1,500,000.00 *

*Plus \$1,898.44 one-percent administrative fee paid quarterly.
 Total fee paid over the life of the loan is \$151,875.20.

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:

STEPTOE & JOHNSON

ATTORNEYS AT LAW

BANK ONE CENTER

SIXTH FLOOR

P. O. BOX 2190

CLARKSBURG, W. VA. 26302-2190

(304) 624-8000

FACSIMILE (304) 624-8183

December 17, 1997

City of Thomas

Sewer Revenue Bonds, Series 1997 A

(West Virginia SRF Program)

104 WEST CONGRESS STREET

P. O. BOX 100

CHARLES TOWN, W. VA. 25414-0100

(304) 725-1414

FACSIMILE (304) 725-1913

RILEY BUILDING, FOURTH FLOOR

14TH AND CHAPLINE STREETS

P. O. BOX 160

WHEELING, W. VA. 26003-0020

(304) 233-0000

FACSIMILE (304) 233-0014

THE RIVERS OFFICE PARK

200 STAR AVENUE, SUITE 220

P. O. BOX 628

PARKERSBURG, W. VA. 26102-0628

(304) 422-6463

FACSIMILE (304) 422-6462

WRITER'S DIRECT DIAL NUMBER

BANK ONE CENTER, SEVENTH FLOOR
P. O. BOX 1588
CHARLESTON, W. VA. 25326-1588
(304) 353-8000
FACSIMILE (304) 353-8180

1000 HAMPTON CENTER
P. O. BOX 1616
MORGANTOWN, W. VA. 26507-1616
(304) 598-8000
FACSIMILE (304) 598-8116

126 EAST BURKE STREET
P. O. BOX 2629
MARTINSBURG, W. VA. 25402-2629
(304) 263-6991
FACSIMILE (304) 263-4785

City of Thomas
Thomas, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

West Virginia Division of
Environmental Protection
Charleston, West Virginia

Ladies and Gentlemen:

We have served as bond counsel in connection with the issuance by the City of Thomas (the "Issuer"), a municipal corporation and political subdivision organized and existing under the laws of the State of West Virginia, of its \$1,500,000 Sewer Revenue Bonds, Series 1997 A (West Virginia SRF Program), dated the date hereof (the "Bonds").

We have examined the law and certified copies of proceedings and other papers relating to the authorization of a loan agreement, dated October 24, 1997, including all schedules and exhibits attached thereto (the "Loan Agreement"), among the Issuer, the West Virginia Water Development Authority (the "Authority"), and the West Virginia Division of Environmental Protection (the "DEP") and the Bonds, which are to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Bonds are originally issued in the form of one Bond, registered as to principal only to the Authority, with no interest and with principal installments payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 1999, and ending June 1, 2019, all as set forth in "Schedule Y" attached to the Loan Agreement and incorporated in and made a part of the Bonds.

The Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly, Chapter 16, Article 13 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"), for the purposes of (i) paying a portion of the costs of acquisition and construction of a new public sewerage system of the Issuer (the "Project"); and (ii) paying certain costs of issuance and related costs.

(i) paying a portion of the costs of acquisition and construction of a new public sewerage system of the Issuer (the "Project"); and (ii) paying certain costs of issuance and related costs.

We have also examined the applicable provisions of the Act, the Bond Ordinance duly enacted by the Issuer on December 9, 1997, as supplemented by a Supplemental Resolution duly adopted by the Issuer on December 9, 1997 (collectively, the "Bond Legislation"), pursuant to and under which Act and Bond Legislation the Bonds are authorized and issued, and the Loan Agreement has been entered into. The Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Bond Legislation and the Loan Agreement.

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

1. The Issuer is a duly created and validly existing municipal corporation and political subdivision of the State of West Virginia, with full power and authority to acquire and construct the Project, to operate and maintain the System referred to in the Loan Agreement and to issue and sell the Bonds, all under the Act and other applicable provisions of law.

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

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

4. The Bonds have been duly authorized, issued, executed and delivered by the Issuer to the Authority and are valid, legally enforceable and binding special obligations of the Issuer, payable from the Net Revenues of the System referred to in the Bond Legislation and secured by a first lien on and pledge of the Net Revenues of the System, all in accordance with the terms of the Bonds and the Bond Legislation.

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

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

City of Thomas, et.al.
Page 3

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

Very truly yours,



STEPH & JOHNSON

11/04/97
896820/94001

NICHOLS & NICHOLS

ATTORNEYS AT LAW

P. O. BOX 201

PARSONS, WEST VIRGINIA 26287

TELEPHONE
(304) 478-2127

FAX
(304) 478-2128

J. PAT NICHOLS
PAT A. NICHOLS

December 17, 1997

City of Thomas
Sewer Revenue Bonds, Series 1997 A
(West Virginia SRF Program)

City of Thomas
Thomas, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

West Virginia Division of
Environmental Protection
Charleston, West Virginia

Steptoe & Johnson
Clarksburg, West Virginia

Ladies and Gentlemen:

I am counsel to the City of Thomas in Tucker County, West Virginia (the "Issuer"). As such counsel, I have examined copies of the approving opinion of Steptoe & Johnson, as bond counsel, a loan agreement dated October 24, 1997, including all schedules and exhibits attached thereto (the "Loan Agreement"), by and among the West Virginia Water Development Authority (the "Authority"), the West Virginia Division of Environmental Protection ("DEP"), and the Issuer, a Bond Ordinance duly enacted by the Issuer on December 9, 1997, as supplemented by a Supplemental Resolution duly adopted by the Issuer on December 9, 1997 (collectively, the "Bond Legislation"), and other documents relating to the above-captioned Bonds of the Issuer (the "Bonds"). Capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Bond Legislation and the Loan Agreement when used 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 DEP and the Authority, constitutes a valid and binding agreement of the Issuer enforceable in accordance with its terms.

2. The Issuer has been duly created and is validly existing as a municipal corporation and political subdivision of the State of West Virginia, and the Mayor, Recorder and

members of the council of the Issuer and the Sanitary Board have been duly and properly elected or appointed, as applicable, have taken the requisite oaths, and are authorized to act on behalf of the Issuer in their respective capacities.

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

4. The execution and delivery of the Bonds and the Loan Agreement and the consummation of the transactions contemplated by the Loan Agreement and the Bond Legislation and the carrying out of the term thereof, do not and will not, in any material respect, conflict with or constitute on the part of the Issuer, a breach of a default under any ordinance, order, resolution, agreement or other instrument to which the Issuer is a party or any existing law, regulation, court order or consent decree to which the Issuer is subject.

5. The Issuer has received all permits, licenses, approvals and authorizations necessary for the issuance of the Bonds, the acquisition and construction of the Project, the operation of the System and the imposition of such rates and charges, including, without limitation, the enactment of an ordinance prescribing such rates and charges. The Issuer has received the Final Orders of the Public Service Commission of West Virginia entered on August 14, 1997, and December 12, 1997, in Case No. 96-1253-S-CN, granting to the Issuer a certificate of public convenience and necessity for the Project and approving the financing for the Project. The time for appeal of the latter Final Order has not expired prior to the date hereof. However, the parties thereto have stated that they will not appeal such Final Order. Such Final Order is not subject to any approval, further hearing, reopening or rehearing by any customer, protestant, intervenor or other person not a party to the original application.

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

City of Thomas, et al
Page 3

the Bonds or the collection or pledge of the Net Revenues therefor.

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

Very truly yours,


Pat A. Nichols

PAN:cw

JR

NICHOLS & NICHOLS

ATTORNEYS AT LAW

P. O. BOX 201

PARSONS, WEST VIRGINIA 25287

TELEPHONE
(304) 478-2127

FAX
(304) 478-2128

J. PAT NICHOLS
PAT A. NICHOLS

October 28, 1997

RECEIVED

OCT 29 1997

Division of Environmental Protection
617 Broad Street
Charleston, WV 25301-1251

Water Resources
Construction Assistant

ATTENTION: John Rogers

VIA FAX: 558-4144

RE: City of Thomas
Tucker County, WV
C-544103

Dear Sir:

I enclose the title opinion. Please advise if you have any questions.

Sincerely,



Pat A. Nichols

PAN:cw

Enclosure

cc: City of Thomas

Post-it® Fax Note	7671	Date	11/6/97	# of Pages	4
To	Francesca Tyn, Esq	From	John Rogers		
Co./Dept.	Steppe + Johnson	Co.	WV DEP		
Phone #	624-8104	Phone #	558-0637		
Fax #	624-8183	Fax #	558-3778		

RECEIVED

OCT 29 1997

TITLE OPINION

CERTIFICATE OF PROJECT SITE ACQUISITIONS

I, Pat A. Nichols, Attorney at Law, ^{Water Resources Construction Assistant} represents the City of Thomas, as title Counsel, do hereby certify:

1. That I have investigated and ascertained the location of, and am familiar with the legal description of the necessary sites (including easements and/or right-of-ways) being provided by the City of Thomas for all of the water pollution control facilities identified under Project No. C-544103.

2. That I have examined the deed records of the county or counties in which such project is to be located and, in my opinion, the City of Thomas has, or will have prior to the awarding of construction contracts, a legal and valid fee simple title of such other estate or interest in the necessary site components for the project, including easements and/or rights-of-way, sufficient to assure undisturbed use and possession for the purpose of construction, operation, and maintenance for the estimated life of the facilities, or

3. That the City of Thomas will initiate formal condemnation proceedings to acquire the necessary site components for the project to assure undisturbed use and maintenance for the purpose of construction, operation, and maintenance for the estimated life of the facilities. Where formal condemnation proceedings are necessary to acquire the sites I have explained on the attached pages the activities that have taken place up to this date with regard to the condemnation proceedings as well as attached a schedule of activities for completing the proceedings prior to the award of construction contracts. (See Exhibit "A")

4. That in the acquisition of the property rights above there is no prohibition by the E.P.A., State or other Federal Agency requirements at the present time.

5. That any deeds or documents required to be recorded in order to protect the title of the owner and interest of the City of Thomas have or will be duly recorded and filed for record wherever necessary, or in the case where condemnation proceedings are necessary, such deeds or documents necessary will be recorded prior award of construction contracts.

6. That all necessary permits as may be required by governing authorities have been or will be acquired without delay to the construction.

-2-

Dated this the 28th day of October, 1997.



PAT A. NICHOLS
ATTORNEY AT LAW
BOX 201
PARSONS, WEST VIRGINIA 26287

ATTACHMENT

The following parcels will need a right-of-way and condemnation:

1. Edward Pausek
2. Cortland Acres Nursing Home

I anticipate only one (1) condemnation, being Pausek. Cortland Acres Nursing Home must be paid a \$400.00 fee for the take.

CITY OF THOMAS

Sewer Revenue Bonds, Series 1997 A
(West Virginia SRF Program)

GENERAL CERTIFICATE OF ISSUER AND ATTORNEY ON:

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

We, the undersigned MAYOR AND RECORDER of the City of Thomas in Tucker County, West Virginia (the "Issuer"), and the undersigned COUNSEL TO THE ISSUER, hereby certify in connection with the \$1,500,000 principal amount of the City of Thomas Sewer Revenue Bonds, Series 1997 A (West Virginia SRF Program), dated the date hereof (the "Bonds"), as follows:

1. **TERMS:** All capitalized words and terms used in this General Certificate and not otherwise defined herein shall have the same meaning as set forth in the Bond Ordinance of the Issuer duly enacted December 9, 1997, and the Supplemental Resolution duly adopted December 9, 1997 (collectively, the "Bond Legislation").

2. **NO LITIGATION:** No controversy or litigation of any nature is now pending or threatened, restraining, enjoining or affecting in any manner the issuance, sale or delivery of the Bonds, the acquisition and construction of the Project, the operation of the

System, the receipt of the Gross Revenues, or in any way contesting or affecting the validity of the Bonds, or any proceedings of the Issuer taken with respect to the issuance or sale of the Bonds, the pledge or application of the Net Revenues or any other moneys or security provided for the payment of the Bonds or the existence or the powers of the Issuer insofar as they relate to the authorization, sale and issuance of the Bonds, the acquisition and construction of the Project, the operation of the System, the pledge or application of moneys and security or the collection of the Gross Revenues or the pledge of Net Revenues as security for the Bonds.

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

4. **NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS:** There has been no adverse change in the financial condition of the Issuer since the approval, execution and delivery by the Issuer of the Loan Agreement, and the Issuer has met all conditions prescribed in the Loan Agreement entered into among the Issuer, the DEP and the Authority. The Issuer has or can provide the financial, institutional, legal and managerial capabilities necessary to complete the Project.

There are no outstanding obligations of the Issuer which will rank prior to or on parity with the Bonds as to liens, pledge, source of and security for payment.

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

Bond Ordinance

Supplemental Resolution

Loan Agreement

Public Service Commission Orders

City Charter

Oaths of Office of Officers and Councilmembers

Ordinance Creating Sanitary Board

Petition of Sanitary Board

Sewer Rate Ordinance

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

Minutes on Adoption and Enactment of Sewer Rate Ordinance

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

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

NPDES Permit

Evidence of Economic Development Administration Grant

Evidence of Small Cities Block Grant

6. **INCUMBENCY AND OFFICIAL NAME:** The proper corporate title of the Issuer is "City of Thomas." The Issuer is a municipal corporation in Tucker County and is presently existing under the laws of, and a political subdivision of, the State of West Virginia. The governing body of the Issuer is its Council, consisting of a Mayor, a Recorder and 5 councilmembers, all duly elected or appointed, as applicable, qualified and acting, and whose names and dates of commencement and termination of current terms of office are as follows:

<u>Name</u>		<u>Date of Commencement of Office</u>	<u>Date of Termination of Office</u>
Debra Snyder	- Mayor	December 11, 1996	June 30, 1998
Gloria Elza	- Recorder	May 13, 1997	June 30, 1998
Robert Young	- Councilmember	July 1, 1994	June 30, 1998
Jean Dement	- Councilmember	July 1, 1994	June 30, 1998
Thomas DiBacco, Jr.	- Councilmember	May 27, 1997	June 30, 1998
A. Matthew Quattro, Jr.	- Councilmember	July 29, 1997	June 30, 2000
Thomas E. Friend	- Councilmember	July 29, 1997	June 30, 2000

The names of the duly appointed, qualified and acting members of the Sanitary Board of the Issuer are as follows:

Chairman	-	Debra Snyder
Member	-	William Swecker, P.E.
Member	-	Edward Kepner

The duly appointed and acting Recorder of the Issuer is Gloria Elza. The duly appointed and acting Counsel to the Issuer is Nichols & Nichols in Parsons, West Virginia.

7. **LAND AND RIGHTS-OF-WAY:** All land in fee simple and all rights-of-way and easements necessary for the acquisition and construction of the Project 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 which would adversely affect or interfere in any way with the use thereof for such purposes. The costs thereof, including costs of any properties which may have to be acquired by condemnation, are, in the opinion of all the undersigned, within the ability of the Issuer to pay for the same without jeopardizing the security of or payments on the Bonds.

8. **MEETINGS, ETC.:** All actions, ordinances, resolutions, orders and agreements taken by and entered into by or on behalf of the Issuer in any way connected with the issuance of the Bonds and the acquisition, construction, and financing of the Project or the operation of the System were authorized or adopted at regular or special meetings of the Governing Body of the Issuer duly and regularly called and held pursuant to the Rules of Procedure of the Governing Body and all applicable statutes, including, particularly and without limitation, Chapter 6, Article 9A, of the West Virginia Code of 1931, as amended, and a quorum of duly elected or appointed, as applicable, qualified and acting members of the Governing Body was present and acting at all times during all such meetings. All notices required to be posted and/or published were so posted and/or published.

9. **CONTRACTORS' INSURANCE, ETC.:** All contractors have been required to maintain Worker's Compensation, public liability and property damage insurance, and builder's risk insurance where applicable, in accordance with the Bond Legislation. All insurance for the System required by the Bond Legislation is in full force and effect.

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

11. **RATES:** The Issuer has duly enacted a sewer rate ordinance on September 24, 1996, setting rates and charges for the services of the System. The time for appeal of such sewer rate ordinance has expired prior to the date hereof without any appeal, and such rates will be effective upon substantial completion of the Project.

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

13. **BOND PROCEEDS:** On the date hereof, the Issuer received \$126,550 from the Authority and the DEP, being a portion of the principal amount of the Bonds and more than a de minimis amount of the proceeds of the Bonds. The balance of the principal amount of the Bonds will be advanced to the Issuer as acquisition and construction of the Project progresses.

14. **PUBLICATION AND PUBLIC HEARING ON BOND ORDINANCE:** Upon adoption of the Bond Ordinance, an abstract thereof, determined by the Governing Body to contain sufficient information as to give notice of the contents thereof, was published once each week for 2 successive weeks, with not less than 6 full days between each publication, the first such publication occurring not less than 10 days before the date stated below for the public hearing, in the *Parsons Advocate*, a newspaper of general circulation in the City of Thomas, there being no newspaper published therein, together with a notice to

all persons concerned, stating that the Bond Ordinance had been adopted and that the Issuer contemplated the issuance of the Bonds described in such Bond Ordinance, stating that any person interested may appear before the Council at the public hearing held at a public meeting of Council on the 9th day of December, 1997, at 6:30 p.m., at the Thomas City Hall and present protests, and stating that a certified copy of the Bond Ordinance was on file at the office of the Recorder of the Issuer for review by interested parties during the office hours of the Issuer. At such hearing all objections and suggestions were heard by the Governing Body and the Bond Ordinance became finally adopted, enacted and effective as of the date of such public hearing, and remains in full force and effect.

15. **PUBLIC SERVICE COMMISSION ORDER:** The Issuer has received the Final Orders of the Public Service Commission of West Virginia entered on August 14, 1997, and December 12, 1997, in Case No. 96-1253-S-CN, granting to the Issuer a certificate of public convenience and necessity for the Project and approving the financing for the Project. The time for appeal of the latter Final Order has not expired prior to the date hereof. However, the parties thereto have stated that they will not appeal such Final Order. Such Final Order is not subject to any appeal, further hearing, reopening or rehearing by any customer, protestant, intervenor or other person not a party to the original application.

16. **SPECIMEN BOND:** Delivered concurrently herewith is a true and accurate specimen of the Bond.

17. **CONFLICT OF INTEREST:** No officer or employee of the Issuer has a substantial financial interest, direct, indirect or by reason of ownership of stock in any corporation, in any contract with the Issuer or in the sale of any land, materials, supplies or services to the Issuer or to any contractor supplying the Issuer, relating to the Bonds, the Bond Legislation and/or the Project, including, without limitation, with respect to the Depository Bank. For purposes of this paragraph, a "substantial financial interest" shall include, without limitation, an interest amounting to more than 5% of the particular business enterprise or contract.

18. **CLEAN WATER ACT:** The Project as described in the Bond Ordinance complies with Sections 208 and 303(e) of the Clean Water Act.

WITNESS our signatures and the official seal of the CITY OF THOMAS on this 17th day of December, 1997.

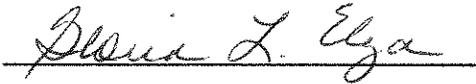
[CORPORATE SEAL]

SIGNATURE

OFFICIAL TITLE



Mayor

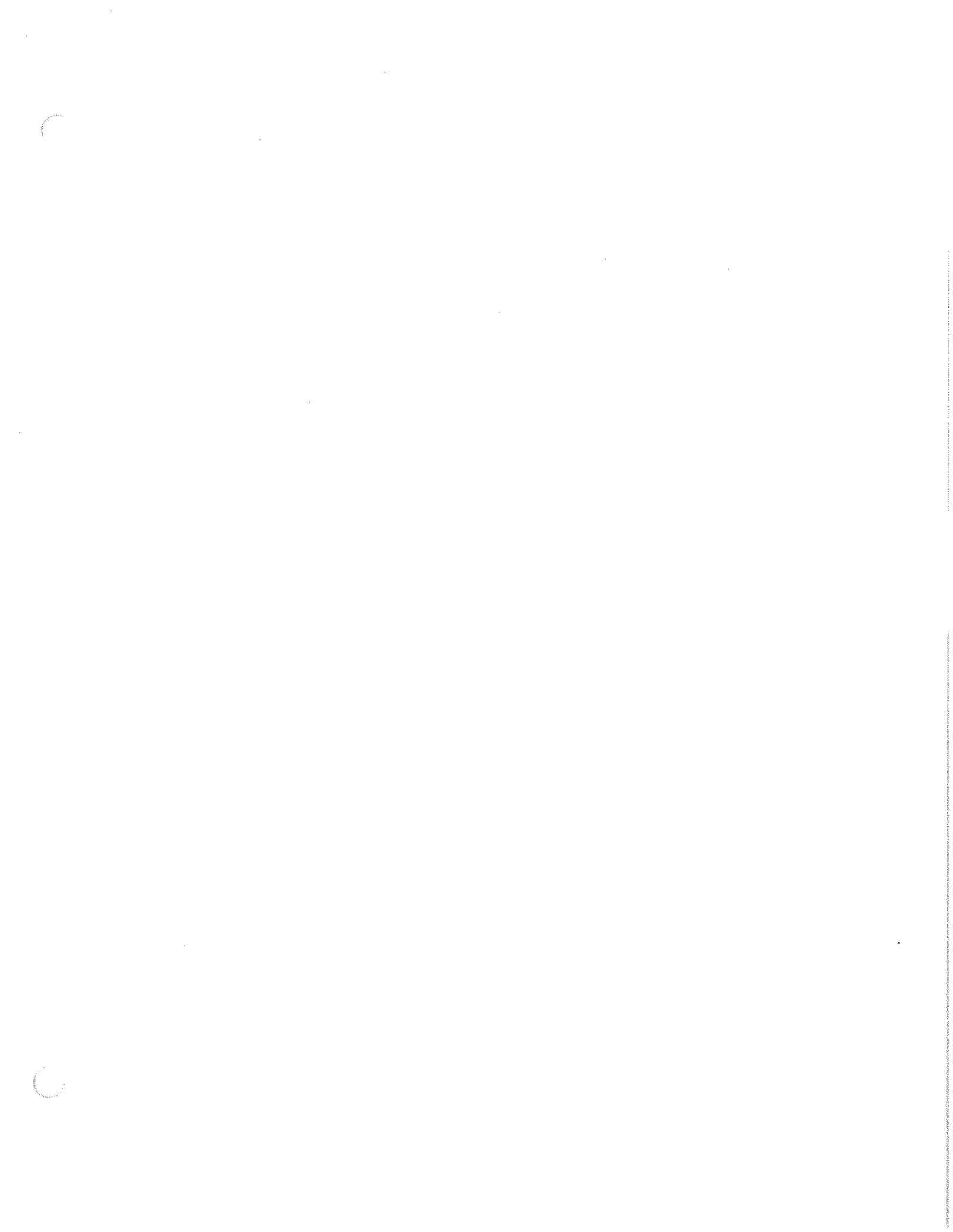


Recorder



Counsel to Issuer

12/03/97
896820/94001



CITY OF THOMAS

Sewer Revenue Bonds, Series 1997 A
(West Virginia SRF Program)

CERTIFICATE OF ENGINEER

I, H. Wood Thrasher, Registered Professional Engineer, West Virginia License No. 9478, of Thrasher Engineering, Inc., Clarksburg, West Virginia, hereby certify as follows:

1. My firm is engineer for the acquisition and construction of a new public sewerage system (the "System") of the City of Thomas (the "Issuer") to be constructed primarily in Tucker County, West Virginia, which acquisition and construction are being financed in part by the proceeds of the above-captioned bonds (the "Bonds") of the Issuer. Capitalized terms used herein and not defined herein shall have the same meaning set forth in the Bond Ordinance enacted by the Issuer on December 9, 1997, as supplemented by the Supplemental Resolution adopted by the Issuer on December 9, 1997, and the Loan Agreement, by and among the Issuer, the West Virginia Division of Environmental Protection (the "DEP"), and the West Virginia Water Development Authority (the "Authority"), dated October 24, 1997.

2. The Bonds are being issued for the purposes of (i) paying a portion of the costs of acquisition and construction of the Project; and (ii) paying costs of issuance and related costs.

3. 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 DEP and 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 20 years, (iii) the Issuer has received bids for the acquisition and construction of the Project which are in an amount and otherwise compatible with the plan of financing 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 of West Virginia and the United States necessary for the acquisition and construction of the Project, (v) the rates and charges for the System as adopted by 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, if any, irrevocably committed therefor, are sufficient to pay the costs of acquisition and construction 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 and seal on this 17th day of December, 1997.

THRASHER ENGINEERING, INC.

