

**CITY OF WELCH**

**Water Revenue Bonds, Series 2009 A  
(West Virginia DWTRF Program);  
Water Revenue Bonds, Series 2009 B  
(West Virginia DWTRF Program/ARRA); and  
Water Revenue Bonds, Series 2009 C  
(West Virginia Infrastructure Fund)**

**BOND TRANSCRIPT**

**Table of Contents**

**BASIC DOCUMENTS**

1. Bond Ordinance
2. Supplemental Resolution
3. ARRA Assistance Agreement for Series 2009 A Bonds and Series 2009 B Bonds
4. Loan Agreement for Series 2009 C Bonds
5. Public Service Commission Order
6. Infrastructure and Jobs Development Council Approval
7. Cross-Receipt for Bond and Bond Proceeds
8. Direction to Authenticate and Deliver Bonds
9. Specimen Bond, Series 2009 A
10. Specimen Bond, Series 2009 B
11. Specimen Bond, Series 2009 C

## **OPINIONS OF COUNSEL**

12. Approving Opinion of Steptoe & Johnson PLLC, Bond Counsel for Series 2009 A Bonds
13. Approving Opinion of Steptoe & Johnson PLLC, Bond Counsel for Series 2009 B Bonds
14. Approving Opinion of Steptoe & Johnson PLLC, Bond Counsel for Series 2009 C Bonds
15. Opinion of Counsel to Issuer
16. Title Opinion

## **CERTIFICATES**

17. General Certificate of Issuer and Attorney
18. Certificate of Engineer, with Schedule B Attached
19. Certificate of Certified Public Accountant
20. Certificate as to Use of Proceeds

## **DOCUMENTS OF THE ISSUER**

21. Charter and Rules of Procedure
22. Oaths of Office of Officers and Councilmembers
23. Water Rate Ordinance
24. Minutes on Adoption and Enactment of Rate Ordinance
25. Affidavits of Publication of Rate Ordinance and Notice of Public Hearing
26. Minutes on Adoption and Enactment of Bond Ordinance and Adoption of Supplemental Resolution
27. Affidavit of Publication of Abstract of Bond Ordinance and Notice of Public Hearing

- 28. Municipal Bond Commission New Issue Reports
  - A. Series 2009 A Bonds
  - B. Series 2009 B Bonds
  - C. Series 2009 C Bonds

**MISCELLANEOUS DOCUMENTS**

- 29. Acceptance of Appointment as Depository Bank
- 30. Acceptance of Duties as Registrar
- 31. Certificate of Registration of Bonds
- 32. Registrar's Agreement
- 33. Evidence of Insurance
- 34. Bureau for Public Health Permit
- 35. Closing Memorandum
- 36. Sweep Resolution
- 37. Evidence of U.S. Environmental Protection Agency Grant
- 38. ARRA Certification

**CITY OF WELCH**

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

**BOND ORDINANCE**

**Table of Contents**

**ARTICLE I**

**STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS**

Section 1.01	Authority for this Ordinance
Section 1.02	Findings
Section 1.03	Bond Legislation Constitutes Contract
Section 1.04	Definitions

**ARTICLE II**

**AUTHORIZATION OF ACQUISITION AND CONSTRUCTION  
OF THE PROJECT**

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

**ARTICLE III**

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

Section 3.01	Authorization of Bonds
Section 3.02	Terms of Bonds
Section 3.03	Execution of Bonds
Section 3.04	Authentication and Registration
Section 3.05	Negotiability, Transfer and Registration
Section 3.06	Bonds Mutilated, Destroyed, Stolen or Lost
Section 3.07	Bonds not to be Indebtedness of the Issuer
Section 3.08	Bonds Secured by Pledge of Gross Revenues
Section 3.09	Delivery of Bonds

- Section 3.10 Form of Bonds  
FORM OF SERIES 2009 A BOND  
FORM OF SERIES 2009 B BOND  
FORM OF SERIES 2009 C BOND
- Section 3.11 Sale of Bonds; Approval and Ratification of Execution of ARRA Assistance Agreement and Loan Agreement
- Section 3.12 Amended Schedule A Filing

#### **ARTICLE IV**

[RESERVED]

#### **ARTICLE V**

#### FUNDS AND ACCOUNTS; SYSTEM REVENUES AND APPLICATION THEREOF

- Section 5.01 Establishment of Funds and Accounts with Depository Bank
- Section 5.02 Establishment of Funds and Accounts with Commission
- Section 5.03 System Revenues; Flow of Funds

#### **ARTICLE VI**

#### BOND PROCEEDS; CONSTRUCTION DISBURSEMENTS

- Section 6.01 Application of Bond Proceeds; Pledge of Unexpended Bond Proceeds
- Section 6.02 Disbursement from the Bond Construction Trust Fund

#### **ARTICLE VII**

#### ADDITIONAL COVENANTS OF THE ISSUER

- Section 7.01 General Covenants of the Issuer
- Section 7.02 Bonds not to be Indebtedness of the Issuer
- Section 7.03 Bonds Secured by Pledge of Gross Revenues
- Section 7.04 Initial Schedule of Rates and Charges
- Section 7.05 Sale of the System
- Section 7.06 Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances
- Section 7.07 Parity Bonds
- Section 7.08 Books; Records and Audit
- Section 7.09 Rates
- Section 7.10 Operating Budget and Monthly Financial Report

Section 7.11	Engineering Services and Operating Personnel
Section 7.12	No Competing Franchise
Section 7.13	Enforcement of Collections
Section 7.14	No Free Services
Section 7.15	Insurance and Construction Bonds
Section 7.16	Connections
Section 7.17	Completion of Project; Permits and Orders
Section 7.18	Compliance with ARRA Assistance Agreement, Loan Agreement and Law
Section 7.19	RESERVED
Section 7.20	Securities Law Compliance
Section 7.21	Contracts; Change Orders; Public Releases
Section 7.22.	Statutory Mortgage Lien

## **ARTICLE VIII**

### INVESTMENT OF FUNDS

Section 8.01	Investments
Section 8.02	Certificate as to Use of Proceeds; Covenants as to Use of Proceeds

## **ARTICLE IX**

### DEFAULT AND REMEDIES

Section 9.01	Events of Default
Section 9.02	Remedies
Section 9.03	Appointment of Receiver

## **ARTICLE X**

### PAYMENT OF BONDS

Section 10.01	Payment of Bonds
---------------	------------------

## **ARTICLE XI**

### MISCELLANEOUS

Section 11.01	Amendment or Modification of Bond Legislation
Section 11.02	Bond Legislation Constitutes Contract
Section 11.03	Severability of Invalid Provisions
Section 11.04	Headings, Etc.
Section 11.05	Notices
Section 11.06	Conflicting Provisions Repealed
Section 11.07	Covenant of Due Procedure, Etc.

Section 11.08 Statutory Notice and Public Hearing  
Section 11.09 Effective Date

SIGNATURES  
CERTIFICATION

**CITY OF WELCH**

ORDINANCE AUTHORIZING ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC WATERWORKS SYSTEM OF THE CITY OF WELCH AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF WELCH OF NOT MORE THAN \$1,500,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2009 A (WEST VIRGINIA DWTRF PROGRAM); NOT MORE THAN \$1,500,000 IN ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2009 B (WEST VIRGINIA DWTRF PROGRAM/ARRA), AND NOT MORE THAN \$500,000 IN ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2009 C (WEST VIRGINIA INFRASTRUCTURE FUND) 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 ARRA ASSISTANCE AGREEMENT AND 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 WELCH:

**ARTICLE I**

**STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS**

Section 1.01. Authority for this Ordinance. This Ordinance (together with any ordinance, order or resolution supplemental hereto or amendatory hereof, the "Bond Legislation") is enacted pursuant to the provisions of Chapter 8, Article 19, Chapter 16, Article 13C and Chapter 31, Article 15A 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 Welch (the "Issuer") is a municipal corporation and political subdivision of the State of West Virginia in McDowell County of said State.

B. The Issuer presently owns and operates a public waterworks system. However, it is deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer that there be acquired and constructed certain additions, betterments and improvements for the existing public waterworks system of the Issuer, consisting of replacement of water storage tanks, together with all necessary appurtenances (collectively, the "Project") (the existing public waterworks system of the Issuer, the Project and any further additions, betterments and improvements thereto are herein called the "System"), in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have heretofore been filed with the Issuer.

C. The Issuer intends to permanently finance a portion the costs of acquisition and construction of the Project through the issuance of its revenue bonds to the West Virginia Water Development Authority (the "Authority"), which administers the West Virginia Drinking Water Treatment Revolving Fund and the West Virginia Infrastructure Fund.

D. It is deemed necessary for the Issuer to issue its Water Revenue Bonds, in the total aggregate principal amount of not more than \$3,500,000 in three or more series (collectively, the "Series 2009 Bonds") initially planned to be the (i) Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program) in the aggregate principal amount of not more than \$1,500,000 (the "Series 2009 A Bonds"); (ii) Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA) in the aggregate principal amount of not more than \$1,500,000, (the "Series 2009 B Bonds"); and (iii) Water Revenue Bonds, Series 2009 C (West Virginia Infrastructure Fund) in the aggregate principal amount of not more than \$500,000, (the "Series 2009 C Bonds") to permanently finance a portion of the costs of acquisition and construction of the Project, and pay the costs of issuance thereof. Such costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor; interest, if any, upon the Series 2009 Bonds prior to and during acquisition or construction and for a period not exceeding 6 months after completion of acquisition and construction of the Project; amounts which may be deposited in the Reserve Accounts (as hereinafter defined); engineering and legal expenses; expenses for estimates of costs and revenues, expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense, commitment fees, fees and expenses of the Authority including the Administrative Fee (as hereinafter defined) for the Series 2009 Bonds; discount, initial fees for the services of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Series 2009 Bonds and such other expenses as may be necessary or incidental to the financing herein authorized, the acquisition or construction of the Project and the placing of same in operation, and the performance of the things herein required or permitted, in connection with any thereof, provided, that reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Series 2009 Bonds or the repayment of indebtedness incurred by the Issuer for such purposes shall be deemed Costs of the Project, as hereinafter defined.

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

F. It is in the best interests of the Issuer that its Series 2009 A Bonds and Series 2009 B Bonds be sold to the Authority pursuant to the terms and provisions of an ARRA Assistance Agreement by and between the Issuer and the Authority on behalf of the West Virginia Bureau for Public Health (the "BPH") in the form satisfactory to the respective parties (the "ARRA

Assistance Agreement”); and the Series 2009 C Bonds be sold to the Authority pursuant to the terms and conditions of a loan agreement (the “Loan Agreement”) by and between the Issuer and the Authority on behalf of the West Virginia Infrastructure and Jobs Development Council (the “Council”), all in a form satisfactory to the respective parties, approved hereby if not previously approved by resolution of the Issuer.

G. On the Closing Date there will be no outstanding obligations of the Issuer which will rank on a parity with the Series 2009 Bonds as to liens, pledge, source of and security for payment.

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, the principal of and interest on the Series 2009 and to make payments into all funds and accounts and other payments provided for herein.

I. The Issuer has complied with all requirements of West Virginia law, the ARRA Assistance Agreement and the Loan Agreement relating to authorization of the acquisition, construction and operation of the Project and the System and issuance of the Series 2009 Bonds, or will have so complied prior to issuance of any thereof, including, among other things, the approval of the Project and the financing thereof by the West Virginia Infrastructure and Jobs Development Council and 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 2009 Bonds or such final order will not be subject to appeal.

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

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

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

“Act” means, collectively, Chapter 8, Article 19, Chapter 16, Article 13C and Chapter 31, Article 15A of the West Virginia Code of 1931, as amended and in effect on the date of enactment hereof.

“Administrative Fee” means the Administrative Fee, if any, required to be paid pursuant to the ARRA Assistance Agreement.

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

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

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

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

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

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

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

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

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

"Clerk" means the Clerk of the Issuer.

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

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

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

"Consulting Engineers" means Stafford Consultants, Inc., Princeton, 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 west Virginia Infrastructure and Jobs Development Council or any successor thereto.

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

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

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

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

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

“Grants” means any grants committed to the Project.

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

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

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

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

“Issuer” means the City of Welch, a municipal corporation and political subdivision of the State of West Virginia, in McDowell 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 by and between the Issuer and the Authority on behalf of the Council, providing for the purchase of the Series 2009 C Bonds, the form of which shall be approved, and the execution and delivery by the Issuer authorized and directed or ratified by Supplemental Resolution.

“Mayor” means the Mayor of the Issuer.

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

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

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

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

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

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

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

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

- (a) Government Obligations;
- (b) Government Obligations which have been stripped of their unmatured interest coupons, interest coupons stripped from Government Obligations, and receipts or certificates evidencing payments from Government Obligations or interest coupons stripped from Government Obligations;
- (c) Bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Banks for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Bank System; Export-Import Bank of the United States; Federal Land Banks; Government National Mortgage Association; Tennessee Valley Authority; or Washington Metropolitan Area Transit Authority;
- (d) Any bond, debenture, note, participation certificate or other similar obligations issued by the Federal National Mortgage Association to the extent such obligation is guaranteed by the Government National Mortgage Association or issued by any other federal agency and backed by the full faith and credit of the United States of America;
- (e) Time accounts (including accounts evidenced by time certificates of deposit, time deposits or other similar banking arrangements) which, to the extent not insured by the FDIC, shall be secured by a pledge of Government Obligations, provided, that said Government Obligations pledged either must mature as nearly as practicable coincident with the maturity of said time accounts or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said time accounts;
- (f) Money market funds or similar funds whose only assets are investments of the type described in paragraphs (a) through (e) above;
- (g) Repurchase agreements, fully secured by investments of the types described in paragraphs (a) through (e) above, with banks or national banking associations which are members of FDIC or with government bond dealers recognized as primary dealers by the Federal Reserve Bank of New York, provided, that said investments securing said repurchase agreements either must mature as nearly as practicable coincident with the maturity of said repurchase agreements or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said repurchase agreements, and provided further that the holder of such repurchase agreement shall have a prior perfected security interest in the collateral therefor; must have (or its agent must have) possession of such collateral; and such collateral must be free of all claims by third parties;
- (h) The West Virginia “consolidated fund” managed by the West Virginia Board of Treasury Investments pursuant to Chapter 12, Article 6C of the

West Virginia Code of 1931, as amended; and

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

"Registrar" means the Bond Registrar.

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

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

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

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

"Revenue Fund" means the Revenue Fund established by the section 5.01 herein.

"Series 2009 Bonds" means collectively the Series 2009 A Bonds, Series 2009 B Bonds and Series 2009 C Bonds.

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

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

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

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

"Series 2009 Bonds Construction Trust Fund" means the Series 2009 Bonds Construction Trust Fund established by Section 5.01 hereof.

"Series 2009 B Bonds" means the Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA), of the Issuer, authorized by this Bond Legislation.

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

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

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

“Series 2009 C Bonds” means the Water Revenue Bonds, Series 2009 C (West Virginia Infrastructure Fund), of the Issuer, authorized by this Bond Legislation.

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

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

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

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

“State” means the State of West Virginia.

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

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

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

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

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

“West Virginia Infrastructure Fund” means the West Virginia Infrastructure Fund established in accordance with Chapter 31, Article 15A, Section 9 of the West Virginia Code of 1931, as amended and in effect on the date of enactment hereof.

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 not to exceed \$3,630,169, and ordered 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 2009 A Bonds, the Series 2009 B Bonds, and Series 2009 C Bonds as hereby authorized, shall be applied as provided in Article VI hereof.

The cost of the Project is estimated not to exceed \$3,630,169 of which not more than \$1,500,000 will be obtained from proceeds of the Series 2009 A Bonds, not more than \$1,500,000 will be obtained from the proceeds of the Series 2009 B Bonds, approximately \$500,00 will be obtained from the proceeds of the Series 2009 C Bonds, and approximately \$130,169 will be obtained from the proceeds of a U.S. Environmental Protection Agency grant.

### ARTICLE III

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

Section 3.01.        Authorization of Bonds. For the purposes of paying Costs of the Project not otherwise provided for and paying certain costs of issuance of the Series 2009 Bonds and related costs, or any or all of such purposes, as determined by the Supplemental Resolution, there shall be and hereby are authorized to be issued the negotiable Series 2009 Bonds of the Issuer. The Series 2009 Bonds shall be issued in three series, each as a single bond, designated respectively as (i) "Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program)", in the principal amount of not more than \$1,500,000, (ii) "Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA)", in the principal amount of not more than \$1,500,000; and (iii) "Water Revenue Bonds, Series 2009 C (West Virginia Infrastructure Fund)", in the principal amount of not more than \$500,000 and shall have such terms as set forth hereinafter and in the Supplemental Resolution. The proceeds of the Series 2009 Bonds remaining after funding of the Reserve Accounts (if funded from Bond proceeds) and capitalization of interest, if any, shall be deposited in or credited to the Series 2009 Bonds Construction Trust Fund established by Section 5.01 hereof.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(FORM OF SERIES 2009 A BOND)

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

No. AR-1

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

KNOW ALL MEN BY THESE PRESENTS: That on this the \_\_\_\_ day of \_\_\_\_\_, 2009, the CITY OF WELCH, a municipal corporation and political subdivision of the State of West Virginia in McDowell 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, the principal of, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing \_\_\_\_\_ 1, 200\_\_, to and including \_\_\_\_\_ 1, 20\_\_ as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference with the Administrative fee (as defined in the hereinafter describe Bond Legislation) payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing \_\_\_\_\_ 1, 20\_\_ , to and including \_\_\_\_\_ 1, 20\_\_ , at the rate per annum as set forth on said EXHIBIT B.

This Bond shall bear no interest. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent").

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

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain additions, betterments and improvements to the existing public waterworks system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of the Bonds and related costs. The existing public waterworks system of the Issuer, 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 8, Article 19 and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended (collectively, the "Act"), a Bond Ordinance duly enacted by the Issuer on \_\_\_\_\_, 2009, and a Supplemental Resolution duly adopted by the Issuer on \_\_\_\_\_, 2009 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S (I) WATER REVENUE BONDS, SERIES 2009 B (WEST VIRGINIA DWTRF PROGRAM/ARRA) DATED \_\_\_\_\_, 2009, ISSUED SIMULTANEOUSLY HEREWITH IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$\_\_\_\_\_ (THE "SERIES 2009 B BONDS") AND (II) WATER REVENUE BONDS, SERIES 2009 C (WEST VIRGINIA INFRASTRUCTURE FUND), DATED \_\_\_\_\_, 2009, ISSUED SIMULTANEOUSLY HEREWITH IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$\_\_\_\_\_ (THE "SERIES 2009 C BONDS"). THE SERIES 2009 A BONDS, THE SERIES 2009 B BONDS AND THE SERIES 2009 C BONDS ARE HEREINAFTER REFERRED TO AS THE "SERIES 2009 BONDS."

OTHER THAN THE SERIES 2009 BONDS, THE ISSUER HAS NO BONDS OR OBLIGATIONS WHICH IS SECURED BY GROSS REVENUES OF THE SYSTEM.

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

however, that so long as there exists in the Series 2009 A Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with the Bonds, including the Series 2009 B Bonds and the Series 2009 C Bonds an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds, for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

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

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

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

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

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

[Remainder of page intentionally blank]

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

[SEAL]

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Clerk

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

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

Date: \_\_\_\_\_, 2009.

THE HUNTINGTON NATIONAL BANK,  
as Registrar

\_\_\_\_\_  
Authorized Officer

EXHIBIT A

RECORD OF ADVANCES

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

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

EXHIBIT B

DEBT SERVICE SCHEDULE

(Form of)

ASSIGNMENT

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

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

Dated: \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_

In the presence of:

\_\_\_\_\_

(FORM OF SERIES 2009 B BOND)

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

No. BR-1

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

KNOW ALL MEN BY THESE PRESENTS: That on this the \_\_\_\_ day of \_\_\_\_\_, 2009, the CITY OF WELCH, a municipal corporation and political subdivision of the State of West Virginia in McDowell 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, forgivable in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing \_\_\_\_\_ 1, 20\_\_ to and including \_\_\_\_\_ 1, 20\_\_, as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference. This Bond shall not be subject to the DWTRF Administrative fee (as defined in the hereinafter describe Bond Legislation).

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

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

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain additions, betterments and improvements to the existing public waterworks system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of the Bonds and related costs. The existing public waterworks system of the Issuer, 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 8, Article 19 and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended (collectively, the "Act"), a Bond Ordinance duly enacted by the Issuer on \_\_\_\_\_, 2009, and a Supplemental Resolution duly adopted by the Issuer on \_\_\_\_\_, 2009 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

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

OTHER THAN THE SERIES 2009 BONDS, THE ISSUER HAS NO BONDS OR OBLIGATIONS WHICH IS SECURED BY GROSS REVENUES OF THE SYSTEM.

This Bond is payable only from and secured by a pledge of the Gross Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on a parity with the pledge of Gross Revenue in favor of the Holders of the Series 2009 A Bonds and Series 2009 C Bonds, and unexpended proceeds of the Bonds. Such Gross Revenues shall be sufficient to pay the principal of and interest on all Bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest, if any, hereon, except from said special fund provided from the Gross Revenues, the monies in the Series 2009 B Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds, and all other obligations secured by a lien on or payable from such revenues on a parity with the Bonds, including the Series 2009 A Bonds and the Series 2009 C Bonds; provided however, that so long as there exists in the Series 2009 B Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with the Bonds, including the Series 2009 A Bonds and the Series 2009 C Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

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

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

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

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

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

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

[Remainder of page intentionally blank]

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

[SEAL]

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Clerk

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

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

Date: \_\_\_\_\_, 2009.

THE HUNTINGTON NATIONAL BANK,  
as Registrar

\_\_\_\_\_  
Authorized Officer

EXHIBIT A

RECORD OF ADVANCES

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

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

EXHIBIT B

DEBT SERVICE SCHEDULE

(Form of)

ASSIGNMENT

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

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

Dated: \_\_\_\_\_, 20\_\_.

\_\_\_\_\_

In the presence of:

\_\_\_\_\_

(FORM OF SERIES 2009 C BOND)

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
CITY OF WELCH  
WATER REVENUE BONDS, SERIES 2009 C  
(WEST VIRGINIA INFRASTRUCTURE FUND)

No. CR-1

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

KNOW ALL MEN BY THESE PRESENTS: That on this \_\_\_\_ day of \_\_\_\_\_, 2009, the CITY OF WELCH, a municipal corporation and political subdivision of the State of West Virginia in McDowell County of said State (the "Issuer"), for value received, hereby promises to pay; solely from the special funds provided therefor, as hereinafter set forth, to the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority") or registered assigns the sum of \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing \_\_\_\_\_ 1, 200 \_\_, as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference.

This Bond shall bear no interest. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent").

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Infrastructure and Jobs Development Council (the "Council"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement by and between the Issuer and the Authority on behalf of the Council, dated \_\_\_\_\_, 2009.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain extensions, additions, betterments and improvements to the waterworks system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance hereof and related costs. The existing public waterworks system of the Issuer, the Project, and any further extensions, additions, betterments or improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 8, Article 19 and Chapter 31, Article 15A of the West Virginia Code of 1931, as amended (collectively, the "Act"), and a Bond Ordinance duly enacted by the Issuer on \_\_\_\_\_, 2009, and a Supplemental Resolution duly adopted by the Issuer on \_\_\_\_\_, 2009 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof.

The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

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

OTHER THAN THE SERIES 2009 BONDS, THE ISSUER HAS NO BONDS OR OBLIGATIONS WHICH IS SECURED BY GROSS REVENUES OF THE SYSTEM.

This Bond is payable only from and secured by a pledge of the Gross Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on a parity with the pledge of Gross Revenues in favor of the Series 2009 A Bonds and Series 2009 B Bonds, and from monies in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 2009 C Bonds Reserve Account"), and unexpended proceeds of the Bonds. Such Gross Revenues shall be sufficient to pay principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest, if any, hereon, except from said special fund provided from the Gross Revenues, the monies in the Series 2009 C Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds, and all other obligations secured by a lien on or payable from such revenues on a parity with, or subordinate to, the Bonds, including the Series 2009 A Bonds and the Series 2009 B Bonds; provided however, that so long as there exists in the Series 2009 C 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 on a parity with, or subordinate to, the Bonds, including the Series 2009 A Bonds and the Series 2009 B Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Bond Legislation, only upon the books of the registrar (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 monies, until so applied, in favor of the registered owner of this Bond.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond have existed, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the Gross Revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of 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 WELCH has caused this Bond to be signed by its Mayor, and its corporate seal to be hereunto affixed and attested by its Clerk, and has caused this Bond to be dated as of the date first written above.

[SEAL]

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Clerk

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

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

Date: \_\_\_\_\_, 2009.

THE HUNTINGTON NATIONAL BANK,  
as Registrar

\_\_\_\_\_  
Authorized Officer

EXHIBIT A

RECORD OF ADVANCES

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

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

EXHIBIT B

DEBT SERVICE SCHEDULE

(Form of)

ASSIGNMENT

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

Dated: \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_

In the presence of:

\_\_\_\_\_

Section 3.11. Sale of Bonds: Approval and Ratification of Execution of ARRA Assistance Agreement and Loan Agreement. The Series 2009 A Bonds and Series 2009 B Bonds shall be sold to the Authority, pursuant to the terms and conditions of the ARRA Assistance Agreement and the Series 2009 C 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 is specifically authorized and directed to execute the ARRA Assistance Agreement and Loan Agreement in the form attached hereto as “Exhibit A” and made a part hereof, and the Clerk is directed to affix the seal of the Issuer, attest the same and deliver the ARRA Assistance Agreement and Loan Agreement to the Authority, and any such prior execution and delivery is hereby authorized, approved, ratified and confirmed. The ARRA Assistance Agreement and Loan Agreement, including all schedules and exhibits attached thereto, is hereby approved and incorporated in this Bond Legislation.

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

#### ARTICLE IV

[RESERVED]

#### ARTICLE V

### **FUNDS AND ACCOUNTS; SYSTEM REVENUES AND APPLICATION THEREOF**

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

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

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

- (1) Series 2009 A Bonds Sinking Fund;

- (2) Series 2009 A Bonds Reserve Account;
- (3) Series 2009 B Bonds Reserve Account;
- (4) Series 2009 B Bonds Sinking Fund;
- (5) Series 2009 C Bonds Reserve Account; and
- (6) Series 2009 C Bonds Sinking Fund.

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

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

shall be increased proportionately to provide, 1 month prior to the next quarterly principal payment date, the required amount of principal coming due on such date.

(2) The Issuer shall next, each month, pay from the monies in the Revenue Fund all current Operating Expenses.

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

(4) The Issuer shall next, on the first day of each month, from the monies remaining in the Revenue Fund, transfer to the Renewal and Replacement Fund, a sum equal to 2 ½% 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 any Reserve Account (except to the extent such deficiency exists because the required payments into such account have not, as of the date of determination of a deficiency, funded such account to the maximum extent required hereof) shall be promptly eliminated with monies from the Renewal and Replacement Fund.

(5) After all the foregoing provisions for use of monies in the Revenue Fund have been fully complied with, any monies remaining therein and not permitted to be retained therein may be used to prepay installments of the Series 2009 Bonds, pro rata, or for any lawful purpose.

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

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

Any withdrawals from the Series 2009 A Bonds Reserve Account, the Series 2009 B Bonds Reserve Account or the Series 2009 C Bonds Reserve Account which result in a reduction in the balance of such accounts to below the respective Reserve Requirements, shall be subsequently restored from the first Gross Revenues available after all required payments have been made in full in the priority as set forth above, all on a prorata basis.

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

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

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

The Commission is hereby designated as the fiscal agent for the administration of the Series 2009 A Bonds Sinking Fund, the Series 2009 B Bonds Sinking Fund, the Series 2009 C Bonds Sinking Fund, the Series 2009 A Bonds Reserve Account, the Series 2009 B Bonds Reserve Account, and the Series 2009 C 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. The Issuer shall make the necessary arrangements whereby required payments into said accounts shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required hereunder.

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

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

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

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

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

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

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

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

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

## ARTICLE VI

### **BOND PROCEEDS; CONSTRUCTION DISBURSEMENTS**

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

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

B. As the Issuer receives advances of the remaining monies derived from the sale of the Series 2009 A Bonds, such monies shall be deposited with the Depository Bank in the Series 2009 Bonds 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 2009 A Bonds.

C. As the Issuer receives advances of the remaining monies derived from the sale of the Series 2009 B Bonds, such monies shall be deposited with the Depository Bank in the Series

2009 Bonds 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 2009 B Bonds.

D. As the Issuer receives advances of the remaining monies derived from the sale of the Series 2009 C Bonds, such monies shall be deposited with the Depository Bank in the Series 2009 Bonds 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 2009 C Bonds.

E. 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 2009 Bonds shall be expended as approved by the BPH and Council.

Section 6.02. Disbursement from the Bond Construction Trust Fund. On or before the Closing Date, the Issuer shall have delivered to the Authority, the BPH and Council a report listing the specific purposes for which the net proceeds of the Series 2009 Bonds will be expended and the disbursement procedures for such proceeds, 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 Series 2009 Bonds Construction Trust Fund shall be made only after submission to the BPH and the Council, for approval of a certificate, signed by an Authorized Officer stating that:

- (A) None of the items for which the payment is proposed to be made has formed the basis for any disbursement theretofore made;
- (B) Each item for which the payment is proposed to be made is or was necessary in connection with the Project and constitutes a Cost of the Project;
- (C) Each of such costs has been otherwise properly incurred; and
- (D) Payment for each of the items proposed is then due and owing.

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

## ARTICLE VII

### **ADDITIONAL COVENANTS OF THE ISSUER**

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

provisions shall be irrevocable, except as provided herein, as long as any of the Series 2009 Bonds or the interest, if any, thereon is Outstanding and unpaid.

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

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

Section 7.04. Initial Schedule of Rates and Charges. The Issuer has obtained any and all approvals of rates and charges required by State law and has taken any other action required to establish and impose such rates and charges, with all requisite appeal periods having expired without successful appeal and the Issuer shall provide an opinion of counsel to such effect. Such rates and charges shall be sufficient to comply with the requirements of the ARRA Assistance Agreement and Loan Agreement and the Issuer shall provide a certificate of certified public accountant to such effect. The initial schedule of rates and charges for the services of the facilities of the System shall be as set forth in the water rate ordinance of the Issuer enacted March 31, 2008, which rates are incorporated herein by reference as a part hereof.

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

Section 7.05. Sale of the System. So long as the Series 2009 Bonds are outstanding and except as otherwise required by law or with the written consent of the Authority, Council and the BPH, the System may not be sold, mortgaged, leased or otherwise disposed of, except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to fully pay all the Bonds Outstanding, in accordance with Article X hereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall, with respect to the Series 2009 Bonds, immediately be remitted to the Commission for deposit in the Series 2009 A Bonds Sinking Fund, the Series 2009 B Bonds Sinking Fund and Series 2009 C

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 7.10. Operating Budget and Monthly Financial Report. The Issuer shall annually, at least 45 days preceding the beginning of each Fiscal Year, prepare and adopt by

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

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

Section 7.11. Engineering Services and Operating Personnel. The Issuer will obtain a certificate of the Consulting Engineers in the form attached to the ARRA Assistance Agreement and 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, Council and the BPH, the Project is adequate for the purposes for which it was designed, the funding plan as submitted to the Authority, Council and the BPH is sufficient to pay the costs of acquisition and construction of the Project, and all permits required by federal and state laws for construction of the Project have been obtained.

The Issuer shall provide and maintain competent and adequate engineering services satisfactory to the Authority, Council and the BPH covering the supervision and inspection of the development and construction of the Project and bearing the responsibility of assuring that construction conforms to the plans, specifications and designs prepared by the Consulting Engineers, which have been approved by all necessary governmental bodies. Such engineer shall certify to the Authority, Council, the BPH 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 As-Built Plans, as defined in the DWTRF Regulations, to the Issuer within 60 days of the completion of the Project. The Issuer shall notify the BPH in writing of such receipt.

The Issuer shall require the Consulting Engineers to submit the final Operation and Maintenance Manual, as defined in the DWTRF Regulations, to the Issuer when the Project is 90% completed. The Issuer shall at all times provide operation and maintenance of the System in compliance with all State and Federal standards. The Issuer shall employ qualified operating personnel properly certified by the State before the Project is 50% complete and shall retain such a certified operator to operate the System during the entire term of the ARRA Assistance Agreement. The Issuer shall notify the BPH in writing of the certified operator employed at the 50% completion stage.

The Issuer will serve the additional customers at the location(s) as set forth in Certificate of Engineer. The Issuer will not reduce the amount of additional customers served by the project without the prior written approval of the Board of the Water Development Authority (the "Authority"). Following completion of the Project the Issuer will certify to the Authority the number of customers added to the System.

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

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

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

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

be deemed to be revenues derived from the operation of the System, and shall be deposited and accounted for in the same manner as other revenues derived from such operation of the System.

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

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

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

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

(4) FIDELITY BONDS will be provided as to every officer and employee of the 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 verify such bonds prior to commencement of construction.

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, Council and the BPH, and the Issuer shall verify such insurance prior to commencement of construction. In the event the ARRA Assistance Agreement and Loan Agreement so require, such insurance shall be made payable to the order of the Authority, the Issuer, the prime contractor and all subcontractors, as their interests may appear.

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

Section 7.17. Completion of Project; Permits and Orders. The Issuer will complete the Project 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, all orders and approvals from the Public Service Commission of West Virginia, the West Virginia Infrastructure and Jobs Development Council and the BPH necessary for the acquisition and construction of the Project and the operation of the System and all approvals for the issuance of the Series 2009 Bonds required by State law, with all appeal periods having expired without successful appeal.

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

The Issuer shall perform an annual maintenance audit which maintenance audit shall be submitted to the Authority and the Public Service Commission of West Virginia.

Section 7.19. [RESERVED]

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

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

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

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

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

## **ARTICLE VIII**

### **INVESTMENT OF FUNDS**

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

such monies for the purposes set forth herein and the specific restrictions and provisions set forth in this Section 8.01.

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

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

Section 8.02. Certificate as to Use Proceeds; Covenants as to Use of Proceeds.

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

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

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

## ARTICLE IX

### DEFAULT AND REMEDIES

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

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

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

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

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

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

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

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

## **ARTICLE X**

### **PAYMENT OF BONDS**

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

## ARTICLE XI

### MISCELLANEOUS

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

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

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

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

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

ISSUER:  
City of Welch  
88 Howard Street  
Welch , West Virginia 24801

Attention: Mayor

AUTHORITY:

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

COUNCIL

West Virginia Infrastructure & Jobs Development Council  
180 Association Drive  
Charleston, West Virginia 25311-1571  
Attention: Executive Director

BPH:

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

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

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

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

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

suggestions shall be heard and the Governing Body shall take such action as it shall deem proper in the premises.

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

Passed on First Reading:	October 13, 2009
Passed on Second Reading:	November 2, 2009
Passed on Final Reading Following Public Hearing:	December 7, 2009

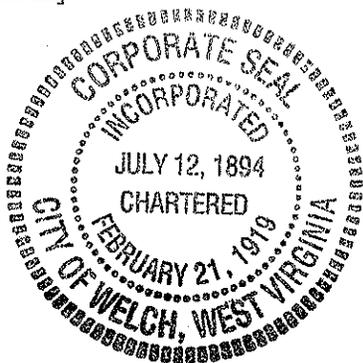
  
\_\_\_\_\_  
Mayor Pro Tem

CERTIFICATION

Certified a true copy of an Ordinance duly enacted by the Council of the CITY OF WELCH on the 7th day of December, 2009.

Dated: December 18, 2009.

[SEAL]



*Robin D. Lee*  
\_\_\_\_\_  
Clerk

EXHIBIT A

ARRA Assistance Agreement included in bond transcript as Document 3; and  
Loan Agreement included in Bond Transcript as Document 4

CITY OF WELCH

Water Revenue Bonds, Series 2009 A  
(West Virginia DWTRF Program);  
Water Revenue Bonds, Series 2009 B  
(West Virginia DWTRF Program/ARRA) and  
Water Revenue Bonds, Series 2009 C  
(West Virginia Infrastructure Fund)

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNT, DATE, MATURITY DATE, REDEMPTION PROVISION, INTEREST RATE, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICE AND OTHER TERMS OF THE WATER REVENUE BONDS, SERIES 2009 A (WEST VIRGINIA DWTRF PROGRAM), WATER REVENUE BONDS, SERIES 2009 B (WEST VIRGINIA DWTRF PROGRAM/ARRA) AND WATER REVENUE BONDS, SERIES 2009 C (WEST VIRGINIA INFRASTRUCTURE FUND) OF THE CITY OF WELCH; RATIFYING AND APPROVING AN ARRA ASSISTANCE AGREEMENT AND 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 council (the "Governing Body") of the City of Welch (the "Issuer") has duly and officially adopted and enacted a bond ordinance, effective December 7, 2009 (the "Bond Ordinance"), entitled:

ORDINANCE AUTHORIZING ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC WATERWORKS SYSTEM OF THE CITY OF WELCH AND THE FINANCING OF THE COST, NOT OTHERWISE

PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF WELCH OF NOT MORE THAN \$1,500,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2009 A (WEST VIRGINIA DWTRF PROGRAM); NOT MORE THAN \$1,500,000 IN ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2009 B (WEST VIRGINIA DWTRF PROGRAM/ARRA), AND NOT MORE THAN \$500,000 IN ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2009 C (WEST VIRGINIA INFRASTRUCTURE FUND) 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 ARRA ASSISTANCE AGREEMENT AND 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.

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 the Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program), in the aggregate principal amount not to exceed \$1,500,000 (the "Series 2009 A Bonds"), Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA), in the aggregate principal amount not to exceed \$1,500,000 (the "Series 2009 B Bonds") and Water Revenue Bonds, Series 2009 C (West Virginia Infrastructure Fund), in the aggregate principal amount not to exceed \$500,000 (the "Series 2009 C Bonds" and together with the Series 2009 A Bonds and Series 2009 B Bonds, the "Series 2009 Bonds" or the "Bonds") and has authorized the execution and delivery of an ARRA Assistance Agreement relating to the Series 2009 A Bonds and Series 2009 B Bonds, including all schedules and exhibits attached thereto (the "ARRA Assistance Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority") on behalf of the West Virginia Bureau for Public Health (the "BPH"), and has authorized the execution and delivery of a loan agreement relating to the Series 2009 C Bonds, including all schedules and exhibits attached thereto (the "Loan Agreement" and together with the ARRA Assistance Agreement, the "Loan Agreements"), by and between the Issuer and the West Virginia Infrastructure and Jobs Development Council (the "Council"), all in accordance with Chapter 8, Article 19 and Chapter 31, Article 15A 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 Agreements and

the exact principal amount, date, maturity date, redemption provision, 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 Agreements have been presented to the Issuer at this meeting;

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

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted, that the Loan Agreements be approved and entered into by the Issuer, that the exact principal amount, the date, the maturity date, the redemption provisions, 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 WELCH:

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 Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program), of the Issuer, originally represented by a single Bond, numbered AR-1, in the principal amount of \$625,000. The Bonds shall be dated the date of delivery thereof, shall finally mature June 1, 2041, 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, 2011, to and including June 1, 2041, and in the amounts as set forth in the "Schedule Y" attached to the ARRA Assistance Agreement and incorporated in and made a part of the Bonds. The Bonds shall be subject to redemption upon the written consent of the Authority and the BPH, and upon payment of a 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. The Series 2009 A Bonds shall not be subject to the Administrative Fee.

Section 2. Pursuant to the Bond Ordinance and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA), of the Issuer, originally represented by a single Bond, numbered BR-1, in the principal amount of \$625,000. The Bonds shall be dated the date of delivery thereof, shall finally mature June 1, 2021, and shall bear no interest. The principal of the Bonds shall be forgivable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2011, to and including June 1, 2021, and in the amounts as set forth in the "Schedule Y" attached to the ARRA Assistance Agreement and incorporated in and made a part of the Bonds. The Bonds shall be subject to redemption upon the written consent of the Authority and the BPH, and upon payment of a 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. The Series 2009 B Bonds shall not be subject to the Administrative Fee.

Section 3. Pursuant to the Bond Ordinance and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the Water Revenue Bonds, Series 2009 C (West Virginia Infrastructure Fund), of the Issuer, originally represented by a single Bond, numbered CR-1, in the principal amount of \$461,674. The Bonds shall be dated the date of delivery thereof, shall finally mature December 1, 2049, 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, 2011, to and including December 1, 2049 and in the amounts as set forth in the "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 Council, and upon payment of a 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 4. Section 2.01 of the Bond Ordinance is hereby restated in its entirety:

Section 2.01. Authorization of the Acquisition and Construction of the Project. There is hereby authorized and ordered the acquisition and construction of the Project at an estimated cost of not to exceed \$1,841,843, which will be paid from proceeds of the Series 2009 Bonds, 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 2009 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 in an amount compatible with the financing plan submitted to the BPH and the Authority.

The cost of the project is estimated not to exceed \$1,841,843 of which not more than \$625,000 will be obtained from the proceeds of the Series 2009 A Bonds, \$625,000 will be obtained from the proceeds of the Series 2009 B Bonds, \$ 461,674 will be obtained from the proceeds of the Series 2009 C Bonds and \$130,169 will be obtained from the proceeds of a U.S. Environmental Protection Agency Grant.

Section 5. 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 6. The Issuer does hereby authorize, approve, ratify and accept the Loan Agreements, copies of which are incorporated herein by reference, and the execution and delivery of the Loan Agreements 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 Agreements and in the applications to the Council, the BPH 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 7. The Issuer does hereby appoint and designate The Huntington National Bank, Charleston, West Virginia, to serve as Registrar (the "Registrar"), for the Bonds under the Bond Ordinance and does approve and accept the Registrar's Agreement to be dated the date of delivery of the Bonds, by and between the Issuer and the Registrar, and the execution and delivery of the Registrar's Agreement by the Mayor, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, approved and directed.

Section 8. 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 9. The Issuer does hereby appoint and designate MCNB, Welch, West Virginia, to serve as Depository Bank under the Bond Ordinance.