(SEAL)



H. Wood Thrasher, P.E.
West Virginia License No. 9478

11/04/97
896820/94001

HARRIS & COMPANY

Certified Public Accountants

Buckhannon Office
P.O. Box 732
Buckhannon, WV 26201
(304) 472-1928

Weston Office
235 North River Avenue
Weston, WV 26452
(304) 269-2269

December 17, 1997

City of Thomas
Sewer Revenue Bonds, Series 1997 A
(West Virginia SRF Program)

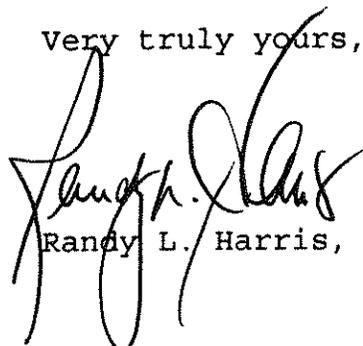
West Virginia Water Development
Authority
Charleston, West Virginia

West Virginia Division of
Environmental Protection
Charleston, West Virginia

Ladies and Gentlemen:

Based upon the rates and charges set forth in the sewer rate ordinance of the City of Thomas (the "Issuer"), enacted September 24, 1996, and projected operation and maintenance expenses and anticipated customer usage as furnished to us by the Issuer, it is my opinion that such rates and charges will be sufficient to provide revenues which, together with other revenues of the sewerage system of the Issuer (the "System"), will pay all repair, operation and maintenance expenses of the System and leave a balance each year equal to at least 115% of the maximum amount required in any year for debt service on the Sewer Revenue Bonds, Series 1997 A (West Virginia SRF Program) (the "Bonds"), to be issued in the original aggregate principal amount of \$ 1,500,000 to the West Virginia Water Development Authority on the date hereof.

Very truly yours,


Randy L. Harris, C.P.A.

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LEGISLATURE OF WEST VIRGINIA

ACTS OF 1925

REGULAR SESSION

MUNICIPAL CHARTERS

CHAPTER 1

(Senate Bill No. 13—By Mr. Helmick)

AN ACT to create the municipal corporation of "The City of Thomas," in the county of Tucker, defining the powers thereof, and describing the limits of said city, and to grant a charter thereto.

[Passed April 17, 1925; in effect from passage. Approved by the Governor.]

Sec.		Sec.	
1.	Creating municipal corporation; defining powers and limits.	21.	Issuance of executions; default.
2.	Corporate boundaries.	22.	Jail; maintenance of prisoners.
3.	Wards; council to create new wards and change boundaries; voting places.	23.	Mayor's docket.
4.	Officers; appointments; eligibility of officers; vacating office.	24-25.	Appeal.
5.	Municipal authorities.	26.	Enforcing penalty; proceedings.
6-7.	Elections; time of, and method of holding; officers to be elected; terms of office.	27.	Appeals similar to justice's court.
8.	Oath and bonds of officers.	28.	Duties and salary of clerk.
9.	Council to control appointive officers.	29-30.	Duties of collector; notice and payment of taxes; time payable; statement to council; salary.
10.	Bonds of officers.	31.	Chief of police; bond; duties; forfeiture of bond.
11.	Removal from office; filling vacancies.	32.	Duties and salary of solicitor.
12.	Rules governing council.	33.	Additional duties chief of police.
13.	Minute book; keeping of records; certifying copies of ordinances.	34.	Arrest; issuance and execution of process; collection of fines; jurisdiction and liability of chief of police.
14.	Correcting minute book.	35.	Treasurer; appointment and removal; regulations; bond; compensation; liability.
15.	Passage of ordinances.	36.	City commissioner; compensation; duties.
16.	Powers of council.	37.	Lien for taxes; enforcement.
17.	Franchises; regulations concerning franchises.	38.	License and license taxes.
	Additional general authority of council.	39.	Application for and expiration of licenses.
	Powers of mayor; salary; salary of councilmen.	40.	Condemnation proceedings.
20.	Process in proceedings.	41.	Sidewalks; assessment for; Mens.

Sec.		Sec.		
42.	Street paving; assessment for; payment; liens.	46.	capitation tax.	
43.	Sewers; assessment for; payment; liens; handling of funds.	47.	Annual financial statement; penalty for failure to publish.	
44.	Previously constructed sewers; compensation.	48.	Bonds, additional levy.	
45.	Assessment of property; taxes;	49.	Succession to town of Thomas; officers to continue.	
			49.	Repealing inconsistent acts.

Be it enacted by the Legislature of West Virginia:

Section 1. That the inhabitants of that portion of the county of Tucker, in the state of West Virginia, within the boundary described in the next succeeding section of this act, be and they are hereby made and created a municipal corporation by the name of "The City of Thomas," by which name they shall have perpetual succession and a common seal, and by which name they may sue and be sued, plead and be impleaded, contract and be contracted with, and purchase, or otherwise acquire and hold real estate and personal property needed in the discharge of the functions of government conferred by law and the provisions of this act.

Sec. 2. The corporate boundaries of the said city shall be as follows, that is to say:

Beginning at a large hemlock (now concrete stone) southwest of the school house known as "Thomas schoolhouse": thence south sixty degrees, east one hundred and twenty-two poles to a hemlock with beech and spruce pointers, (now concrete stone), north thirty degrees, east three hundred and fifty-three poles to a stake with hemlock, beech and spruce pointers (now concrete stone); thence north sixty degrees, west one hundred and twenty-two poles to a bunch of May cherries, (now concrete stone), two poles West Virginia Central railroad (now Western Maryland railroad); thence south thirty degrees, west three hundred and fifty-three poles to the beginning, crossing the North fork of the Blackwater river at fifteen poles and re-crossing the same again at three hundred and fifteen poles.

Sec. 3. The territory of said city is hereby divided into two wards, as follows:

First Ward: All the territory within said city lying north of First street, and northwest of the main line of the Western Maryland railroad to the corporation line below the Western Maryland depot.

Second Ward: Lying south of First street, and southeast of the main line of the Western Maryland railroad.

The common council may reduce or increase the number of

10 wards, and change the boundaries thereof, always having due
11 regard to population.

12 The common council shall designate and provide a voting
13 place in each ward.

Officers

Sec. 4. The officers of the city shall be a mayor, clerk, a
2 solicitor, an assessor, a treasurer, two councilmen from each
3 ward, a councilman at large, a chief of police who may at the
4 discretion of the council be also appointed *ex-officio* collector;
5 and if said chief of police is not appointed *ex-officio* collector,
6 a collector is to be appointed, and the council shall have
7 authority to appoint a city commissioner if, within their judg-
8 ment, the appointment is necessary to the welfare of the city.

9 The chief of police, the treasurer, the assessor, the solicitor,
10 and the city commissioner shall be appointed by the city council.
11 No person shall be eligible to any elective office unless he or
12 she is a qualified voter of said city, nor unless he or she has
13 resided therein for at least three months next before the elec-
14 tion, and in case of councilmen from one of the wards unless
15 he is a *bona fide* resident of the ward from which he is elected
16 and was assessed with and paid the tax on either real or per-
17 sonal property that had an assessed valuation of three hundred
18 dollars or more, and the removal of a councilman from a ward
19 in which he was elected in said city or his ceasing to pay tax
20 on an assessed valuation of not less than three hundred dollars
21 real or personal property, shall vacate his office and no person
22 shall be eligible to be appointed to any city office unless he is a
23 qualified voter thereof.

Sec. 5. The municipal authorities of said city shall consist
2 of the mayor, five councilmen and the clerk, who together shall
3 form a common council, and all the corporate powers of said
4 city shall be exercised by said council, or under its authority,
5 except where otherwise provided.

Elections

Sec. 6. Elections shall be conducted under the general laws.
2 The first election held hereunder shall be on the first Tuesday
3 in February, one thousand nine hundred and twenty-six, and
4 biennially thereafter as hereinafter provided. Every person who
5 has been a *bona fide* resident of the city for three months next
6 preceded any election, and otherwise a qualified voter under

7 the constitution and laws of this state, shall be entitled to vote
8 at such election in the ward in which he or she resides.

9 The election shall be held, conducted and the results thereof
10 be ascertained, returned and determined under such rules and
11 regulations as may be prescribed by the council which shall not
12 be inconsistent with the general laws of the state governing
13 municipal elections, and shall conform as nearly as practicable
14 to such laws. Contested elections shall be heard and decided by
15 council, and the proceedings therein shall conform as nearly
16 as may be to similar proceedings in the case of the county and
17 district officers. The council shall be judge of the election, re-
18 turns and qualifications of its own members. In case two or
19 more persons receive an equal number of votes for the same of-
20 fice, if such number be the highest cast for such office, the city
21 council shall decide by vote which of them shall be returned
22 elected, and shall make their return accordingly.

First Election Biennial Thereafter

Sec. 7. On the first Tuesday in February, one thousand nine
2 hundred and twenty-six, there shall be elected by the qualified
3 voters of said city a mayor, and clerk and one councilman at
4 large and by the qualified voters of each ward two councilmen.
5 The term of office of the mayor, clerk, and councilman at large
6 shall be for a period of two years commencing on the first
7 Monday in March, one thousand nine hundred and twenty-six,
8 and until their successors shall be elected and qualified. The
9 term of office of the councilman from each ward receiving the
10 greatest number of votes shall be for a period of four years
11 commencing on the first Monday in March, one thousand nine
12 hundred and twenty-six, and until their successors shall be
13 elected and qualified. The term of office of the councilman
14 from each ward receiving the next highest number of votes
15 shall be for a period of two years, commencing on the first
16 Monday in March, one thousand nine hundred and twenty-six
17 and until their successors shall be elected and qualified.

18 And on the first Tuesday in February, one thousand nine
19 hundred and twenty-eight, and every two years thereafter there
20 shall be elected by the qualified voters of said city, a mayor,
21 clerk, and one councilman-at-large whose term of office shall be
22 two years as aforesaid, and by the qualified voters of each ward
23 one councilman whose term of office shall be four years as
24 aforesaid.

25 All of the other officers provided for in this act may be
26 appointed to hold and discharge the duties of more than one
27 of said offices. The same person shall not be eligible for a
28 second appointment unless he shall have fully settled up all
29 business of his former term or terms.

Sec. 8. Every person elected or appointed to any office in
2 said city shall, within twenty days after his election, or ap-
3 pointment, and before entering upon the discharge of the du-
4 ties thereof, take and subscribe the oath of office prescribed
5 by law for officers generally, which may be done before the
6 mayor or clerk of said city or before any person authorized by
7 law to administer oaths, and the same, together with the cer-
8 tificate of the officer administering the oath shall be filed with
9 the clerk of said city and preserved by him. And if a bond
10 be required by said officer he shall likewise give such bond
11 and with such surety and in such penalty as the council may
12 fix, and to be approved by the council before he shall assume
13 duties of the office to which he is appointed or elected.

Sec. 9. The council shall prescribe the powers and define
2 the duties of all officers by it appointed, except so far as the
3 same are by this act defined; shall fix their compensation,
4 and may require and take from them respectively, bonds pay-
5 able to the city in its corporate name, with such securities and
6 in such penalties as may be deemed proper, conditioned for
7 the faithful performance of their duties.

Sec. 10. The council shall require and take from all officers
2 elected or appointed as aforesaid, whose duty it shall be to
3 receive funds, assets or property belonging to the city, or
4 having charge of the same, such bonds, obligations or other
5 writings as may be deemed necessary and proper to secure
6 the faithful performance of their several duties. All bonds,
7 obligations or other writings taken in pursuance of any of
8 the provisions of this act shall be made payable to The
9 City of Thomas, with such sureties and in such penalties as
10 may be deemed proper, conditioned for the faithful perfor-
11 mance of their duties and for the accounting and paying over
12 as required by law, all moneys coming into their hands by
13 virtue of their offices, and the respective persons and their
14 heirs, executors and assigns bound thereby, shall be subject
15 to the same proceedings on said bonds, obligations and other
16 writings, for enforcing the conditions of the terms thereof,

17 by motion or otherwise, before any court of competent juris-
18 diction, held in and for the county of Tucker, that collectors
19 of county levies and other sureties are, or shall be subject to,
20 on their bonds for enforcing the payment of the county levies.

Sec. 11. The council shall have the authority to remove from
2 office any elective officer of the city for misconduct, drunken-
3 ness or neglect of duty, by an affirmative vote of five of the
4 members of the council but only after reasonable notice to such
5 officer, and a hearing of the charges preferred; and any va-
6 cancy in office, however occasioned, may be filled by the coun-
7 cil for the unexpired term.

Sec. 12. The council shall fix the place and time for hold-
2 ing its regular meetings; may provide for special and ad-
3 journed meetings; shall have power to compel the attendance
4 of its members; and may prescribe rules and regulations not
5 inconsistent herewith, for the transaction of business and for
6 its own guidance and government. The council shall be pre-
7 sided over at its meetings by the mayor, or in his absence, by
8 the clerk, or in the absence of both the mayor and clerk, then
9 one of the councilmen selected by a majority of the councilmen
10 present. A majority of the council elected shall be necessary
11 to constitute a quorum for the transaction of business. No
12 member of the council shall vote upon, or take part in the
13 consideration of any proposition in which he is, or may be
14 interested otherwise than as a resident of said city.

Sec. 13. The council shall cause to be kept by the clerk in a
2 well-bound book to be called the minute book, an accurate
3 record of all its proceedings, ordinances, acts, orders and reso-
4 lutions, and in another to be called the ordinance book, accurate
5 copies of all the ordinances adopted by the council, both of
6 which shall be fully indexed and open to the inspection of any
7 one required to pay taxes to the city or who may be otherwise
8 interested. All oaths and bonds of officers of the city and all
9 papers of the council shall be endorsed, filed and securely kept
10 by the clerk, except the bond of the clerk which shall be filed
11 with the mayor. All printed copies of such ordinances pur-
12 porting to be published, under authority of the council, and
13 transcripts of such ordinances, acts, orders and resolutions,
14 certified by the clerk under the seal of the city, shall be deemed
15 *prima facie* correct, when sought to be used as evidence in any
16 court or before any justice.

Sec. 14. At each meeting of the council, the proceedings of
2 the last meeting shall be read, and if erroneous, corrected and
3 signed by the presiding officer for the time being. Upon the
4 call of any member, the yeas and nays on any question shall be
5 taken and recorded in the minute book.

Sec. 15. No ordinance or by-law, and no resolution or
2 measure for the expenditure of money other than to defray the
3 current and incidental expenses of the city, shall be deemed
4 passed or adopted unless it shall have been fully read at two
5 consecutive meetings of the council, and shall have received a
6 majority of the votes of members present, when it shall stand
7 and be declared adopted, and not otherwise.

Sec. 16. The council of said city shall have the following
2 general powers enumerated in the subdivisions of this section,
3 as follows:

4 (1) To lay off, open, close, vacate or maintain public
5 grounds, parks, public places, name and re-name the same, to
6 have control and supervision thereover, to protect the same
7 from damage or other injury by persons or property, to fix
8 fines and punishments for any injury thereto in violation of
9 any of the orders of said council, and to maintain good order
10 and prevent violations of the ordinances of said city therein
11 or thereon.

12 (2) To establish, maintain and regulate free public
13 libraries and reading rooms, and to purchase books, papers,
14 maps, manuscripts and other proper things therefor, to receive
15 donations and bequests of money or property for the same,
16 in trust or otherwise, and to pay the necessary expenses for
17 establishing, maintaining and regulating the same out of the
18 funds for general purposes: *provided*, such expenditure shall
19 not exceed one hundred dollars per annum unless by a unani-
20 mous vote of all of the members of the council.

21 (3) To protect divine worship within the limits of said
22 city, and to fix fines and punishment for disturbance of any
23 assemblage of people, then and there, met for the worship of
24 God, to prohibit any interference with or disturbance of divine
25 worship of God, to prohibit any interference with or disturb-
26 ance of divine worship or an assemblage of people met together
27 for the worship of God by any person or persons loitering
28 about the premises or places where such worship is being had
29 or such assemblage is met, or from loitering in the public

30 streets or public places adjacent thereto in such manner as to
31 interrupt such worship.

32 (4) To acquire either by purchase, condemnation or any
33 other modes provided by general law, ground within said city
34 for such streets and alleys as the council may deem proper;
35 to locate, lay off, vacate, close, open, alter, grade, straighten,
36 widen, narrow, pave or re-pave, construct and keep in good
37 repair, the roads, streets, alleys, pavements, sidewalks, cross-
38 walks, drains, viaducts and gutters therein, and such bridges
39 as may be owned or built by the said city, for the use of the
40 public or of any of the citizens thereof, and to improve and
41 light the same and to keep the same free from obstruction of
42 every kind and clean; *provided* the municipality shall not be
43 liable for, or responsible in, damages for injuries to persons
44 or property caused by or from any defect or obstruction in or
45 on any street or alley within said city, that has been or may
46 be taken over by the state road commission, under and by
47 virtue of the laws of this state; nor shall said municipality
48 be liable in damages for injuries to persons or property caused
49 by or from a defect or obstruction in or on the plot of ground
50 between the gutter or curb of any street and the paved or
51 plank sidewalks extending there along or between any such
52 sidewalks and the property lying next adjacent thereto, unless
53 the municipality had actual notice of such defect or obstruc-
54 tion prior to the time of the injury complained of; and, *pro-*
55 *vided, further*, that where said city shall be required to
56 respond in damages by reason of injury to persons or property
57 occasioned by the failure of any abutting owner to so provide
58 or keep in repair any sidewalk along such property, after
59 being notified by the council so to do, that such property owner
60 shall be liable to the city for any sum of money, costs and
61 counsel fees which it has been required to pay by reason
62 thereof.

63 (5) To regulate the width of sidewalks and the streets
64 and the width and the care of the public grounds or grass plots
65 abutting thereon, and to order the sidewalks, footways, cross-
66 ways, drains and gutters to be curbed, paved, or re-paved and
67 kept in good order, free and clean, and to provide for the
68 removal of snow and ice therefrom, and for sprinkling the
69 same by the owners or occupants of the real property next
70 adjacent thereto, and to provide and enforce punishments for
71 obstructing, injuring, or preventing the free and proper use

72 thereof, and to provide and enforce fines and penalties for
73 throwing therein or thereon any paper, glass, rubbish, decay-
74 ing substances or other things that would make said streets,
75 sidewalks, grass plots, cross-walks, drains, or gutters unsightly
76 or unhealthy.

77 (6) To regulate the use of the walks, highways, bridges,
78 streets, alleys and gutters and the rate of speed of travel
79 thereon, and to prevent and punish for fast riding or driving
80 thereon of any horse, bicycle, wheeled vehicle, wagon, steam
81 or electric or traction engine, motor car or automobile, and
82 to prevent injury to such streets, alleys, roads and highways
83 from overloaded or improperly loaded vehicles, and from
84 dragging logs or other matter therein, and to regulate the
85 speed of engines or trains or streetcars upon or across any such
86 streets, alleys, highways, bridges, public places or any other
87 place where the council deems the public safety requires such
88 regulation.

89 (7) To regulate the planting, trimming, and preservation
90 of shade trees, by persons and by corporations, in streets,
91 alleys, roads, public grounds and places, and shall require the
92 owner of adjacent property to trim or remove any shade
93 tree or ornamental shrubbery or other tree that in the opinion
94 of the council is an obstruction to the streets, alleys, or side-
95 walks, or a menace to public safety.

96 (8) The council shall have the right to require the owner
97 or occupier of any property in the city to keep his premises
98 clean and free from all matters that would endanger the health
99 of the city, and may require the removal of any waste paper
100 or waste material of any kind or character upon the private
101 property of any citizen or property owner that would cause
102 the spread of fire or when the council deems the same should
103 be removed; and may require the removal or straightening
104 of any fence, wire, pailings, or other material enclosing any
105 lot, when, in the opinion of the council, the same is dangerous
106 or obstructs or encroaches upon the streets, alleys, or side-
107 walks: *provided*, that in all cases, if the owner or occupier of
108 such property fails to do any of the things enumerated in
109 this section required by the council, after notice by the coun-
110 cil, the council may take such action as may be necessary to
111 perform such acts and the expense thereof shall be charged
112 to the property owner and collected as taxes are collected.

- 113 (9) To regulate the making of division fences of an un-
114 sightly nature and party walls by the owners of adjoining
115 and adjacent premises and lots, insofar as the same shall not
116 be in conflict with general law.
- 117 (10) To regulate or require drainage by the owner or
118 occupier of any lot or other real estate, by proper drains,
119 ditches, and sewers, and to require the owner or occupier of
120 any lot to fill the same, at his own expense, so that water will
121 not collect in a body thereon, or so the same will not become
122 a menace to public health.
- 123 (11) To regulate or prohibit street carnivals, or street
124 fairs, or street parades, advertising exhibition, or other exhi-
125 bitions thereon, or the exhibition of goods, wares, merchandise,
126 material or artificial curiosities upon any street, sidewalk,
127 alley or public place of the said town.
- 128 (12) To regulate or prohibit the ringing of bells, blowing
129 of steam whistles, or use of hand-organs, or other instruments
130 of an annoying character, or other music of itinerant per-
131 formers in the streets, or public speaking and preaching in
132 the streets, roads, parks, or public places of the municipality.
- 133 (13) To license, regulate or prohibit auctioneering.
- 134 (14) To license, regulate or prohibit the sale of goods,
135 wares, merchandise, drugs or medicine on the streets or other
136 public places.
- 137 (15) To prevent the illegal sale, offering or exposing for
138 sale or advertising of spiritous liquors, wine, porter, ale, beer,
139 or drinks of a like nature.
- 140 (16) To prevent the illegal sale of tobacco, cigars, snuff,
141 or cigarettes, within said municipality, and to prevent the
142 smoking, by any person under twenty-one years of age, of any
143 cigarette, in any public building, or upon any public grounds,
144 street, alley, sidewalk, or public place within said city, and to
145 fix fines and punishments for violations thereof.
- 146 (17) To regulate, control or prohibit runners for hotels,
147 boarding houses and eating houses, and to regulate draymen or
148 persons hauling or transporting for hire at and about the
149 railroad depots and stations and other public places and in
150 an assesmblage of people within the said city.
- 151 (18) To regulate, assess and collect a license fee for the
152 said city for the doing of anything or business on which a
153 state license is required, subject to the exceptions provided by
154 general law.

155 (19) To provide, assess and collect a license tax from
156 residents in said city who own and operate or run an auto-
157 mobile therein, or from any person, whether a resident of said
158 city or not, who shall run or operate an automobile in said
159 city for hire, or keep the same for hire within said city;
160 *provided*, that any person, not a resident of said city, who
161 shall run or operate an automobile in said city, not for hire,
162 for a longer period than one month at any time, shall be
163 liable to pay the license tax assessed against resident automo-
164 bile owners.

165 (20) To establish, when the council may deem proper,
166 locate, and keep in repair, market places, market houses, and
167 regulate markets, prescribe the time for holding the same, to
168 authorize the seizure thereof and destruction of any and all
169 such foods and drink products, as shall be found unwhole-
170 some, dangerous or offensive, and without recourse against
171 the municipality for its cost or value.

172 (21) To regulate the sale of food and drink products,
173 milk, fresh meats, fish and vegetables, and to provide penalties
174 for the sale of any such that are unwholesome or unfit for
175 use.

176 (22) To regulate and provide for the weighing of hay,
177 coal and other articles for sale in the markets, or to residents
178 of said city.

179 (23) To require the merchants and other persons selling
180 goods, foods or materials that must be weighed, to keep cor-
181 rect scales, to seize and destroy such as may be found to be
182 incorrect, and not corrected after due and proper notice to
183 the owner or person using the same, without damage or
184-194 expense to the municipality for the value thereof.

195 (24) To prevent injury or annoyance to the public or
196 individuals from anything dangerous, offensive or unwhole-
197 some.

198 (25) To regulate the keeping, handling and transportation
199 of explosives and dangerous combustibles within the munici-
200 pality; and to regulate or prohibit the use of firecrackers, sky-
201 rockets, toy pistols, air rifles or guns, within the said
202 municipality.

203 (26) To regulate or prohibit the erection or operation, or
204 maintenance in what the council deems an improper locality
205 within said city, any blacksmith shop, livery stable, barn,
206 stable, cattle pen, poultry house, pig pen, privy, bill board,

207 sign board, gas or other engine, coal mine, coal plant, or coal
208 bin, or any other thing that may in the opinion of the council
209 be a menace to persons or property or public safety, or that
210 would injure private property or annoy citizens of said city.

211 (27) To regulate or prohibit the use of walls or walks for
212 signs; to regulate or prevent the distribution or posting of
213 any sign, bill or other paper that, in the opinion of the council
214 or mayor, is indecent or immoral.