Section 10. Series 2009 A Bonds proceeds in the amount of \$-0- shall be deposited in the Series 2009 A Bonds Sinking Fund, as capitalized interest.

Section 11. Series 2009 A Bonds proceeds in the amount of \$-0- shall be deposited in the Series 2009 A Bonds Reserve Account.

Section 12. The balance of the proceeds of the Bonds shall be deposited in or credited to the Series 2009 A Bonds Construction Trust Fund as received from the BPH from time to time for payment of costs of the Project, including, without limitation, costs of issuance of the Bonds and related costs.

Section 13. Series 2009 B Bonds proceeds in the amount of \$-0- shall be deposited in the Series 2009 B Bonds Sinking Fund, as capitalized interest.

Section 14. Series 2009 B Bonds proceeds in the amount of \$-0- shall be deposited in the Series 2009 B Bonds Reserve Account.

Section 15. The balance of the proceeds of the Bonds shall be deposited in or credited to the Series 2009 B Bonds Construction Trust Fund as received from the BPH from time to time for payment of costs of the Project, including, without limitation, costs of issuance of the Bonds and related costs.

Section 16. Series 2009 C Bonds proceeds in the amount of \$-0- shall be deposited in the Series 2009 C Bonds Sinking Fund, as capitalized interest.

Section 17. Series 2009 C Bonds proceeds in the amount of \$-0- shall be deposited in the Series 2009 C Bonds Reserve Account.

Section 18. The balance of the proceeds of the Bonds shall be deposited in or credited to the Series 2009 C Bonds Construction Trust Fund as received from the Council from time to time for payment of costs of the Project, including, without limitation, costs of issuance of the Bonds and related costs.

Section 19. The Mayor and the Clerk are hereby authorized and directed to execute and deliver such other documents, agreements, instruments 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 18, 2009, to the Authority pursuant to the Loan Agreements.

Section 20. The Special Conditions of the ARRA Assistance Agreement are attached as Exhibit A and are hereby agreed to and incorporated herein.

Section 21. 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 22. The Issuer does hereby approve and authorize all contracts relating to the financing, acquisition and construction of the Project.

Section 23. The Issuer hereby determines to invest all monies in the funds and accounts established by the Bond Ordinance held by the Depository Bank until expended, in repurchase agreements or time accounts, secured by a pledge of Government Obligations, and therefore, the Issuer hereby directs the Depository Bank to take such actions as may be necessary to cause such monies to be invested in such repurchase agreements or time accounts until further directed in writing by the Issuer. Monies in the Series 2009 A Bonds Sinking Fund, the Series 2009 A Bonds Reserve Account, the Series 2009 B Bonds Sinking Fund, the Series 2009 B Bonds Reserve Account, the Series 2009 C Bonds Sinking Fund, and the Series 2009 C Bonds Reserve Account shall be invested by the West Virginia Municipal Bond Commission in the West Virginia Consolidated Fund.

Section 24. The Issuer shall serve the additional customers at the locations(s) as set forth in Certificate of Engineer. The Issuer shall not reduce the amount of additional customers served by the project without the prior written approval of the Board of the Water Development Authority (the "Authority"). Following completion of the Project the Issuer shall certify to the Authority the number of customers added to the System.

Section 25. The Issuer shall perform an annual maintenance audit which maintenance audit shall be submitted to the Authority and the Public Service Commission of West Virginia.

Section 26. This Supplemental Resolution shall be effective immediately following adoption hereof.

[Remainder of Page Intentionally Blank]

Adopted this 7th day of December, 2009.

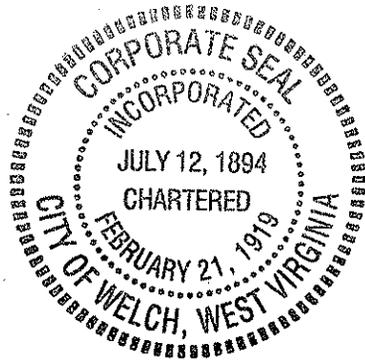
*Frank Cooley*  
\_\_\_\_\_  
Mayor Pro Tem

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Council of the City of Welch on the 7th day of December, 2009.

Dated: December 18, 2009.

[SEAL]



*Robin D. Lee*  
Clerk

12.03.09  
950640.00003

EXHIBIT A

SPECIAL CONDITIONS – ARRA FUNDED PROJECTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

P. DISADVANTAGED BUSINESS ENTERPRISE – Pursuant to 40 CFR, Section 33.301, the Local Entity agrees to make good faith efforts whenever procuring construction, equipment, services and supplies, and to require that prime contractors also

comply. The Local Entity shall provide BPH with MBE/WBE participation reports semi-annually.

Q. CIVIL RIGHTS – The Local Entity shall comply with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and a variety of program-specific statutes with nondiscrimination requirements. The Local Entity shall also comply with Title VII of the Civil Rights Act of 1964 (prohibiting race, color, national origin, religion, and sex discrimination in employment), the Americans with Disabilities Act (prohibiting disability discrimination in employment and in services provided by State and Local Entities, businesses, and non-profit agencies), and the Fair Housing Act (prohibiting race, color, national origin, age, family status, and disability discrimination in housing), as well as any other applicable civil rights laws.

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

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

DWTRF – ARRA  
(10/09)

ARRA ASSISTANCE AGREEMENT

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

CITY OF WELCH  
(2008W-1015)

WITNESSETH:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## ARTICLE I

### Definitions

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

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

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

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

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

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

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

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

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

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

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

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

## ARTICLE II

### The Project and the System

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### ARTICLE III

#### Conditions to Loan; Issuance of Local Bonds

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

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

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

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

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

{C1645000.1}

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

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

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

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

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

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

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

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

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

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

3.5 The Local Entity understands and acknowledges that it is one of several local entities which have applied to the Authority and BPH for loans from the Fund to finance drinking water projects and that the obligation of the Authority to make any such loan is subject to the Local Entity's fulfilling all of the terms and conditions of

this ARRA Assistance Agreement on or prior to the Date of Loan Closing and to the requirements of the Program. The Local Entity specifically recognizes that the Authority will not purchase the Local Bonds unless and until sufficient funds are available in the Fund to purchase all the Local Bonds and that, prior to execution of this ARRA Assistance Agreement, the Authority may purchase the bonds of other local entities set out in the State Project Priority List, as defined in the DWTRF Regulations. The Local Entity further specifically recognizes that all loans will be originated in conjunction with the DWTRF Regulations and with the prior approval of BPH or such later date as is agreed to in writing by the BPH.

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

#### ARTICLE IV

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

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

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

(i) to pay Operating Expenses of the System;

(ii) to the extent not otherwise limited by any outstanding loan resolution, indenture or other act or document and beginning on the date set forth in Schedule X, to provide debt service on the Local Bonds by depositing in a sinking fund one-third (1/3) of the interest payment next coming due on the Local Bonds and one-third (1/3) of the principal payment next coming due on the Local Bonds and, beginning three (3) months prior to the first date of payment of principal of the Local Bonds, if the reserve account for the Local Bonds (the "Reserve Account") was not funded from proceeds of the Local Bonds or otherwise concurrently with the issuance thereof in an

amount equal to the maximum amount of principal and interest which will come due on the Local Bonds in the then current or any succeeding year (the "Reserve Requirement"), by depositing in the Reserve Account an amount not less than one-twelfth (1/12) of one-tenth (1/10) of the Reserve Requirement or, if the Reserve Account has been so funded (whether by Local Bond proceeds, monthly deposits or otherwise), any amount necessary to maintain the Reserve Account at the Reserve Requirement;

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

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

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

(b) Covenants substantially as follows:

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

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

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

(iv) That, except as otherwise required by State law or the DWTRF Regulations, the System may not be sold, mortgaged, leased or otherwise disposed of, except as a whole, or substantially as a whole, and only if the net proceeds to be realized from such sale, mortgage, lease or other disposition shall be sufficient to fully pay all of the Local Bonds outstanding and further provided that portions of the System when no longer required for the ongoing operation of the System as evidenced by certificates from the Consulting Engineer, may be disposed of with such restrictions as are normally contained in such covenants;

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

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

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

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

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

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

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

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

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

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

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

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

(xvii) That the Local Entity shall on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the Commission the required interest, principal and reserve account payment. The Local Entity shall complete the Monthly Payment Form, attached hereto as Exhibit E and incorporated herein by reference, and submit a copy of said form along with a copy of the check or electronic transfer to the Authority by the 5th day of such calendar month. When required by the Authority, the Local Entity shall make monthly payments to the Commission by electronic transfer;

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

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

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

(xxi) That the Local Entity shall submit all proposed change orders to the BPH for written approval. The Local Entity shall obtain the written approval of the BPH before expending any proceeds of the Local Bonds held in

“contingency” as set forth in the final Schedule A attached to the certificate of the Consulting Engineer. The Local Entity shall obtain the written approval of the BPH before expending any proceeds of the Local Bonds available due to bid/construction/project underruns.

The Local Entity hereby represents and warrants that the Local Act has been or shall be duly adopted or enacted in compliance with all necessary corporate and other action and in accordance with applicable provisions of law. All legal matters incident to the authorization, issuance, validity, sale and delivery of the Local Bonds shall be approved without qualification by nationally recognized bond counsel acceptable to the Authority in substantially the form of legal opinion attached hereto as Exhibit F.

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

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

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

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

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

## ARTICLE V

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

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

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

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

5.4 The Local Entity hereby irrevocably covenants and agrees with the Authority that, in the event of any default hereunder by the Local Entity, the Authority may exercise any or all of the rights and powers granted under Section 5 of the Act,

including, without limitation, the right to impose, enforce and collect charges of the System.

## ARTICLE VI

### Other Agreements of the Local Entity

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

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

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

6.4 The Local Entity hereby covenants that, if required by the Authority and BPH, it will rebate any amounts required by Section 148 of the Internal Revenue Code of 1986, as amended, and will take all steps necessary to make any such rebates. In the event the Local Entity fails to make any such rebates as required, then the Local

Entity shall pay any and all penalties, obtain a waiver from the Internal Revenue Service and take any other actions necessary or desirable to preserve the exclusion from gross income for federal income tax purposes of interest on the Local Bonds.

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

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

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

## ARTICLE VII

### Miscellaneous

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

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

7.3 This ARRA Assistance Agreement may be executed in one or more counterparts, any of which shall be regarded for all purposes as an original and all of which constitute but one and the same instrument. Each party agrees that it will execute

any and all documents or other instruments and take such other actions as may be necessary to give effect to the terms of this ARRA Assistance Agreement.

7.4 No waiver by any party of any term or condition of this ARRA Assistance Agreement shall be deemed or construed as a waiver of any other terms or conditions, nor shall a waiver of any breach be deemed to constitute a waiver of any subsequent breach, whether of the same or of a different section, subsection, paragraph, clause, phrase or other provision of this ARRA Assistance Agreement.

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

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

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

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

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

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

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

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

In the event funds are not available to make all of the Loan, the responsibility of the Authority and BPH to make all the Loan is terminated; provided

{C1645000.1}

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

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

CITY OF WELCH

(SEAL)

By: Frank Coaley

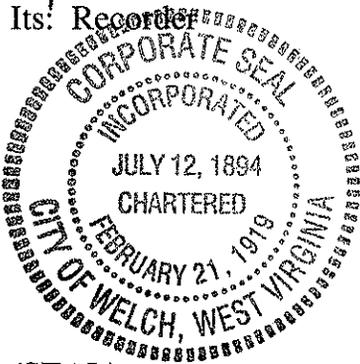
Its: Mayor Pro Tem

Date: December 18, 2009

Attest:

Rolin D. Lee

Its: Recorder



WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

(SEAL)

By: [Signature]

Its: Executive Director

Date: December 18, 2009

Attest:

Carol A. Cummings

Its: Secretary-Treasurer

EXHIBIT A

MONTHLY FINANCIAL REPORT

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

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

\_\_\_\_\_  
**Name of Person Completing Form**

\_\_\_\_\_  
**Address**

\_\_\_\_\_  
**Telephone**

## INSTRUCTIONS FOR COMPLETING MONTHLY FINANCIAL REPORT

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

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

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

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

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

**EXHIBIT B**

**PAYMENT REQUISITION FORM**

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

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

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

EXHIBIT C

FORM OF CERTIFICATE OF CONSULTING ENGINEER

\_\_\_\_\_  
(Issuer)

(Name of Bonds)

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

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

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

3. To the best of my knowledge, information and belief, (i) within the limits and in accordance with the applicable and governing contractual requirements relating to the Project, the Project will be constructed in general accordance with the approved plans, specifications and designs prepared by my firm and approved by BPH and any change orders approved by the Issuer, BPH and all necessary governmental bodies; (ii) the Project, as designed, is adequate for its intended purpose and has a useful life of at least \_\_\_\_\_ years, if properly operated and maintained, excepting anticipated replacements due to normal wear and tear; (iii) the Issuer has received bids for the acquisition and construction of the Project which are in an amount and otherwise compatible with the plan of financing set forth in Schedule B attached hereto as Exhibit A, and my firm<sup>1</sup> has ascertained that all successful bidders have made required provisions

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

for all insurance and payment and performance bonds and that such insurance policies or binders and such bonds have been verified for accuracy; (iv) the successful bidders received any and all addenda to the original bid documents; (v) the bid documents relating to the Project reflect the Project as approved by the BPH and the bid forms provided to the bidders contain all critical operational components of the Project; (vi) the successful bids include prices for every item on such bid forms; (vii) the uniform bid procedures were followed; (viii) the Issuer has obtained all permits required by the laws of the State of West Virginia and the United States necessary for the acquisition and construction of the Project and operation of the System; (ix) as of the effective date thereof<sup>2</sup>, the rates and charges for the System as adopted by the Issuer will be sufficient to comply with the provisions of the ARRA Assistance Agreement; (x) the net proceeds of the Bonds, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants, if any, irrevocably committed therefor, are sufficient to pay the costs of acquisition and construction of the Project approved by BPH; and (xi) attached hereto as Exhibit A is the final amended "Schedule B - Total Cost of Project; Sources of Funds and Cost of Financing" for the Project.

WITNESS my signature and seal on this \_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_.

[SEAL]

By:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

West Virginia License No. \_\_\_\_\_

---

insert the following: [and in reliance upon the opinion of \_\_\_\_\_, Esq.] and delete "my firm has ascertained that".

<sup>2</sup>If the Rule 42 Exhibit and/or rate structure was prepared by an accountant, then insert the following: "In reliance upon the certificate of \_\_\_\_\_ of even date herewith," at the beginning of (ix).

## EXHIBIT D

### SPECIAL CONDITIONS – BASE PROGRAM

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

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

### SPECIAL CONDITIONS – ARRA FUNDED PROJECTS

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

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

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

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

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

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

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

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

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

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

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

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

L. FALSE CLAIMS – The Local Entity must promptly refer to EPA’s Inspector General any credible evidence that a principal, employee, agent, sub-grantee contractor, subcontractor, loan recipient, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws

pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving funds provided under this ARRA Assistance Agreement.

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

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

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

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

Q. CIVIL RIGHTS – The Local Entity shall comply with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and a variety of program-specific statutes with nondiscrimination requirements. The Local Entity shall also comply with Title VII of the Civil Rights Act of 1964 (prohibiting race, color, national origin, religion, and sex discrimination in employment), the Americans with Disabilities Act (prohibiting disability discrimination in employment and in services provided by State and Local Entities, businesses, and non-profit agencies), and the Fair Housing Act (prohibiting race, color, national origin, age, family status, and disability discrimination in housing), as well as any other applicable civil rights laws.

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

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

# EXHIBIT D-1

For DDMR Use Only  
Grant Number

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

**1. Subrecipient (Grantee) Name**

---

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

---



---

**3. Subrecipient (Grantee) 9-Digit DUNS Number**

---

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

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

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

---



---

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

Officer Name	Title	Total Compensation

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

Printed Name \_\_\_\_\_ Title \_\_\_\_\_  
 Signature \_\_\_\_\_ Date \_\_\_\_\_ Phone # \_\_\_\_\_

DMHR Form A-3000

## EXHIBIT D-2

---

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

---

### A. Purpose and Summary

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

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

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

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

### B. Federal Funding Accountability and Transparency Act of 2006

The Federal Funding Accountability and Transparency Act of 2006, Public Law 109-252, hereinafter referred to as the Transparency Act, is an Act of Congress that requires full disclosure to the public of all entities or organizations receiving Federal funds. The Transparency Act directed the Office of Management and Budget (OMB), by January 1, 2008, to ensure the existence and operation of a single searchable website, accessible to the public at no cost, which includes for each Federal award:

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

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

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

**C. American Recovery and Reinvestment Act of 2009**

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

1. Funding provided from the Federal Government through the ARRA is "one-time only" funding and, to maximize the transparency and accountability of ARRA funds, organizations receiving funding under the ARRA must maintain records that identify adequately the source and application of those funds.
2. Section 1512(e) of the ARRA requires quarterly reporting on the use of funds. The data elements proposed for reporting the information described in Section 1512(c) were published in the Federal Register on April 1, 2009 (74 FR 14824). The reporting requirements under Section 1512(e) of the ARRA currently apply only to entities receiving ARRA funds directly from the Federal Government, sometimes referred to as primary recipients.
3. Section 1512(h) of the ARRA requires recipients of ARRA funds, and their first-tier recipients (subrecipients) to register in the Central Contractor Registration (CCR) database at <http://www.ccr.gov>. In order to register in the CCR, a valid Data Universal Numbering System (DUNS) Number is required, as further described within this Addendum and within the instructions for Completion of the Subrecipient (Grantee) Information Form.
4. Section 1605 of the ARRA requires that projects funded by the ARRA for the construction, siting, maintenance, or repair of a public building or public work use American iron, steel, and manufactured goods in the project unless one of the specified exemptions applies. The ARRA provides that this requirement be applied in a manner consistent with U.S. obligations under international agreements. Definitions of "manufactured good," "public building and public work," and other terms as they pertain to the Buy American guidance in 2 CFR part 176 are found in § 176.140 and § 176.160.
5. Section 1606 of the ARRA requires the payment of Davis-Bacon Act (40 U.S.C. 31) wage rates to "laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government" pursuant to the ARRA.
6. Grantees bound by the Single Audit Act Amendments of 1996 and OMB Circular A-133, *Audits of States, Local Governments and Nonprofit Organizations*, must separately identify the expenditures for Federal awards under the ARRA on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by OMB Circular A-133. This requirement shall be accomplished by identifying expenditures for Federal awards made under the ARRA separately on the SEFA, and as separate rows under Item B of Part III on the SF-SAC by CFDA number, and inclusion of the prefix "ARRA-" in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF-SAC. Additional information regarding the Federal audit requirements of OMB Circular A-133 is located within Exhibit F of the DHHR Grant Agreement and the Source of Funds Schedule, attached to this Grant Agreement as Exhibit B, identifies whether the funds awarded under this grant are being made available through appropriations under the ARRA.

---

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

---

**D. DHHR Reporting to the Federal Government**

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

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

**E. Subrecipient (Grantee) Information Form**

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

**F. Future Informational Updates and Regulatory Requirements**

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

**G. Sources of Information / Websites**

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

---

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

---

[http://irwebsite.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109\\_cong\\_bills&docid=f:s2330enr.tot.pdf](http://irwebsite.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_cong_bills&docid=f:s2330enr.tot.pdf)

American Recovery and Reinvestment Act of 2009

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

[http://irwebsite.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111\\_cong\\_bills&docid=f:h11enr.pdf](http://irwebsite.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:h11enr.pdf)

[http://www.whitehouse.gov/omb/assets/memoranda\\_fy2009/m09-10.pdf](http://www.whitehouse.gov/omb/assets/memoranda_fy2009/m09-10.pdf)

[http://www.whitehouse.gov/omb/assets/memoranda\\_fy2009/m09-13.pdf](http://www.whitehouse.gov/omb/assets/memoranda_fy2009/m09-13.pdf)

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

Interim Final Guidance from the OMB – Requirements for Implementing Sections 1332, 1603, and 1606 of the American Recovery and Reinvestment Act of 2009 for Financial Assistance Awards – published in the Federal Register, Volume 74, Number 77, April 23, 2009, pages 18445-55

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



EXHIBIT E

MONTHLY PAYMENT FORM

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

Re: [Name of bond issue]

Ladies and Gentlemen:

The following deposits were made to the West Virginia Municipal Bond Commission

on behalf of \_\_\_\_\_ on \_\_\_\_\_.  
[Local Entity] [Date]

Sinking Fund:

Interest \$ \_\_\_\_\_

Principal \$ \_\_\_\_\_

Total: \$ \_\_\_\_\_

Reserve Account: \$ \_\_\_\_\_

Witness my signature this \_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
[Name of Local Entity]

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

Enclosure: wire transfer form

EXHIBIT F

OPINION OF BOND COUNSEL FOR LOCAL ENTITY

[To Be Dated as of Date of Loan Closing]

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

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

Ladies and Gentlemen:

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

We have examined a certified copy of proceedings and other papers relating to the authorization of a (i) ARRA Assistance Agreement dated \_\_\_\_\_, including all schedules and exhibits attached thereto (the "ARRA Assistance Agreement"), between the Local Entity and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Bureau for Public Health (the "BPH"), and (ii) the issue of a series of revenue bonds of the Local Entity, dated \_\_\_\_\_(the "Local Bonds"), to be purchased by the Authority in accordance with the provisions of the ARRA Assistance Agreement. The Local Bonds are issued in the principal amount of \$\_\_\_\_\_, in the form of one bond, registered as to principal and interest to the Authority, with principal and interest payable quarterly on March 1, June 1, September 1, and December 1 of each year, beginning \_\_\_\_\_1, \_\_\_\_\_, and ending \_\_\_\_\_1, \_\_\_\_\_, all as set forth in the "Schedule Y" attached to the ARRA Assistance Agreement and incorporated in and made a part of the Local Bonds.

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

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

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

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

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

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

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

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

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

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

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

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

Very truly yours,

## SCHEDULE X

### DESCRIPTION OF LOCAL BONDS

A. Series A Bonds (Base Program)

Principal Amount of Local Bonds	\$625,000
Purchase Price of Local Bonds	\$625,000

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

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

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

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

As of the date of the ARRA Assistance Agreement, the Local Bonds are on a parity as to liens, pledge and source of and security for payment with the following obligations of the Local Entity: none.

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

B. Series B Bonds (ARRA)

Principal Amount of Local Bonds \$625,000  
Purchase Price of Local Bonds \$625,000

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

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

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

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

As of the date of the ARRA Assistance Agreement, the Local Bonds are on a parity as to liens, pledge and source of and security for payment with the following obligations of the Local Entity: none.

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

**SCHEDULE Y  
DEBT SERVICE SCHEDULES**

0% Interest Rate				
30 Years				
		Dated Date	12/18/09	
		Delivery Date	12/18/09	
Period Ending	Principal	Interest	Debt Service	
12/18/09				
9/1/11	5,209		5,209	
12/1/11	5,209		5,209	
3/1/12	5,209		5,209	
6/1/12	5,209		5,209	
9/1/12	5,209		5,209	
12/1/12	5,209		5,209	
3/1/13	5,209		5,209	
6/1/13	5,209		5,209	
9/1/13	5,209		5,209	
12/1/13	5,209		5,209	
3/1/14	5,209		5,209	
6/1/14	5,209		5,209	
9/1/14	5,209		5,209	
12/1/14	5,209		5,209	
3/1/15	5,209		5,209	
6/1/15	5,209		5,209	
9/1/15	5,209		5,209	
12/1/15	5,209		5,209	
3/1/16	5,209		5,209	
6/1/16	5,209		5,209	
9/1/16	5,209		5,209	
12/1/16	5,209		5,209	
3/1/17	5,209		5,209	
6/1/17	5,209		5,209	
9/1/17	5,209		5,209	
12/1/17	5,209		5,209	
3/1/18	5,209		5,209	
6/1/18	5,209		5,209	
9/1/18	5,209		5,209	
12/1/18	5,209		5,209	
3/1/19	5,209		5,209	
6/1/19	5,209		5,209	
9/1/19	5,209		5,209	
12/1/19	5,209		5,209	
3/1/20	5,209		5,209	
6/1/20	5,209		5,209	
9/1/20	5,209		5,209	
12/1/20	5,209		5,209	
3/1/21	5,209		5,209	
6/1/21	5,208		5,208	
9/1/21	5,208		5,208	
12/1/21	5,208		5,208	
3/1/22	5,208		5,208	
6/1/22	5,208		5,208	

0% Interest Rate			
30 Years			
Period Ending	Principal	Interest	Debt Service
9/1/22	5,208		5,208
12/1/22	5,208		5,208
3/1/23	5,208		5,208
6/1/23	5,208		5,208
9/1/23	5,208		5,208
12/1/23	5,208		5,208
3/1/24	5,208		5,208
6/1/24	5,208		5,208
9/1/24	5,208		5,208
12/1/24	5,208		5,208
3/1/25	5,208		5,208
6/1/25	5,208		5,208
9/1/25	5,208		5,208
12/1/25	5,208		5,208
3/1/26	5,208		5,208
6/1/26	5,208		5,208
9/1/26	5,208		5,208
12/1/26	5,208		5,208
3/1/27	5,208		5,208
6/1/27	5,208		5,208
9/1/27	5,208		5,208
12/1/27	5,208		5,208
3/1/28	5,208		5,208
6/1/28	5,208		5,208
9/1/28	5,208		5,208
12/1/28	5,208		5,208
3/1/29	5,208		5,208
6/1/29	5,208		5,208
9/1/29	5,208		5,208
12/1/29	5,208		5,208
3/1/30	5,208		5,208
6/1/30	5,208		5,208
9/1/30	5,208		5,208
12/1/30	5,208		5,208
3/1/31	5,208		5,208
6/1/31	5,208		5,208
9/1/31	5,208		5,208
12/1/31	5,208		5,208
3/1/32	5,208		5,208
6/1/32	5,208		5,208
9/1/32	5,208		5,208
12/1/32	5,208		5,208
3/1/33	5,208		5,208
6/1/33	5,208		5,208
9/1/33	5,208		5,208
12/1/33	5,208		5,208
3/1/34	5,208		5,208
6/1/34	5,208		5,208
9/1/34	5,208		5,208

0% Interest Rate			
30 Years			
Period Ending	Principal	Interest	Debt Service
12/1/34	5,208		5,208
3/1/35	5,208		5,208
6/1/35	5,208		5,208
9/1/35	5,208		5,208
12/1/35	5,208		5,208
3/1/36	5,208		5,208
6/1/36	5,208		5,208
9/1/36	5,208		5,208
12/1/36	5,208		5,208
3/1/37	5,208		5,208
6/1/37	5,208		5,208
9/1/37	5,208		5,208
12/1/37	5,208		5,208
3/1/38	5,208		5,208
6/1/38	5,208		5,208
9/1/38	5,208		5,208
12/1/38	5,208		5,208
3/1/39	5,208		5,208
6/1/39	5,208		5,208
9/1/39	5,208		5,208
12/1/39	5,208		5,208
3/1/40	5,208		5,208
6/1/40	5,208		5,208
9/1/40	5,208		5,208
12/1/40	5,208		5,208
3/1/41	5,208		5,208
6/1/41	5,209		5,209
	<b>625,000</b>		<b>625,000</b>

10 Years			
	Dated		
	Date	12/18/09	
	Delivery		
	Date	12/18/09	
Period	Debt		Principal
Ending	Service		Forgiveness
12/18/09			
9/1/11	-15,625		-15,625
12/1/11	-15,625		-15,625
3/1/12	-15,625		-15,625
6/1/12	-15,625		-15,625
9/1/12	-15,625		-15,625
12/1/12	-15,625		-15,625
3/1/13	-15,625		-15,625
6/1/13	-15,625		-15,625
9/1/13	-15,625		-15,625
12/1/13	-15,625		-15,625
3/1/14	-15,625		-15,625
6/1/14	-15,625		-15,625
9/1/14	-15,625		-15,625
12/1/14	-15,625		-15,625
3/1/15	-15,625		-15,625
6/1/15	-15,625		-15,625
9/1/15	-15,625		-15,625
12/1/15	-15,625		-15,625
3/1/16	-15,625		-15,625
6/1/16	-15,625		-15,625
9/1/16	-15,625		-15,625
12/1/16	-15,625		-15,625
3/1/17	-15,625		-15,625
6/1/17	-15,625		-15,625
9/1/17	-15,625		-15,625
12/1/17	-15,625		-15,625
3/1/18	-15,625		-15,625
6/1/18	-15,625		-15,625
9/1/18	-15,625		-15,625
12/1/18	-15,625		-15,625
3/1/19	-15,625		-15,625
6/1/19	-15,625		-15,625
9/1/19	-15,625		-15,625
12/1/19	-15,625		-15,625
3/1/20	-15,625		-15,625
6/1/20	-15,625		-15,625
9/1/20	-15,625		-15,625
12/1/20	-15,625		-15,625
3/1/21	-15,625		-15,625
6/1/21	-15,625		-15,625
	<b>625,000</b>		<b>625,000</b>

IC-1  
(08/09)

LOAN AGREEMENT

THIS LOAN AGREEMENT, made and entered into in several counterparts, by and between the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY, a governmental instrumentality and body corporate of the State of West Virginia (the "Authority"), acting on behalf of the WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL (the "Council"), and the governmental agency designated below (the "Governmental Agency").

CITY OF WELCH  
(2008W-1015)

(Governmental Agency)

WITNESSETH:

WHEREAS, pursuant to the provisions of Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended (the "Act"), the Authority is empowered upon request of the Council to make loans to governmental agencies for the acquisition or construction of projects by such governmental agencies, subject to such provisions and limitations as are contained in the Act;

WHEREAS, the Governmental Agency constitutes a governmental agency as defined by the Act;

WHEREAS, the Governmental Agency is authorized and empowered by the statutes of the State to acquire, construct, improve, operate and maintain a project, as defined by the Act, and to finance the cost of acquisition and construction of the same by borrowing money to be evidenced by revenue bonds issued by the Governmental Agency;

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

WHEREAS, the Governmental Agency has completed and filed with the Authority an Application for a Construction Loan with attachments and exhibits and an

Amended Application for a Construction Loan also with attachments and exhibits (together, as further revised and supplemented, the "Application"), which Application is incorporated herein by this reference; and

WHEREAS, having reviewed the Application and made all findings required by the Act and having available sufficient funds therefor, the Council has authorized the Authority to lend the Governmental Agency the amount set forth on Schedule X attached hereto and incorporated herein by reference, through the purchase of revenue bonds of the Governmental Agency with money in the Infrastructure Fund, subject to the Governmental Agency's satisfaction of certain legal and other requirements of the Council's loan program (the "Program") as hereinafter set forth.

NOW, THEREFORE, in consideration of the premises and the mutual agreements hereinafter contained, the Governmental Agency and the Authority hereby agree as follows:

## ARTICLE I

### Definitions

1.1 Except where the context clearly indicates otherwise, the terms "Authority," "cost," "Council," "governmental agency," "project," "waste water facility" and "water facility" have the definitions and meanings ascribed to them in the Act.

1.2 "Authority" means the West Virginia Water Development Authority, which is expected to be the original purchaser of the Bonds, acting in its administrative capacity pursuant to Section 10 of the Act and upon authorization from the Council.

1.3 "Consulting Engineers" means the professional engineer, licensed by the State, designated in the Application and any qualified successor thereto; provided, however, when a Loan is made for a Project financed, in part, by the Office of Abandoned Mine Lands, "Consulting Engineers" shall mean the West Virginia Department of Environmental Protection, or any successor thereto.

1.4 "Infrastructure Fund" means the West Virginia Infrastructure Fund established in accordance with Section 9 of the Act.

1.5 "Loan" means the loan to be made by the Authority to the Governmental Agency through the purchase of Local Bonds, as hereinafter defined, pursuant to this Loan Agreement.

1.6 "Local Act" means the official action of the Governmental Agency required by Section 4.1 hereof, authorizing the Local Bonds.

1.7 "Local Bonds" means the revenue bonds to be issued by the Governmental Agency pursuant to the provisions of the Local Statute, as hereinafter defined, to evidence the Loan and to be purchased by the Authority, all in accordance with the provisions of this Loan Agreement.

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

1.9 "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.

1.10 "Project" means the project hereinabove referred to, to be constructed or being constructed by the Governmental Agency in whole or in part with the net proceeds of the Local Bonds.

1.11 "System" means the project owned by the Governmental Agency, 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 Governmental Agency by the Consulting Engineers, the Authority and Council having found, to the extent applicable, that the Project is consistent with the Act.

2.2 Subject to the terms, conditions and provisions of this Loan Agreement and the Local Act, the Governmental Agency 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 Governmental Agency 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 Governmental Agency, 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 or any interest therein is approved by the Authority and Council.

2.4 The Governmental Agency agrees that the Authority and the Council and their 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 Governmental Agency further agrees that the Authority and the Council and their duly authorized agents and representatives shall, prior to, during and after completion of construction and commencement of operation of the Project, have such rights of access to the System site and System facilities as may be reasonably necessary to accomplish all of the powers and rights of the Authority and the Council with respect to the System pursuant to the pertinent provisions of the Act.

2.5 The Governmental Agency 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 Governmental Agency shall permit the Authority and the Council, acting by and through their directors or their 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 Governmental Agency shall submit to the Authority and the Council such documents and information as they 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 Governmental Agency agrees that it will permit the Authority and the Council and their agents and representatives to have access to the records of the Governmental Agency 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 Governmental Agency shall require that each construction contractor furnish a performance bond and a payment bond, each in an amount at least equal to one hundred percent (100%) of the contract price of the portion of the Project covered by the particular contract as security for the faithful performance of such contract and shall verify or have verified such bonds prior to commencement of construction.

2.8 The Governmental Agency 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 Council and the Authority and shall verify or have verified such insurance prior to commencement of construction. Until the Project facilities are completed and accepted by the Governmental Agency, the Governmental Agency or (at the option of the Governmental Agency) 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 Governmental Agency, 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 Governmental Agency on or before the Date of Loan Closing, as hereinafter defined, and maintained so long as any of the Local Bonds is outstanding. Prior to commencing operation of the Project, the Governmental Agency 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 Governmental Agency shall provide and maintain competent and adequate engineering services satisfactory to the Council and the Authority covering the supervision and inspection of the development and construction of the Project, and bearing the responsibility of assuring that construction conforms to the plans, specifications and designs prepared by the Consulting Engineers, which have been approved by all necessary governmental bodies. Such engineer shall certify to the Authority, the Council and the Governmental Agency at the completion of construction that construction is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies.

2.10 The Governmental Agency shall at all times provide operation and maintenance of the System in compliance with any and all State and federal standards. The Governmental Agency shall employ qualified operating personnel properly certified by the State to operate the System during the entire term of this Loan Agreement.

2.11 The Governmental Agency hereby covenants and agrees to comply with all applicable laws, rules and regulations issued by the Council, the Authority 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 Governmental Agency, commencing on the date contracts are executed for the acquisition or construction of the Project and for two years following the completion of acquisition or construction of the Project, shall each month complete a Monthly Financial Report, the form of which is attached hereto as Exhibit C and incorporated herein by reference, and forward a copy by the 10<sup>th</sup> of each month to the Authority and Council.

2.13 The Governmental Agency shall serve the additional customers at the location(s) as set forth in Schedule X. The Governmental Agency shall not reduce the amount of additional customers served by the project without the prior written approval of the WDA Board. Following completion of the Project the Governmental Agency shall certify to the Authority the number of customers added to the System.

2.14 The Governmental Agency shall perform an annual maintenance audit which maintenance audit shall be submitted to the WDA and the Public Service Commission of West Virginia.

### ARTICLE III

#### Conditions to Loan; Issuance of Local Bonds

3.1 The agreement of the Authority and Council to make the Loan is subject to the Governmental Agency's fulfillment, to the satisfaction of the Authority and the Council, 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 Governmental Agency shall have performed and satisfied all of the terms and conditions to be performed and satisfied by it in this Loan Agreement;

(b) The Governmental Agency 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;

(c) The Governmental Agency 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 construction financing, the Governmental Agency 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 the Council shall have received a certificate of the Consulting Engineers to such effect, the form of which certificate is attached hereto as Exhibit A;

(d) The Governmental Agency 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 the Council shall have received a certificate of the Consulting Engineers to such effect;

(e) The Governmental Agency shall have obtained all requisite orders of and approvals from the Public Service Commission of West Virginia (the "PSC") and the Council necessary for the construction of the Project and operation of the System, with all requisite appeal periods having expired without successful appeal, and the Authority and the Council shall have received an opinion of counsel to the Governmental Agency, which may be local counsel to the Governmental Agency, bond counsel or special PSC counsel but must be satisfactory to the Authority and the Council, to such effect;

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

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

(h) Such rates and charges for the System shall be sufficient to comply with the provisions of Subsections 4.1(a) and 4.1(b)(ii) hereof, and the Authority and the Council shall have received a certificate of the accountant for the Governmental Agency, or such other person or firm experienced in the finances of governmental agencies and satisfactory to the Authority and the Council, to such effect; and

(i) 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 shall have received a certificate of the Consulting Engineers, or such other person or firm experienced in the financing of projects and satisfactory to the Authority and the Council, to such effect, such certificate to be in form and substance satisfactory to the Authority and the Council, and evidence satisfactory to the Authority and the Council 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, the Council 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 Governmental Agency and the Governmental Agency shall accept the Loan from the Authority, and in furtherance thereof it is agreed that the Governmental Agency 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 Governmental Agency 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, the Council and the Governmental Agency. 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 of execution of this Loan Agreement by the Authority or such later date as is agreed to in writing by the Council.

3.5 The Governmental Agency understands and acknowledges that it is one of several governmental agencies which have applied to the Council for loans from the Infrastructure Fund to finance projects and that the obligation of the Authority to make any such loan is subject to the Council's authorization and the Governmental Agency's fulfilling all of the terms and conditions of this Loan Agreement on or prior to the Date of Loan Closing. The Governmental Agency specifically recognizes that the Authority will not purchase the Local Bonds unless and until sufficient funds are available in the Infrastructure Fund to purchase all the Local Bonds and that, prior to execution of this Loan Agreement, the Authority may commit to and purchase the revenue bonds of other governmental agencies for which it has sufficient funds available.

#### ARTICLE IV

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

4.1 The Governmental Agency shall, as one of the conditions of the Authority to make the Loan, authorize the issuance of and issue the Local Bonds pursuant to an official action of the Governmental Agency in accordance with the Local Statute, which shall, as adopted or enacted, contain provisions and covenants in substantially the form as follows, unless the specific provision or covenant is modified or waived by the Council:

(a) That the gross revenues of the System shall always be used for purposes of the System. Such gross revenues shall 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 (which, with an approving opinion of bond counsel to the Governmental Agency, may be with a letter of credit or surety) in an amount equal to the maximum amount of principal and interest which will come due on the Local Bonds in the then current or any succeeding year (the "Reserve Requirement"), by depositing in the Reserve Account an amount not less than one-twelfth (1/12) of one-tenth (1/10) of the Reserve Requirement or, if the Reserve Account has been so funded (whether by Local Bond proceeds, monthly deposits or otherwise), any amount necessary to maintain the Reserve Account at the Reserve Requirement;

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

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

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

(b) Covenants substantially as follows:

(i) That the Local Bonds shall be secured by a pledge of either the gross or net revenues of the System, as more fully set forth in Schedule X attached hereto and in the Local Act;

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

(iii) That the Governmental Agency shall complete the Project and operate and maintain the System in good condition;

(iv) That, except as otherwise required by State law or with the written consent of the Council and 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 Local Bonds outstanding, with further restrictions on the disposition of portions of the System as are normally contained in such covenants;

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

(viii) That the Authority may, by proper legal action, compel the performance of the duties of the Governmental Agency 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;

(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 Governmental Agency will not grant any franchise to provide any services which would compete with the System;

(xi) That the Governmental Agency 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

the Council, which report shall include a statement that notes whether the results of tests disclosed instances of noncompliance that are required to be reported under government auditing standards and, if they are, describes the instances of noncompliance and the audited financial statements shall include a statement that notes whether the Governmental Agency's revenues are adequate to meet its Operating Expenses and debt service and reserve requirements;

(xii) That the Governmental Agency 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 the Council 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, 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 Governmental Agency and on which the owners of the Local Bonds shall have a lien until such proceeds are applied to the construction of the Project (including the repayment of any incidental interim financing) and/or (b) be used to pay (or redeem) bond anticipation notes or other interim financing of such Governmental Agency, the proceeds of which were used to finance the construction of the Project; provided that, with the prior written consent of the Authority and the Council, 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 Governmental Agency may not redeem any Local Bonds by it without the written consent of the Authority and the Council and otherwise in compliance with this Loan Agreement;

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

(xvii) That the Governmental Agency shall on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the Commission the required interest, principal and reserve account payment. The Governmental Agency shall complete the Monthly Payment Form, attached hereto as Exhibit D and incorporated herein by reference, and submit a copy of said form along with a copy of the check or electronic transfer to the Authority by the 5<sup>th</sup> day of such calendar month. When required by the Authority, the Local Entity shall make monthly payments to the Commission by electronic transfer;

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

(xix) That the Governmental Agency shall take any and all action, or shall refrain from taking any action regarding the use of the proceeds of the Local Bonds, as shall be deemed necessary by the Authority to maintain the exclusion from gross income for federal income tax purposes of interest on the State's general obligation bonds or any bonds secured by the Local Bonds;

(xx) That the Governmental Agency shall have obtained the certificate of the Consulting Engineer in the form attached hereto as Exhibit A, to the effect that the Project has been or will be constructed in accordance with the approved plans, specifications and design as submitted to the Authority and the Council, the Project is adequate for the purposes for which it was designed, the funding plan as submitted to the Authority and the Council 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;

(xxi) That the Governmental Agency shall, to the full extent permitted by applicable law and the rules and regulations of the PSC, 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 Governmental Agency, then the Governmental Agency shall enter into a termination agreement with the water provider;

(xxii) That the Governmental Agency shall furnish to the Authority such information with respect to earnings on all funds constituting "gross proceeds" of the Local Bonds (as that term is defined in the Internal Revenue Code of 1986, as amended) from time to time as the Authority may request;

(xxiii) That the Governmental Agency shall submit all proposed change orders to the Council for written approval. The Governmental Agency shall obtain the written approval of the Council before expending any proceeds of the Local Bonds held in "contingency" as set forth in the final Schedule B attached to the certificate of the Consulting Engineer. The Governmental Agency shall obtain the written approval of the Council before making any changes to the final Schedule B and also before expending any proceeds of the Local Bonds available due to bid/construction/project underruns;

(xxiv) That the Governmental Agency shall list the funding provided by the Authority and the Council in any press release, publication, program bulletin,

sign or other public communication that references the Project, including but not limited to any program document distributed in conjunction with any groundbreaking or dedication of the Project; and

(xxv) That, unless it qualifies for an exception, the Governmental Agency shall comply with all the requirements of Chapter 21, Article 1C of the Code of West Virginia, 1931, as amended (the "West Virginia Jobs Act") and shall require its contractors and subcontractors to comply with the West Virginia Jobs Act. The Governmental Agency shall provide the Council and the Authority with a certificate stating that (I) the Governmental Agency will comply with all the requirements of the West Virginia Jobs Act; (II) the Governmental Agency has included the provisions of the West Virginia Jobs Act in each contract and subcontract for the Project; (III) the Governmental Agency has received or will receive, prior to entering into contracts or subcontracts, from each contractor or subcontractor a certificate demonstrating compliance with Section 4 of the West Virginia Jobs Act or waiver certificates from the West Virginia Division of Labor ("DOL"); and (IV) the Governmental Agency will file with the DOL and the Council copies of the waiver certificates and certified payrolls or comparable documents that include the number of employees, the county and state wherein the employees reside and their occupation, following the procedures established by the DOL. The monthly requisitions submitted to the Council shall also certify that the Governmental Agency is monitoring compliance by its contractors and subcontractors and that the required information has been submitted.