215 (28) To define by ordinance what shall constitute a
216 nuisance, and to abate all nuisances, whether defined or not,
217 and to require the removal or abatement of any building,
218 obnoxious business, sign board, bill board, signs, or other
219 thing, which in the opinion of the council is a nuisance.

220 (29) To regulate or prohibit the distribution of hand bills,
221 circulars and other advertisements of like kind, on the streets,
222 roads, alleys and public places, or the placing of same in pri-
223 vate yards, building or other structures, without having first
224 procured the consent of the owner or occupier of such
225 property.

226 (30) To regulate or prohibit within the municipality or
227 within one mile of its corporate limits, the erection or mainte-
228 nance of any slaughter house, soap factory, glue factory, lamp
229 black factory, tannery or other house, shop or factory of like
230 kind or character.

231 (31) To establish within said municipality public drink-
232 ing fountains and water troughs; and to regulate the time and
233 place and manner of bathing in pools, streams and public
234 waters within the police jurisdiction of said municipal corpo-
235 ration.

236 (32) To prevent hogs, cattle, sheep, horses, and other
237 animals and fowls of all kinds, from going at large in the
238 municipality; and to establish and maintain places for their
239 detention, make regulations respecting the same, appoint a
240 pound master and define his duties and provide for the sale
241 of such property impounded.

242 (33) To arrest, convict and punish any person for com-
243 mitting adultery or fornication, or for any lewd or lascivious
244 cohabitation within said city, and for keeping an assignation
245 house, house of ill fame, or for leasing or letting to any other
246 person any house or other building to be kept or used as such,
247 or for knowingly permitting any house, under the control or
248 owned by any person, to be used as an assignation house or

249 house of ill fame; and to convict and punish for frequenting,
250 entering or loitering in any assignation house or house of ill
251 fame within said municipality.

252 (34) To arrest, convict and punish any person for im-
253 porting, printing, publishing, selling, giving away, exhibiting
254 or distributing any book, picture or device, or other thing
255 containing any obscene picture or language, or making any
256 indecent representation.

257 (35) To restrain, convict and punish vagrants, mendi-
258 cants, beggars, tramps, common prostitutes, and their asso-
259 ciates, and drunken or disorderly persons within the munici-
260 pality, and to provide for their arrest and manner of punish-
261 ment.

262 (36) To prevent and prohibit the use of indecent or pro-
263 fane language within the corporate limits, and to provide
264 and fix punishment therefor.

265 (37) To prevent and prohibit any tumult, riot, quarrel,
266 angry contention, or abusive language, and to prevent the use
267 of insulting epithets, assaults, assault and battery, and fix
268 fines and punishments therefor.

269 (38) To prevent and prohibit trespass upon private
270 property or the doing of anything which would annoy the
271 owner or occupier of any premises, and to fix and provide
272 fines and punishments therefor.

273 (39) To provide against danger or damages by fire, and
274 to that end, to require, when the council may think necessary,
275 an inspection of all the properties within the said city, and to
276 require the owner or occupier of any property in which a
277 defective or dangerous chimney or flue is found, to imme-
278 diately repair the same, and to prevent the use thereof until
279 repaired as required.

280 (40) To prohibit and prevent intoxication or drunkenness,
281 and the drinking of intoxicants in any public place, store,
282 street, or alley, and to fix fines and penalties therefor.

283 (41) To prohibit and punish for larceny where the amount
284 stolen is less than twenty dollars.

285 (42) To prohibit, prevent, and punish for anything that
286 is against the good morals and common decency, and that
287 would tend to corruption, vice or crime.

288 (43) To protect the public schools in said city, and to
289 prohibit and prevent any disturbance thereof in and about

290 the buildings or upon the grounds, and to prevent injury,
291 destruction or defacement of any school property or building.

292 (44) To establish a board of health and vest it with the
293 necessary power to maintain its object, and to fix fines and
294 penalties for any violation of its lawful orders.

295 (45) To establish quarantine, and to erect and maintain
296 pest houses and places of detention, and to make and enforce
297 necessary orders for controlling or preventing the spread of
298 infectious and contagious diseases, and for abating pestilences.

299 (46) To prohibit the bringing into the corporate limits
300 by railroads, carriers, persons, or in any manner, persons who
301 are paupers or persons who are afflicted with contagious
302 diseases; and to punish by fine and imprisonment, or both,
303 any person who shall bring into the corporate limits any such
304 pauper or person afflicted with contagious diseases, knowing
305 or having reason to believe at the time, that such person is a
306 pauper or afflicted with such contagious disease, and to collect
307 and recover from any such railroad company, carrier, or other
308 person, the expense of keeping and maintaining such pauper
309 or diseased person, until such person can be lawfully removed
310 from the corporate limits.

311 (47) To provide for the poor of the municipality, and to
312 that end, the municipality may contract with the county court
313 of Tucker county, for the keeping of such poor person, or any
314 number of them, at the county poor house, at a price and
315 on such terms as may be agreed upon between the county
316 court and the proper municipal authorities.

317 (48) To authorize the taking up and providing for the
318 maintenance and safe keeping, and educating of (for such
319 period as may be deemed expedient) all children within said
320 city who are destitute of proper parental and other care.

321 (49) To arrest, convict and punish any person for cruelty,
322 unnecessarily beating, torturing, mutilating, killing, or over-
323 loading, or over-driving, or wilfully depriving necessary sus-
324 tenance, any horse or other domestic animal.

325 (50) To regulate the hitching of horses within the corpo-
326 rate limits, and the driving of cows and cattle through, upon
327 and along the streets and alleys of the said city.

328 (51) To prohibit, prevent and punish for the pollution
329 of any stream of water running into or through the said
330 municipality; and to prohibit and prevent the throwing into

331 any stream of any trash, dirt, filth, offal, decayed substances
332 or matters, or anything that would make said water unhealthy
333 or unfit for domestic use.

334 (52) To prohibit, prevent and punish for any desecration
335 of the Sabbath day; prohibit the playing of any game, exhib-
336 iting any show, theatre, picture show, and the keeping open
337 of business places, except hotels, eating houses, boarding
338 houses, restaurants, drug stores and places where ice cream or
339 soft drinks are furnished.

340 (53) To restrain, prevent and punish fraudulent prac-
341 tices of any kind or character within the municipality.

342 (54) To arrest, convict and punish any person for
343 gambling or keeping any gaming table, commonly called faro
344 bank, or table and chips used in playing such game, crap, crap
345 table, chips or dice used in playing such game; or roulette or
346 the wheel, chips, or other equipment used in playing such
347 game; or keno table or table of like kind or device used in
348 playing the same; or table of like kind under any denomina-
349 tion, whether the game or games be played with cards, dice,
350 or otherwise on which anything is bet or wagered, whether the
351 same be played in any public or private room or residence;
352 and may convict and punish any person who shall be a partner
353 or concerned in interest in the keeping of any such gambling
354 devices heretofore enumerated, or in any game played, such
355 as is prohibited hereby, or in keeping or maintaining any
356 gambling house or place of gambling for money or anything
357 of value; and shall have the right to destroy such gambling
358 paraphernalia as may be found in use on any such premises;
359 and any officer armed with a warrant for the arrest of any
360 person engaged in any such unlawful game or for the search
361 of any room in which gambling is suspected, or for the seizure
362 of any gambling paraphernalia, shall have the right to break
363 into any building, other than a private dwelling house, without
364 notice or demand, and into a private dwelling or room, after
365 demand and refusal to open same, to execute any such
366 warrant.

367 (55) To restrain all felons and persons guilty of offenses
368 against this state or the United States, and deliver them over
369 to the authorities or court having jurisdiction of the offense
370 whereof such person is accused.

371 (56) To apprehend and punish any person who, without
372 a state license therefor, is guilty of carrying about his person,

373 within the municipality, any revolver or other pistol, dirk,
374 bowie knife, sling shot, razor, billy, metallic or other false
375 knuckle, or any other dangerous or deadly weapons of like
376 kind and character, as provided by chapter fifty-one of the
377 acts of the legislature of one thousand nine hundred and nine,
378 or any amendment thereof, and the punishment therefor,
379 whether for the first or other offenses, shall be that prescribed
380 by said chapter for any such person guilty under the misde-
381 meanor clause provided therein; *provided*, that the mayor
382 acting as *ex-officio* justice of the peace, may, after enforcing
383 this ordinance, hold such offender to answer to an indictment
384 in the circuit court of Tucker county for such offense, under
385 the state law.

386 (57) To regulate the erection, construction, alteration and
387 repair of dwelling houses, buildings and other structures,
388 within the municipality, to issue permits therefor, and to
389 compel the numbering of such houses and buildings by the
390 owners and occupiers thereof: and to prescribe by ordinance
391 the distance which dwelling houses, and other structures in
392 resident districts shall be set back from the sidewalk.

393 (58) To regulate the hanging of doors, the construction
394 of stairways and elevators, and require fire escapes in theatres,
395 churches school buildings, factories and other places deemed
396 necessary by the council.

397 (59) To establish fire limits and to regulate the construc-
398 tion of buildings, and designate materials to be used in the
399 construction of buildings within such limits.

400 (60) To regulate the building of fire walls, fire places,
401 chimneys, boilers, smoke stacks, stove pipes, and the burning
402 of waste paper, trash or other waste matter, in the corporate
403 limits.

404 (61) To require any building that, in the opinion of the
405 council, is dangerous, to be repaired, altered, or removed by
406 the owners thereof, or put in a safe condition, such as the
407 council may approve, at the expense of such owner or occupier,
408 and to provide punishments for failure to comply with any
409 order of the council concerning same.

410 (62) To regulate the height, construction and inspection
411 of all new buildings thereafter erected, the alteration and
412 repair of any buildings now or hereafter erected, to require
413 permits to be obtained of the council therefor, and the sub-

414 mission of plans and specifications to the council for its
415 approval; to regulate the limits within which it shall be lawful
416 to erect any steps, porticos, bay windows, awnings, signs,
417 columns, piers, or other projection or structural ornaments
418 of any kind for the houses or buildings on any street or alley.

419 (63) To provide for the extinguishing and prevention of
420 fires, and for this purpose, the council may equip and govern
421 fire companies, prescribe the powers and duties of such com-
422 panies and departments, and of the several officers thereof,
423 or may authorize volunteer fire companies, under such rules
424 and regulations as the council may prescribe, and impose on
425 those who fail to obey any lawful command of the officer in
426 charge of any such company, or volunteer company, any pen-
427 alty which the council is authorized to impose for violation of
428 an ordinance, and to give authority to any such fire officer
429 to direct the pulling down or destruction of any building,
430 fence, wall or other thing, if such officer deem it necessary to
431 prevent the spreading of any fire which is being extinguished
432 under the direction of such officer, and without any liability on
433 the municipality for damages therefor.

434 (64) To protect the persons and property within the
435 corporate limits and preserve the peace and good order
436 therein, and for this purpose, to appoint, when necessary, a
437 police force and such other officers as may be deemed neces-
438 sary; and to provide a lockup, jail or other suitable place to
439 confine persons sentenced to imprisonment for violation of the
440 ordinances of said city; *provided, however,* that the jail of
441 Tucker county may be used for that purpose, if authorized by
442 the county court of said county.

443 (65) To require any person violating any of the ordi-
444 nances of said city, or any order for which a fine, imprison-
445 ment or both is imposed, to work upon the streets of said city
446 in case of non-payment of said fine, until the same is paid
447 by such labor, or in case imprisonment is imposed, to work
448 upon the streets of said city during the term of such imprison-
449 ment in addition to the payment of such fine, under such
450 regulations as the council may prescribe.

451 (66) To prescribe the powers, define the duties of the
452 officers appointed under the corporate authority, fix their
453 terms of service and compensation, if not otherwise prescribed
454 by this charter, and to acquire and take from them bonds,
455 when deemed necessary, payable to the state of West Virginia,

456 of the city of Thomas, with the sureties, and in such penalties
457 as may be prescribed, conditioned for the faithful discharge
458 of their respective duties; *provided*, that the compensation of
459 any officer, elected or appointed, shall not be increased nor
460 diminished during the time for which he is elected or
461 appointed, unless due notice of such intention is first served
462 on the officer interested.

463 (67) To make regulations with respect to, and have super-
464 vision and control over the erection, removal and relocation
465 of all telephone, telegraph, electric light or other poles within
466 said city, and the extension of wires, lines or poles by any
467 individuals or corporations.

468 (68) To grant and regulate all franchises in, upon, over
469 and under the streets, alleys and public ways of said city,
470 under such restrictions as shall be provided by ordinances and
471 general law; but no exclusive franchise shall be granted by
472 said city council to any individual or corporation; nor shall
473 any franchise be granted for a longer period than fifty
474 years.

475 (69) To acquire, erect or authorize or prohibit the erec-
476 tion of gas works, electric light works or water works within
477 the city limits; to prevent injury to such works or the pollu-
478 tion of any gas or water used or intended to be used by the
479 public or individuals; and to do all things necessary to ade-
480 quately supply said city and the inhabitants thereof with
481 pure, healthful and wholesome water; to use, generate, dis-
482 tribute, sell and control electricity and gas for heat, light and
483 power, and to furnish light for the streets, highways, build-
484 ings, stores and other places in and about said city.

485 (70) To prevent injury to any gas works, electric light
486 works, water system or any gas meter or meters within said
487 municipality.

488 (71) The council shall have the right to require of any
489 water company or person furnishing water for the use of the
490 inhabitants of said city, for hire, compensation or reward, to
491 obey any order of the council with respect to keeping the
492 reservoir or other source from which said water is furnished,
493 free from filth and in a good, clean condition, and may require
494 said water company to properly filter the water distributed
495 for use, and may require said company to put in such lines as
496 may be necessary to pump the said water into the reservoir

497 or other receptacle therefor, without pumping the same into
498 the main distributing lines, or in any other way or manner
499 effecting them; and may fix fines and penalties for any failure
500 on the part of any corporation, company or other person dis-
501 tributing water, to obey any order of the council or any
502 authorized officer of the town, respecting the same, or any
503 ordinance that may be enacted by the council relative thereto.
504 (72) The council shall have the right to own, maintain,
505 operate any electric light plant within said city, or to pro-
506 vide for, or purchase electric power and to use, generate,
507 distribute and sell electricity and gas for heat, light and
508 power, and to furnish light for the streets, houses, buildings,
509 stores and other places in and about said city, and for such
510 electricity other than that furnished for the municipality in
511 lighting its streets or public places, it may charge reasonable
512 rates, but such rates in all cases shall be uniform; and such
513 electric light plant shall be under the supervision and control
514 of the council, and its wires, poles, distributing system and
515 machinery shall be kept in such repair so that as little danger
516 as possible shall arise therefrom, and so that same will furnish
517 an adequate supply of electricity to all persons in said city
518 desiring to use the same.

519 (73) The council shall have the right to provide a sewer-
520 age system for said city, and may require the owner of any
521 property abutting upon any street or alley in which a sewer
522 has been laid or placed, to connect a sewer leading from his
523 or her property or lot into any public sewer which is located in
524 such street or alley adjoining same, and if the owner or occu-
525 pier of said lot or property fails or refuses so to do, after
526 having been given a reasonable notice, the council may enter
527 upon such lot and construct such sewers, and may levy the
528 actual cost thereof against the lot upon which the same is
529 built and collect such costs from the owner of such lot in the
530 same manner as city or state taxes are collected; in addition
531 thereto, the council may punish by fine, or fine and imprison-
532 ment, any person who permits any drainage from his residence
533 or lot to enter upon any street or upon any property after a
534 sewer has been placed in a street or alley adjacent to his
535 property to which he should connect, after notice has been
536 given to him by the council to make such connection.

537 (74) The council shall have the right to impose fines and
538 penalties for any interference with or destruction of the sewer
539 system or any part thereof in said city, or for the destruction
540 of or damage to any street, alley or sidewalk in said city, or
541 any improper use thereof; it shall have the right to regulate
542 or prevent the use of the sidewalk for bicycles, pushcarts,
543 sleds, tricycles, roller skates and other things of like character,
544 and to fix fines and penalties for violation of the ordinances
545 respecting same.

546 (75) To grant by ordinance or resolution permits for the
547 temporary use of such parts of its streets, roads, alleys and
548 public places as the council may deem proper and right to be
549 used in the construction, alteration or repair of buildings
550 located thereon, or for such other purposes as the council may
551 deem proper and right, and under such regulations and for
552 such time as the council may prescribe.

553 (76) The council may buy, lease and operate either within
554 or without the municipality, stone quarries, crushers and land
555 for said purposes or for the purpose of furnishing a supply of
556 stone or other material suitable for macadamizing or paving
557 the streets, sidewalks and alleys, and improving public
558 property.

559-574 (77) Whenever in the opinion of the council it is neces-
575 sary that any sidewalk be built or repaired, it shall first have
576 a competent engineer fix a grade line for such sidewalk and
577 shall then, by order of council, name the character of material
578 out of which same is to be built, and fix the width thereof,
579 and put in such curbing as the council may deem necessary,
580 and shall then give notice, in writing, to the owner or occupier
581 of said lot, if he be found, and if he be not found, by posting
582 a notice thereof upon the said lot and at the front door of the
583 court house of Tucker county for at least ten days, requiring
584 the construction of said sidewalk in accordance with the
585 requirements of the council, and upon the grade fixed by the
586 said engineer, and if such sidewalk be not built, altered or
587 repaired within twenty days after such notice is first given
588 or posted, the council shall proceed to put in the same under
589 its supervision and control, and shall charge the expense
590 thereof against the property along which the same is being
591 placed, altered or repaired, and shall cause an itemized
592 account of the same to be made up and delivered to such

593 property owner or occupier of such premises, if found, and
594 if he be not found, have the same recorded in the county
595 clerk's office of Tucker county, and the same shall constitute
596 a lien upon the said lot or property and shall be collected as
597 other taxes are collected; *provided*, nothing herein contained
598 shall prevent the council from requiring immediate repair of
599 such sidewalks now or hereafter constructed that may become
600 dangerous, and after notice to the property owner along which
601 the same run, the council may make such immediate repairs,
602 if the property owner fails to make same after such notice,
603 and the expense thereof shall be a lien in the manner afore-
604 said.

605 (78) The council shall have the right, when, in its opinion,
606 it is necessary or proper to do so, to pave any street or alley
607 of said city, and to prescribe the materials to be used in such
608 paving and to charge one-third of the total costs of preparing
609 and paving the said streets to the adjacent property owners
610 on each side of the said street or alley, and to pay one-third
611 thereof out of such funds as the council may provide, but
612 such paving shall be done and such assessments and charges
613 made against the property owner as provided by chapter eight
614 of the acts of the legislature of one thousand nine hundred
615 and eight, and any amendments thereto, or hereafter made.

616 (79) To operate by ordinance such committees or boards,
617 and delegate such authority thereto as may be deemed neces-
618 sary or advisable by the council; and to employ such legal
619 counsel on behalf of the city, from time to time, as the city
620 may deem necessary to protect the interests of the city.

621 (80) To provide for the annual assessment of the taxable
622 property in said city, including dogs kept in said city, and to
623 provide a revenue for said city for municipal purposes and
624 appropriate such revenue to its expenses; *provided*, nothing
625 hereinafter contained shall require the council to keep in
626 repair and maintain any bridge or bridges within said cor-
627 poration, nor or hereafter owned by the county of Tucker,
628 but the officers of said corporation in the preservation of law
629 and order shall have jurisdiction over any such bridges within
630 such corporation; and *provided, further*, that the police regu-
631 lations as may be obtained by said city, and the right and
632 power to enforce the same shall extend one mile into the

633 state of West Virginia beyond the corporate limits of said
634 city.

635 (81) The council may, within any prescribed area, pro-
636 hibit the erection on any street or in any square, of any
637 building, or of any addition to any building more than ten
638 feet high, unless the outer walls thereof be made of brick and
639 mortar or other fire-proof material. And may require the
640 removal of any building or addition which shall be hereafter
641 erected contrary to this prohibition, at the expense of the
642 owner or owners thereof.

643 (82) The council shall keep all roads, streets and alleys
644 within its limits passable and in good repair, and may provide
645 the expenses therefor by a direct taxation, as provided under
646 this charter, or in any other manner authorized by law; and
647 the residents of said city who are taxed therein for the pur-
648 pose of maintaining such streets and alleys shall be exempt
649 from the payment of any county road tax.

650 (83) In the enforcement of the ordinances, orders, rules,
651 regulations and by-laws of the said city, no fine shall be
652 imposed exceeding five hundred dollars, and no person shall
653 be imprisoned or compelled to labor on the streets of said city,
654 as aforesaid, exceeding six months; *provided*, that any viola-
655 tion of the prohibition or liquor laws of this state shall be
656 punished by the fines and penalties herein prescribed; and
657 violations of the road law or automobile laws, may be punished
658 by the fines and penalties prescribed by general law, unless
659 different fines and penalties are expressly prescribed by the
660 ordinances of said city. And in all cases where a fine is
661 imposed for an amount exceeding ten dollars, or a person be
662 imprisoned or compelled to labor as aforesaid, an appeal
663 may be taken from such decision upon the same terms and
664 conditions that appeals are taken from the judgment of a
665 justice of this state; and in no case shall a fine of less than ten
666 dollars be imposed where the ordinance prescribes a fine, if
667 the defendant requests that such fine be made at least ten
668 dollars for the purpose of appeal.

669 (84) The council shall have the right to enforce the
660 ordinances of said city. And in all cases where a fine is
661 imposed for an amount exceeding ten dollars, or a person be
662 imprisoned or compelled to labor as aforesaid, an appeal
663 may be taken from such decision upon the same terms and

664 conditions that appeals are taken from the judgment of a
665 justice of this state; and in no case shall a fine of less than ten
666 dollars be imposed where the ordinance prescribes a fine, if
667 the defendant requests that such fine be made at least ten
668 dollars for the purpose of appeal.

669 (85) The council shall have the right to enforce the
670 attendance of its members at all regular meetings and at all
671 special meetings of which such members have notice, and may
672 cause the arrest and punishment, by fine or fine and imprison-
673 ment, of any such member who refuses to attend and take
674 part in its proceedings.

675 (85)) It shall be the express duty of the council to present
676 charges against any of its members, or any officer of the city,
677 who fails to perform, or who does not promptly and diligently
678 perform any duty prescribed by this act, or by any ordinance
679 or resolution of the council, and upon hearing thereof before
680 the council, after notice to such officer, he shall be removed
681 from office by the council, if the charges be found correct.

Sec. 17. Franchises may be granted by the city council to
2 persons or corporations allowing such occupancy of portions
3 of the streets and alleys, as may be necessary for works of
4 public utility and service, but no such franchise shall hereafter
5 be granted except under the following restrictions and condi-
6 tions: No ordinance shall be passed granting any franchise
7 for the use of any of the streets or alleys of the city for any of
8 the purposes above named, until the same shall have been filed
9 with the clerk at least thirty days prior to the time when it is
10 to be acted upon by council, and notice of such application,
11 stating the object of such franchise and when the same shall
12 be considered by the council, shall have been given thirty days
13 notice, in some newspaper of general circulation published in
14 the city.

15 Nor shall such franchise be granted within thirty days after
16 the application has been filed, nor until an opportunity has
17 been given any citizen or corporation, interested in the grant-
18 ing or refusing of said franchise to be heard.

19 Nor shall any franchise be hereafter granted by council for
20 a longer period than fifty years; *provided*, that council shall
21 have the power to renew any such franchise for the term of
22 fifty years when the same shall have expired. No franchise
23 hereafter granted for a longer period than fifty years shall be

24 of any force or validity. No grant of any such franchise shall
25 be made unless at the time of making it, the grantee, its suc-
26 cessors or assigns, shall indemnify the city against all damages
27 caused by the construction of such works.

28 If any corporation, or person to whom a franchise has been
29 heretofore or may hereafter be granted, or their successors or
30 assigns, shall fail to comply with the conditions of the ordinance
31 granting such franchise within one year from the time said
32 conditions are directed to be performed, said franchise shall
33 be and the same become null and void.

Sec. 18. To carry into effect these enumerated powers and
2 all others by this act or general law conferred, or which may
3 hereafter be conferred upon the said city or its council or any
4 of its officers, the said council shall have and possess full
5 authority to make, pass and adopt all needful ordinances,
6 by-laws, orders and resolutions not repugnant to the consti-
7 tution and laws of the United States or of this state; and to
8 enforce any or all of such ordinances, by-laws, orders or reso-
9 lutions by prescribing for a violation thereof, fines and penal-
10 ties and imprisonment, in either the county jail of Tucker
11 county or the city prison, if there be one, but no sentence shall
12 exceed ninety days. Such fines and penalties shall be imposed
13 and recovered, and such imprisonment inflicted and enforced,
14 by and under the judgment of the mayor of said city, or in
15 case of absence or inability to act, of the clerk of said city, or
16 in the case of absence or inability to act of both of said officers,
17 of one of the councilmen, appointed for that purpose by the
18 council.