The Governmental Agency 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, validity, sale and delivery of the Local Bonds shall be approved without qualification by recognized bond counsel acceptable to the Authority in substantially the form of legal opinion attached hereto as Exhibit B.

4.2 The Loan shall be secured by the pledge and assignment by the Governmental Agency, as effected by the Local Act, of the fees, charges and other revenues of the Governmental Agency from the System as further set forth by and subject only to such reservations and exceptions as are described in Schedules X and Y hereto or are otherwise expressly permitted in writing by the Authority and the Council.

4.3 The principal of the Loan shall be repaid by the Governmental Agency on the days and in the years provided in Schedule X hereto. Interest payments on the Loan shall be made by the Governmental Agency on a quarterly basis as provided in said Schedule X.

4.4 The Loan shall bear interest from the date and at the rate or rates per annum set forth on Schedule X 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.

4.5 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

Governmental Agency. Anything to the contrary herein notwithstanding, the Local Bonds may be issued in one or more series, as reflected by Schedule X hereto.

4.6 The Governmental Agency agrees to expend the net proceeds of the Local Bonds for the Project within 3 years of the issuance of the bonds which are the source of money used to purchase the Local Bonds, unless otherwise agreed to by the Council.

## ARTICLE V

### Certain Covenants of the Governmental Agency; Imposition and Collection of User Charges; Payments To Be Made by Governmental Agency to the Authority

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

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

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

5.4 The Governmental Agency hereby irrevocably covenants and agrees with the Authority that, in the event of any default hereunder by the Governmental Agency, the Authority may exercise any or all of the rights and powers granted under the Act and State law, including, without limitation, the right to an appointment of a receiver.

## ARTICLE VI

### Other Agreements of the Governmental Agency

6.1 The Governmental Agency hereby warrants and represents that all information provided to the Authority and the Council 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 the Council 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 the Council by the Governmental Agency in connection with the Loan shall be incorrect or incomplete in any material respect or (b) the Governmental Agency has violated any commitment made by it in its Application or in any supporting documentation or has violated any of the terms of the Act or this Loan Agreement.

6.2 The Governmental Agency 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 Governmental Agency fails to make any such rebates as required, then the Governmental Agency 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.

6.3 Notwithstanding Section 6.2, the Authority may at any time, in its sole discretion, cause the rebate calculations prepared by or on behalf of the Governmental Agency to be monitored or cause the rebate calculations for the Governmental Agency to be prepared, in either case at the expense of the Governmental Agency.

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

6.5 The Governmental Agency hereby agrees to file with the Authority and the Council upon completion of acquisition and construction of the Project a schedule in substantially the form of Amended Schedule B to the Application, setting forth the actual costs of the Project and sources of funds therefor.

## ARTICLE VII

### Miscellaneous

7.1 Additional definitions, additional terms and provisions of the Loan and additional covenants and agreements of the Governmental Agency, if any, may be set forth in Schedule Z attached hereto and incorporated herein by reference, with the same effect as if contained in the text of this Loan Agreement.

7.2 Schedules X and 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 Governmental Agency supplementing the Local Act, a certified copy of which official action shall be submitted to the Authority and the Council.

7.3 The Authority shall take all actions required by the Council in making and enforcing this Loan Agreement.

7.4 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.

7.5 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.

7.6 No waiver by either 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.

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

7.8 The Authority acknowledges that certain terms and requirements in this Loan Agreement may not be applicable when the Project is financed in part by the West Virginia Department of Environmental Protection, Office of Abandoned Mine Lands and under that circumstance those terms and requirements are specifically waived or modified as agreed to by the Authority and set forth in the Local Act.

7.9 By execution and delivery of this Loan Agreement, notwithstanding the date hereof, the Governmental Agency 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.

7.10 This Loan Agreement shall terminate upon the earlier of:

- (i) the end of ninety (90) days after the date of execution hereof by the Authority or such later date as is agreed to in writing by the Council if the Governmental Agency has failed to deliver the Local Bonds to the Authority;
- (ii) termination by the Authority and the Council pursuant to Section 6.1 hereof; or
- (iii) payment in full of the principal of and interest on the Loan and of any fees and charges owed by the Governmental Agency to the Authority, acting on behalf of the Council.

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 WELCH

(SEAL)

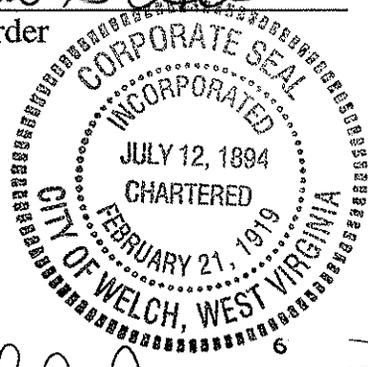
Attest:

Robin D. Lee  
Its: Recorder

(SEAL)

Attest:

Carol A. Cummings  
Its: Secretary-Treasurer



By: Frank Cooley  
Its: Mayor Pro Tem  
Date: December 18, 2009

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

By: [Signature]  
Its: Executive Director  
Date: December 18, 2009

{C1645036.1}

EXHIBIT A

FORM OF CERTIFICATE OF CONSULTING ENGINEER

\_\_\_\_\_  
(Issuer)

\_\_\_\_\_  
(Name of Bonds)

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

1. My firm is engineer for the acquisition and construction of \_\_\_\_\_ to the \_\_\_\_\_ system (the "Project") of \_\_\_\_\_ (the "Issuer"), to be constructed primarily in \_\_\_\_\_ County, West Virginia, which acquisition and construction are being permanently financed in part by the above-captioned bonds (the "Bonds") of the Issuer. Capitalized words not defined herein shall have the same meanings set forth in the bond \_\_\_\_\_ adopted or enacted by the Issuer on \_\_\_\_\_, and the Loan Agreement by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council"), dated \_\_\_\_\_.

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

3. To the best of my knowledge, information and belief, (i) within the limits and in accordance with the applicable and governing contractual requirements relating to the Project, the Project will be constructed in general accordance with the approved plans, specifications and designs prepared by my firm and approved by [DEP/BPH/PSC] and any change orders approved by the Issuer, the Council and all necessary governmental bodies; (ii) the Project, as designed, is adequate for its intended purpose and has a useful life of at least \_\_\_ years if properly operated and maintained, excepting anticipated replacements due to normal wear and tear; (iii) the Issuer has received bids for the acquisition and construction of the Project which are in an amount and otherwise compatible with the plan of financing set forth in the Schedule B attached hereto as Exhibit A and my firm<sup>1</sup> has ascertained that all

<sup>1</sup>If another responsible party, such as the Issuer's attorney, reviews the insurance and payment bonds, then insert the following: [and in reliance upon the opinion of \_\_\_\_\_,

successful bidders have made required provisions for all insurance and payment and performance bonds and that such insurance policies or binders and such bonds have been verified for accuracy; (iv) the successful bidders received any and all addenda to the original bid documents; (v) the bid documents relating to the Project reflect the Project as approved by the [DEP/BPH/PSC] and the bid forms provided to the bidders contain all critical operational components of the Project; (vi) the successful bids include prices for every item on such bid forms; (vii) the uniform bid procedures were followed; (viii) the Issuer has obtained all permits required by the laws of the State of West Virginia and the United States necessary for the acquisition and construction of the Project and operation of the System; (ix) as of the effective date thereof, <sup>2</sup>the rates and charges for the System as adopted by the Issuer will be sufficient to comply with the provisions of the Loan Agreement; (x) the net proceeds of the Bonds, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants, if any, irrevocably committed therefor, are sufficient to pay the costs of acquisition and construction of the Project set forth in the Schedule B attached hereto and approved by the Council; and (xi) attached hereto as Exhibit A is the final amended "Schedule B - Final Total Cost of Project, Sources of Funds and Costs of Financing" for the Project.

WITNESS my signature and seal on this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

[SEAL]

\_\_\_\_\_  
By: \_\_\_\_\_  
West Virginia License No. \_\_\_\_\_

---

Esq.] and delete "my firm has ascertained that".

<sup>2</sup>If the Rule 42 Exhibit and/or rate structure was prepared by an accountant, then insert the following: "In reliance upon the certificate of \_\_\_\_\_ of even date herewith," at the beginning of (ix).

EXHIBIT B

OPINION OF BOND COUNSEL FOR GOVERNMENTAL AGENCY

[To Be Dated as of Date of Loan Closing]

West Virginia Infrastructure and  
Jobs Development Council  
300 Summers Street, Suite 980  
Charleston, West Virginia 25301

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

Ladies and Gentlemen:

We are bond counsel to \_\_\_\_\_ (the  
“Governmental Agency”), a \_\_\_\_\_.

We have examined a certified copy of proceedings and other papers relating to the authorization of (i) a loan agreement dated \_\_\_\_\_, \_\_\_\_\_, including all schedules and exhibits attached thereto (the “Loan Agreement”), between the Governmental Agency and the West Virginia Water Development Authority (the “Authority”), on behalf of the West Virginia Infrastructure and Jobs Development Council (the “Council”), and (ii) the issue of a series of revenue bonds of the Governmental Agency, dated \_\_\_\_\_, (the “Local Bonds”), to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Local Bonds are issued in the principal amount of \$\_\_\_\_\_, in the form of one bond, registered as to principal and interest to the Authority, with interest and principal payable quarterly on March 1, June 1, September 1 and December 1 of each year, beginning \_\_\_\_\_, 1, \_\_\_\_\_, and ending \_\_\_\_\_, 1, \_\_\_\_\_, as set forth in the “Schedule Y” attached to the Loan Agreement and incorporated in and made a part of the Local Bonds.

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

We have also examined the applicable provisions of \_\_\_\_\_ of the Code of West Virginia, 1931, as amended (the “Local Statute”), and the bond \_\_\_\_\_ duly adopted or enacted by the Governmental Agency on \_\_\_\_\_, as supplemented by the supplemental resolution duly adopted by the Governmental Agency on \_\_\_\_\_ (collectively, the “Local Act”), pursuant to and under which Local Statute and Local Act the Local Bonds are authorized and issued, and the Loan Agreement has been undertaken. The Local Bonds are subject to redemption prior

to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Local Act and the 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 Governmental Agency and is a valid and binding special obligation of the Governmental Agency, enforceable in accordance with the terms thereof.

2. The Loan Agreement inures to the benefit of the Authority and the Council and cannot be amended so as to affect adversely the rights of the Authority or the Council or diminish the obligations of the Governmental Agency without the consent of the Authority and the Council.

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

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

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

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

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

We have examined the 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,

EXHIBIT C

MONTHLY FINANCIAL REPORT

Name of Governmental Agency \_\_\_\_\_  
 Name of Bond Issue(s) \_\_\_\_\_  
 Type of Project \_\_\_\_\_ Water \_\_\_\_\_ Wastewater \_\_\_\_\_  
 Fiscal Year \_\_\_\_\_ Report Month \_\_\_\_\_

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

\_\_\_\_\_  
 Name of Person Completing Form

\_\_\_\_\_  
 Address

\_\_\_\_\_  
 Telephone

## INSTRUCTIONS FOR COMPLETING MONTHLY FINANCIAL REPORT

- Item 1 You will need a copy of the current fiscal year budget adopted by the Governmental Agency to complete Items 1 and 2. In Item 1, provide the amount of actual **Gross Revenues** for the current month and the total amount year-to-date in the respective columns. Divide the budgeted annual Gross Revenues by 12. For example, if Gross Revenues of \$1,200 are anticipated to be received for the year, each month the base would be increased by \$100 ( $\$1,200/12$ ). This is the incremental amount for the Budget Year-to-Date column.
- Item 2 Provide the amount of actual **Operating Expenses** for the current month and the total amount year-to-date in the respective columns. Any administrative fee should be included in the Operating Expenses. Divide the budgeted annual Operating Expenses by 12. For example, if Operating Expenses of \$900 are anticipated to be incurred for the year, each month the base would be increased by \$75 ( $\$900/12$ ). This is the incremental amount for the Budget Year-to-Date column.
- Item 3 Provide the **Bond Payments (principal, interest and reserve account)** for all the outstanding bonds of the Governmental Agency according to the source of funding. For example, Clean Water State Revolving Fund loan from Department of Environmental Protection, Drinking Water Treatment Revolving Fund loan from Bureau for Public Health, Infrastructure Fund loan from Infrastructure and Jobs Development Council, or a loan from the Water Development Authority, etc.
- Item 4 Provide the amount deposited into the **Renewal and Replacement Fund** each month. This amount is equal to 2.5% of Gross Revenues minus the total reserve account payments included in Item 3. If Gross Revenues are \$1,200, then \$30 (2.5% of \$1,200), LESS the amount of all reserve account payments in Item 3 should be deposited into the Renewal and Replacement Fund. The money in the Renewal and Replacement Fund should be kept separate and apart from all other funds of the Governmental Agency.

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

EXHIBIT D

MONTHLY PAYMENT FORM

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

Re: [Name of bond issue]

Ladies and Gentlemen:

The following deposits were made to the West Virginia Municipal Bond Commission on behalf of [Name of Governmental Agency] on [Date].

Sinking Fund:

Interest	\$
Principal	\$
Total:	\$
Reserve Account:	\$

Witness my signature this \_\_\_\_ day of \_\_\_\_\_.

[Name of Governmental Agency]

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

Enclosure: copy of check(s)

## SCHEDULE X

### DESCRIPTION OF LOCAL BONDS

Principal Amount of Local Bonds \$461,674  
Purchase Price of Local Bonds \$461,674

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

The Governmental Agency shall authorize the Commission to electronically debit its monthly payments. The Commission will make quarterly payments to the Authority at such address as is given to the Commission in writing by the Authority.

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

The Governmental Agency may prepay the Local Bonds in full at any time at the price of par but only with the Council's written consent. The Governmental Agency shall request approval from the Authority and Council in writing of any proposed debt which will be issued by the Governmental Agency on a parity with the Local Bonds which request must be filed at least 60 days prior to the intended date of issuance.

As of the date of the Loan Agreement, the Local Bonds are on a parity as to liens, pledge and source of and security for payment with the following obligations of the Governmental Agency: none.

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

**SCHEDULE Y  
DEBT SERVICE SCHEDULE**

0% Interest Rate				
40 Years				
		Dated Date	12/18/09	
		Delivery Date	12/18/09	
Period Ending	Principal	Interest	Debt Service	
12/18/09				
9/1/11	2,998			2,998
12/1/11	2,998			2,998
3/1/12	2,998			2,998
6/1/12	2,998			2,998
9/1/12	2,998			2,998
12/1/12	2,998			2,998
3/1/13	2,998			2,998
6/1/13	2,998			2,998
9/1/13	2,998			2,998
12/1/13	2,998			2,998
3/1/14	2,998			2,998
6/1/14	2,998			2,998
9/1/14	2,998			2,998
12/1/14	2,998			2,998
3/1/15	2,998			2,998
6/1/15	2,998			2,998
9/1/15	2,998			2,998
12/1/15	2,998			2,998
3/1/16	2,998			2,998
6/1/16	2,998			2,998
9/1/16	2,998			2,998
12/1/16	2,998			2,998
3/1/17	2,998			2,998
6/1/17	2,998			2,998
9/1/17	2,998			2,998
12/1/17	2,998			2,998
3/1/18	2,998			2,998
6/1/18	2,998			2,998
9/1/18	2,998			2,998
12/1/18	2,998			2,998
3/1/19	2,998			2,998
6/1/19	2,998			2,998
9/1/19	2,998			2,998
12/1/19	2,998			2,998
3/1/20	2,998			2,998
6/1/20	2,998			2,998
9/1/20	2,998			2,998
12/1/20	2,998			2,998
3/1/21	2,998			2,998
6/1/21	2,998			2,998
9/1/21	2,998			2,998
12/1/21	2,998			2,998
3/1/22	2,998			2,998
6/1/22	2,998			2,998

0% Interest Rate			
40 Years			
Period Ending	Principal	Interest	Debt Service
9/1/22	2,998		2,998
12/1/22	2,998		2,998
3/1/23	2,998		2,998
6/1/23	2,998		2,998
9/1/23	2,998		2,998
12/1/23	2,998		2,998
3/1/24	2,998		2,998
6/1/24	2,998		2,998
9/1/24	2,998		2,998
12/1/24	2,998		2,998
3/1/25	2,998		2,998
6/1/25	2,998		2,998
9/1/25	2,998		2,998
12/1/25	2,998		2,998
3/1/26	2,998		2,998
6/1/26	2,998		2,998
9/1/26	2,998		2,998
12/1/26	2,998		2,998
3/1/27	2,998		2,998
6/1/27	2,998		2,998
9/1/27	2,998		2,998
12/1/27	2,998		2,998
3/1/28	2,998		2,998
6/1/28	2,998		2,998
9/1/28	2,998		2,998
12/1/28	2,998		2,998
3/1/29	2,998		2,998
6/1/29	2,998		2,998
9/1/29	2,998		2,998
12/1/29	2,998		2,998
3/1/30	2,998		2,998
6/1/30	2,998		2,998
9/1/30	2,998		2,998
12/1/30	2,998		2,998
3/1/31	2,998		2,998
6/1/31	2,998		2,998
9/1/31	2,998		2,998
12/1/31	2,998		2,998
3/1/32	2,998		2,998
6/1/32	2,998		2,998
9/1/32	2,998		2,998
12/1/32	2,998		2,998
3/1/33	2,998		2,998
6/1/33	2,998		2,998
9/1/33	2,998		2,998
12/1/33	2,998		2,998
3/1/34	2,998		2,998
6/1/34	2,998		2,998
9/1/34	2,998		2,998

0% Interest Rate				
40 Years				
Period Ending	Principal	Interest	Debt Service	
12/1/34	2,998		2,998	
3/1/35	2,998		2,998	
6/1/35	2,998		2,998	
9/1/35	2,998		2,998	
12/1/35	2,998		2,998	
3/1/36	2,998		2,998	
6/1/36	2,998		2,998	
9/1/36	2,998		2,998	
12/1/36	2,998		2,998	
3/1/37	2,998		2,998	
6/1/37	2,998		2,998	
9/1/37	2,998		2,998	
12/1/37	2,998		2,998	
3/1/38	2,998		2,998	
6/1/38	2,998		2,998	
9/1/38	2,998		2,998	
12/1/38	2,998		2,998	
3/1/39	2,998		2,998	
6/1/39	2,998		2,998	
9/1/39	2,998		2,998	
12/1/39	2,998		2,998	
3/1/40	2,998		2,998	
6/1/40	2,998		2,998	
9/1/40	2,998		2,998	
12/1/40	2,998		2,998	
3/1/41	2,998		2,998	
6/1/41	2,998		2,998	
9/1/41	2,998		2,998	
12/1/41	2,998		2,998	
3/1/42	2,998		2,998	
6/1/42	2,998		2,998	
9/1/42	2,998		2,998	
12/1/42	2,998		2,998	
3/1/43	2,998		2,998	
6/1/43	2,998		2,998	
9/1/43	2,998		2,998	
12/1/43	2,998		2,998	
3/1/44	2,998		2,998	
6/1/44	2,998		2,998	
9/1/44	2,998		2,998	
12/1/44	2,998		2,998	
3/1/45	2,998		2,998	
6/1/45	2,997		2,997	
9/1/45	2,997		2,997	
12/1/45	2,997		2,997	
3/1/46	2,997		2,997	
6/1/46	2,997		2,997	
9/1/46	2,997		2,997	
12/1/46	2,997		2,997	



SCHEDULE Z

None.