✓ Sec. 19. The mayor shall be the chief executive officer of
2 the city and shall see that the orders, by-laws, ordinances and
3 resolutions of the council thereof are faithfully executed; he
4 shall be *ex-officio* a justice and conservator of the peace within
5 the city and shall within the same, have, possess and may exer-
6 cise, all the powers and perform all the duties whether in civil
7 or criminal proceedings, vested by law in a justice of the peace.
8 Any summons, warrant or other process, issued by him may be
9 executed at any place within the county; he shall have power
10 during the recess of the regular meetings of council to appoint
11 special police officers when he shall deem it necessary, and it
12 shall be his duty to see that the peace and good order of the
13 city are preserved, and that persons and property therein are

14 protected; and to this end he may arrest and detain, or cause the
15 arrest and detention of all riotous and disorderly persons be-
16 fore taking other proceedings in the case; he shall from time to
17 time recommend to the council such measures as he may deem
18 needful for the welfare of the city; he shall not receive any
19 money due or belonging to the state or corporation or to
20 individuals, nor have civil jurisdiction of a justice, unless
21 and until he shall have given the bond and security required
22 of a justice of the peace by chapter fifty of the code of West
23 Virginia; and all the provisions of said chapter relating to
24 moneys received by justices shall apply to moneys received
25 by him in like cases.

26 The mayor shall receive a salary of one hundred and fifty
27 dollars per annum, to be paid on the first day of March of each
28 year, and in addition thereto the mayor shall receive all fees
29 that accrue to him in proceedings for the enforcement of
30 ordinances and all such fees shall be collected and retained by
31 the mayor; he may tax such costs against any person or corpora-
32 tion found guilty of the violation of any ordinance of the city
33 as are provided to be taxed and recovered by justices of said
34 county in criminal cases, and the mayor shall be entitled to
35 the same fees as those received by a justice of this county in
36 similar proceedings. Each councilman of the city shall receive
37 from the city, to be paid out of the city treasury, the sum of
38 fifty dollars per annum, payable on the first day of March of
39 each year.

Sec. 20. The process in proceedings to enforce any ordi-
2 nance prescribing a fine or imprisonment, or a fine and im-
3 prisonment, for the violation thereof shall be a summons in the
4 name of the City of Thomas, as plaintiff, directed to the chief
5 of police, to one of the regular police officers of the city, or to
6 any constable of any district within the said city, requiring
7 him to summons the person accused of such violation and who
8 shall thereafter be designated as defendant, to appear before
9 the mayor at the time and place therein named, to make
10 answer to such accusation and be dealt with according to law;
11 such summons shall contain such a statement of the facts
12 alleged as will inform such person of the general nature of the
13 offense against the city with which he stands charged, and ex-
14 cept in cases of arrest upon view, shall be issued only upon the
15 complaint on oath, of some creditable person. But the mayor

16 may for good cause appearing, by endorsement on the summons.
17 order the person so accused to be forthwith apprehended and
18 brought before him for a hearing of the charge. The clerk of
19 said city as well as the mayor, shall have authority to receive
20 any complaint in writing of the violation of any ordinance,
21 and to sign and issue the proper summons based upon such
22 complaint. The mayor shall possess, and may exercise, the
23 power and authority belonging to a justice under sections two
24 hundred and twenty-four and two hundred and twenty-five
25 of chapter fifty of the code of West Virginia, in summoning
26 and enforcing the attendance and examination of witnesses, in
27 punishing for contempt, in granting continuances, and in
28 securing and enforcing the further attendance of the accused
29 with a view to a trial or hearing. If any recognizance be taken
30 for such further attendance, and is forfeited, the mayor may
31 record the default, and an action be maintained in the name
32 of the city, before the mayor, or any justice having jurisdiction,
33 against the accused and his sureties, if any, to recover the pen-
34 alty thereof.

Sec. 21. The mayor shall have power to issue an execution
2 for any fine and costs assessed or imposed by him, for the
3 violation of any ordinances, or he may at the time of rendering
4 judgment therefor, or at the time thereafter and before satis-
5 faction of such judgment, by his order in writing, require the
6 immediate payment thereof; and in default of such payment
7 he may cause the person so in default to be apprehended and
8 brought before him, and commit him to the jail of Tucker
9 county or in his discretion to the prison of said city, if one
10 shall have been provided, and require him to labor on the
11 streets until the fine and costs are fully paid; but such impris-
12 onment shall not exceed ninety days.

Sec. 22. The jail of Tucker county may be used as a lockup
2 for said city. The jailer of said county shall take and receive
3 into his custody by any person authorized to be confined there-
4 in by the ordinance of said city, or sentenced to imprisonment
5 therein, or committed thereto, for non-payment of fine or
6 costs or for failure to enter into a recognizance by the judg-
7 ment or order of the mayor, in proceedings for violation of an
8 ordinance; and the expense of maintaining such persons while
9 so in confinement shall, if such person be found guilty of such

10 violation, be charged to such person as part of the costs, but
11 whether collected from such person or not, such expense shall
12 be paid to said jailer by the city.

Mayor's Docket

Sec. 23. A book, well bound and indexed, to be denominated,
2 the docket, shall be kept in the office of the mayor, in which
3 shall be noted each case brought or tried by him, together with
4 the proceedings therein, including a statement of complaint,
5 the summons, the return, the fact of appearance or non-appear-
6 ance, the defense, the hearing, the judgment, the costs, and in
7 case the judgment be one of conviction, the action taken to
8 enforce the same; the record of each case shall be signed by the
9 mayor or other person acting in his stead; and the original
10 papers thereof, if no appeal be taken, shall be kept together
11 and preserved in his office.

Appeal

Sec. 24. In any case for the violation of an ordinance of the
2 said city in which there is a judgment by the mayor, or im-
3 prisonment, or for a fine of more than ten dollars, an appeal
4 shall lie at the instance of the person against whom such judg-
5 ment shall be rendered, to the circuit court of Tucker county.
6 Such appeal shall not be granted by the mayor unless, within
7 ten days from the date of the judgment such person shall enter
8 into a recognizance with security deemed sufficient, in a pen-
9 alty double the amount of fine and costs, with condition that
10 the person appealing, will appear before the said court on the
11 first day of the next term thereof, to answer for the offense
12 against the city with which he stands charged, and not depart
13 thence without leave of the court, and will perform and satisfy
14 any judgment which may be rendered against him by the cir-
15 cuit court on appeal. The provisions of chapter one hundred
16 and sixty-two of the code of West Virginia, relating to recog-
17 nizance in criminal cases, shall be applicable to the recognizance
18 contemplated by this section, except where therein otherwise
19 provided; but any money recovered thereon or by virtue
20 thereof shall inure to said city.

Sec. 25. If such appeal be taken the mayor shall forthwith
2 deliver to the clerk of said court the complaint in writing, if
3 any; the summons, a transcript of the record including the
4 judgment, the recognizance, and any other papers belonging

5 to the case; and such clerk shall receive and file the same, and
6 place the case upon the trial docket of the next succeeding
7 term of said court, and said court shall proceed to try the same
8 in its order.

Sec. 26. If the appellant be found guilty of a violation of
2 the ordinance in question, whether upon the verdict of a jury
3 or otherwise, the court shall ascertain by its judgment the fine
4 or imprisonment, or the fine and imprisonment to be paid or
5 suffered by such defendant, having regard to the punishment
6 prescribed by such ordinance, and shall include in any such
7 judgment, the costs incurred by said city, as well in the pro-
8 ceedings before the mayor as those in court, including a fee to
9 the attorney for the city of five dollars, and the fees, if any,
10 of the jailer or the keeper of the city prison; and the proceed-
11 ings to enforce the collection of any such fine and costs, as may
12 be provided in sections, ten, eleven and twelve of chapter thir-
13 ty-six of the code of West Virginia, except that the writ men-
14 tioned in the tenth section, may be issued by the clerk, upon
15 the order of the mayor of the city, and the notice contemplated
16 by the eleventh section shall be given to such officer. If the
17 judgment be for the defendant, he shall recover his costs
18 against the city, but no docket fee shall be charged against
19 the city.

Sec. 27. From all judgments by the mayor, in cases other
2 than for violation of ordinances, appeals shall be allowed as in
3 similar cases before justices.

Clerk

Sec. 28. It shall be the duty of the city clerk to keep a
2 journal of the proceedings of the council, and have charge of
3 and preserve the records, papers, contracts and other docu-
4 ments belonging to the city; it shall be his duty to attend the
5 sessions of the police court, and keep an accurate record of the
6 proceedings, and all judgments shall be entered by him, within
7 twenty-four hours after the same is rendered; he shall, in
8 cases of sickness or disability of the mayor to act, or in case
9 of his absence from the city, or during any vacancy in the
10 office of the mayor, perform the duties of the mayor, and shall
11 be vested with all the powers necessary for the performance
12 of such duties; he shall also perform the other duties pertain-
13 ing to the fiscal affairs of the city, or otherwise, as may be
14 required of him by this act or by the council.

15 As soon as the rate of levy shall have been fixed by council
16 according to law, the clerk shall furnish the officer whose duty
17 it is to make out the land and personal property books, a certi-
18 fied copy of the order of the council fixing the rate of tax, and
19 such officer shall thereupon extend the tax against the property
20 situated in the city, in the land and personal property books,
21 in separate columns in said book.

22 The clerk shall receive a salary of one hundred and fifty
23 dollars per annum, such salary shall be in lieu of any fees
24 that may accrue to him from issuing of licenses, or transcripts
25 of any records.

Sec. 29. The collector shall, when the extended copies
2 of the assessor's books are completed and returned to the clerk
3 of the county court, have access to the same, for the purpose
4 of making out the tax tickets of the taxes therein extended,
5 and it shall be the duty of the collector to make out all tax
6 tickets, and when the same shall have been examined, compared
7 and approved by the financial committee of the council and
8 found to be correct, they shall be forthwith turned over to the
9 collector, whose receipt shall be returned to the council and
10 entered upon its record, and the collector shall be charged
11 therewith.

12 The collector shall give notice that said tax tickets are in
13 his hands for collection, stating the penalty for non-payment
14 thereof, and the time and place where same may be paid, which
15 notice shall be published for fifteen days in one or more news-
16 papers published in said city, or elsewhere in Tucker county,
17 if there is no newspaper in said city.

18 The collector shall immediately proceed to collect from the
19 persons by distraint or otherwise, the entire amount of the
20 taxes with which they are severally charged therein, and re-
21 maining unpaid on the first day of January next, succeeding
22 said levy, with interest at the rate of one per centum per month
23 from the said first day of January until they are fully paid.

24 All license taxes shall be payable on the first day of July of
25 each year, or at such time as such licenses may be issued.

Sec. 30. The said collector shall receive all taxes, assess-
2 ments, fines and costs, water rents, and other money due the
3 city authorized by this act, or by any ordinance of said city,
4 to be paid to the city and shall receipt for the same; he shall
5 keep an accurate account of all money paid to him for the use

6 of said city, showing under separate accounts the amounts
7 received for account of taxes, sewer purposes, street pavements,
8 licenses, water rents and other bills due the city, fines and
9 costs and of other matters pertaining to his office, which books
10 shall at all times be open to the inspection of the council. or to
11 any committee appointed by it for such purposes; he shall pay
12 over promptly any money which he may receive, within five
13 days after the receipt thereof, into the hands of the treasurer
14 of said city, showing an itemized statement of the several
15 funds included in such payment, taking the treasurer's receipt
16 therefor; he shall keep his office at the office of the mayor, unless
17 otherwise ordered by the council and shall keep his office open
18 for the transaction of business, as may be directed by the coun-
19 cil; he shall on or before the first day of January and July of
20 each year and oftener, if directed by the council, present to the
21 council a full complete and detailed statement of all money
22 with which he is chargeable, or that has been received by him
23 from all sources up to that time, together with a statement of
24 all money paid to the treasurer and proper receipt therefor.
25 and he shall at such times return a list of all taxes, levies and
26 assessments and other claims in his hands for collection which
27 he shall not have been able to collect by reason of insolvency,
28 removal, or other cause, to which list he shall append an affi-
29 davit that he has used due diligence to collect the several items
30 therein mentioned, but has been unable to do so, and if the
31 council should be satisfied as to the correctness of such list, it
32 shall allow him a credit for said claims, but may thereafter take
33 such lawful measures to collect same as may be by it prescribed.
34 The said collector shall receive all taxes on licenses, and receipt
35 to the party paying same by endorsement upon the permit
36 granted by order of the council and shall charge himself with
37 the amount received from the same, and report to the council.
38 at the next regular meeting thereafter, the amount so received
39 and pay the same over to the treasurer, taking his receipt for
40 the same; he shall upon the expiration of his term of office, or
41 upon order of the council, turn over to his successor all money,
42 books of account and all other property of said city in his pos-
43 session; he shall receive such salary as may be fixed by the
44 council which shall be not less than at the rate of six hundred
45 dollars nor more than twelve hundred dollars per annum.

Sec. 31. The chief of police of said city before entering
2 upon the discharge of his duties, shall execute a bond condi-
3 tioned for the faithful performance of the duties of his office,
4 and for the accounting for and paying over, as required by
5 law, all money which may come into his hands by virtue of his
6 office, with sureties satisfactory to the council, payable to the
7 City of Thomas, in a penalty of not less than two thousand
8 nor more than ten thousand dollars, as the council may pre-
9 scribe; he shall be custodian of all notes, bonds, certificates and
10 other evidences of indebtedness to the city, together with all
11 valuable papers which may be placed in his possession by the
12 council; he shall be chargeable with, and it shall be his duty
13 to collect the city taxes, levies, and assessment, under such
14 regulations as may be prescribed by law and the ordinances
15 of the city, and in case the same are not paid within one year,
16 after they are placed in his hands for collection, he may dis-
17 train and sell therefor in like manner, and have the same power
18 and authority possessed by the officer charged with the collec-
19 tion of state taxes.

20 If the chief of police shall fail to collect, account for and
21 pay over to the treasurer of said city, any or all of the money
22 with which he may be chargeable, belonging to said city, ac-
23 cording to the conditions of his bond and orders of the council,
24 it shall be lawful for the council to recover same by action or
25 by motion, upon ten days notice in the corporate name of the
26 city, in the circuit court of Tucker county, against him or his
27 sureties, or any or either of them, or his or their executors or
28 administrators.

Solicitor

Sec. 32. It shall be the duty of the solicitor to prepare when
2 directed by council, all ordinances for said city, to represent
3 the said city in all matters and proceedings in any court, in
4 which the said city is interested and counsel the said council
5 when requested; he shall receive a compensation for his serv-
6 ices, to be fixed by the council.

Chief of Police

Sec. 33. It shall be the duty of the chief of police to pre-
2 serve order and quiet in said city, and to see that all subordi-
3 nate police officers faithfully perform their official duties, and
4 he may for good cause appearing to him, for neglect of duty or

5 insubordination, suspend any such officer from duty, and re-
6 port his actions and reasons therefor, to the next regular meet-
7 ing of the council for action thereon; he shall make a list of
8 all dogs within the said city liable to tax and collect the license
9 tax thereon as may be provided by ordinance of said city; he
10 shall be present in the police court whenever the same shall be
11 in session, and see that all its orders and requirements are
12 properly executed; he shall with the consent of the council
13 entered of record, but not otherwise, appoint one or more
14 policemen as the council may be determine.

Sec. 34. In case a violation of any ordinance of said city is
2 committed in the presence or within the view of the chief of
3 police or other police officer, the offender may be forthwith
4 apprehended and taken before the mayor, and a complaint
5 under oath, stating such violation there lodged and filed; and
6 thereupon such offender may be tried and dealt with according
7 to law, without summons. The chief of police shall execute
8 within the county of Tucker when directed to him, any proper
9 process issued by the mayor in proceedings for the enforcement
10 of ordinances; and shall collect by levy of execution or other-
11 wise, and duly account for, all fines assessed and costs imposed
12 in such proceedings. He shall also have all the rights and
13 powers, within said city in regard to the arrest of persons, the
14 collection of claims and execution and return of process, that
15 are or may be lawfully exercised by a constable of a district
16 within the same, and shall be entitled to the compensation
17 therefor; and he and his sureties shall be liable for to all fines,
18 penalties and forfeitures, for which a constable is liable, for
19 any dereliction of duty in office, to be recovered in the same
20 manner and in the same courts, that such fines, penalties and
21 forfeitures are recovered against constables.

Treasurer

Sec. 35. The treasurer may be a citizen, a bank or trust
2 company of said city, and shall be selected by council and shall
3 hold office during the pleasure of the council. All money due
4 the city shall be paid to the chief of police and be by the chief
5 of police deposited with the treasurer. The money deposited
6 with the treasurer shall be disbursed only upon orders drawn
7 against the same, signed by the mayor and countersigned by
8 the clerk. The treasurer shall receipt to the chief of police
9 for all money paid by him, and shall keep regular books of

10 account, showing the amount of the several funds paid or
11 deposited with the treasurer by said chief of police, and shall
12 make report to the council once a month, or at such other times
13 as the council may direct, showing the receipts and disburse-
14 ments of the funds of the city, and the treasurer shall produce
15 his books and accounts to council or any committee of the same
16 for inspection. upon order of the council.

17 The treasurer shall give bond with security to be approved by
18 the council, in a sum of not less than five thousand dollars.
19 with condition that the said treasurer shall account for and
20 pay over all money received for the account of said city, as may
21 be directed by the council. The said treasurer shall receive
22 compensation as the council may fix, which shall not be at the
23 rate of more than two hundred dollars per annum. Any bank
24 or trust company of said city is hereby authorized to act as
25 treasurer of said city, and the same shall be liable for all money
26 deposited therein.

City Commissioner

Sec. 36. The city commissioner. if one should be appointed,
2 shall receive such compensation as may be fixed by the council.
3 The city commissioner (if one should not be appointed. then
4 the chief of police), shall be chosen with the following duties:
5 He shall have general supervision of the streets, alleys, drains
6 and sewers of said city, and of the construction of new streets,
7 alleys, sewers and drains, and of making changes in the ones
8 existing. He shall also be the chief health officer of said city,
9 and shall report forthwith to the council anything that is in his
10 judgment detrimental to the health of the public, and espe-
11 cially, he shall report any contagious or epidemic disease that
12 may occur in said city. He shall see to the lighting of the
13 streets, and that the same are properly lighted, pursuant to
14 contract. He shall have supervision of the water works and of
15 all tangible property of the said city, and all appliances used by
16 the fire department of said city, and shall see to it that the same
17 is properly taken care of and kept in proper condition for use.
18 It shall be his duty to investigate all applications for new streets
19 and alleys, and all applications for the use of the public water
20 for all purposes, and report the same to the council with his
21 recommendation. in regard thereto.

22 It shall likewise be his duty to report to the council, every
23 obstruction found in any of the streets or alleys of said city,

24 and on such report the mayor shall summon the offender to
25 show cause why the same should not be removed at the expense
26 of the offender and why a fine should not be imposed upon the
27 offender for violation of the ordinance of said city in regard
28 thereto. It shall likewise be the duty of the said city com-
29 missioner to supervise and protect all of the buildings and
30 other property belonging to said city and to provide for the
31 proper heating and cleaning and lighting of the city buildings
32 and lockup, and such other duties as may be imposed upon him
33 by the common council.

Lien for Taxes

Sec. 37. There shall be a lien on real estate within said city
2 for the city taxes assessed thereon, and for all fines and penal-
3 ties assessed thereto, or imposed upon the owners thereof, by
4 the authorities of said city from the time the same are so
5 assessed or imposed, which shall have priority over all other
6 liens, except the lien for taxes due the state, county and dis-
7 trict; and which may be enforced by the council in the same
8 manner provided by law for the enforcement of the lien for
9 county taxes. If any real estate within said city be returned
10 delinquent for the non-payment of delinquent taxes thereon, a
11 copy of such delinquent list may be certified by the council to
12 the auditor and the same may be sold for the city taxes, interest
13 and all commissions thereon, in the same manner, at the same
14 time and by the same officer as real estate is sold for the non-
15 payment of state taxes.

License

Sec. 38. The council shall have the authority to require a
2 city license as follows: For anything to be done, carried on or
3 exhibited within the said city, for which a state license is now,
4 or may be hereafter required, for the keeping of hacks, car-
5 riages, carts, wagons and other vehicles for hire within the city,
6 and for the keeping of dogs within the city, and the council
7 may provide for the killing of all dogs, the keeping of which is
8 not licensed. And upon all such licenses the council may im-
9 pose a reasonable tax for the use of the city.

Sec. 39. The council shall prescribe by ordinance, the man-
2 ner in which licenses of all kinds shall be applied for and
3 granted, and shall require the payment of the tax thereon to
4 be made to the chief of police of said city before delivery to

5 the person applying therefor, and the provisions of sections
6 thirty-nine, forty and forty-one of chapter thirty-six of the
7 acts of one thousand nine hundred and five, relating to licenses,
8 shall govern the city in the granting of licenses similar in
9 character to those herein mentioned, except where otherwise
10 herein provided. Licenses for keeping dogs shall also expire
11 on the thirtieth day of June next after they are granted, and
12 all other licenses may be for such times as the council may
13 determine.

Powers of Council

Sec. 40. The council shall have the right to institute pro-
2 ceedings in the name of the city, for the condemnation of real
3 estate for streets, alleys, sewers, drains, market grounds, land-
4 ings, wharves, city prison, or other work or purpose of public
5 utility; such proceednigs shall conform to the provisions of
6 chapter forty-two of the code of West Virginia, and the costs
7 thereof shall be borne by the city, except that in contests
8 involving a hearing by the circuit court, costs shall be recovered
9 by the prevailing party.

Sidewalks

Sec. 41. The common council shall have power to determine
2 the material to be used in building all sidewalks and shall
3 determine through the city commissioner's report where such
4 sidewalks shall be erected, and the width and grade thereof,
5 and shall fix upon the material with which the same shall be
6 built, and may make an order requiring the owners of lots, or
7 parts of lots, facing or abutting on such sidewalk or footway,
8 to pave the same with such material and on such grade and of
9 such width as may have been determined at the expense of
10 such owner, and under the supervision of the city commissioner,
11 and if such owner of such abutting lot, or lots, fail or refuse to
12 pave the same in the manner or within the time required by
13 the council, the said common council may cause the same to be
14 done, at the expense of the city, and to assess the amount of
15 such expense upon the owner, and the clerk shall notify the
16 owner of such lot the amount of such assessment and if such
17 assessment be not paid within thirty days from the date of said
18 notice, he shall cause a memorandum showing the name of
19 ner of said lot, a description of the lot, and the amount of
20 assessment to be filed in the office of the county clerk of Tucker
21 county, which shall be entered of record in the judgment lien

22 docket in his office and the same shall constitute a lien upon
23 such property, which may be enforced by a suit in equity in
24 the name of the city, in the circuit court of Tucker county as
25 other liens against real estate are enforced, and upon the
26 payment of such assessment, the clerk shall issue to the person
27 entitled thereto, a release of said lien; *provided, however*, that
28 reasonable notice shall first be given to said owners that they
29 are required to construct such sidewalks or footways, and in
30 case the owner is a non-resident of the state, the notice afore-
31 said may be given by publication for four successive weeks, in
32 a newspaper published in said city. The provisions of this
33 section shall also be applicable to needed repairs to any of the
34 pavements of the city, and to the substitution of new pave-
35 ments for any which may have been heretofore, or which may
36 hereafter be laid and completed, and which may be deemed
37 insufficient.

Street Paving

Sec. 42. The council shall have the authority to provide
2 that any street or alley or any portion thereof, between the
3 curbstones, shall be macadamized, or paved with bricks or cob-
4 blestones or other suitable material, upon the lowest and best
5 terms available, and the whole cost of macadamizing or paving,
6 from curb to curb of such street or alley, shall be assessed to
7 the owners of the land or lots, or fractional parts of lots, front-
8 ing or abutting on such street or alley, that is to say: The prop-
9 erty owners on each side of said street or alley to be assessed
10 one-third each and the city one-third of the costs of said im-
11 provements, to each property owner a sum proportionate to the
12 distance or extent in feet by him owned and one-third of a sum
13 so assessed shall be paid by each property owner to the city
14 within thirty days after the completion of the work, and the
15 remainder in two equal installments in six and twelve months
16 thereafter, with interest thereon, or at such other times as the
17 council may prescribe. The expense of macadamizing or pav-
18 ing at the intersections of streets or alleys shall be defrayed by
19 the city. After the said improvements have been made, the
20 council shall cause a notice to be published for one week in a
21 newspaper of said city, showing the owners of the property and
22 the number of feet fronting on said improvements, as well as
23 the time and the place where the said council will proceed to
24 fix the assessment as above provided, and giving notice to any

25 person having any interest in said property to appear and show
26 cause, if any they can, why such assessment should not be made;
27 and the council may, in making such assessments, consider the
28 petition of any person or corporation relative to the inequality
29 of said assessment, and may equalize and adjust the same. A
30 copy of the list of such assessments showing the name of owner,
31 number of lot or parcel of land, amount of said assessment,
32 attested by the mayor and clerk, shall be filed in the office of
33 the clerk of the county court of Tucker county, and recorded
34 in the judgment lien docket in said office within thirty days
35 after the assessments are approved by the said council, other-
36 wise the lien of said assessment shall be void as to any pur-
37 chaser of said real estate, for value and without notice, who
38 shall have purchased such estate and the clerk shall execute
39 and deliver on behalf of said city a release of such lien, upon
40 the payment in full of said assessment. The assessment so
41 made to any owner of real estate shall constitute a lien on
42 such estate; and like proceedings may be had and taken to
43 enforce such lien, or to recover from such owner the amount of
44 such assessment, or of any installment thereof, as those pro-
45 vided for in the preceding section providing for the laying of
46 pavements.

Sewers

Sec. 43. The council of said City of Thomas shall have the
2 authority under the provisions of ordinances adopted by the
3 council of said city, to cause all necessary sewers to be con-
4 structed in any or all of the streets, alleys and public grounds
5 of said city, upon its lowest and best terms to be obtained upon
6 the direction of said council, and shall fix a uniform assessment
7 against the owners of the real estate, lots or parcels of ground
8 within said city, abutting or abounding on the streets, alleys or
9 public grounds, in which sewers are so constructed, which
10 assessment shall not exceed _____ for each front
11 foot of land, lot or parcel of ground in which such sewer is to
12 be constructed; and no other special tax shall be levied against
13 the said real estate, lots or parcels of ground for the use of said
14 sewer, the cost of construction of sewers in the intersection of
15 such streets or alleys to be borne by the city. The one-half of
16 such assessment shall be paid within thirty days after said
17 sewer is completed and ready for use, and the remaining one-
18 half with interest at the rate of six per centum per annum, shall

19 be paid within six months after said last named date, and the
20 said council may by ordinance compel the owners of lots or
21 parcels of ground, fronting or abutting on any street or alley
22 in which such sewer is constructed, under the supervision of
23 such officer as the council may designate, to connect any resi-
24 dence, store, or warehouse, factory or other building occupied
25 by persons as a place of residence or labor, with such sewer
26 within thirty days after its completion and may inflict fines
27 and penalties for any violation of such ordinance.

28 The intersection of all streets and alleys shall be provided
29 with sewers at the expense of the city, but all connections to
30 sewers in street or alley, to be made by property owner abut-
31 ting on said street wherein sewer is constructed. The sums
32 of money thus assessed for sewer connection shall be a lien, on
33 the lots, tracts or parcels of land upon which they are assessed,
34 which lien may be enforced by a suit in equity in the circuit
35 court of Tucker county, to subject the said real estate to the
36 payment of the sum so assessed against it as herein provided,
37 in the same manner that judgment liens are enforced. The
38 council shall cause a notice to be published for one week in
39 some newspaper published in said city or elsewhere in Tucker
40 county, showing the owners of real estate and number of feet
41 owned by each fronting on said improvement, as well as the
42 time and place where the said council will proceed to fix the
43 assessment as herein provided, and giving notice to any person
44 having an interest in the said property so assessed, to appear
45 and show cause, if any he can, why such assessment should
46 not be made; and the council may in making or reviewing said
47 assessment consider the petition of any person, or corporation
48 affected thereby, relative to the inequality of said assessment,
49 and may equalize and adjust the same. A copy of the list of
50 such assessments, showing the name of owner, number of lot
51 or parcel of land and amount of assessment, attested by the
52 mayor and clerk, shall be filed in the office of the clerk of the
53 county court of Tucker county and recorded in the judgment
54 lien docket in said office, within thirty days after the said
55 assessments are approved by the said council, otherwise the
56 lien of said assessment shall be void as to any purchaser of said
57 real estate for value and without notice, who shall have pur-
58 chased such real estate, and the clerk shall execute and deliver

59 on behalf of said city a release of such lien, upon the payment in
60 full of said assessment.

61 The funds derived by the said city from assessments for
62 construction of sewers, as herein provided, shall be used by
63 said city for sewer construction only, and the collector and
64 treasurer shall keep separate accounts of receipts and disburse-
65 ments of said fund, and shall make separate report with re-
66 spect to said fund from time to time as the council may direct,
67 and the said collector and treasurer shall be liable to said city,
68 on their official bonds, for the payment of all money which
69 may come into their hands, respectively, by virtue hereof, and
70 shall pay over the same upon the proper order of the council.

Sec. 44. The sewers heretofore constructed, in any of the
2 streets or alleys of said city at the expense of the property
3 owners abutting thereon, and by authority of said council,
4 may be taken for public use by said city, and the same may
5 be used subject to the provisions of the preceding section, but
6 before any such sewer is so occupied by the city compensation
7 shall be made to the persons having paid for the same or en-
8 titled thereto. Such compensation shall be determined by the
9 award of three arbitrators, one selected by the council, one
10 selected by the person or persons having paid for the construc-
11 tion of said sewer, or his assigns, and the two selected shall
12 choose a third arbitrator, and the said arbitrators shall, after
13 hearing all evidence as to what would be a just compensation
14 for such sewer, make their award in writing, which award
15 shall be final, and entered of record by the council. The arbi-
16 trators so chosen and selected, shall not be interested in the
17 matters submitted to them other than as taxpayers in said city.
18 And the owners of any real estate abutting on any such street
19 or alley, in which any such private sewer has been constructed
20 by the authority of the council, and at their own expense, shall
21 not be required to pay any assessment levied or assessed against
22 the same for the construction of a sewer in a street or alley, in
23 which such private sewer has been constructed, until said pri-
24 vate sewer is taken by said city and compensation made there-
25 for as herein provided, and any private sewer so taken by said
26 city shall be held, used and occupied as provided in the next
27 preceding section, and the property abutting thereon subject to
28 the assessments as therein provided.

2 ation, the preparation for, and levying of all taxes and levies,
3 general or special, shall be ascertained, advertised and levied,
4 and in all respects conform to the provisions of chapter nine of
5 the acts of one thousand nine hundred and eight, and any
6 amendments which may be made thereto, any provision, sec-
7 tion, or clause in this act to the contrary notwithstanding. An
8 annual capitation tax of one dollar may be levied upon each
9 male inhabitant of said city, who has attained the age of twen-
10 ty-one years.

Financial Statement

2 Sec. 46. In the month of August in each year, the council
3 shall cause to be published in two newspapers of opposite poli-
4 tics in the city, if there be such published therein, at a compen-
5 sation not to exceed the rate as provided by law for like publi-
6 cations, for one issue, or if no such newspaper be published
7 therein, to publish in pamphlet form not less than one hundred
8 copies of a sworn statement of the financial condition of said
9 corporation; said statement shall contain an itemized account
10 of the receipts and expenditures of the city, showing the source
11 from which all money was derived, the name of the person to
12 whom an order was issued, together with the amount of each
13 order, and why such order was issued, arranging the same under
14 distinct heads, and also a specific list of the debts of the city
15 showing the purpose for which any debt was contracted, the
16 time it became due, the rate of interest, up to what time, the
17 interest thereon has been paid, the amount of money in the treas-
18 ury at the end of the preceding administration and debts con-
19 tracted by it; such statement shall be prepared by the city every
20 twelve months and shall then be printed according to the pro-
21 visions of this section. Either method of making this report
22 shall be sworn to by the clerk, by the mayor and members of
23 finance committee of the council. One copy of such printed
24 record shall be delivered to the judge of the circuit court, one
25 to the clerk of the county court and one to the circuit clerk of
26 Tucker county, and one shall be kept as a part of the records of
27 the city, and the remainder shall be held for distribution as
28 called for by the taxpayers of the city.
29 If council fail or refuse to perform the duties hereinbefore or
30 hereinafter named, every member of such council and the clerk
thereof, concurring in such failure or refusal, shall be guilty of

31 misdemeanor, and upon conviction thereof, shall be fined not less
32 than ten nor more than one hundred dollars.

Bonds, Additional Levy

Sec. 47. The municipal authorities of said city shall have
2 power and authority to issue and make sale of the bonds of said
3 city, as provided by law, and apply the proceeds thereof to the
4 payment for any general improvement, or to any debt or obli-
5 gation of the said city, as provided by law.

Sec. 48. The City of Thomas shall succeed to all the rights,
2 powers and responsibilities, and be vested with the title to all
3 property of the town of Thomas and the City of Thomas as
4 heretofore existing, and all officers of said town acting as such,
5 at the time this enactment takes effect, shall continue until
6 first Monday in March, one thousand nine hundred and twenty-
7 six, or until their successors, the officers herein mentioned are
8 elected or appointed and qualified, to exercise the powers,
9 perform the duties, and receive the compensation heretofore
10 conferred, prescribed and allowed by former charter, by gen-
11 eral law or by the ordinances of said city, such ordinances in
12 force at the time referred to shall continue to have full opera-
13 tion and effect until amended, repealed or superseded by the
14 council of said city.

Sec. 49. All acts and parts of acts coming within the purview
of this act and inconsistent herewith, are hereby repealed.

CHAPTER 2

(Senate Bill No. 39—By Mr. Marsh)

AN ACT to amend and re-enact section five (as amended) and section twenty-one of chapter eighty-three of the acts of the Legislature of West Virginia of one thousand nine hundred and eleven, granting a charter to the City of Parkersburg, in the county of Wood.

(Passed March 25, in effect from passage. Approved by the Governor.)

Sec. 5. Election defined; election board created; duties of the same; members; appointment and terms; qualification of members; oath; vacancies; electioneering; organization of board; compensation; additional duties; penat-

ties; declaration and nomination of candidates; primary ballot; number of ballots; distribution; declaration of nominees; ballots for general and special elections; precincts and polls; duties of election officers; appointment of election officers; oath;

AN ORDINANCE OUTLINING THE DUTIES AND RESPONSIBILITIES OF THE OFFICE OF THE CITY RECORDER AND THE POSITION OF CITY CLERK

BE IT ORDAINED AND ENACTED BY THE CITY COUNCIL OF THE CITY OF THOMAS, W. VA.

SEC. 1 OFFICE OF THE CITY RECORDER

PAR. 1 The City Recorder shall be elected in a regular bi-annual election by the citizens in all wards of the City of Thomas and shall have a vote on council.

PAR. 2 The City Recorder's term of office shall be for two (2) years and such person may succeed himself indefinitely.

PAR. 3 The salary of The City Recorder shall be \$150.00 (one hundred fifty dollars) per year.

✓ PAR. 4 It shall be the duty of the City Recorder to attend all council meetings and to keep in a well-bound book, to be called The Minute Book, an accurate record of all council proceedings.

PAR. 5 It shall be the duty of the City Recorder to assume the duties and responsibilities of the mayor, if for any reason the office of mayor is vacant, until council can appoint a new mayor. The City Recorder shall also act in behalf of the mayor if he should be out of town, ill, or otherwise unable to perform the action required. The Recorder, when acting in behalf of the mayor, shall do so only on matters that cannot wait to be handled by the mayor.

PAR. 6 Section 1 of this ordinance shall include all regulatic responsibilities and duties of the elected office of Recorder. This ordinance shall superceed all other ordinances or mention to the elected office of Recorder, Clerk, Clerk/Recorder, or any other title associated or given to that elected office.

SEC. 2 POSITION OF CITY CLERK

PAR. 1 The City Clerk shall be paid a yearly salary to be set by council at the time of employment. This salary shall be paid in 24 (twenty four) equal payments to be made on the 1st and 15th of each month. This salary shall be subject to all standard pay-roll deductions. Overtime pay may be allowed with council's consent for additional work performed by the clerk that the council feels is beyond the scope of the normal work.

PAR. 2 It shall be the duty of the clerk to take care of all the book work of the city or the city government. The clerk sh pay all bills approved by council and keep an accurate record of same. The clerk shall receive all revenue for the city, deposit the money in the proper accounts, and keep accurate record of same. The clerk shall make up the pay-roll for all city employees and keep an accurate record of all wages received as well as all pay-roll deductions. The clerk shall

AN ORDINANCE CHANGING THE TIME OF ELECTIONS

BE IT ENACTED AND ORDAINED: by the Common Council of the City of Thomas, that Section 1 (ONE) of Ordinance IV be repealed and re-enacted as follows: and that Section 7, (SEVEN) of the City

Charter be amended as follows:

ORDINANCE IV

Section 1:

The election of Mayor, Recorder and Councilmen for the City of Thomas shall be held on the first Tuesday of May, beginning in May 1980 and every two years thereafter, at such place or places as the Council may designate.

Willis H. Carr
(MAYOR)

William H. Brown
(RECORDER)

Passed first reading: Oct. 2, 1979

Passed second reading: Nov. 6, 1979

Passed third reading, and adopted: Dec. 4, 1979

C

C

CITY OF THOMAS

P.O. BOX 248
THOMAS, WV 26292

December 11, 1996

I, Debbie Snyder, do solemnly swear to support the Constitution of the United States, the Constitution of the State of West Virginia and the ordinances of the City of Thomas. And that I will perform the duties of Mayor to which I have been appointed to the best of my abilities so help me God.

Signature: _____

Debbie Snyder

Witness: _____

Robert W. Gray

CITY OF THOMAS

P.O. BOX 248
THOMAS, WV 26292

May 13, 1997

I, Gloria Elza do solemnly swear to support the Constitution of the United States, the Constitution of the State of West Virginia and the ordinances of the City of Thomas. And that I will perform the duties of Recorder to which I have been appointed to the best of my abilities so help me God.

Signature: _____

Gloria Elza

Witness: _____

Alvin Snyder

CITY OF THOMAS

THOMAS, W. VA. 26292

JUNE 29, 1994

STATE OF WEST VIRGINIA
COUNTY OF TUCKER
CITY OF THOMAS

I, ROBERT W. YOUNG DO SOLEMNLY SWEAR
THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES, THE CONSTITUTION OF WEST VIR-
GINIA, AND THE ORDINANCES OF THE CITY OF THOMAS, AND THAT I WILL PERFORM THE DUTIES OF
COUNCILPERSON SECOND WARD, FOUR YEAR TERM TO WHICH I HAVE BEEN ELECTED, TO THE BEST OF
MY ABILITY. SO HELP ME GOD.

Robert W. Young
SIGNATURE

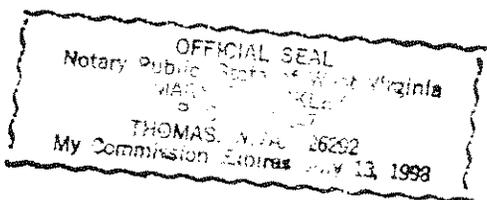
WITNESS Karen D. Ewart
RECORDER

I, MARY F. BUCKLEY, A NOTARY PUBLIC IN AND FOR THE STATE OF WEST VIRGINIA,
DO CERTIFY THAT ROBERT W. YOUNG, SIGNED THE ABOVE OATH OF OFFICE FOR COUNCILMAN SECOND WARD,
FOR A FOUR YEAR TERM EFFECTIVE JULY 1,, 1994.

GIVEN UNDER MY HAND THIS 29TH DAY OF JUNE, 1994.

MY COMMISSION EXPIRES JULY 13,, 1998

Mary F. Buckley NOTARY PUBLIC



CITY OF THOMAS

THOMAS, W. VA. 26292

JUNE 14, 1994

STATE OF WEST VIRGINIA
COUNTY OF TUCKER
CITY OF THOMAS

I, JEAN DEMENT DO SOLEMNLY

SWEAR THAT I WILL SUPPORT THE CONSTITUTION OF THE UNITED STATES, THE CONSTITUTION OF WEST VIRGINIA, AND THE ORDINANCES OF THE CITY OF THOMAS, AND THAT I WILL PERFORM THE DUTIES OF COUNCILPERSON FIRST WARD, FOUR YEAR TERM TO WHICH I HAVE BEEN ELECTED, TO THE BEST OF MY ABILITY.

Jean Dement
SIGNATURE

WITNESS Karen D. Evans
RECORDER

I, MARY F. BUCKLEY, A NOTARY PUBLIC IN AND FOR THE STATE OF WEST VIRGINIA DO CERTIFY THAT JEAN DEMENT, WHO SIGNED THE OATH OF OFFICE FOR COUNCILPERSON WARD I, FOUR YEAR TERM TO BE EFFECTIVE JULY 1, 1994.

GIVEN UNDER MY HAND JUNE 14, 1994.

MY COMMISSION EXPIRES JULY 13, 1998

Mary F. Buckley NOTARY PUBL

OFFICIAL SEAL
Notary Public, State of West Virginia
MARY F. BUCKLEY
P. O. BOX 147
THOMAS, W.VA. 26292
My Commission Expires July 13, 1998

CITY OF THOMAS

P.O. BOX 248
THOMAS, WV 28292

May 27, 1997

I, Tom DiBacco do solemnly swear to support the Constitution of the Unites States, the Constitution of the State of West Virginia and the ordinances of the City of Thomas. And that I will perform the duties of Councilman - at - Large to which I have been appointed to the best of my abilities so help me God.

Signature: Tom DiBacco

Witness: Debra A. Hughes, Mayor

CITY OF THOMAS

P.O. BOX 248
THOMAS, WV 26292

July 29, 1997

I, Matt Quattro do solemnly swear to support the Constitution of the United States, the Constitution of the State of West Virginia and the ordinances of the City of Thomas. And that I will perform the duties of Councilman Ward I to which I have been appointed to the best of my abilities so help me God.

Signature: _____

Witness: _____

Debra J. Meyer Mayor

CITY OF THOMAS

P.O. BOX 248
THOMAS, WV 26292

July 29, 1997

I, Thomas E. Friend do solemnly swear to support the Constitution of the Unites States, the Constitution of the State of West Virginia, and the ordinances of the City of Thomas. And that I will perform the duties of Councilman Ward II to which I have been appointed to the best of my abilities so help me God.

Signature: _____

Thomas E. Friend

Witness: _____

Debbie Dwyer Meyer

CITY OF THOMAS

ORDINANCE CREATING A SANITARY BOARD
OF THE CITY OF THOMAS

WHEREAS, the City of Thomas (the "City") now contemplates the issuance of its sewer revenue bonds to finance the acquisition, construction and equipping of a sanitary sewerage system, and future additions, extensions and improvements thereto (the "System"), pursuant to Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (the "Act"); and

WHEREAS, the Act requires that a sanitary board be established in connection with the issuance of sewer revenue bonds, as aforesaid, and in connection with the custody, administration, operation and maintenance of such a sewer system by a municipal corporation;

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE CITY COUNCIL OF THE CITY OF THOMAS AS FOLLOWS:

Section 1. That the Council of the City of Thomas does hereby create and establish a Sanitary Board (the "Sanitary Board" or "Board"), with all powers and duties as provided in and pursuant to the Act.

Section 2. Composition; Chairman; Appointment of Members. The Sanitary Board shall be composed of the Mayor of the City of Thomas, and two persons appointed by the Council, one of whom, during the period of construction of the System or any additions thereto must be a registered professional engineer. The engineer member of the Board need not be a resident of said municipality. After the construction of the System has been completed, the engineer may be succeeded by a person not an engineer. Said appointees shall originally be appointed for terms of 2 and 3 years respectively, and upon the expiration of each such term and each succeeding term, appointment of a successor shall be made in like manner for a term of 3 years. Vacancies shall be filled for an unexpired term in the same manner as the original appointment. No officer or employee of the City of Thomas, whether holding a paid or unpaid office, shall be eligible to appointment on said Sanitary Board until at least 1 year after the expiration of the term of his public office.

Section 3. Organizational Meetings; Vice Chairman, Secretary, Treasurer; Official Bonds. As soon as may be practicable following the appointment of a new member of the Sanitary Board, the Board shall hold an organizational meeting and choose a vice chairman from among its members, and a secretary and treasurer, who may be one person and need not be a Board member, and such officers shall hold office at the will of the Board.

No bond shall be required of the Board members as such, but the treasurer, whether a member of the Board or not, shall give bond in the penalty of \$50,000 for the proper application of all money received by him as treasurer of the Board, and otherwise conditioned according to law.

Section 4. Compensation and Expenses of Board Members. The members of the Sanitary Board as such shall be paid no compensation. All members of the Board shall be reimbursed from sewage works funds for all necessary expenses incurred in the discharge of their duties, but there shall be no liability upon the City for any salary or expenses so incurred.

Section 5. Powers, Duties and Limitations. A. The Sanitary Board shall have the supervision and control of the custody, administration, operation and maintenance of any and all works for the collection, treatment and disposal of sewage, which are now owned or may hereafter be acquired by the City.

B. The Sanitary Board shall have power to take all steps and proceedings and to make and enter into all contracts or agreements necessary or incidental to the performance of its duties and the execution of the powers granted to such Board by the Act, as the same now exists and may hereafter be amended; but the powers of the Sanitary Board shall be subject to all restrictions and limitations contained in the Act as the same now exists or may hereafter be amended.

C. The Sanitary Board may employ engineers, architects, inspectors, superintendents, managers, collectors, attorneys and such other personnel as in its judgment may be necessary in the execution of its powers and duties, and may fix their compensation, all of whom shall do such work as the Board shall direct. All such compensation and all expenses incurred in carrying out the provisions of the Act shall be paid solely and only from funds provided under the authority of the Act, and the Board shall not exercise or carry out any authority or power given it so as to bind the Board or the City beyond the extent to which money shall have been or may be provided under the authority of the Act. No contract or agreement with any contractor or contractors for labor and/or material exceeding the sum of \$5,000 shall be made without advertising for bids, which bids shall be publicly opened and award made to the best bidder, with power in the Board to reject any and all bids.

D. The construction, acquisition, improvement, equipment, custody, operation and maintenance of any such works for the collection, treatment or disposal of sewage and the collection of revenues therefrom for the service rendered thereby shall be under the supervision and control of the Sanitary Board.

E. After the construction, acquisition, installation and completion of such works, the Sanitary Board shall operate, manage and control the same and may order and complete any extensions, betterments and improvements of and to the works that the Board may deem expedient if funds therefor be available or made available as provided by the Act,

and shall establish rules and regulations for the use and operation of the works and of other sewers and drains connected therewith so far as they may affect the operation of such works, and to do all things necessary or expedient for the successful operation thereof, and the Board shall have in addition hereto any and all powers granted to it by the Act, or which may be granted to it by amendments to the Act, hereafter made, subject to any and all restrictions and limitations therein contained.

Section 6. Duty of Board to Restore Property Damaged by its Activities. All public ways or public works damaged or destroyed by the Sanitary Board in carrying out its authority under this ordinance and the Act shall be restored or repaired by the Board and placed in their original condition, as nearly as practicable, if requested so to do by the proper authorities, out of the funds provided by the Act.

Section 7. Publication of Financial Statement. The Sanitary Board shall prepare a financial statement and cause it to be published as a Class I legal advertisement in compliance with the provisions of Chapter 59, Article 3 of the West Virginia Code of 1931, as amended, and the publication area for such publication shall be the sanitary district. Such statement shall contain an itemized account of the receipts and expenditures of the Board during the previous fiscal year, showing the source from which all money was derived, and the name of the person to whom an order was issued, together with the amount of such order, and why such order was issued, arranging the same under distinct heads, and including all money received and expended from the sale of bonds, and also a specific statement of the debts of such Board, showing the purpose for which any debt was contracted, the amount of money in all funds at the end of the preceding year, and the amount of uncollected service charges. Such statement shall be prepared and published by the Board as soon as practicable after the close of the fiscal year. The statement shall be sworn to by the chairman and secretary and treasurer of the Board.

Section 8. Procedure for Disbursement of Funds. All funds under the supervision of the Sanitary Board shall be disbursed, as disbursements are required, by check drawn upon the proper fund or account, and such checks shall be properly signed by the authorized officer or agent of the Board. All such disbursements shall be approved by the Board.