100

PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON

Entered: November 19, 2009

FINAL

12/9/2009

CASE NO. 09-1280-W-SCN

CITY OF WELCH, a municipal utility,  
Reynoldsville, Harrison CountyApplication for a certificate of convenience  
and necessity to upgrade and replace water  
storage tanks to provide reliable water service  
to Indian Ridge Industrial Park near Welch,  
McDowell County.RECOMMENDED DECISIONPROCEDURE

On August 3, 2009, the City of Welch (City) filed an application for a certificate of public convenience and necessity with the Public Service Commission, pursuant to W. Va. Code §24-2-11, to upgrade and replace water storage tanks to provide reliable water service to Indian Ridge Industrial Park near Welch, in McDowell County (Project). The Project will consist of the replacement of the 300,000-gallon Route 52 By-Pass Tank; the replacement of the 125,000-gallon Stewart Street Tank; renovations to the North Welch Tank; renovations to the Jr. Poca Tank; renovations to the 400,000-gallon water treatment concrete reservoir; and the installation of water treatment plant reservoir telemetry. The City estimated that the Project would cost \$1,380,169, and would be financed through a \$625,000 loan from the State of West Virginia Bureau for Public Health (BPH), consisting of economic stimulus funds through The American Recovery and Reinvestment Act of 2009 (ARRA); a \$625,000 loan from the BPH from its Drinking Water Treatment Revolving Fund (DWTRF) Base Program; and \$130,169 in funds left over from a grant from EPA/SAP, which was previously approved for the project which was the subject of Case No. 08-1697-W-CN. The City anticipates no significant change in operating revenues and expenses due to the Project. The City stated that the Project will allow it to provide reliable service to the Indian Ridge Industrial Park and the other customers of the City of Welch by increasing storage capacity. The City also stated that the Project would not compete with any other utilities and that the only utility rendering service to the area was the City. The City also stated that the Project would have no rate impact and, for that reason, it requested that the requirement that it file a Rule 42 Exhibit with its certificate application be waived. The City noted that the Project had been approved by the West Virginia Infrastructure and Jobs Development Council (IJDC).

With the application, the City filed a draft Notice of Filing; a DWTRF binding commitment letter from the BPH dated June 18, 2009, for the ARRA loan and the DWTRF Base Program loan; estimated Project costs; and the City's engineering agreement with the Project Engineer.

By Notice of Filing Order entered on August 6, 2009, the Commission required the City to provide notice to its customers of the filing of the application by publishing the Notice of Filing one time, in a qualified newspaper, published and generally circulated in McDowell County, making due return to the Commission of proper certification of publication immediately thereafter. Anyone desiring to protest or intervene in the matter was given leave to do so no later than thirty (30) days following the date of publication. The Notice also provided that, if no substantial protest to the application was filed within the 30-day period, the Commission could waive formal hearing and grant the application based upon the evidence submitted with the application and the Commission's review thereof.

On August 11, 2009, the City filed a revised draft Notice of Filing, to reflect the fact that the City has one resale customer, the McDowell County Public Service District.

By Commission Order entered on August 12, 2009, the Commission entered an Amended Notice of Filing, reflecting the correction regarding the resale customer. In all other respects, the Notice of Filing remained the same.

On August 13, 2009, Staff Attorney Leslie J. Anderson filed the Initial Joint Staff Memorandum herein, attached to which was the Initial Internal Memorandum prepared by Utilities Analyst Pete Lopez of the Water and Wastewater Division and Engineering Technician John Mottesheard of the Engineering Division. Technical Staff identified several pieces of additional information which it needed for its review of the certificate filing and stated that it would make its recommendations to the Commission within the required time frames. Concurrently with the Initial Joint Staff Memorandum, the Staff Attorney filed Commission Staff's first request for information to the City, formally requesting the information specified in the Technical Staff Memorandum.

On August 18, 2009, the City filed its response to Staff's first request for information, filing a pro forma cash flow statement showing the impact on operating revenue and expenses and debt service of the Project for the 12 months ended June 30, 2009; the commitment letter stating that the funds remaining from the EPA grant of \$130,169 were available and committed to the Project; and engineering information needed to support the Project, including a copy of General Conditions and Specifications for Miscellaneous Water Storage Tank Replacements and Renovations dated April 2009; a copy of the Report and Study of Water Storage Tank Repair Replacement Project dated January 2007; and a copy of the Project plans. The estimated June 30, 2009 cash flow statement indicated that the City should experience a remaining cash surplus of \$46,350.

On August 25, 2009, the City filed copies of the affidavit of publication for the Notice of Filing, verifying that the required Notice

was published in The Welch News, a qualified newspaper published and generally circulated in McDowell County, on August 17, 2009. The 30-day protest period expired on September 16, 2009, with no written protests or petitions to intervene having been filed either by that date or the date of this Order. Additionally, the City filed an affidavit of notice given by certified mail to its sole resale customer, McDowell County Public Service District.

By Commission Referral Order entered on August 26, 2009, the Commission referred this matter to the Division of Administrative Law Judges for a decision to be rendered on or before November 2, 2009.

On September 28, 2009, the City filed an updated construction cost estimate from its Project Engineer, increasing the estimated construction cost.

On October 1, 2009, Commission Staff filed a motion to extend the Administrative Law Judge's decision due date, in order to accommodate additional time needed by Commission Staff to file its final recommendation. Staff noted that the City filed updated construction costs for the Project in late September 2009, indicating that Project costs had increased. The City has also informed Staff that Project costs may change again. However, the City has not made a filing to show how the projected increased Project costs will be paid. Staff indicated that it needed final estimated Project costs, as well as a commitment letter from a funding agency showing that the increased costs will have funding. It is Staff's understanding that the City is not likely to have a commitment letter for the additional Project costs until early November 2009. Commission Staff represented that the City had no objection to Staff's motion. Staff requested that the recommended decision due date be extended by 45 days and, if the motion was granted, Staff would file its final recommendation on or before November 16, 2009. In the motion, Staff put the City on notice that, should the City not file the needed information for Staff to process the case during the first week of November, Staff may have to file a motion requesting that the case be dismissed.

By Commission Order entered on October 2, 2009, the Administrative Law Judge's decision due date was extended until December 16, 2009.

On October 13, 2009, the City filed another copy of the original BPH binding commitment letter filed with the certificate application.

On November 5, 2009, the City filed a letter from the IJDC, indicating that the IJDC had voted to approve a binding commitment for a \$461,674 IJDC loan, at 0% interest for a term of 40 years, to be used in conjunction with the previously committed funding, for a total Project cost of \$1,841,843.

On November 10, 2009, Staff Attorney Anderson filed the Final Joint Staff Memorandum in this proceeding, attached to which was the Utilities and Engineering Division Final Memorandum prepared by Mr. Lopez and Mr. Mottesheard. The engineering review noted that the City currently provides water service to approximately 1,300 customers in and around the City of Welch in McDowell County. The City also provides water to McDowell County Public Service District as a resale customer. The

proposed Project will allow the City to provide up to 300,000 gallons per day to a new correctional facility being built by the Federal Bureau of Prisons at Indian Ridge. The City's current rates will not be affected by the Project. The current Project cost is \$1,841,843. Commission Staff noted that the Project cost is based upon actual bids. In the event that Project costs increase again, additional funding will have to be secured or the Project scope will have to be reduced to accommodate that revised Project budget. The total cost of planning and engineering services is approximately 14% of total construction cost, which Commission Staff feels is reasonable, based upon similar projects previously reviewed by Commission Staff.

The new correctional facility will require an estimated 300,000 gallons of water per day, which is almost double the current customer consumption at the industrial park. Staff is of the opinion that the current Project is the only alternative for this area. The City anticipates that annual operation and maintenance expenses will increase by \$42,000, which includes one additional full-time employee and increases in power and chemical costs. The Project Engineer also added an additional annual expense of \$43,000 for future tank maintenance. Commission Staff has reviewed the information and believes the City's current rates are adequate to cover the additional annual operation and maintenance expenses of \$85,000. Engineering Staff has reviewed the plans, specifications and other technical documents provided by the City and finds no conflict with the Commission's Rules and Regulations for the Government of Water Utilities (Water Rules). It appears that all necessary permits have been received, but Commission Staff reminded the City that construction cannot begin prior to the City obtaining all required permits. Engineering Staff recommended approval of the Project, contingent upon the City receiving all necessary permits, without specifically approving the Project plans and specifications.

The financial review related the updated funding for the City's Project and verified that all commitment letters had been provided. Commission Staff noted that the City had filed a petition with the Commission in Case No. 08-1697-W-CN (Reopened), which was currently pending before the Commission, in order to obtain Commission approval to transfer the \$130,169 in excess funds from the EPA grant in that case to the instant Project. The City's annual operating revenues will increase from its going-level revenue projection of \$887,000 in the 2008 filing, to a pro forma estimate of operating revenues of \$931,548. The City adopted revised rates and charges by municipal ordinance, which incorporated a 3-phase increase. The third phase of the City's rate increase will become effective on May 10, 2010, and that increase in tariff rates will provide additional operating revenues of \$44,548. Those additional operating revenues will be sufficient to cover the additional operation and maintenance expenses, debt service and reserve requirements plus provide the Staff-recommended surplus of \$75,793, with debt service coverage of 416%. The Utilities Division concluded that the Project was financially feasible and should be approved.

In summary, Commission Staff recommended that the Commission grant the requested certificate of convenience and necessity; that the proposed funding be approved; that the requested waiver of the filing of the Rule 42 Exhibit be granted; and that various other conditions related to the Project be adopted.

On November 12, 2009, the City filed a letter concurring with the Final Joint Staff Memorandum. The City also noted that it was working on obtaining the remaining certificates of completion with regard to Case No. 08-1697-W-CN.

Also on November 12, 2009, in Case No. 08-1697-W-CN, the City filed its engineer's certificates of substantial completion for Contracts 3 and 4 of that project.

On November 17, 2009, the City filed its engineer's certificates of substantial completion for Contracts 1 and 2 for the 2008 project in Case No. 08-1697-W-CN.

Also on November 17, 2009, the Commission issued an Order in Case No. 08-1697-W-CN (Reopened), granting the City's request to apply its remaining funds of \$130,169 from the EPA grant in that case to the instant certificate proceeding, since the City had filed its certificates of substantial completion and the funds were definitely remaining.

#### DISCUSSION

The Project at issue herein, in and of itself, is not remarkable and appears to be well-justified. There is more than ample proof of need to support the conclusion that the public convenience and necessity require the Project and that the Project appears to be economically and financially viable, based upon the proposed ARRA funding and the City's current water rates and charges. This Project is remarkable because it is one of the SCN applications created by the Public Service Commission in General Order No. 182.09, issued on April 16, 2009. In that General Order, the Commission discussed the process to be followed for water and sewer certificate projects that are to be funded with stimulus funds under the ARRA.<sup>1</sup> The Commission noted that the State Bureau for Public Health will have approximately 19.5 million dollars in federal stimulus funds for water projects, while the DEP will have approximately 61 million dollars for sewer projects. Originally, those projects had to be bid by August 2009 and the contracts awarded by October 2009, although it now appears that the projects had to be bid by October 2009. The economic stimulus projects were made more complicated by the fact that the funding agencies overseeing the distribution of economic stimulus funds would not be finally awarding those funds through a traditional commitment letter until approximately August or September of 2009. Economic stimulus money is awarded on a "first come, first served" basis and there is no guarantee that any project which received a letter from either DEP or the Bureau for Public Health, indicating that a project was eligible for certain level of ARRA funding, will actually receive the originally specified level of ARRA funding, or any ARRA funding at all.

---

<sup>1</sup>While the availability of ARRA funding has generated a flurry of SCN certificate filings with accelerated timelines, there has been no statutory change in the West Virginia Code to accommodate the ARRA funding. For the purposes of W. Va. Code § 24-2-11, ARRA funding is no different from any other funding.

In General Order No. 182.09, the Commission determined that, for already certificated municipal water or sewer projects whose funding packages will change due to the award of ARRA funds, a municipality need not petition the Commission to reopen the certificate proceeding for approval of that revised financing, but, instead, can simply file a letter with the Commission, as a closed entry, detailing the new financing package, with no further Commission action.

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

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

In the event that, after the filing of the letter by the municipally-operated public utility providing the details of the finalized funding package for the certificated project, Commission Staff

concludes, based upon its own independent analysis, that either the specified funding package or the municipal rates are insufficient to cover all project costs, it will be the obligation of Commission Staff to petition the Public Service Commission to reopen the municipal certificate proceeding for the purpose of reviewing the financial viability of the certificated project.

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

#### FINDINGS OF FACT

1. On August 3, 2009, the City of Welch filed an application with the Public Service Commission for a certificate of public convenience and necessity for a project to upgrade and replace water storage tanks to provide reliable water service to the Indian Ridge Industrial Park. The Project has been approved by the IJDC. (See, application filed August 3, 2009; Final Joint Staff Memorandum and attachment filed November 10, 2009).

2. By Notice of Filing Order entered on August 12, 2009, the City of Welch was required to publish a Notice of Filing one time in a newspaper, published and generally circulated in McDowell County, providing anyone affected by the application thirty (30) days in which to file written protests with the Public Service Commission. No protests were filed within the thirty-day protest period or as of the date of this Order. (See, Notice of Filing Order entered August 12, 2009; affidavit of publication filed August 25, 2009; case file generally).

3. The City has received a letter from the West Virginia Bureau for Public Health, informing it that the Project would be awarded economic stimulus funds, under The American Recovery and Reinvestment Act of 2009, with said funding to be in the form of a \$625,000 loan, with 100% debt forgiveness and no annual administrative fee. The City will also receive a DWTRF Base Program loan of \$625,000 at 0% interest for a term of 30 years; an IJDC loan of \$461,674 at 0% interest for a term of 40 years; and \$130,169 from a previous EPA grant. (See, BPH letter dated June 18, 2009, filed August 3, 2009; IJDC letter filed November 5, 2009; Commission Order, November 16, 2009, Case No. 08-1697-W-CN (Reopened)).

4. The Project will not require an additional rate increase. In 2008, the City enacted a three-phase rate increase. The third phase will become effective in May 2010. Based upon those rates, and with adjustment by Commission Staff for different expenses, at project completion, the City should experience a cash flow surplus of \$75,793, with debt service coverage of 416%. (See, Final Joint Staff Memorandum and attachment filed November 10, 2009).

5. Commission Technical Staff has reviewed the original plans and specifications for the Project and has concluded that there are no conflicts with the Commission's Water Rules concerning engineering requirements. (See, Final Joint Staff Memorandum and attachment filed November 10, 2009).

6. The Federal Bureau of Prisons is constructing a new correctional facility at Indian Ridge and will use approximately 300,000 gallons per day, which is almost double the current consumption at the industrial park. The upgrades and renovations to the various water tanks will enable the City to meet that demand. (See, Final Joint Staff Memorandum and attachment filed November 10, 2009).

7. After concluding its review, Commission Staff recommended that a certificate of convenience and necessity be granted to the City of Welch, that the proposed ARRA financing be approved and that various other conditions with regard to certification of the project be adopted. (See, Final Joint Staff Memorandum and attachment filed November 10, 2009).

#### CONCLUSIONS OF LAW

1. The Public Service Commission is empowered to require all public utilities, including municipally-operated public utilities, to demonstrate that a proposed water or sewer project is economically feasible and financially viable by demonstrating that they have secured adequate funding to cover all project costs, as those project costs are determined to be at the conclusion of the bidding process, and that the resulting rates are just, reasonable, applied without unjust discrimination or preference and based primarily on the cost of providing service. See, W. Va. Code §24-2-4b; State ex. rel. Public Service Commission v. Town of Fayetteville, 212 W. Va. 427, 573 S.E.2d 338 (2002); Town of Man and Man Water Works, Inc., Case No. 81-433-W-PC, Order Affirming Hearing Examiner's Decision, April 16, 1982, 69 ARPSCWV 1893; Ohio County Public Service Commission, Case No. 82-482-S-CN, Order Affirming Hearing Examiner's Decision Without Prejudice, April 8, 1983, 70 ARPSCWV 2049. See also, Sexton v. Public Service Commission, 188 W. Va. 305, 423 S.E.2d 914, (1992).

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

3. The public convenience and necessity require the proposed project.

4. The current rates and charges of the City of Welch appear to be sufficient to cover all project-related costs, as well as the City's going-level operation and maintenance expenses.

5. The proposed funding package for the project, including the BPH loan of ARRA funds in the amount of \$625,000, with 100% debt forgiveness

and no annual administrative fee, is reasonable and is sufficient to cover the cost of the project, at its current cost estimates.

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

7. A certificate of convenience and necessity should be granted to the City of Welch for the project specified herein, without specifically approving the project's plans and specifications.

#### ORDER

IT IS, THEREFORE, ORDERED that the application filed by the City of Welch on August 3, 2009, for a certificate of convenience and necessity to upgrade and replace water storage tanks to serve Indian Ridge Industrial Park, all as more particularly described in the plans and specifications filed with the application, at a total cost of approximately \$1,841,843, be, and it hereby is, granted, without specifically approving the plans and specifications filed herein.

IT IS FURTHER ORDERED that the proposed project financing package, consisting of a loan in the amount of \$625,000 from the Bureau for Public Health, with 100% debt forgiveness and no annual administrative fee, using funds provided by The American Recovery and Reinvestment Act of 2009, a \$625,000 loan from the Drinking Water Treatment Revolving Fund at 0% interest for a term of 30 years, a West Virginia Infrastructure and Jobs Development Council loan in the amount of \$461,674 at 0% interest for a term of 40 years, and \$130,169 in funds left over from an Environmental Protection Agency grant awarded for the City's project certificated in Case No. 08-1697-W-CN, be, and it hereby is, approved. Upon finalization of the funding package, the City of Welch shall file a letter with the Commission detailing the specifics of that funding package, including the terms and conditions of any loans awarded. If the funding package is revised, but still includes ARRA funds, the City is not required to petition the Commission for approval of that revised project financing, as long as the revised ARRA funding package does not require an additional rate increase. It will be sufficient for the City to file the revised funding commitment documentation, along with a certification from its certified public accountant or bond counsel that the revised funding package is adequate to cover all project costs and will not require any additional rate increase.

IT IS FURTHER ORDERED that, if the project scope changes, if project costs or financing require a rate increase, or if, ultimately, the City of Welch does not receive any ARRA funding, the City of Welch petition the Commission for approval of such change(s) prior to commencing construction.

IT IS FURTHER ORDERED that the City of Welch cannot proceed to construction unless and until it has received all required federal, state and local permits, and unless the finally-awarded ARRA funding package is

adequate to cover all project costs, as determined at the conclusion of the bidding process with a bid awarded for each construction contract or vendor contract for the project.

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

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

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

IT IS FURTHER ORDERED that the City's petition for a waiver of the requirement to file a Rule 42 Exhibit in this proceeding be, and hereby is, granted.

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

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

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

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

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



Melissa K. Marland  
Chief Administrative Law Judge

MKM:cdk  
091280a.wpd



**WEST VIRGINIA**

Infrastructure & Jobs Development Council

Case No. 09-1280-W-SEN

Gov. Joe Manchin, III  
Chairman

Kenneth Lowe, Jr.  
Public Member

Dwight Calhoun  
Public Member

David "Bones" McComas  
Public Member

Ron Justice  
Public Member

Angela K. Chestnut, P.E.  
Executive Director

Barbara J. Pauley  
Administrative Secretary

November 5, 2009

The Honorable Martha Moore  
Mayor, City of Welch  
88 Howard Street  
Welch, WV 24801

Re: City of Welch  
Water Project 2008-1015 Binding Commitment

Dear Mayor Moore:

At its November 5, 2009 meeting, the West Virginia Infrastructure and Jobs Development Council (Infrastructure Council) voted to approve that the City of Welch (City) receive a binding commitment for a \$461,674 Infrastructure Fund loan (0%, 40 yrs) and utilize a \$625,000 Drinking Water Treatment Revolving Fund loan, \$625,000 Drinking Water Treatment Revolving Fund American Recovery and Reinvestment Act assistance and a \$130,169 EPA/SAP grant. Total project cost is \$1,841,843. This project will repair and replacement water storage tanks. The Infrastructure Fund loan will be subject to the terms set forth on Schedule A attached hereto and incorporated herein by reference.

If you have any questions regarding this matter, please contact Angela Chestnut at 304-558-4607 (X201).

Sincerely,

  
Kenneth Lowe, Jr.

Enclosure

cc: Bob Decrease, P.E., BPH (w/o enclosure) (via e-mail)  
Jeff Johnson, Region I Planning & Development Council  
Edward L. Shuff, P.E., Stafford Consultants, Inc.

RECEIVED  
09 NOV - 5 PM 3: 53  
W VA PUBLIC SERVICE  
MANICOM  
OFFICE

**WEST VIRGINIA INFRASTRUCTURE & JOBS DEVELOPMENT COUNCIL**

City of Welch  
Water Project 2008W-1015

**SCHEDULE A**

- A. Approximate Amount: \$ 461,674    Loan
- B. Loan: \$ 461,674
1. Maturity Date: 40 years from date of closing.
  2. Interest Rate: 0%
  3. Loan Advancement Date(s): Monthly, upon receipt of proper requisition.
  4. Debt Service Commencement: The first quarter following completion of construction, which date must be identified prior to closing.
  5. Special Conditions: None
- C. Other Funding:    DWTRF loan    \$ 625,000  
                         DWTRF ARRA    625,000  
                         EPA/SAP grant    130,169
- D. Total Project Cost:                    \$1,841,843
- E. Proposed User Rates:                Approximately \$29.50 / 4000 gallons

RECEIVED  
09 NOV -5 PM 3:53  
WV VA PUBLIC SERVICE  
COMMISSION  
DIVISION OF PUBLIC SERVICE

# West Virginia Infrastructure & Jobs Development Council

Public Members:  
Kenneth Lowe, Jr.  
Shepherdstown  
Dwight Calhoun  
Petersburg  
Dave McComas  
Prichard  
Ron Justice  
Morgantown

300 Summers Street, Suite 980  
Charleston, West Virginia 25301  
Telephone: (304) 558-4607  
Facsimile: (304) 558-4609

Jefferson E. Brady, PE  
Executive Director

Jefferson.Brady@verizon.net

April 3, 2008

The Honorable Martha Moore  
Mayor, City of Welch  
88 Howard Street  
Welch, West Virginia 24740

Re: Town of Welch  
Water Project 2008W-1015

Dear Mayor Moore:

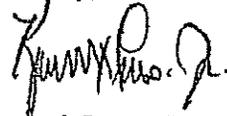
The West Virginia Infrastructure and Jobs Development Council (the "Council") has reviewed the Town of Welch's (the "Town") preliminary application to repair and replace water storage tanks (the "Project").

Based on the findings of the Water Technical Review Committee, the Council has determined that the Project is technically feasible within the guidelines of the Infrastructure and Jobs Development Act. The Town should carefully review the enclosed comments of the Water Technical Review Committee as the Town may need to address certain issues raised in said comments as it proceeds with the Project.

Upon consideration of the preliminary application, the Council determined that the Town should pursue a \$926,000 Drinking Water Treatment Revolving Fund loan to fund this project. Please contact the West Virginia Bureau for Public Health office at 558-6715 for specific information on the steps the Town needs to follow to apply for these funds. **Please note that this letter does not constitute funding approval from this agency.**

If you have any questions regarding this matter, please contact Jeff Brady at 558-4607.

Sincerely,



Kenneth Lowe, Jr.

Enclosure

cc: Bob DeCrease, P.E., BPH (w/o enclosure)  
Region I Planning & Development Council  
James Bolton, P.E., Stafford Consultants, Inc.

CITY OF WELCH

Water Revenue Bonds, Series 2009 A  
(West Virginia DWTRF Program);  
Water Revenue Bonds, Series 2009 B  
(West Virginia DWTRF Program/ARRA), and  
Water Revenue Bonds, Series 2009 C  
(West Virginia Infrastructure Fund)

CROSS-RECEIPT FOR BOND AND BOND PROCEEDS

On this 18th day of December, 2009, 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 Welch (the "Issuer"), for and on behalf of the Issuer, hereby certify as follows:

1. On the date hereof, the Authority received the Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program), of the Issuer, in the principal amount of \$625,000, numbered AR-1 (the "Series 2009 A Bonds"), the Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA), in the principal amount of \$625,000, numbered BR-1 (the "Series 2009 B Bonds") and Water Revenue Bonds, Series 2009 C (West Virginia Infrastructure Fund), in the principal amount of \$461,674, numbered CR-1 (the "Series 2009 C Bonds") each issued as a single, fully registered Bond, and dated December 18, 2009 (collectively, the "Bonds").

2. At the time of such receipt of the Bonds upon original issuance, the Bonds had been executed by the Mayor and the Clerk 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 Series 2009 A Bonds, of the sum of \$31,250, being a portion of the principal amount of the Series 2009 A Bonds. The balance of the principal amount of the Series 2009 A Bonds will be advanced to the Issuer by the Authority on behalf of the West Virginia Bureau for Public Health as acquisition and construction of the Project progresses.

4. The Issuer has received and hereby acknowledges receipt from the Authority, as the original purchaser of the Series 2009 B Bonds, of the sum of \$-0-, being a portion of the principal amount of the Series 2009 B Bonds. The balance of the principal amount of the Series 2009 B Bonds will be advanced by the Authority and the West Virginia Bureau for Public Health to the Issuer as acquisition and construction of the Project progresses.

5. The Issuer has received and hereby acknowledges receipt from the Authority, as the original purchaser of the Series 2009 C Bonds, of the sum of \$-0-, being a portion of the principal amount of the Series 2009 C Bonds. The balance of the principal amount of the Series 2009 C Bonds will be advanced by the Authority and the West Virginia Infrastructure and Jobs Development Council to the Issuer as acquisition and construction of the Project progresses.

---

[Remainder of Page Intentionally Blank]

Dated as of the day and year first above written.

WEST VIRGINIA WATER DEVELOPMENT  
AUTHORITY

By: Carol A. Cummings  
Its: Authorized Representative

CITY OF WELCH

By: Frank Cosley  
Its: Mayor Pro Tem

CITY OF WELCH

Water Revenue Bonds, Series 2009 A  
(West Virginia DWTRF Program);  
Water Revenue Bonds, Series 2009 B  
(West Virginia DWTRF Program/ARRA); and  
Water Revenue Bonds, Series 2009 C  
(West Virginia Infrastructure Fund)

DIRECTION TO AUTHENTICATE AND DELIVER BONDS

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

Ladies and Gentlemen:

On this 18th day of December, 2009, there are delivered to you herewith:

(1) Bond No. AR-1, constituting the entire original issue of the City of Welch Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program), in the principal amount of \$625,000, dated December 18, 2009 (the "Series 2009 A Bonds"), Bond No. BR-1, constituting the entire original issue of Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA), in the principal amount of \$625,000, dated December 18, 2009 (the "Series 2009 B Bonds") and Bond No. CR-1, constituting the entire original issue of Water Revenue Bonds, Series 2009 C (West Virginia Infrastructure Fund), in the principal amount of \$461,674, dated December 18, 2009 (the "Series 2009 C Bonds") (collectively, the "Bonds"), executed by the Mayor and the Clerk of the City of Welch (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 7, 2009, and a Supplemental Resolution duly adopted by the Issuer on December 7, 2009 (collectively, the "Bond Legislation");

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

(3) Executed counterparts of the ARRA Assistance Agreement dated December 18, 2009 (the "ARRA Assistance Agreement") by and between the Issuer and the West Virginia Water Development Authority (the "Authority") on behalf of the West Virginia Bureau for Public Health (the "BPH") and the loan agreement dated December 18, 2009 (the "Loan Agreement"), by and between the Issuer and the West Virginia Water Development Authority on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council") (collectively, the "Loan Agreements"); and

(4) An executed opinion of nationally recognized bond counsel regarding the validity of the Loan Agreements and the Bonds.

You are hereby requested and authorized to deliver the Series 2009 A Bonds to the Authority upon payment to the Issuer of the sum of \$31,250, representing a portion of the principal amount of the Series 2009 A Bonds. You are further hereby requested and authorized to deliver the Series 2009 B Bonds to the Authority upon payment to the Issuer of the sum of \$-0-, representing a portion of the principal amount of the Series 2009 B Bonds. You are further hereby requested and authorized to deliver the Series 2009 C Bonds to the Authority upon payment to the Issuer of the sum of \$-0-, representing a portion of the principal amount of the Series 2009 C 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.

[Remainder of Page Intentionally Left Blank]

Dated as of the date first written above.

CITY OF WELCH

By: Frank Cooley  
Its: Mayor Pro Tem

12.03.09  
950640.00003

SPECIMEN

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

No. AR-1

\$625,000

KNOW ALL MEN BY THESE PRESENTS: That on this the 18th day of December, 2009, the CITY OF WELCH, a municipal corporation and political subdivision of the State of West Virginia in McDowell 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 SIX HUNDRED TWENTY FIVE THOUSAND DOLLARS (\$625,000), 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, the principal of, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2011 to and including June 1, 2041 as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference. This Bond shall not be subject to the DWTRF Administrative fee (as defined in the hereinafter describe Bond Legislation).

This Bond shall bear no interest. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent").

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Bureau for Public Health (the "BPH"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the ARRA Assistance Agreement by and between the Issuer and the Authority, on behalf of the BPH, dated December 18, 2009.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain additions, betterments and improvements to the existing public waterworks system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of the Bonds and related costs. The existing public waterworks system of the Issuer, 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 8, Article 19 and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended (collectively, the "Act"), a Bond Ordinance duly enacted by the Issuer on December 7, 2009, and a Supplemental Resolution duly adopted by the Issuer on December 7, 2009 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The

Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S (I) WATER REVENUE BONDS, SERIES 2009 B (WEST VIRGINIA DWTRF PROGRAM/ARRA) DATED DECEMBER 18, 2009, ISSUED SIMULTANEOUSLY HEREWITH IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$625,000 (THE "SERIES 2009 B BONDS") AND (II) WATER REVENUE BONDS, SERIES 2009 C (WEST VIRGINIA INFRASTRUCTURE FUND), DATED DECEMBER 18, 2009, ISSUED SIMULTANEOUSLY HEREWITH IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$461,674 (THE "SERIES 2009 C BONDS"). THE SERIES 2009 A BONDS, THE SERIES 2009 B BONDS AND THE SERIES 2009 C BONDS ARE HEREINAFTER REFERRED TO AS THE "SERIES 2009 BONDS."

OTHER THAN THE SERIES 2009 BONDS, THE ISSUER HAS NO BONDS OR OBLIGATIONS WHICH IS SECURED BY GROSS REVENUES OF THE SYSTEM.

This Bond is payable only from and secured by a pledge of the Gross Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on a parity with the Series 2009 B Bonds and Series 2009 C Bonds, and from monies in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 2009 A Bonds Reserve Account"), and unexpended proceeds of the Bonds. Such Gross Revenues shall be sufficient to pay the principal of and interest on all Bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest, if any, hereon, except from said special fund provided from the Gross Revenues, the monies in the Series 2009 A Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds, and all other obligations secured by a lien on or payable from such revenues on a parity with the Bonds, including the Series 2009 B Bonds and the Series 2009 C Bonds; provided however, that so long as there exists in the Series 2009 A Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with the Bonds, including the Series 2009 B Bonds and the Series 2009 C Bonds an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds, for the terms of which reference is made to the Bond Legislation. Remedies

provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

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

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

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

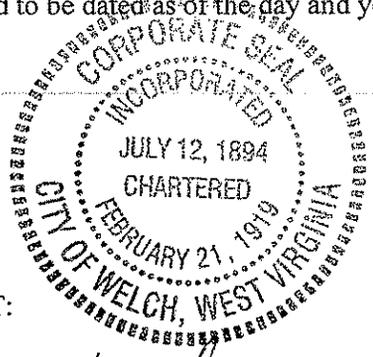
IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond do exist, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond,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

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

[Remainder of Page Intentionally Blank]

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

[SEAL]



*Frank Cooley*  
\_\_\_\_\_  
Mayor

ATTEST:

*Rolind D. Lee*  
\_\_\_\_\_  
Clerk

SPECIMEN

SPECIMEN

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

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

Date: December 18, 2009.

THE HUNTINGTON NATIONAL BANK,  
as Registrar

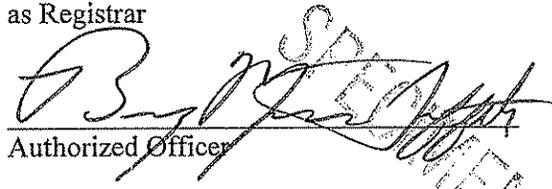
  
Authorized Officer

EXHIBIT A

RECORD OF ADVANCES

AMOUNT	DATE	AMOUNT	DATE
(1) \$31,250	December 18, 2009	(19)	
(2)		(20)	
(3)		(21)	
(4)		(22)	
(5)		(23)	
(6)		(24)	
(7)		(25)	
(8)		(26)	
(9)		(27)	
(10)		(28)	
(11)		(29)	
(12)		(30)	
(13)		(31)	
(14)		(32)	
(15)		(33)	
(16)		(34)	
(17)		(35)	
(18)		(36)	

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

EXHIBIT B

DEBT SERVICE SCHEDULE

---

(Form of)

ASSIGNMENT

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

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

Dated: \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_

In the presence of:

\_\_\_\_\_

---

---

**BOND DEBT SERVICE**

City of Welch

0% Interest Rate

30 Years

Dated Date 12/18/2009

Delivery

Date 12/18/2009

<u>Period</u> <u>Ending</u>	<u>Principal</u>	<u>Interest</u>	<u>Debt Service</u>
12/18/2009			
9/1/2011	5,209		5,209
12/1/2011	5,209		5,209
3/1/2012	5,209		5,209
6/1/2012	5,209		5,209
9/1/2012	5,209		5,209
12/1/2012	5,209		5,209
3/1/2013	5,209		5,209
6/1/2013	5,209		5,209
9/1/2013	5,209		5,209
12/1/2013	5,209		5,209
3/1/2014	5,209		5,209
6/1/2014	5,209		5,209
9/1/2014	5,209		5,209
12/1/2014	5,209		5,209
3/1/2015	5,209		5,209
6/1/2015	5,209		5,209
9/1/2015	5,209		5,209
12/1/2015	5,209		5,209
3/1/2016	5,209		5,209
6/1/2016	5,209		5,209
9/1/2016	5,209		5,209
12/1/2016	5,209		5,209
3/1/2017	5,209		5,209
6/1/2017	5,209		5,209
9/1/2017	5,209		5,209
12/1/2017	5,209		5,209
3/1/2018	5,209		5,209
6/1/2018	5,209		5,209
9/1/2018	5,209		5,209
12/1/2018	5,209		5,209
3/1/2019	5,209		5,209
6/1/2019	5,209		5,209
9/1/2019	5,209		5,209
12/1/2019	5,209		5,209
3/1/2020	5,209		5,209
6/1/2020	5,209		5,209
9/1/2020	5,209		5,209
12/1/2020	5,209		5,209
3/1/2021	5,209		5,209
6/1/2021	5,208		5,208
9/1/2021	5,208		5,208
12/1/2021	5,208		5,208
3/1/2022	5,208		5,208
6/1/2022	5,208		5,208

**BOND DEBT SERVICE**  
City of Welch  
0% Interest Rate  
30 Years

Period Ending	Principal	Interest	Debt Service
9/1/2022	5,208		5,208
12/1/2022	5,208		5,208
3/1/2023	5,208		5,208
6/1/2023	5,208		5,208
9/1/2023	5,208		5,208
12/1/2023	5,208		5,208
3/1/2024	5,208		5,208
6/1/2024	5,208		5,208
9/1/2024	5,208		5,208
12/1/2024	5,208		5,208
3/1/2025	5,208		5,208
6/1/2025	5,208		5,208
9/1/2025	5,208		5,208
12/1/2025	5,208		5,208
3/1/2026	5,208		5,208
6/1/2026	5,208		5,208
9/1/2026	5,208		5,208
12/1/2026	5,208		5,208
3/1/2027	5,208		5,208
6/1/2027	5,208		5,208
9/1/2027	5,208		5,208
12/1/2027	5,208		5,208
3/1/2028	5,208		5,208
6/1/2028	5,208		5,208
9/1/2028	5,208		5,208
12/1/2028	5,208		5,208
3/1/2029	5,208		5,208
6/1/2029	5,208		5,208
9/1/2029	5,208		5,208
12/1/2029	5,208		5,208
3/1/2030	5,208		5,208
6/1/2030	5,208		5,208
9/1/2030	5,208		5,208
12/1/2030	5,208		5,208
3/1/2031	5,208		5,208
6/1/2031	5,208		5,208
9/1/2031	5,208		5,208
12/1/2031	5,208		5,208
3/1/2032	5,208		5,208
6/1/2032	5,208		5,208
9/1/2032	5,208		5,208
12/1/2032	5,208		5,208
3/1/2033	5,208		5,208
6/1/2033	5,208		5,208
9/1/2033	5,208		5,208
12/1/2033	5,208		5,208
3/1/2034	5,208		5,208
6/1/2034	5,208		5,208
9/1/2034	5,208		5,208

**BOND DEBT SERVICE**

City of Welch

0% Interest Rate

30 Years

<b>Period Ending</b>	<b>Principal</b>	<b>Interest</b>	<b>Debt Service</b>
12/1/2034	5,208		5,208
3/1/2035	5,208		5,208
6/1/2035	5,208		5,208
9/1/2035	5,208		5,208
12/1/2035	5,208		5,208
3/1/2036	5,208		5,208
6/1/2036	5,208		5,208
9/1/2036	5,208		5,208
12/1/2036	5,208		5,208
3/1/2037	5,208		5,208
6/1/2037	5,208		5,208
9/1/2037	5,208		5,208
12/1/2037	5,208		5,208
3/1/2038	5,208		5,208
6/1/2038	5,208		5,208
9/1/2038	5,208		5,208
12/1/2038	5,208		5,208
3/1/2039	5,208		5,208
6/1/2039	5,208		5,208
9/1/2039	5,208		5,208
12/1/2039	5,208		5,208
3/1/2040	5,208		5,208
6/1/2040	5,208		5,208
9/1/2040	5,208		5,208
12/1/2040	5,208		5,208
3/1/2041	5,208		5,208
6/1/2041	5,209		5,209
	<b>625,000</b>		<b>625,000</b>

SPECIMEN

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

No. BR-1

\$625,000

KNOW ALL MEN BY THESE PRESENTS: That on this the 18th day of December, 2009, the CITY OF WELCH, a municipal corporation and political subdivision of the State of West Virginia in McDowell 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 SIX HUNDRED TWENTY FIVE THOUSAND DOLLARS (\$625,000), 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, forgivable in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2011 to and including June 1, 2021 as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference. This Bond shall not be subject to the DWTRF Administrative fee (as defined in the hereinafter describe Bond Legislation).

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

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Bureau for Public Health (the "BPH"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the ARRA Assistance Agreement by and between the Issuer and the Authority, on behalf of the BPH, dated December 18, 2009.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain additions, betterments and improvements to the existing public waterworks system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of the Bonds and related costs. The existing public waterworks system of the Issuer, 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 8, Article 19 and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended (collectively, the "Act"), a Bond Ordinance duly enacted by the Issuer on December 7, 2009, and a Supplemental Resolution duly adopted by the Issuer on December 7, 2009 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such

bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S (I) WATER REVENUE BONDS, SERIES 2009 A (WEST VIRGINIA DWTRF PROGRAM) DATED DECEMBER 18, 2009, ISSUED SIMULTANEOUSLY HEREWITH IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$625,000 (THE "SERIES 2009 A BONDS") AND (II) WATER REVENUE BONDS, SERIES 2009 C (WEST VIRGINIA INFRASTRUCTURE FUND), DATED DECEMBER 18, 2009, ISSUED SIMULTANEOUSLY HEREWITH IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$461,674 (THE "SERIES 2009 C BONDS"). THE SERIES 2009 A BONDS, THE SERIES 2009 B BONDS AND THE SERIES 2009 C BONDS ARE HEREINAFTER REFERRED TO AS THE "SERIES 2009 BONDS."

OTHER THAN THE SERIES 2009 BONDS, THE ISSUER HAS NO BONDS OR OBLIGATIONS WHICH IS SECURED BY GROSS REVENUES OF THE SYSTEM.

This Bond is payable only from and secured by a pledge of the Gross Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on a parity with the pledge of Gross Revenue in favor of the Holders of the Series 2009 A Bonds and Series 2009 C Bonds, and unexpended proceeds of the Bonds. Such Gross Revenues shall be sufficient to pay the principal of and interest on all Bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest, if any, hereon, except from said special fund provided from the Gross Revenues, the monies in the Series 2009 B Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds, and all other obligations secured by a lien on or payable from such revenues on a parity with the Bonds, including the Series 2009 A Bonds and the Series 2009 C Bonds; provided however, that so long as there exists in the Series 2009 B Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with the Bonds, including the Series 2009 A Bonds and the Series 2009 C Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

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

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

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

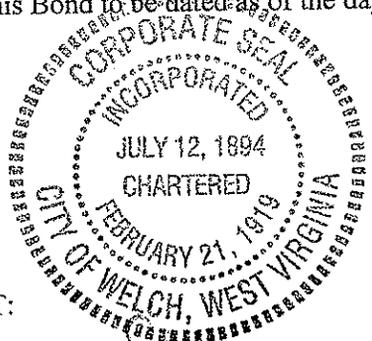
IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond do exist, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond,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

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

[Remainder of page intentionally blank]

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

[SEAL]



*Frank Cooley*  
\_\_\_\_\_  
Mayor

SPECIMEN

ATTEST:

*Robin G. Lee*  
\_\_\_\_\_  
Clerk

SPECIMEN

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

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

Date: December 18, 2009.