Section 9. Fidelity Bonds. The Sanitary Board shall require all persons who collect or otherwise handle funds of the Board or the System to furnish a good and proper bond, with a recognized and reputable surety, conditioned upon the faithful performance of their duties and for the proper handling and care of said funds in their hands. Such bond shall be in an amount equal to the sum of money which might at any one time be in the hands of such person or persons, as may be determined by the Board.

Section 10. Effective Date. This Ordinance shall take effect immediately following the second reading hereon.

Passed on First Reading: July 12, 1994

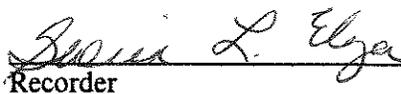
Passed on Second Reading: August 9, 1994

CERTIFICATION

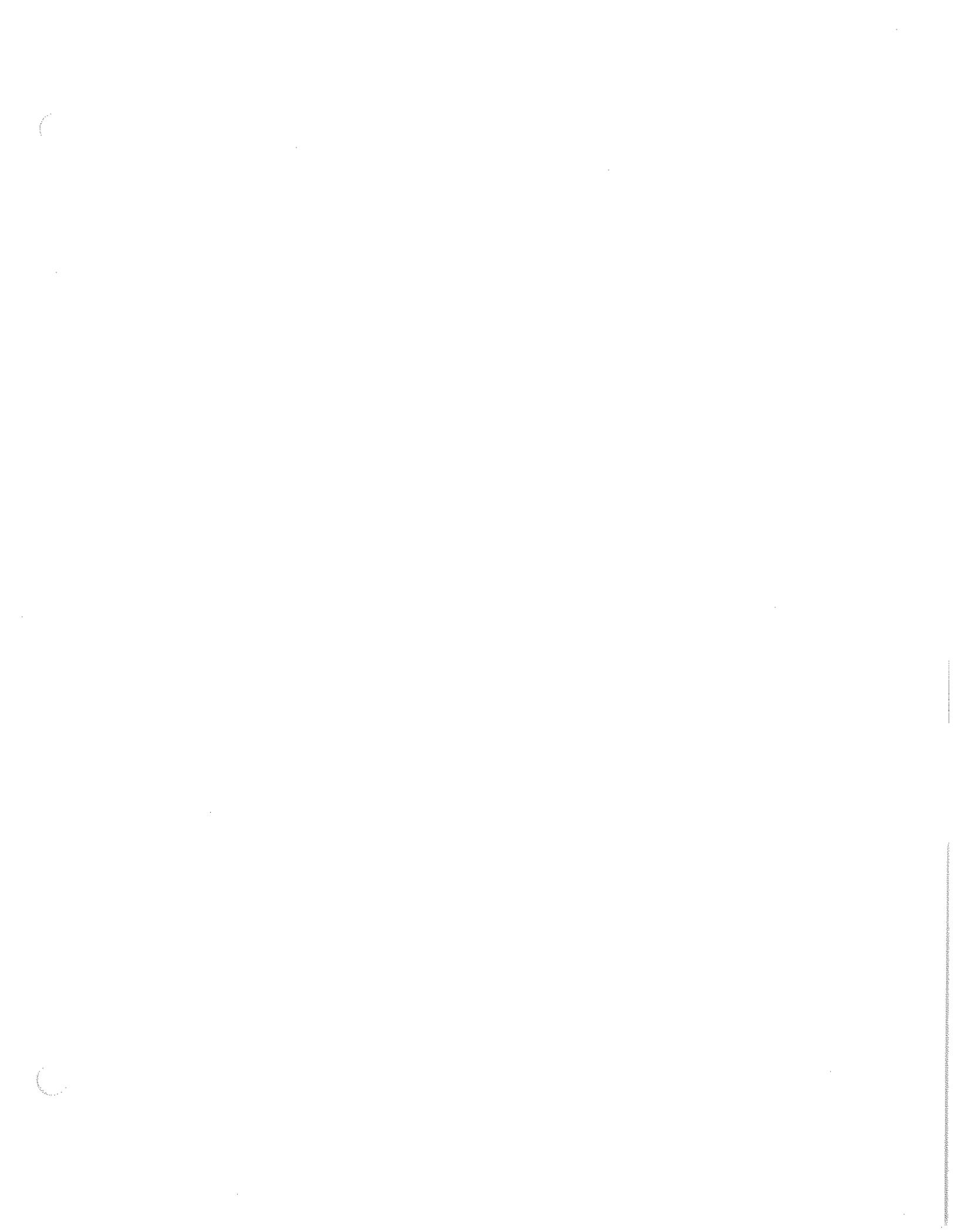
Certified a true copy of an Ordinance duly enacted by the Council of the CITY OF THOMAS on the 9th day of August, 1994.

Dated: December 17, 1997.

[SEAL]


Recorder

11/04/97
896820/94001



CITY OF THOMAS

Sewer Revenue Bonds, Series 1997 A
(West Virginia SRF Program)

PETITION OF SANITARY BOARD

The Sanitary Board of the City of Thomas (the "City") hereby petitions the Council of the City to enact an ordinance directing that sewer revenue bonds of the City be issued pursuant to the provisions of Chapter 16, Article 13 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended, such bonds to be in an amount not to exceed \$1,500,000 for the purpose of financing the costs of acquisition and construction of a new public sewerage system of the City, together with all necessary appurtenances, and the costs of issuance and related costs.

Directed this 11th day of November, 1997.

SANITARY BOARD OF THE CITY OF
THOMAS


Chairman

10/28/97
896820/94001

AN ORDINANCE ESTABLISHING AND FIXING RATES, FEES,
CHARGES AND DELAYED PAYMENT PENALTY CHARGES FOR
SERVICE TO CUSTOMERS OF THE SEWER FACILITIES OF THE
CITY OF THOMAS

THE CITY COUNCIL OF THE CITY OF THOMAS HEREBY ORDAINS:
The following schedule of rates, fees, charges and delayed payment penalty charges are hereby fixed and determined as the rates, fees, charges and delayed payment penalty charges to be charged to customers of the sewer facilities of the City of Thomas throughout the territory served.

SECTION 1. SCHEDULE OF RATES

APPLICABILITY

Applicable to entire area served.

AVAILABILITY OF SERVICE

Available for general domestic and commercial sanitary sewer service.

RATES (Based upon the metered amount of water supplied)

\$ 6.50 per 1,000 gallons of water used per month

Each unmetered customer shall be charged a flat rate of \$26.00 per month.

MINIMUM MONTHLY CHARGE

The minimum monthly charge to any user of the sewerage system shall be \$19.50.

MULTIPLE OCCUPANCY

Apartment buildings and other multiple-occupancy buildings shall be required to pay not less than the minimum monthly charge for each unit multiplied by the number of units in such building at the time the meter is read, or the actual charge for the water used or the size of the meter installed, whichever is greater.

Hotels and motels shall pay according to the amount of water used or the size of meter installed, whichever is greater.

House trailer courts (including mobile and immobile units) served through a single meter shall be required to pay the minimum charge per month multiplied by the number of units on site at the time the meter is read or the actual charge for the water used or the size of the meter installed, whichever is greater.

House trailers, either mobile or immobile, located on sites other than a park or court, shall be billed in the same manner as any other family or business unit.

DELAYED PAYMENT PENALTY CHARGE

A 10% penalty shall be added to all charges not paid within 20 days from the date of the billing. This delayed payment is not interest and is only to be collected once for each bill where it is appropriate.

SEWER CONNECTION CHARGE

There shall be charged a connection fee of \$450 for each connection into the sewerage system. Only one connection fee shall be charged for each apartment complex, trailer park or other multiple-occupancy user. This fee is to pay for damage to, inspection of, extension of and rights-of-way for sanitary sewers within the system. Notwithstanding the foregoing, in the event a customer executes and delivers a sewer user's agreement prior to commencement of construction of the new sewer facilities and concurrently pays the sewer connection charge, such charge shall be reduced to \$200.

SECTION 2. EFFECTIVE DATE

The rates, fees, charges and delayed payment penalty charges provided herein shall be effective upon substantial completion of the sewer facilities, but in no event prior to 45 days after the enactment hereof.

SECTION 3. SEPARABILITY; REPEAL OF CONFLICTING ORDINANCES, ETC.

The provisions of this Ordinance are separable, and if any clause, provision or section hereof be held void or unenforceable by any court of competent jurisdiction, such holding shall not affect the remainder of this Ordinance. All ordinances, resolutions, orders or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflicts, hereby repealed; and to the extent that the provisions of this Ordinance do not touch upon the provisions of prior ordinances, resolutions, orders or parts thereof, the same shall remain in full force and effect.

SECTION 4. STATUTORY NOTICE AND PUBLIC HEARING

Upon introduction hereof, the Recorder shall publish a copy of this Ordinance once a week for 2 successive weeks within a period of 14 consecutive days, with at least

6 full days intervening between each publication, in the *Parsons Advocate*, being the only newspaper published and of general circulation in Tucker County, West Virginia, and being of general circulation in the City of Thomas, and said notice shall state that this Ordinance has been introduced, and that any person interested may appear before Council at the City Hall, on the 24th day of September, 1996, at 6:30 p.m., which date is not less than 10 days subsequent to the date of the first publication of the Ordinance and notice, and present protests. At such hearing all objections and suggestions shall be heard and the Council shall take such action as it shall deem proper in the premises.

The above Ordinance has been introduced at a meeting of Council held September 10, 1996. Any person interested may appear before Council at the City Hall on September 24, 1996, at 6:30 p.m., and present protests.

Passed on First Reading: September 10, 1996

Passed on Second Reading
Following Public Hearing: September 24, 1996

CERTIFICATION

Certified a true copy of an Ordinance duly enacted by the Council of the CITY OF THOMAS on the 24th day of September, 1996.

Dated: December 17, 1997.

[SEAL]

Gloria L. Eya

Recorder

11/04/97
896820/94001

CERTIFICATE OF PUBLICATION

I, George A. Smith, Jr., publisher of *The Parsons Advocate*, a weekly newspaper published at Parsons, West Virginia, do hereby certify that

the annexed

in the case of *Notice of Public Hearing*

VS.

has been published for *2* consecutive weeks in said newspaper, beginning with the issue of

Sept. 11, 1996

Given under my hand this *18* day of

Sept 19 *96*
George A. Smith, Publisher

Publication fee \$ *108.35*
14 1/2" or 885 words at 12.25%

STATE OF WEST VIRGINIA,
COUNTY OF TUCKER, to-wit:

George A. Smith, Jr., publisher of *The Parsons Advocate*, being duly sworn, says that statements contained in the above certificate are true and correct, to the best of his knowledge and belief.

George A. Smith, Affiant

Sworn to and subscribed before me, this the *18* day of *Sept*, 19 *96*

Elsie M. Davis
Notary Public

My commission expires

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
ELSIE M. DAVIS
105 Central Ave.
Parsons, WV 26287
My Comm. Expires Oct. 19, 1996

19

**NOTICE OF PUBLIC HEARING
AN ORDINANCE ESTABLISHING AND
FIXING RATES, FEES, CHARGES AND
DELAYED PAYMENT PENALTY
CHARGES FOR SERVICE TO CUSTOM-
ERS OF THE SEWER FACILITIES OF THE
CITY OF THOMAS.**

THE CITY COUNCIL OF THE CITY OF THOMAS HEREBY ORDAINS:

The following schedule of rates, fees, charges and delayed payment penalty charges are hereby fixed and determined as the rates, fees, charges and delayed payment penalty charges to be charged to customers of the sewer facilities of the City of Thomas throughout the territory served.

**SECTION 1. SCHEDULE OF RATES
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House trailers, either mobile or immobile, located on sites other than a park or court, shall be billed in the same manner as any other family or business unit.

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SEWER CONNECTION CHARGE

There shall be charged a connection fee of \$450 for each connection into the sewerage system. Only one connection fee shall be charged for each apartment complex, trailer park or other multiple-occupancy user. This fee is to pay for damage to, inspection of, extension of and right-of-way for sanitary sewers within the system. Notwithstanding the foregoing, in the event a customer executes and delivers a sewer user's agreement prior to commencement of construction of the new sewer facilities and concurrently pays the sewer connection charge, such charge shall be reduced to \$200.

SECTION 2. EFFECTIVE DATE

The rates, fees, charges and delayed payment penalty charges provided herein shall be effective upon substantial completion of the sewer facilities, but in no event prior to 45 days after the enactment hereof.

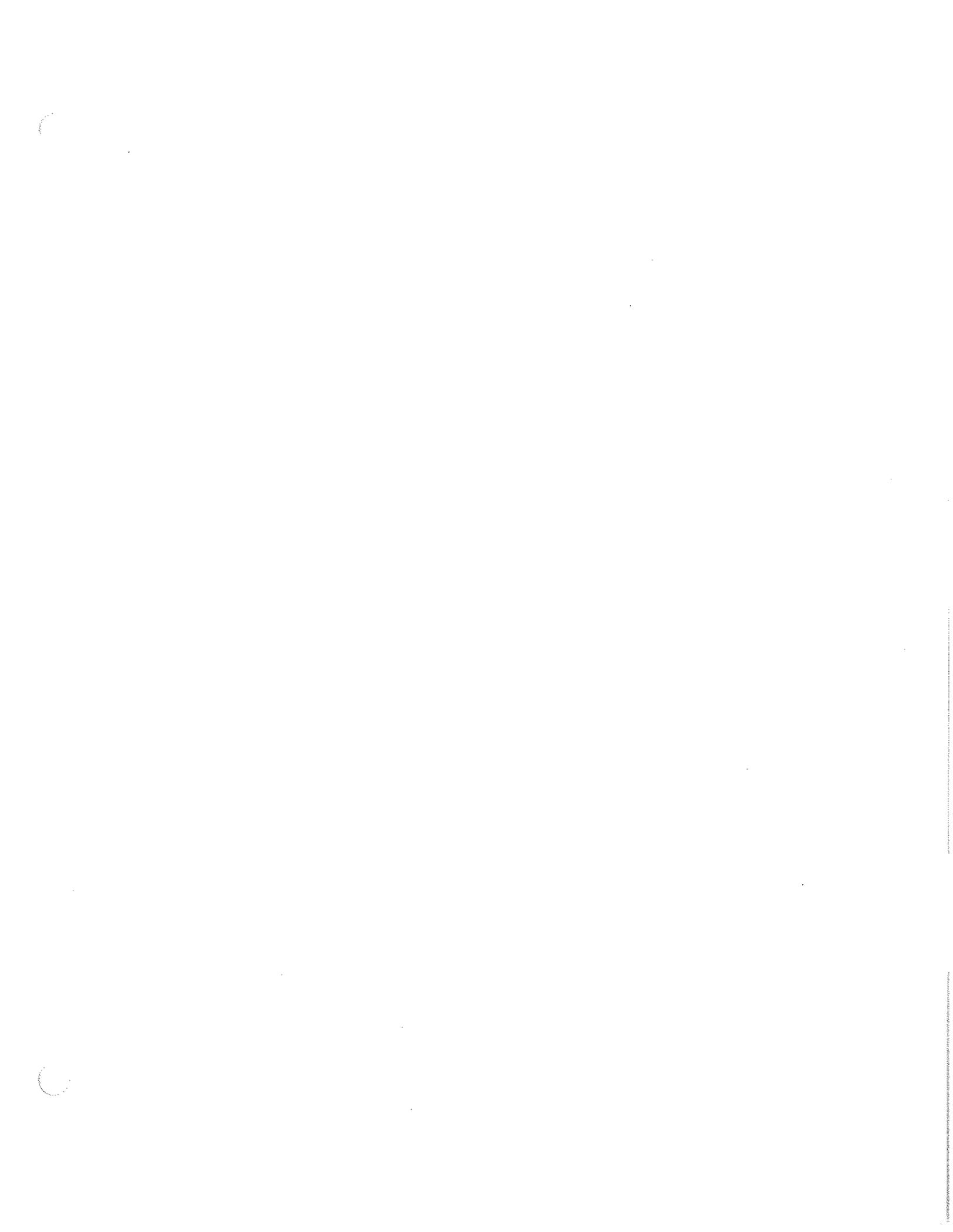
**SECTION 3. SEPARABILITY; REPEAL
OF CONFLICTING ORDINANCES, ETC.**

The provisions of this Ordinance are separable, and if any clause, provision or section hereof be held void or unenforceable by any court of competent jurisdiction, such holding shall not affect the remainder of this Ordinance. All ordinances, resolutions, orders or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflicts, hereby repealed; and to the extent that the provisions of this Ordinance do not touch upon the provisions of prior ordinances, resolutions, orders or parts thereof, the same shall remain in full force and effect.

**SECTION 4. STATUTORY NOTICE AND
PUBLIC HEARING**

Upon introduction hereof, the Recorder shall publish a copy of this Ordinance once a week for two successive weeks within a period of 14 consecutive days, with at least six full days intervening between each publication, in the *Parsons Advocate*, being the only newspaper published and of general circulation in Tucker County, West Virginia and being of general circulation in the City of Thomas, and said notice shall state that this Ordinance has been introduced, and that any person interested may appear before Council at the City Hall, on the 24th day of September, 1996, at 6:30 pm, which date is not less than 10 days subsequent to the date of the first publication of the Ordinance and notice, and present protests. At such hearing all objections and suggestions shall be heard and the Council shall take such action as it shall deem proper in the premises.

9-11 9-18c



Thomas City Council
September 10, 1996

Thomas City Council met in regular session on September 10, 1996 at 6:30 p.m. at City Hall. Prior to regular session council met in executive session at 6:00 p.m.

Present were Mayor Jim Nelson, Council persons, Brad Phillips, Jean DeMent, Amie Friend (for Ed Friend) and Matt Quattro (for Paul Hardy). Others present were John Shupp, Bob McVicker, Laird Knight, Sheila Smith (Region VII), David & Sandy Gravelle and Brian Morton.

Minutes were read from the August 27th meeting, motion was made for approval by DeMent and seconded by Phillips with the correction of the meeting date being September 10, not September 9, 1996.

Smith requested the Mayor to sign permit applications for the sewer project. Smith also requested council to give a written response to the Forest Service on the land exchange for the sewer treatment facility.

Council gave Smith permission to write to the Small Cities Block Grant and ask for an extension of the sewer grant for one more year. Region VII has also applied to the PSC to re-open the Certificate of Necessity for the sewer project.

The revised sewer rate ordinance was read to council, motion for approval was made by DeMent and seconded by Phillips, all were in favor. The second reading and public hearing will be on September 24, 1996 during the council meeting. The ordinance will be posted at City Hall for review and published in the Parsons Advocate on September 11 and 18, 1996.

Council approved a building permit for Knight.

The Gravelle's were present to report paint damage to their car from a can lost from the garbage truck on September 3, 1996. The city will turn the matter over to their insurance company.

DeMent requested the grass be cut at City Hall.

Mayor Nelson is checking into a garbage truck for sale in Moorefield.

Shupp again reminded council of the need to start getting snow plow parts.

Discussion was held on the condition of the trucks. Phillips suggested the employees clean the vehicles on a more regular basis. Council elected to solicit bids to purchase a new truck with snow plow. The Mayor will call for bids.

Phillips spoke with Eastern Electric on the pump repairs. He felt the price for the repairs was fair. Motion was made by Phillips and seconded by DeMent to pay the bill.

Page 2 - September 10, 1996

Phillips reported he and Tom DiBacco would like to make some electrical repairs at the water treatment plant when time permits. Council approved for the repairs to be made.

Council approved pay raises for Brian Zirk, Shupp and McVicker. Effective September 8, 1996 they will receive \$6.00 per hour.

There have been no changes in the status of the rooster, bees and rabbits in city limits. Council elected for citations to be issued.

The Tucker County High Band requested permission to use the football field for practice. Council tabled the matter until the Mayor speaks to the Board of Education. The band would not participate in the July 4th activities in Thomas and the council would like a response as to why not.

Council approved to purchase the plaque for the football field listing donors. Quattro will check into the plaque in memory of John and Katherine Adams.

Discussion was held on FEMA money and street repairs.

Council approved for Billy Bailey to be an Operator in Training through the City of Thomas. He needs a "sponsor" whereas he can take his water treatment plant operator test.

The city has received the \$92,826.00 COPS grant. It will be distributed to the City over the next three years.

Council agreed for Elza to apply to be a Notary Public, the cost is \$52.00.

Council accepted the resignation of the City Recorder with regret.

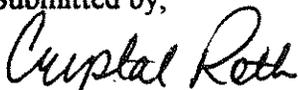
Council approved to purchase new uniform pants for Officer Morton.

Quattro made a motion and was seconded by Phillips to purchase linoleum for the water treatment plant from Colabrese Brother Hardware.

Phillips motioned the meeting be adjourned at 8:15 and was seconded by Friend.

The next regular council meeting will be September 24, 1996 at 6:30 p.m. at City Hall and is open to the public.

Submitted by,


Crystal Roth, Recorder

Thomas City Council
September 24, 1996

Thomas City Council met in regular session and public meeting on September 24, 1996 at 6:30 pm at City Hall.

Present were Mayor Jim Nelson, Council persons, Brad Phillips, Jean DeMent and Paul Hardy. Others present were Matt Quattro, Tom DiBacco, Frank Shaffer, Woody Thrasher, (Thrasher Engineering), Beckii Leigh (Region VII), Hank Thompson, Brian Morton and Gloria Elza, Clerk.

Minutes were read from the September 10, 1996 meeting , motion was made for approval by Phillips and seconded by DeMent.

Matt Quattro approached Mayor and Council with the prospect of hiring a city manager. Presently Davis is without a Mayor and this would help alleviate some of the responsibilities from our very busy Mayor. This matter was tabled until an appropriate candidate is chosen and fund are available.

Mayor and Council agreed to reimburse Frank Shaffer for costs incurred for materials purchased to repair a broken gas line inadvertently broken by the backhoe.

Tom DiBacco updated Mayor and Council on the status of the Dam.

Wade Zirk and Bob McVicker are attending a sewer treatment class in Elkins.

* The second and final reading of the sewer rate ordinance was read , motion for approval was made by Hardy and seconded by Phillips.

Thomas and Davis will have Trick or Treat on October 31, 1996, starting at 6:00pm and ending 8:00pm with the age limit being 12 years old.

There will be a publication and letters sent to customers regarding the \$200.00 sewer tap fee. This fee can be paid in payments but the entire amount must be received prior to commencement of the sewer project or the tap fee will be \$450.00.

Paul Hardy will start refurbishing the old Christmas lights on Thursday, October 3, 1996 at 7:00pm. This project will be held upstairs at City Hall and if anyone would like to volunteer their time to help with this project it will be greatly appreciated and enjoyed by all when it is completed. Brad Phillips will check with the power company to see about getting additional hook ups on Second Street for the newly refurbished Christmas Lights.

Discussion was held on the bee problem and it was agreed that once the honey is removed the last remaining hive must be removed.

20B

Page 2

Permission was given to Jerry Burch to obtain copies of the sewer prep account check register.

Mayor and Council approved the clerk's request for her vacation. The time off requested will be posted one week in advance so that this will not cause any inconvenience to anyone.

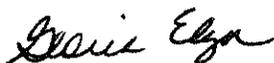
There will be an ALL YOU CAN EAT buckwheat pancake breakfast on Saturday, September 28, 1996 7:00am to 1:30pm, at Nelson's Campground located under the tent between Kidwell's Auto Parts and Mt. Top Market. All proceeds go to the Thomas Football Field renovation.

City Hall will be closed from 11:00am to 2:00pm on Tuesday, October 1, 1996 due to the clerk having a doctors appointment. We apologize for any inconvenience that this may cause.

Phillips mentioned the meeting be adjourned at 9:15 and was seconded by Hardy.

The next regular scheduled council meeting will be October 8, 1996 at 6:30 pm at City Hall and is open to the public.

Submitted by,



Gloria Elza
Clerk

CERTIFICATE OF PUBLICATION

I, George A. Smith, Jr., publisher of *The Parsons Advocate*, a weekly newspaper published at Parsons, West Virginia, do hereby certify that

the annexed

in the case of *Public Hearing*

VS.

has been published for *2* consecutive weeks in said newspaper, beginning with the issue of

Nov 26, 1997

Given under my hand this *3* day of

Dec, 19*97*
George A. Smith, Publisher

Publication fee \$ *59.78*

8" or 488 words at 12.25¢ per

STATE OF WEST VIRGINIA,
COUNTY OF TUCKER, to-wit:

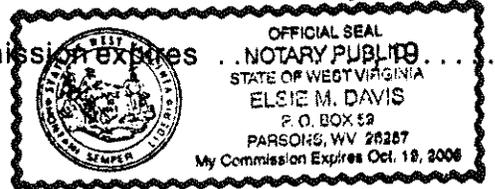
George A. Smith, Jr., publisher of *The Parsons Advocate*, being duly sworn, says that statements contained in the above certificate are true and correct, to the best of his knowledge and belief.

George A. Smith, Affiant

Sworn to and subscribed before me, this the *3* day of *Dec*, 19*97*

Elsie M. Davis
Notary Public

My commission expires



NOTICE OF PUBLIC HEARING ON

CITY OF THOMAS BOND ORDINANCE

A public hearing will be held on the following-entitled Ordinance at a regular meeting of the Council of the City of Thomas (the "City") to be held on December 9, 1997, at 6:30 pm at the Thomas City Hall, Thomas, West Virginia, and at such hearing any person interested may appear before the Council and present protests, and all protests and suggestions shall be heard by the Council and it shall then take such actions as it shall deem proper in the premises upon an Ordinance entitled:

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF A NEW PUBLIC SEWERAGE SYSTEM OF THE CITY OF THOMAS AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$1,500,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 1997 A (WEST VIRGINIA PROGRAM); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

The above-entitled Ordinance was approved by the Council on November 25, 1997.

The above-quoted title of the Ordinance describes generally the contents thereof and the purposes of the Bonds contemplated thereby. The City contemplates the issuance of the Bonds described in the Ordinance. The proceeds of the Bonds will be used to provide permanent financing of a portion of the costs

of acquisition and construction of a new public sewerage system of the City. The Bonds are payable solely from revenues to be derived from the ownership and operation of the sewerage system of the City. No taxes may at any time be levied for the payment of the Bonds or the interest thereon.

A certified copy of the above-entitled Ordinance is on file with the Council at the office of the Recorder for review by interested parties during regular office hours.

Following the public hearing, the Council intends to enact the Ordinance upon final reading.

Dated: November 26, 1997.

Debra Snyder
Mayor
11-26 12-3c



**Thomas City Council
November 11, 1997**

Present were: Mayor Debbie Snyder, Tom DiBacco, Jean DeMent, Matt Quattro, Matt Helmick Edward Kepner and Gloria Elza.

At 6:15 PM Edward Kepner was sworn in as a member of the Sanitary Board.

The Sanitary Board held a special meeting to petition the Council to enact an ordinance directing that sewer revenue bonds of the City be issued pursuant to the provisions of Chapter 16, Article 13 and Chapter 22C, Article 2 of the WV Code of 1931, as amended, such bonds to be in an amount not to exceed \$1,500,000.00 for the purpose of financing the costs of acquisition and construction of a new public sewerage system of the City, together with all necessary appurtenances, and the costs of issuance and related costs.

Mayor Snyder called the regular meeting to order at 6:30 PM.

Prayer was given by Jean DeMent.

Minutes from the previous meeting were read and approved by DiBacco, seconded by DeMent. With the following correction: Work at the Thomas VFD has started and should be completed this week.

Matt Helmick updated Mayor and Council on the progress made to date on the setup of the general ledger.

- ✓ The first reading of the Bond Ordinance was read and is posted at City Hall for review. The second reading will be November 25, 1997, the third reading and public hearing will be December 9, 1997.

The meeting scheduled for December 23, 1997 has been canceled due to the holidays.

The Business Owners Committee will have an open house on November 22nd and 23rd, 1997. Please check the Parsons Advocate for a schedule of events.

The lights will be installed on the Christmas Tree this week.

Letters will be sent out to people regarding vehicles that need to be moved for plowing and that are not licensed.

Matt Quattro updated Mayor and Council regarding a meeting with the US Forest Service on the

Thomas City Council
November 25, 1997

Present were: Mayor Debbie Snyder, Tom DiBacco, Jean DeMent, Matt Quattro, Matt Helmick, Rosemary Wagner and Gloria Elza.

Mayor Snyder called the meeting to order at 6:30 PM.

Prayer was given by Jean DeMent.

The minutes from the previous meeting were read and approved by DeMent, seconded by DiBacco.

Matt Helmick updated Mayor and Council on the progress and near completion of the installation and training on the general ledger.

Rosemary Wagner from Region VII discussed the sewer project. More details will be given as they become available.

- ✓ The second reading of the bond ordinance was read. The public hearing and third reading will be Tuesday, December 9, 1997 at 6:30 PM.

The council meeting scheduled for Tuesday, December 9, 1997 had been canceled and rescheduled for Wednesday, December 10, 1997. However the third reading of the bond ordinance and public hearing will still be on Tuesday, December 9, 1997 as published.

The City received notice from TCI, Inc. that the franchise fee that you are currently paying will increase on January 1, 1998 from 3.00 % to 3.09 %. This increase is due to a recent court ruling which changed how franchise taxes are calculated.

DiBacco made a motion to adjourn the meeting, seconded by Quattro at 9:20 PM.

The next scheduled meeting will be December 10, 1997 at 6:30 PM at City Hall and is open to the public.

Submitted by: Gloria Elza
Gloria Elza, Clerk / Recorder

Approved by: Debbie Snyder
Debbie Snyder, Mayor

Thomas City Council
December 9, 1997

Present were: Mayor Debbie Snyder, Tom DiBacco, Jean DeMent, Matt Quattro and Gloria Elza.

Mayor Snyder called the meeting to order at 6:30 PM.

- ✓ The third reading of the bond ordinance was read. The public hearing was held and there was no opposition. Therefore the bond ordinance was adopted on this date.
- ✓ The Supplemental Resolution was read and also adopted on this date.

The next scheduled meeting will be December 10, 1997 at 6:30 PM at City Hall and is open to the public.

Submitted by: *Gloria Elza*
Gloria Elza, Clerk / Recorder

WV MUNICIPAL BOND COMMISSION

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

NEW ISSUE REPORT FORM

Date of Report: December 17, 1997

(See Reverse for Instructions)

CITY OF THOMAS SEWER REVENUE BONDS,
ISSUE: Series 1997 A (WV SRF Program)
ADDRESS: P. O. Box 248, Thomas, WV 26292 **COUNTY:** Tucker
PURPOSE New Money **OF ISSUE:** Refunding Refunds issue(s) dated: _____
ISSUE DATE: 12/17/97 **CLOSING DATE:** 12/17/97
ISSUE AMOUNT: \$ 1,500,000 **RATE:** 0% Administrative Fee: 1%
1st DEBT SERVICE DUE: 9/1/99 **1st PRINCIPAL DUE:** 9/1/99
1st DEBT SERVICE AMOUNT: \$18,750 **PAYING AGENT:** Municipal Bond Commission

ISSUERS	UNDERWRITERS
BOND COUNSEL: Steptoe & Johnson	BOND COUNSEL: Jackson & Kelly
Contact Person: Vincent A. Collins, Esq.	Contact Person: Samme L. Gee, Esq.
Phone: 624-8161	Phone: 340-1318
CLOSING BANK: Miners and Merchants Bank	ESCROW TRUSTEE:
Contact Person: Donald Roth	Contact Person:
Phone: 463-4155	Phone:
KNOWLEDGEABLE ISSUER CONTACT	OTHER: Division of Environmental Protection
Contact Person: Debra Snyder	Contact Person: Rosalie Brodersen
Position: Mayor	Function: Branch Chief
Phone: 463-4360 FAX:	Phone: 558-0637

DEPOSITS TO MBC AT CLOSE:

By <input type="checkbox"/> Wire	<input type="checkbox"/> Accrued Interest:	\$ _____
<input type="checkbox"/> Check	<input type="checkbox"/> Capitalized Interest:	\$ _____
	<input type="checkbox"/> Reserve Account:	\$ _____
	<input type="checkbox"/> Other:	\$ _____

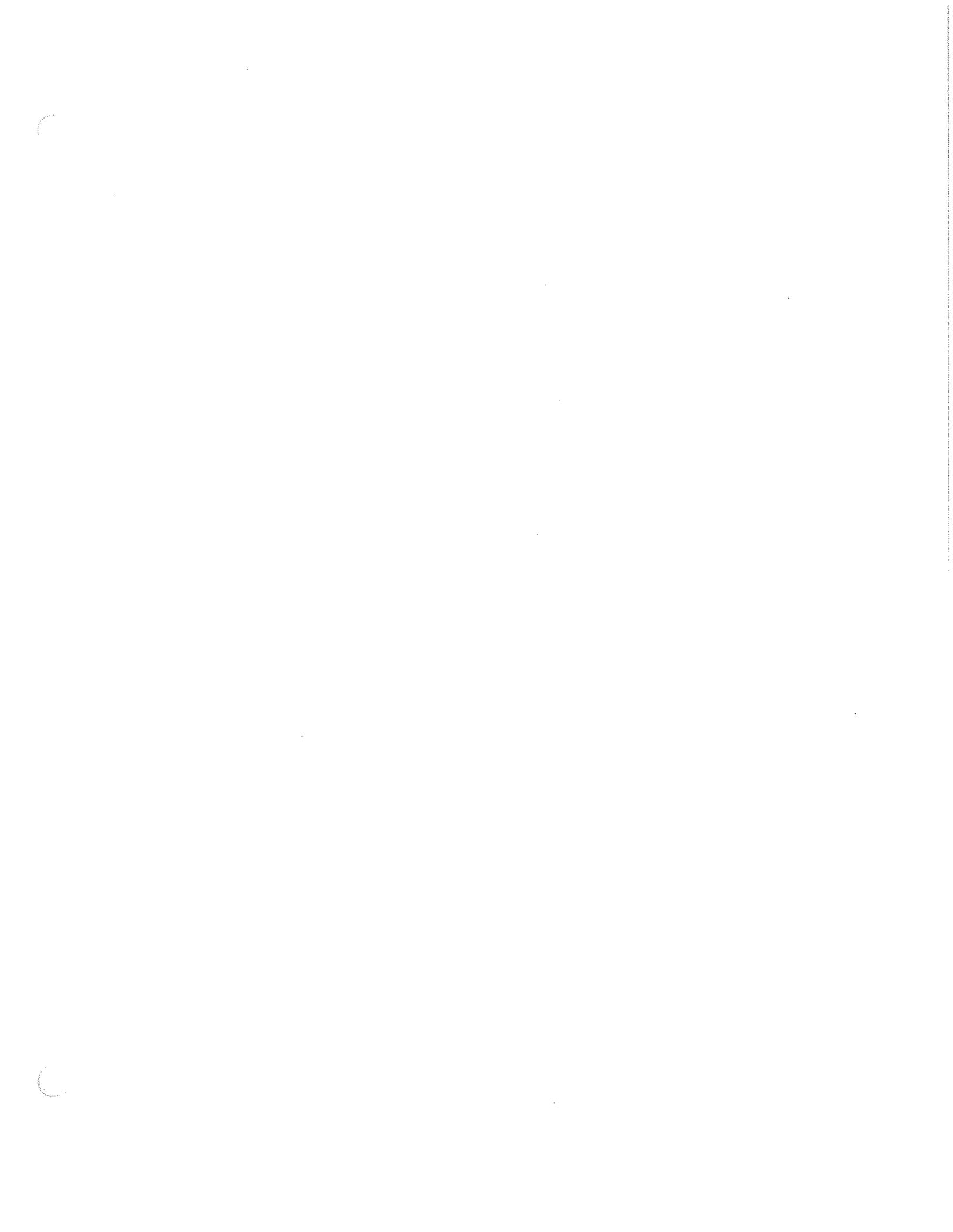
REFUNDS & TRANSFERS BY MBC AT CLOSE:

By <input type="checkbox"/> Wire	<input type="checkbox"/> To Escrow Trustee:	\$ _____
<input type="checkbox"/> Check	<input type="checkbox"/> To Issuer:	\$ _____
<input type="checkbox"/> IGT	<input type="checkbox"/> To Cons. Invest. Fund:	\$ _____
	<input type="checkbox"/> To Other:	\$ _____

NOTES:

FOR MUNICIPAL BOND COMMISSION USE ONLY:

DOCUMENTS
REQUIRED: _____
TRANSFERS
REQUIRED: _____



CITY OF THOMAS

Sewer Revenue Bonds, Series 1997 A
(West Virginia SRF Program)

ACCEPTANCE OF APPOINTMENT AS DEPOSITORY BANK

Miners & Merchants Bank, Thomas, West Virginia, hereby accepts appointment as Depository Bank in connection with a Bond Ordinance of the City of Thomas (the "Issuer") enacted by the Issuer on December 9, 1997, and a Supplemental Resolution adopted by the Issuer on December 9, 1997 (collectively, the "Bond Legislation"), authorizing issuance of the Issuer's Sewer Revenue Bonds, Series 1997 A (West Virginia SRF Program), dated December 17, 1997, in the aggregate principal amount of \$1,500,000 (the "Bonds"), and agrees to serve as Depository Bank in connection with the Bonds, all as set forth in the Bond Legislation.

WITNESS my signature on this 17th day of December, 1997.

MINERS & MERCHANTS BANK



President

12/03/97
435500/94001

CITY OF THOMAS

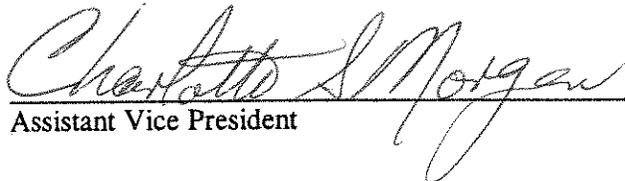
Sewer Revenue Bonds, Series 1997 A
(West Virginia SRF Program)

ACCEPTANCE OF DUTIES AS REGISTRAR

ONE VALLEY BANK, NATIONAL ASSOCIATION, a national banking association, in Charleston, West Virginia, hereby accepts appointment as Registrar in connection with the City of Thomas Sewer Revenue Bonds, Series 1997 A (West Virginia SRF Program), dated December 17, 1997, in the aggregate principal amount of \$1,500,000 (the "Bonds"), and agrees to perform all duties of Registrar in connection with the Bonds, all as set forth in the Bond Legislation authorizing issuance of the Bonds.

WITNESS my signature on this 17th day of December, 1997.

ONE VALLEY BANK, NATIONAL
ASSOCIATION


Assistant Vice President

11/04/97
896820/94001

CITY OF THOMAS

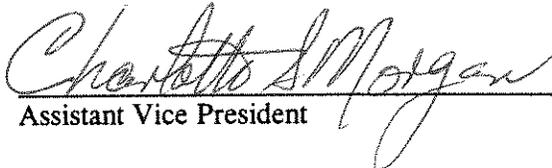
Sewer Revenue Bonds, Series 1997 A
(West Virginia SRF Program)

CERTIFICATE OF REGISTRATION OF BONDS

ONE VALLEY BANK, NATIONAL ASSOCIATION, a national banking association, in Charleston, West Virginia, as Registrar under the Bond Legislation and Registrar's Agreement providing for the above-captioned Bonds of the City of Thomas (the "Issuer"), hereby certifies that on the date hereof, the single, fully registered Sewer Revenue Bond, Series 1997 A (West Virginia SRF Program), of the Issuer, dated December 17, 1997, in the principal amount of \$1,500,000, numbered AR-1, was registered as to principal only in the name of "West Virginia Water Development Authority" in the books of the Issuer kept for that purpose at our office, by a duly authorized officer on behalf of One Valley Bank, National Association, as Registrar.

WITNESS my signature on this 17th day of December, 1997.

ONE VALLEY BANK, NATIONAL
ASSOCIATION


Assistant Vice President

11/04/97
896820/94001

REGISTRAR'S AGREEMENT

THIS REGISTRAR'S AGREEMENT, dated as of the 17th day of December, 1997, by and between the CITY OF THOMAS, a municipal corporation and political subdivision of the State of West Virginia (the "Issuer"), and ONE VALLEY BANK, NATIONAL ASSOCIATION, a national banking association (the "Registrar").

WHEREAS, the Issuer has, contemporaneously with the execution hereof, issued and sold its \$1,500,000 principal amount of Sewer Revenue Bonds, Series 1997 A (West Virginia SRF Program), in fully registered form (the "Bonds"), pursuant to a Bond Ordinance of the Issuer duly enacted December 9, 1997, and a Supplemental Resolution of the Issuer duly adopted December 9, 1997 (collectively, the "Bond Legislation");

WHEREAS, capitalized words and terms used in this Registrar's Agreement and not otherwise defined herein shall have the respective meanings given them in the Bond Legislation, a copy of which is attached as EXHIBIT A hereto and incorporated herein by reference;

WHEREAS, the Bond Legislation provides for an appointment by the Issuer of a Registrar for the Bonds; and

WHEREAS, the Issuer desires to appoint, and by the Bond Legislation and this Registrar's Agreement does appoint, the Registrar to act as Registrar under the Bond Legislation and to take certain other actions hereinafter set forth;

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

1. Upon the execution of this Registrar's Agreement by the Issuer and the Registrar and during the term hereof, the Registrar does accept and shall have and carry out the powers and duties of Registrar for the Bonds, all as set forth in the Bond Legislation, such duties including, among other things, the duties to authenticate, register and deliver Bonds upon original issuance and when properly presented for exchange or transfer, and shall do so with the intention of maintaining the exemption of interest on the Bonds from federal income taxation, in accordance with any rules and regulations promulgated by the United States Treasury Department or by the Municipal Securities Rulemaking Board or similar regulatory bodies as the Issuer advises it of and with generally accepted industry standards.

2. The Registrar agrees to furnish the Issuer with appropriate records of all transactions carried out by it as Registrar and to furnish the Issuer with the names and specimen signatures of the Registrar's authorized officers for the purposes of acting as the Registrar and with such other information and reports as the Issuer may from time to time reasonably require.

3. The Registrar shall have no responsibility or liability for any action taken by it at the specific direction of the Issuer.

4. As compensation for acting as Registrar pursuant to this Registrar's Agreement, the Issuer hereby agrees to pay to the Registrar the compensation for services rendered as provided in the annexed schedule and reimbursement for reasonable expenses incurred in connection therewith.

5. It is intended that this Registrar's Agreement shall carry out and implement provisions of the Bond Legislation with respect to the Registrar. In the event of any conflict between the terms of this Registrar's Agreement and the Bond Legislation, the terms of the Bond Legislation shall govern.

6. The Issuer and the Registrar each warrants and represents that it is duly authorized and empowered to execute and enter into this Registrar's Agreement and that neither such execution nor the performance of its duties hereunder or under the Bond Legislation will violate any order, decree or agreement to which it is a party or by which it is bound.

7. This Registrar's Agreement may be terminated by either party upon 60 days' written notice sent by registered or certified mail to the other party, at the following respective addresses:

ISSUER: City of Thomas
P. O. Box 248
Thomas, West Virginia 26292
Attention: Mayor

REGISTRAR: One Valley Bank, National Association
Post Office Box 1793
One Valley Square
Charleston, West Virginia 25326
Attention: Corporate Trust Department

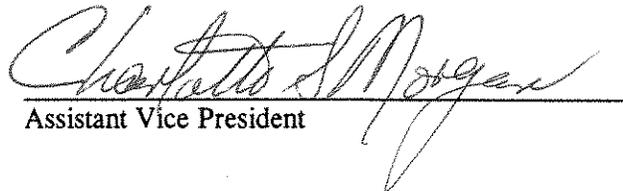
8. The Registrar is hereby requested and authorized to authenticate and deliver the Bonds in accordance with the Bond Legislation.

IN WITNESS WHEREOF, the parties hereto have respectively caused this Registrar's Agreement to be signed in their names and on their behalf, all as of the day and year first above-written.

CITY OF THOMAS

Mayor

ONE VALLEY BANK, NATIONAL
ASSOCIATION



Assistant Vice President

11/04/97
896820/94001

IN WITNESS WHEREOF, the parties hereto have respectively caused this Registrar's Agreement to be signed in their names and on their behalf, all as of the day and year first above-written.

CITY OF THOMAS



Mayor

ONE VALLEY BANK, NATIONAL
ASSOCIATION

Assistant Vice President

11/04/97
896820/94001

EXHIBIT A

Bond Legislation included in bond transcript as Documents No. 1 and No. 2

SCHEDULE OF COMPENSATION



DIVISION OF ENVIRONMENTAL PROTECTION

1201 Greenbrier Street
Charleston, WV 25311-1088

JOHN E. CAFFREY
DIRECTOR

CECIL H. UNDERWOOD
GOVERNOR

October 6, 1997

Honorable Debbie Snider
Mayor, City of Thomas
P.O. Box 248
Thomas, WV 26292

CERTIFIED RETURN RECEIPT REQUESTED

Dear Mayor Snider:

Enclosed find WV/NPDES Water Pollution Control Permit No. WV0024856, dated the 29th day of September 1997, for the City of Thomas to serve the same in Thomas, West Virginia.

Please be advised that the Division of Environmental Protection, including this Office, has adopted a more efficient and effective approach to addressing water quality management in the state. This approach is called Watershed Management. If you have any questions regarding watershed, or would like additional information, please contact us at the number listed below.

In order to implement the five(5) year cycles for each Hydrologic Region, it is necessary to synchronize the expiration date of all NPDES permits with the implementation date of each Hydrologic Region's Basin Plan.

Upon evaluation of WV/NPDES Water Pollution Control Permit No. WV0024856, it has been determined that to achieve the synchronization with the Watershed Management framework, this Permit shall be issued for a period of three (3) years.

All facilities permitted to discharge pollutants to the waters of the State, under Chapter 22, Article 11 of the West Virginia Code, are required to test their effluent in order to verify permit compliance. This testing is the responsibility of the permittee, and these test results are to be submitted to the office on the Discharge Monitoring Reports, which are attached to the back of this Permit. A Discharge Monitoring Report is to be completed and received by this Office, each month, no later than 20 days following the end of the reporting period. The address to which the Discharge Monitoring Reports are to be sent is noted in Section E.2, Attention: Engineering Branch. It is suggested that several copies of the enclosed Discharge Monitoring Report form be made for your future use, as this office does not supply permittees with Discharge Monitoring Report forms.

Honorable Debbie Snider
Page 2
October 6, 1997

Please, note Section G.7, on page 9, prohibiting the acceptance of new nondomestic wastewater discharges without prior Office approval.

Please, also, note the attachment to this Permit which describes the annual permit fee requirement.

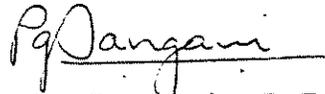
Finally note that copies of all future correspondence regarding the Permit, including copies of Discharge Monitoring Reports, must be forwarded to the Environmental Inspector and Environmental Inspector Supervisor at the following address:

Division of Environmental Protection
Office of Environmental Enforcement
1 Depot Street
Romney, WV 26757

If you have any questions regarding this Permit, please do not hesitate to contact Robert Bates of this office at 304-558-4086, or by TDD at 304-558-2751.

Very truly yours,

OFFICE OF WATER RESOURCES



Pravin G. Sangani, P.E.
Branch Leader

PGS:RAB:md

Enclosures



WRD 1A-82
 Revised 4/95

STATE OF WEST VIRGINIA
 DIVISION OF ENVIRONMENTAL PROTECTION
 OFFICE OF WATER RESOURCES
 1201 GREENBRIER STREET
 CHARLESTON, WV 25311

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

WATER POLLUTION CONTROL PERMIT

Permit No. WV0024856

Issue Date: September 29, 1997

Subject: Sewage Facilities

Effective Date: October 29, 1997

Expiration Date: September 28, 2000

Supersedes: N/A

Location:	Thomas (City)	Tucker (County)	Monongahela (Drainage Basin)
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Outlet	Latitude:	39° 08' 43" N
Sites:	Longitude:	79° 30' 10" W

To whom it may concern:

This is to certify that City of Thomas
 P.O. Box 248
 Thomas, WV 26292

is hereby granted a NPDES Water Pollution Control Permit to acquire, construct, install, operate, and maintain a 150,000 gallon per day sewage collection and treatment system consisting of 13,424 linear feet of eight (8) inch gravity sewer line, 1,240 linear feet of 12 inch gravity sewer line, 83 manholes, eight (8) cleanouts, two (2) lift stations, 1,225 linear feet of two (2) inch force main, a mechanical bar screen, a grit removal channel, a flow meter, two (2) 50 ft. diameter X 12 ft. SWD aeration tanks with each tank bisected into two (2) 88,121 gallon cells, a 444,000 gallon pond which is to be divided by baffling into a 144,000 gallon aerated partial mix cell and a 300,000 gallon polishing pond, chlorine disinfection with three (3) 3,128 gallon contact tanks, a dechlorination unit, and all necessary appurtenances.

The system is designed to serve 1,500 persons or equivalent in the City of Thomas and to discharge treated wastewater to the North Fork of Blackwater River (2.5 miles from its mouth) of Blackwater River of Black Fork of Cheat River of Monongahela River.

(Continued on Page 2)

This permit is subject to the following terms and conditions:

The information submitted on and with Permit Application No. WV0024856 dated the 10th day of September 1996 and the plans and specifications approved by the Construction Assistance Branch on the 17th day of June 1997 is all hereby made terms and conditions of this Permit with like effect as if all such permit application information was set forth herein, and with other conditions set forth in Sections A, B, C, D, E, F, and G.

The validity of this permit is contingent upon the payment of the applicable annual permit fee, as required by Chapter 22, Article 11, Section 10 of the Code of West Virginia.

SEWAGE TREATMENT FACILITIES CONSTRUCTED IN ACCORDANCE WITH:

PLANS:

Date Received: September 13, 1996

Prepared by: Thrasher Engineering
339 Hickman St.
Clarksburg, WV 26301

Title: City of Thomas; Construction Plans
for 150,000 gpd Wastewater Treatment Plant and
Collection System Upgrade; Tucker County, WV

REPORTS:

Date Received: September 13, 1996

Prepared by: Thrasher Engineering
339 Hickman St.
Clarksburg, WV 26301

Title: Sanitary Sewer System Design Manual for
City of Thomas - West Virginia

A. DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS

During the period beginning October 29, 1997 and lasting through midnight, September 29, 2000 the permittee is authorized to discharge from outlet number(s) 001-Discharge from sewage treatment facilities

Such discharges shall be limited and monitored by the permittee as specified below:

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>		<u>Monitoring Requirements</u>	
	<u>(Quantity) lbs/day</u>	<u>Other Units (Specify)</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
	<u>Avg. Monthly</u>	<u>Max. Daily</u>	<u>Avg. Monthly</u>	<u>Max. Daily</u>
Flow			0.150 MGD	
Biochemical Oxygen Demand (5-Day)	37.5	75.1	30.0 mg/l	60.0 mg/l
Total Suspended Solids	37.5	75.1	30.0 mg/l	60.0 mg/l
Total Kjeldahl Nitrogen (TKN)	22.5	45.0	18.0 mg/l	36.0 mg/l
Fecal Coliform			$\frac{\text{counts}}{100 \text{ ml}}$	$\frac{\text{counts}}{100 \text{ ml}}$
Total Residual Chlorine			28.0 ug/l	57.0 ug/l

The pH shall not be less than 6.0 standard units and not greater than 9.0 standard units and shall be monitored monthly by grab sampling.

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s): Effluent BOD₅ samples shall be collected at a location immediately preceding disinfection. Other effluent samples shall be collected at or as near as possible to the point of discharge.

This discharge shall not cause violation of Title 46, Series 1, Section 3 of the West Virginia Legislative Rules issued pursuant to Chapter 22B, Article 3.

B. SCHEDULE OF COMPLIANCE

1. The permittee shall achieve compliance with the provisions for waste treatment and the discharge limitations specified in this permit in accordance with the following schedule:

Effective date of permit.

2. Reports of compliance or noncompliance with, and progress reports on the interim and final requirements contained in the above compliance schedule, shall be submitted no later than 14 days following each schedule date.

C. MANAGEMENT CONDITIONS

1. **Duty to Comply**
 - (a) The permittee must comply with all conditions of this permit. Permit noncompliance constitutes a violation of the CWA and State Act and is grounds for enforcement action; for permit modification, revocation and reissuance, suspension or revocation; or for denial of a permit renewal application.
 - (b) The permittee shall comply with all effluent standards or prohibitions established under Section 307(a) of the CWA for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.
2. **Duty to Reapply**

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for a new permit at least 180 days prior to expiration of the permit.
3. **Duty to Mitigate**

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit, which has a reasonable likelihood of adversely affecting human health or the environment.
4. **Permit Actions**

This permit may be modified, revoked and reissued, suspended, or revoked for cause. The filing of a request by the permittee for permit modification, revocation and reissuance, or revocation, or a notification of planned changes or anticipated noncompliance, does not stay any permit conditions.
5. **Property Rights**

This permit does not convey any property rights of any sort or any exclusive privilege.
6. **Signatory Requirements**

All applications, Reports, or information submitted to the Chief shall be signed and certified as required in Title 47, Series 10, Section 4.6 of the West Virginia Legislative Rules.
7. **Transfers**

This permit is not transferable to any person, except after notice to the Chief. The Chief may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary.
8. **Duty to Provide Information**

The permittee shall furnish to the Chief, within a reasonable specified time, any information which the Chief may request to determine whether cause exists for modifying, revoking and reissuing, suspending, or revoking this permit, or to determine compliance with this permit. The permittee shall also furnish to the Chief, upon request, copies of records required to be kept by this permit.
9. **Other Information**

Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Chief, it shall promptly submit such facts or information.
10. **Inspection and Entry**

The permittee shall allow the Director, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

 - a) Enter upon the permittee's premises in which an effluent source or activity is located, or where records must be kept under the conditions of this permit;
 - b) Have access to and copy at reasonable times, any records that must be kept under the conditions of this permit;
 - c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
 - d) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the State Act, any substances or parameters at any locations.
11. **Permit Modification**

This permit may be modified, suspended, or revoked in whole or in part during its term in accordance with the provisions of Chapter 22, Article 11, Section 12 of the Code of West Virginia.
12. **Water Quality**

The effluent or effluents covered by this permit are to be of such quality so as not to cause violation of applicable water quality standards adopted by the State Water Resources Board.
13. **Outlet Markers**

A permanent marker at the establishment shall be posted in accordance with Title 47, Series 11, Section 9 of the West Virginia Legislative Rules promulgated pursuant to Chapter 22, Article 11.
14. **Liabilities**
 - a) Any person who violates a permit condition implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Clean Water Act is subject to a civil penalty not to exceed \$10,000 per day of such violation. Any person who willfully or negligently violates permit conditions implementing sections 301, 302, 306, 307, or 308 of the Clean Water Act is subject to a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment for not more than 1 year, or both.
 - b) Any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.
 - c) Any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.
 - d) Nothing in C.14.a), b) and c) shall be construed to limit or prohibit any other authority the Chief may have under the State Water Pollution Control Act, Chapter 22, Article 11.

D. OPERATION AND MAINTENANCE

1. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of the permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. Unless otherwise required by Federal or State law, this provision requires the operation of back-up auxiliary facilities or similar systems which are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of the permit. For domestic waste treatment facilities, waste treatment operators as classified by the WV Bureau of Public Health Regulations authorized under Chapter 16, Article 1, Public Health Laws, Code of West Virginia, will be required except that in circumstances where the domestic waste treatment facility is receiving any type of industrial waste, the Chief may require a more highly skilled operator.

2. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

3. Bypass

a) Definitions

(1) "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility; and

(2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

b) Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of D.3.c) and D.3.d) of this permit.

c) (1) If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten (10) days before the date of the bypass;

(2) If the permittee does not know in advance of the need for bypass, notice shall be submitted as required in F.2.b) of this permit.

d) Prohibition of bypass

(1) Bypass is permitted only under the following conditions, and the Chief may take enforcement action against a permittee for bypass, unless;

(A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgement to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and

(C) The permittee submitted notices as required under D.3.c) of this permit.

(2) The Chief may approve an anticipated bypass, after considering its adverse effects, if the Chief determines that it will meet the three conditions listed in D.3.d)(1) of this permit.

4. Upset

a) Definition. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

b) Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of D.4.c) are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

c) Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and that the permittee can identify the cause(s) of the upset;

(2) The permitted facility was at the time being properly operated;

(3) The permittee submitted notice of the upset as required in F.2.b) of this permit.

(4) The permittee complied with any remedial measures required under C.3. of this permit.

d) Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

5. Removed Substances

Where removed substances are not otherwise covered by the terms and conditions of this permit or other existing permit by the Chief, any solids, sludges, filter backwash or other pollutants (removed in the course of treatment or control of wastewaters) and which are intended for disposal within the State, shall be disposed of only in a manner and a site subject to the approval by the Chief. If such substances are intended for disposal outside the State or for reuse, i.e., as a material used for making another product, which in turn has another use, the permittee shall notify the Chief in writing of the proposed disposal or use of such substances, the identity of the prospective disposer or users, and the intended place of disposal or use, as appropriate.

E. MONITORING AND REPORTING

1. Representative Sampling

Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

2. Reporting

- a) Permittee shall submit each month, according to the enclosed format, a Discharge Monitoring Report (DMR) indicating in terms of concentration, and/or quantities, the values of the constituents listed in Part A analytically determined to be in the plant effluent(s).
- b) The required DMRs should be received no later than 20 days following the end of the reporting period and be addressed to:

Chief
Office of Water Resources
1201 Greenbrier Street
Charleston, WV 25311-1088
Attention: ENGINEERING BRANCH

- c) Enter reported average and maximum values under "Quantity" and "Concentration" in the units specified for each parameter, as appropriate.
- d) Specify the number of analyzed samples that exceed the allowable permit conditions in the columns labeled "W.S." (i.e., number exceeding).
- e) Specify frequency of analysis for each parameter as no. analyses/specified period (e.g., 3/month is equivalent to 3 analyses performed every calendar month.) If continuous, enter "Cont.". The frequency listed on format is the minimum required.

3. Test Procedures

Samples shall be taken, preserved and analyzed in accordance with the latest edition of 40 CFR Part 136, unless other test procedures have been specified elsewhere in this permit.

4. Recording of Results

For each measurement or sample taken pursuant to the permit, the permittee shall record the following information.

- a) The date, exact place, and time of sampling or measurement;
- b) The date(s) analyses were performed;
- c) The individual(s) who performed the sampling or measurement;
- d) The individual(s) who performed the analyses; if a commercial laboratory is used, the name and address of the laboratory;
- e) The analytical techniques or methods used, and
- f) The results of such analyses.

Information not required by the DMR form is not to be submitted to this agency, but is to be retained as required in E.6.

5. Additional Monitoring by Permittee

If the permittee monitors any pollutant at any monitoring point specified in this permit more frequently than required by this permit, using approved test procedures or others as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the Discharge Monitoring Report Form. Such increased frequency shall also be indicated. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in the permit.

6. Records Retention

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for the permit, for a period of at least three(3) years from the date of the sample, measurement, report or application. This period may be extended by request of the Chief at any time.

7. Definitions

- a) "Daily discharge" means the discharge of a pollutant measured during a calendar day or within any specified period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the day.
- b) "Average monthly discharge limitation" means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.
- c) "Maximum daily discharge limitation" means the highest allowable daily discharge.
- d) "Composite Sample" is a combination of individual samples obtained at regular intervals over a time period. Either the volume of each individual sample is proportional to discharge flow rates or the sampling interval (for constant volume samples) is proportional to the flow rates over the time period used to produce the composite. The maximum time period between individual samples shall be two hours.
- e) "Grab Sample" is an individual sample collected in less than 15 minutes.
- f) "i-s" = immersion stabilization - a calibrated device is immersed in the effluent stream until the reading is stabilized.
- g) The "daily average temperature" means the arithmetic average of temperature measurements made on an hourly basis, or the mean value plot of the record of a continuous automated temperature recording instrument, either during a calendar month, or during the operating month if flows are of shorter duration.
- h) The "daily maximum temperature" means the highest arithmetic average of the temperatures observed for any two(2) consecutive hours during a 24-hour day, or during the operating day if flows are of shorter duration.
- i) The "daily average fecal coliform" bacteria is the geometric average of all samples collected during the month.
- j) "Measured Flow" means any method of liquid volume measurement, the accuracy of which has been previously demonstrated in engineering practice, or for which a relationship to absolute volume has been obtained.
- k) "Estimate" means to be based on a technical evaluation of the sources contributing to the discharge including, but not limited to pump capabilities, water meters and batch discharge volumes.
- l) "Noncontact cooling water" means the water that is contained in a leak-free system, i.e. no contact with any gas, liquid, or solid other than the container for transport; the water shall have no net poundage addition of any pollutant over intake water levels, exclusive of approved anti-fouling agents.

F. OTHER REPORTING

1. Reporting Spills and Accidental Discharges

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee for any responsibilities, liabilities, or penalties established pursuant to Title 47, Series 11, Section 2 of the West Virginia Legislative Rules promulgated pursuant to Chapter 22, Article 11. Attached is a copy of the West Virginia Spill Alert System for use in complying with Title 47, Series 11, Section 2 of the rules as they pertain to the reporting of spills and accidental discharges.

2. Immediate Reporting

- a) The permittee shall report any noncompliance which may endanger health or the environment immediately after becoming aware of the circumstances by using the Agency's designated spill alert telephone number. A written submission shall be provided within five(5) days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- b) The following shall also be reported immediately:
 - (1) Any unanticipated bypass which exceeds any effluent limitation in the permit;
 - (2) Any upset which exceeds any effluent limitation in the permit; and
 - (3) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Chief in the permit to be reported immediately. This list shall include any toxic pollutant or hazardous substance, or any pollutant specifically identified as the method to control a toxic pollutant or hazardous substance.
- c) The Chief may waive the written report on a case-by-case basis if the oral report has been received in accordance with the above.
- d) Compliance with the requirements of F.2. of this section, shall not relieve a person of compliance with Title 47, Series 11, Section 2.

3. Reporting Requirements

- a) Planned changes. The permittee shall give notice to the Chief of any planned physical alterations or additions to the permitted facility which may affect the nature or quantity of the discharge. Notice is required when:
 - (1) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in Section 13.7.b of Title 47, Series 10, or
 - (2) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. The notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under F.2. of this section.
- b) Anticipated noncompliance. The permittee shall give advance notice to the Chief of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- c) In addition to the above reporting requirements, all existing manufacturing, commercial, and silvicultural discharges must notify the Chief in writing as soon as they know or have reason to believe:
 - (1) That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, or any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
 - (A) One hundred micrograms per liter (100 ug/l);
 - (B) Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2,4-dinitro phenol; and for 2-methyl 4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
 - (C) Five(5) times the maximum concentration value reported for that pollutant in the permit application in accordance with Section 4.4.b.9 of Title 47, Series 10;
 - (D) The level established by the Chief in accordance with Section 6.3.g. of Title 47, Series 10;
 - (2) That any activity has occurred or will occur which would result in any discharge (on a non-routine or infrequent basis) of a toxic which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
 - (A) Five hundred micrograms per liter (500 ug/l);
 - (B) One milligram per liter (1 mg/l) for antimony;
 - (C) Ten(10) times the maximum concentration value reported for that pollutant in the permit application in accordance with Section 4.4.b.7. of Title 47, Series 10;
 - (D) The level established by the Chief in accordance with Section 6.3.g. of Title 47, Series 10;
 - (3) That they have begun or expect to begin to use or manufacture as an intermediate or final product or by-product of any toxic pollutant which was not reported in the permit application under Section 4.4.b.9 of Title 47, Series 10 and which will result in the discharge on a routine or frequent basis of that toxic pollutant at levels which exceed five times the detection limit for that pollutant under approved analytical procedures.
 - (4) That they have begun or expect to begin to use or manufacture as an intermediate or final product or by-product of any toxic pollutant which was not reported in the permit application under Section 4.4.b.9 of Title 47, Series 10 and which will result in the discharge on a non-routine or infrequent basis of that toxic pollutant at levels which exceed ten times the detection limit for that pollutant under approved analytical procedures.

4. Other Noncompliance

The permittee shall report all instances of noncompliance not reported under the above paragraphs at the time monitoring reports are submitted. The reports shall contain the information listed in F.2.a).

G. OTHER REQUIREMENTS

1. The herein-described treatment works, structures, electrical and mechanical equipment shall be adequately protected from physical damage by the maximum expected one hundred (100) year flood level and operability be maintained during the twenty-five (25) year flood level.
2. The entire sewage treatment facility shall be adequately protected by fencing.
3. Continuous maintenance and operation of the listed sewage treatment facility shall be performed by or supervised by a certified operator possessing at least a class I certificate for Waste Water Treatment Plant Operators, issued by the State of West Virginia.
4. An instantaneous flow from the sewage disposal system shall not exceed the peak design flow at any given time.
5. The arithmetic mean of values for effluent samples collected in a period of seven(7) consecutive days shall not exceed 45.0 mg/l for BOD5 and TSS and 27.0 mg/l for TKN.
6. The arithmetic mean of the effluent values of the BOD5 and TSS discharged during a period of 30 consecutive days shall not exceed 15 percent of the respective arithmetic mean of the influent values for these parameters during the same time period except as specifically authorized by the permitting authority.
7. The permittee shall not accept any new non-domestic discharges without first obtaining approval from the Chief of the Office of Water Resources as provided in Title 47, Series 10, Section 14 of the West Virginia Legislative Rules.
8. If any existing non-domestic discharge causes, or is suspected of causing, interference or pass through (as defined by 40 CFR 403.3) or otherwise violates any provision of 40 CFR 403, the permittee shall notify the Chief of such violation or suspected violation.
9. If any existing non-domestic discharge is identified as being subject to a Categorical Pretreatment Standard under 40 CFR Chapter 1, Subchapter N, and the discharge is not regulated by this permit, the permittee shall notify the Chief of such identification.
10. Within 90 days of the start-up of the new wastewater treatment plant, the permittee shall submit a modification application to incorporate the statutory requirements relative to their sludge management program. Whereupon the review is concluded and approval of the modification is granted by the Chief, the permittee shall have fulfilled the requirements of Section D.5, Removed Substances, on page 6 of 11 of this Permit, with respect to the sludge generated by the wastewater treatment facilities permitted herein. Said approval shall be afforded in accordance with Title 47, Series 38D of the Legislative Rules.

G. OTHER REQUIREMENTS (Continued)

11. The permittee has been authorized under WV/NPDES General Stormwater Permit No. WV0111457 (Registration No. WVG071031 dated September 27, 1996) to comply with its terms and conditions. Therefore, all requirements of said WV/NPDES General Stormwater Permit No. WV011457 shall herein be incorporated as terms and conditions of this permit.

The herein-described activity is to be extended, modified, added to, made, enlarged, acquired, constructed or installed, and operated, used and maintained strictly in accordance with the terms and conditions of this permit; with the plans and specifications submitted with Permit Application No. WV0024856, dated the 10th day of September, 1996; with the plan of maintenance and method of operation thereof submitted with such application(s); and with any applicable rules and regulations promulgated by the Environmental Quality Board and the Director of the Division of Environmental Protection.

Failure to comply with the terms and conditions of this permit, with the plans and specifications submitted with Permit Application No. WV0024856, dated the 10th day of September, 1996, and with the plan of maintenance and method of operation thereof submitted with such application(s) shall constitute grounds for the revocation or suspension of this permit and for the invocation of all the enforcement procedures set forth in Chapter 22, Article 11 of the Code of West Virginia.

This permit is issued in accordance with the provisions of Chapter 22, Article 11 of the Code of West Virginia and is transferable under the terms of Section 11 of said article.

By: 
Chief

BST/rb



U.S. DEPARTMENT OF COMMERCE
Economic Development Administration
The Curtis Center
Suite 140 South
Independence Square West
Philadelphia, Pennsylvania 19106

In reply refer to:
Award No.: 01-01-03521

Mr. James C. Nelson
Mayor
City of Thomas
P.O. Box 248
Thomas, West Virginia 26292

Dear Mr. Nelson:

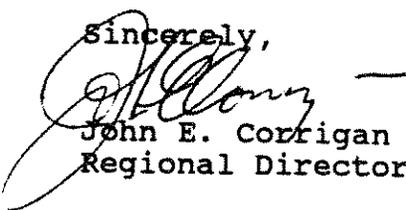
We are pleased to inform you that the Economic Development Administration (EDA) has approved a Financial Assistance Award in an amount not to exceed \$810,000 in response to your application for Federal assistance for construction of a Sewage Treatment Plant/Collection System and pedestrian access walkways in the City of Thomas, Tucker County, West Virginia.

The total project cost is \$2,208,000, which includes a Ten (10) percent District bonus, and is based on the line item estimates contained in Attachment No. 1.

Enclosed are two signed copies of the Financial Assistance Award. Your agreement to the terms and conditions of the award should be indicated by the signature of your principal official on both of the signed copies of the Financial Assistance Award. One of the executed copies should be returned within 15 days after receipt to the Director, Philadelphia Regional Office, Economic Development Administration, The Curtis Center, Suite 140 South, Independence Square West, Philadelphia, Pennsylvania 19106.

You are cautioned not to make any commitments in reliance on this award, nor to enter into negotiations relative hereto, until you have carefully reviewed the terms and conditions and have determined that you are in compliance or that you can comply therewith. Any commitments or undertakings entered into prior to obtaining the approval of the Government in accordance with its regulations and requirements will be at your own risk.

Sincerely,


John E. Corrigan
Regional Director

Enclosures



STATE OF WEST VIRGINIA
OFFICE OF THE GOVERNOR
CHARLESTON 25305

GASTON CAPERTON
GOVERNOR

October 12, 1993

The Honorable Theodore W. Markley
Mayor
City of Thomas
Post Office Box 248
Thomas, West Virginia 26292

Dear Mayor Markley:

Thank you for your application to the Small Cities Block Grant Program for fiscal year 1993.

I am pleased to approve your request in the amount of \$500,000. These funds will enable you to construct a sewage treatment collection system.

In order to most effectively use the limited dollars available, I hereby commit \$300,000 from our fiscal year 1993 allocation which will be immediately available to you. The remaining \$200,000 necessary to complete this project will be evaluated and committed in the coming fiscal year. I encourage you to expedite this project and reach its completion as quickly as possible with this funding strategy in mind. The West Virginia Development Office, Community Development staff, will contact you to complete the necessary contracts in order to proceed with your project.

It is with pleasure that I am able to work with you to make this project a reality.

Sincerely,

A handwritten signature in cursive script that reads "Gaston Caperton".
Gaston Caperton
Governor

GC:bks

GRANT AWARD

Payment Number: State Acct. No.:
121-8029-05-025-10

Fiscal Year: 1994
Program Name: SCBG

Intee Name & Address: F.E.I.N.
556-000-260

City of Thomas
Post Office Box 248
Thomas, WV 26292

Grant Period:
From: October 12, 1993
To: October 12, 1996

Project Name: Sewer Improvements

Grant ID: B93DC540001

Project Number: 93SCBG0020X

Project Description

Shall do, perform and carry out, in a satisfactory and proper manner all duties, tasks, and functions necessary to construct a sewage treatment plant and sewer interceptor, and reconstruct the present collection system serving the city of Thomas.

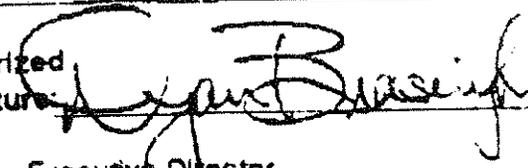
Change Orders

Number: Date: Purpose:

TERMS AND CONDITIONS ARE ON FILE IN THE WEST VIRGINIA DEVELOPMENT OFFICE AND AVAILABLE FOR INSPECTION. A COPY OF THE ORIGINAL AGREEMENT IS ATTACHED TO TRANSMITTAL _____, PROCESSED ON OR ABOUT _____.

PAYMENT NUMBER _____.

TOTAL AMOUNT OF THIS GRANT \$ 500,000.00

Authorized Signature: 

Title: Executive Director

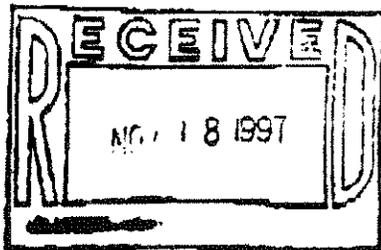
Date: _____

**STATE OF WEST VIRGINIA
WEST VIRGINIA DEVELOPMENT OFFICE**

Fiscal Year 1998	Date 10-24-97	State Account # 8748-1998-0307-096-025	Agreement Date 2-8-94	Grant Number 94-300
Grantee Name & Address City of Thomas Post Office Box 248 Thomas, West Virginia 26292		F.E.I.N. 556-000-280	Purpose of Change: Additional Funds	
		Program Name: SCBG		
		Project Name: Sewer Improvements		
		Grant ID: B93DC5400001, B94DC540001 B97DC540001		
		Project Number: 93SCBG0020X		

Description of Change

Change Order # 3



Justification for Change

Additional funds needed to complete project.

Previous Total	\$500,000.00
Increase	250,000.00
Decrease	
New Total	\$750,000.00

TERMS AND CONDITIONS OF ORIGINAL AGREEMENT ARE ON FILE IN THE WEST VIRGINIA DEVELOPMENT OFFICE AND AVAILABLE FOR INSPECTION. A COPY OF THE ORIGINAL AGREEMENT IS ATTACHED TO TRANSMITTAL.

PROCESSED ON OR ABOUT _____
PAYMENT # _____

Approved

Samuel L. Davis
Executive Director

Nov. 5, 1997
Date