THE HUNTINGTON NATIONAL BANK,  
as Registrar

  
Authorized Officer

EXHIBIT A  
RECORD OF ADVANCES

<u>AMOUNT</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>DATE</u>
(1) \$-0-	December 18, 2009	(19)	
(2)		(20)	
(3)		(21)	
(4)		(22)	
(5)		(23)	
(6)		(24)	
(7)		(25)	
(8)		(26)	
(9)		(27)	
(10)		(28)	
(11)		(29)	
(12)		(30)	
(13)		(31)	
(14)		(32)	
(15)		(33)	
(16)		(34)	
(17)		(35)	
(18)		(36)	

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

EXHIBIT B

DEBT SERVICE SCHEDULE

---

---

**BOND DEBT SERVICE**

City of Welch  
10 Years

Dated Date 12/18/2009  
Delivery  
Date 12/18/2009

<b>Period Ending</b>	<b>Debt Service</b>	<b>Principal Forgiveness</b>
12/18/2009		
9/1/2011	15,625	15,625
12/1/2011	15,625	15,625
3/1/2012	15,625	15,625
6/1/2012	15,625	15,625
9/1/2012	15,625	15,625
12/1/2012	15,625	15,625
3/1/2013	15,625	15,625
6/1/2013	15,625	15,625
9/1/2013	15,625	15,625
12/1/2013	15,625	15,625
3/1/2014	15,625	15,625
6/1/2014	15,625	15,625
9/1/2014	15,625	15,625
12/1/2014	15,625	15,625
3/1/2015	15,625	15,625
6/1/2015	15,625	15,625
9/1/2015	15,625	15,625
12/1/2015	15,625	15,625
3/1/2016	15,625	15,625
6/1/2016	15,625	15,625
9/1/2016	15,625	15,625
12/1/2016	15,625	15,625
3/1/2017	15,625	15,625
6/1/2017	15,625	15,625
9/1/2017	15,625	15,625
12/1/2017	15,625	15,625
3/1/2018	15,625	15,625
6/1/2018	15,625	15,625
9/1/2018	15,625	15,625
12/1/2018	15,625	15,625
3/1/2019	15,625	15,625
6/1/2019	15,625	15,625
9/1/2019	15,625	15,625
12/1/2019	15,625	15,625
3/1/2020	15,625	15,625
6/1/2020	15,625	15,625
9/1/2020	15,625	15,625
12/1/2020	15,625	15,625
3/1/2021	15,625	15,625
6/1/2021	15,625	15,625
	<b>625,000</b>	<b>625,000</b>

(Form of)

ASSIGNMENT

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

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

Dated: \_\_\_\_\_, 20\_\_.

\_\_\_\_\_

In the presence of:

\_\_\_\_\_

SPECIMEN

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
CITY OF WELCH  
WATER REVENUE BONDS, SERIES 2009 C  
(WEST VIRGINIA INFRASTRUCTURE FUND)

No. CR-1

\$461,674

KNOW ALL MEN BY THESE PRESENTS: That on this 18th day of December, 2009, the CITY OF WELCH, a municipal corporation and political subdivision of the State of West Virginia in McDowell 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 FOUR HUNDRED SIXTY ONE THOUSAND SIX HUNDRED SEVENTY FOUR DOLLARS (\$461,674), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2011 to and including December 1, 2049 as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference.

This Bond shall bear no interest. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent").

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Infrastructure and Jobs Development Council (the "Council"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement by and between the Issuer and the Authority on behalf of the Council, dated December 18, 2009.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain extensions, additions, betterments and improvements to the waterworks system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance hereof and related costs. The existing public waterworks system of the Issuer, the Project, and any further extensions, additions, betterments or improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 8, Article 19 and Chapter 31, Article 15A of the West Virginia Code of 1931, as amended (collectively, the "Act"), and a Bond Ordinance duly enacted by the Issuer on December 7, 2009, and a Supplemental Resolution duly adopted by the Issuer on December 7,

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

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S (I) WATER REVENUE BONDS, SERIES 2009 A (WEST VIRGINIA DWTRF PROGRAM) DATED DECEMBER 18, 2009, ISSUED SIMULTANEOUSLY HEREWITH IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$625,000 (THE "SERIES 2009 A BONDS") AND (II) WATER REVENUE BONDS, SERIES 2009 B (WEST VIRGINIA DWTRF PROGRAM/ARRA), DATED DECEMBER 18, 2009, ISSUED SIMULTANEOUSLY HEREWITH IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$625,000 (THE "SERIES 2009 B BONDS"). THE SERIES 2009 A BONDS, THE SERIES 2009 B BONDS AND THE SERIES 2009 C BONDS ARE HEREINAFTER REFERRED TO AS THE "SERIES 2009 BONDS."

OTHER THAN THE SERIES 2009 BONDS, THE ISSUER HAS NO BONDS OR OBLIGATIONS WHICH IS SECURED BY GROSS REVENUES OF THE SYSTEM.

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

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

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Bond Legislation, only upon the books of the registrar (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 monies, until so applied, in favor of the registered owner of this Bond.

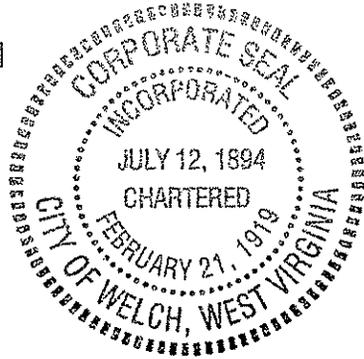
IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond have existed, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this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

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

[Remainder of Page Intentionally Blank]

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

[SEAL]



*Frank Cooley*  
\_\_\_\_\_  
Mayor

SPECIMEN

ATTEST:

*Robin D. Lee*  
\_\_\_\_\_  
Clerk

SPECIMEN

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2009 C 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 18, 2009.

THE HUNTINGTON NATIONAL BANK,  
as Registrar

  
Authorized Officer

SPECIMEN

EXHIBIT A

RECORD OF ADVANCES

<u>AMOUNT</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>DATE</u>
(1) \$-0-	December 18, 2009	(19)	
(2)		(20)	
(3)		(21)	
(4)		(22)	
(5)		(23)	
(6)		(24)	
(7)		(25)	
(8)		(26)	
(9)		(27)	
(10)		(28)	
(11)		(29)	
(12)		(30)	
(13)		(31)	
(14)		(32)	
(15)		(33)	
(16)		(34)	
(17)		(35)	
(18)		(36)	

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

EXHIBIT B

DEBT SERVICE SCHEDULE

**BOND DEBT SERVICE**  
City of Welch  
0% Interest Rate  
40 Years

Dated Date 12/18/2009  
Delivery  
Date 12/18/2009

Period Ending	Principal	Interest	Debt Service
12/18/2009			
9/1/2011	2,998		2,998
12/1/2011	2,998		2,998
3/1/2012	2,998		2,998
6/1/2012	2,998		2,998
9/1/2012	2,998		2,998
12/1/2012	2,998		2,998
3/1/2013	2,998		2,998
6/1/2013	2,998		2,998
9/1/2013	2,998		2,998
12/1/2013	2,998		2,998
3/1/2014	2,998		2,998
6/1/2014	2,998		2,998
9/1/2014	2,998		2,998
12/1/2014	2,998		2,998
3/1/2015	2,998		2,998
6/1/2015	2,998		2,998
9/1/2015	2,998		2,998
12/1/2015	2,998		2,998
3/1/2016	2,998		2,998
6/1/2016	2,998		2,998
9/1/2016	2,998		2,998
12/1/2016	2,998		2,998
3/1/2017	2,998		2,998
6/1/2017	2,998		2,998
9/1/2017	2,998		2,998
12/1/2017	2,998		2,998
3/1/2018	2,998		2,998
6/1/2018	2,998		2,998
9/1/2018	2,998		2,998
12/1/2018	2,998		2,998
3/1/2019	2,998		2,998
6/1/2019	2,998		2,998
9/1/2019	2,998		2,998
12/1/2019	2,998		2,998
3/1/2020	2,998		2,998
6/1/2020	2,998		2,998
9/1/2020	2,998		2,998
12/1/2020	2,998		2,998
3/1/2021	2,998		2,998
6/1/2021	2,998		2,998
9/1/2021	2,998		2,998
12/1/2021	2,998		2,998
3/1/2022	2,998		2,998
6/1/2022	2,998		2,998

BOND DEBT SERVICE

City of Welch

0% Interest Rate

40 Years

Period Ending	Principal	Interest	Debt Service
9/1/2022	2,998		2,998
12/1/2022	2,998		2,998
3/1/2023	2,998		2,998
6/1/2023	2,998		2,998
9/1/2023	2,998		2,998
12/1/2023	2,998		2,998
3/1/2024	2,998		2,998
6/1/2024	2,998		2,998
9/1/2024	2,998		2,998
12/1/2024	2,998		2,998
3/1/2025	2,998		2,998
6/1/2025	2,998		2,998
9/1/2025	2,998		2,998
12/1/2025	2,998		2,998
3/1/2026	2,998		2,998
6/1/2026	2,998		2,998
9/1/2026	2,998		2,998
12/1/2026	2,998		2,998
3/1/2027	2,998		2,998
6/1/2027	2,998		2,998
9/1/2027	2,998		2,998
12/1/2027	2,998		2,998
3/1/2028	2,998		2,998
6/1/2028	2,998		2,998
9/1/2028	2,998		2,998
12/1/2028	2,998		2,998
3/1/2029	2,998		2,998
6/1/2029	2,998		2,998
9/1/2029	2,998		2,998
12/1/2029	2,998		2,998
3/1/2030	2,998		2,998
6/1/2030	2,998		2,998
9/1/2030	2,998		2,998
12/1/2030	2,998		2,998
3/1/2031	2,998		2,998
6/1/2031	2,998		2,998
9/1/2031	2,998		2,998
12/1/2031	2,998		2,998
3/1/2032	2,998		2,998
6/1/2032	2,998		2,998
9/1/2032	2,998		2,998
12/1/2032	2,998		2,998
3/1/2033	2,998		2,998
6/1/2033	2,998		2,998
9/1/2033	2,998		2,998
12/1/2033	2,998		2,998
3/1/2034	2,998		2,998
6/1/2034	2,998		2,998
9/1/2034	2,998		2,998

**BOND DEBT SERVICE**

City of Welch

0% Interest Rate

40 Years

Period Ending	Principal	Interest	Debt Service
12/1/2034	2,998		2,998
3/1/2035	2,998		2,998
6/1/2035	2,998		2,998
9/1/2035	2,998		2,998
12/1/2035	2,998		2,998
3/1/2036	2,998		2,998
6/1/2036	2,998		2,998
9/1/2036	2,998		2,998
12/1/2036	2,998		2,998
3/1/2037	2,998		2,998
6/1/2037	2,998		2,998
9/1/2037	2,998		2,998
12/1/2037	2,998		2,998
3/1/2038	2,998		2,998
6/1/2038	2,998		2,998
9/1/2038	2,998		2,998
12/1/2038	2,998		2,998
3/1/2039	2,998		2,998
6/1/2039	2,998		2,998
9/1/2039	2,998		2,998
12/1/2039	2,998		2,998
3/1/2040	2,998		2,998
6/1/2040	2,998		2,998
9/1/2040	2,998		2,998
12/1/2040	2,998		2,998
3/1/2041	2,998		2,998
6/1/2041	2,998		2,998
9/1/2041	2,998		2,998
12/1/2041	2,998		2,998
3/1/2042	2,998		2,998
6/1/2042	2,998		2,998
9/1/2042	2,998		2,998
12/1/2042	2,998		2,998
3/1/2043	2,998		2,998
6/1/2043	2,998		2,998
9/1/2043	2,998		2,998
12/1/2043	2,998		2,998
3/1/2044	2,998		2,998
6/1/2044	2,998		2,998
9/1/2044	2,998		2,998
12/1/2044	2,998		2,998
3/1/2045	2,998		2,998
6/1/2045	2,997		2,997
9/1/2045	2,997		2,997
12/1/2045	2,997		2,997
3/1/2046	2,997		2,997
6/1/2046	2,997		2,997
9/1/2046	2,997		2,997
12/1/2046	2,997		2,997

City of Welch  
0% Interest Rate  
40 Years

Period Ending	Principal	Interest	Debt Service
3/1/2047	2,997		2,997
6/1/2047	2,997		2,997
9/1/2047	2,997		2,997
12/1/2047	2,997		2,997
3/1/2048	2,997		2,997
6/1/2048	2,997		2,997
9/1/2048	2,997		2,997
12/1/2048	2,997		2,997
3/1/2049	2,997		2,997
6/1/2049	2,997		2,997
9/1/2049	2,997		2,997
12/1/2049	2,998		2,998
	<b>461,674</b>		<b>461,674</b>

(Form of)

ASSIGNMENT

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

Dated: \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_

In the presence of:

\_\_\_\_\_



Chase Tower, Eighth Floor  
P.O. Box 1588  
Charleston, WV 25326-1588  
(304) 353-8000 (304) 353-8180 Fax  
www.steptoe-johnson.com

Writer's Contact Information

December 18, 2009

City of Welch  
Water Revenue Bonds, Series 2009 A  
(West Virginia DWTRF Program)

City of Welch  
Welch, West Virginia

West Virginia Water Development Authority  
Charleston, West Virginia

West Virginia Bureau for Public Health  
Charleston, West Virginia

Ladies and Gentlemen:

We have served as bond counsel in connection with the issuance by the City of Welch (the "Issuer"), a municipal corporation and political subdivision organized and existing under the laws of the State of West Virginia, of its \$625,000 Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program), dated the date hereof (the "Bonds").

We have examined the law and certified copies of proceedings and other papers relating to the authorization of an ARRA Assistance Agreement, dated December 18, 2009, including all schedules and exhibits attached thereto (the "Loan Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority") on behalf of the West Virginia Bureau for Public Health (the "BPH"), and the Bonds, which are to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Bonds are originally issued in the form of one Bond, registered as to principal only to the Authority, bearing no interest, with principal payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2011, to and including June 1, 2041, all as set forth in "Schedule Y" attached to the ARRA Assistance 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 8, Article 19 and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended (collectively, the "Act"), for the purposes of (i) paying a portion of the costs of acquisition and construction of certain extensions, additions, betterments and improvements to the waterworks portion of the existing public waterworks 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 7, 2009, as supplemented by a Supplemental Resolution duly adopted by the Issuer on December 7, 2009 (collectively, the "Bond Legislation"), pursuant to and under which Act and Bond Legislation the Bonds are authorized and issued, and the ARRA Assistance Agreement has been entered into. The Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Bond Legislation and the Loan Agreement. All capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Bond Legislation and the ARRA Assistance Agreement when used herein.

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

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

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

3. The Bond Legislation and all other necessary ordinances and resolutions have been duly and effectively enacted and adopted by the Issuer 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 Gross revenues of the System and secured by a first lien on and pledge of the Gross Revenues, on a parity with respect to liens, pledge and source of and security for payment with the Issuer's: (1) Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA) issued contemporaneously herewith in the original aggregate principal amount of \$625,000, and (2) Water Revenue Bonds, Series 2009 C (West Virginia Infrastructure Fund) issued contemporaneously herewith in the original aggregate principal amount of \$461,674, 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, if any, is exempt from personal and corporate net income taxes imposed directly thereon by the State of West Virginia.

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

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

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

Very truly yours,



STEPHENS & JOHNSON PLLC



Chase Tower, Eighth Floor  
P.O. Box 1588  
Charleston, WV 25326-1588  
(304) 353-8000 (304) 353-8180 Fax  
www.stepToe-johnson.com

Writer's Contact Information

December 18, 2009

City of Welch  
Water Revenue Bonds, Series 2009 B  
(West Virginia DWTRF Program/ARRA)

City of Welch  
Welch, West Virginia

West Virginia Water Development Authority  
Charleston, West Virginia

West Virginia Bureau for Public Health  
Charleston, West Virginia

Ladies and Gentlemen:

We have served as bond counsel in connection with the issuance by the City of Welch (the "Issuer"), a municipal corporation and political subdivision organized and existing under the laws of the State of West Virginia, of its \$625,000 Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA), dated the date hereof (the "Bonds").

We have examined the law and certified copies of proceedings and other papers relating to the authorization of an ARRA Assistance Agreement, dated December 18, 2009, including all schedules and exhibits attached thereto (the "Loan Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority") on behalf of the West Virginia Bureau for Public Health (the "BPH"), and the Bonds, which are to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Bonds are originally issued in the form of one Bond, registered as to principal to the Authority, bearing no interest with principal installments forgivable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2011, to and including June 1, 2021, all as set forth in the "Schedule Y" attached to the ARRA Assistance Agreement and incorporated in and made a part of the Bonds. The Series 2009 B Bonds are not subject to the Administrative Fee.

The Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly, Chapter 8, Article 19 and Chapter 16, Article 13C of the West Virginia Code of 1931, as amended (collectively, the "Act"), for the purposes of (i) paying a portion of the costs of acquisition and construction of certain extensions, additions, betterments and improvements to the waterworks portion of the existing public waterworks 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 7, 2009, as supplemented by a Supplemental Resolution duly adopted by the Issuer on December 7, 2009 (collectively, the "Bond Legislation"), pursuant to and under which Act and Bond Legislation the Bonds are authorized and issued, and the ARRA Assistance Agreement has been entered into. The Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Bond Legislation and the Loan Agreement. All capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Bond Legislation and the ARRA Assistance Agreement when used herein.

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

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

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

3. The Bond Legislation and all other necessary ordinances and resolutions have been duly and effectively enacted and adopted by the Issuer 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 Gross revenues of the System and secured by a first lien on and pledge of the Gross Revenues, on a parity with respect to liens, pledge and source of and security for payment with the Issuer's: (1) Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program) issued contemporaneously herewith in the original aggregate principal amount of \$625,000, (2) Water Revenue Bonds, Series 2009 C (West Virginia Infrastructure Fund) issued contemporaneously herewith in the original aggregate principal amount of \$ 461,674, 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, if any, is exempt from personal and corporate net income taxes imposed directly thereon by the State of West Virginia.

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

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

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

Very truly yours,

  
STEPHENS & JOHNSON PLLC



Chase Tower, Eighth Floor

P.O. Box 1588

Charleston, WV 25326-1588

(304) 353-8000 (304) 353-8180 Fax

www.steptoe-johnson.com

Writer's Contact Information

December 18, 2009

City of Welch  
Water Revenue Bonds, Series 2009 C  
(West Virginia Infrastructure Fund)

City of Welch  
Welch, West Virginia

West Virginia Water Development Authority  
Charleston, West Virginia

West Virginia Infrastructure and Jobs Development Council  
Charleston, West Virginia

Ladies and Gentlemen:

We have served as bond counsel in connection with the issuance by the City of Welch (the "Issuer"), a municipal corporation and political subdivision organized and existing under the laws of the State of West Virginia, of its \$461,674 Water Revenue Bonds, Series 2009 C (West Virginia Infrastructure Fund), 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 December 18, 2009, including all schedules and exhibits attached thereto (the "Loan Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority") on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council"), 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, bearing no interest, with principal payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2011, to and including December 1, 2049 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 8, Article 19 and Chapter 31, Article 15A of the West Virginia Code of 1931, as amended (collectively, the "Act"), for the purposes of (i) paying the costs of acquisition and construction of certain extensions, additions, betterments and improvements to the existing public water 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 7, 2009, as supplemented by a Supplemental Resolution duly adopted by the Issuer on December 7, 2009 (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. All capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Bond Legislation and the Loan Agreement when used herein.

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

1. The Issuer is a duly created and validly existing municipal corporation and political subdivision of the State of West Virginia, with full power and authority to acquire and construct the Project, to operate and maintain the System, to enact the Bond Legislation 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 Council and cannot be amended so as to affect adversely the rights of the Authority or the Council or diminish the obligations of the Issuer without the written consent of the Authority and the Council.

3. The Bond Legislation and all other necessary ordinances and resolutions have been duly and effectively enacted and adopted by the Issuer 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 Gross Revenues of the System referred to in the Bond Legislation and secured by a first lien on and pledge of the Gross Revenues of the System, on a parity with respect to liens, pledge and source of and security for payment with the Issuer's (1) Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program) issued contemporaneously herewith in the original aggregate principal amount of \$ 625,000 and (2) Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA) issued contemporaneously herewith in the original aggregate principal amount of \$625,000, 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, if any, is exempt from personal and corporate net income taxes imposed directly thereon by the State of West Virginia.

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

It is to be understood that the rights of the holders of the Bonds and the enforceability of the Bonds, the 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.

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

Very truly yours,

  
STEPH & JOHNSON PLLC

12.03.09  
950640.00003

LAW OFFICES  
**WILLIAM S. WINFREY, II.**

W. Va. State Bar 4093  
1608 West Main Street  
Post Office Box 1159  
Princeton, West Virginia 24740  
[bill@winfreylaw.com](mailto:bill@winfreylaw.com)

Telephone: (304)487-1887

Facsimile: (304)425-7340

December 18, 2009

File No. 09-016

City of Welch  
Water Revenue Bonds, Series 2009 A  
(West Virginia DWTRF Program);  
Water Revenue Bonds, Series 2009 B  
(West Virginia DWTRF Program/ARRA); and  
Water Revenue Bonds, Series 2009 C  
(West Virginia Infrastructure Fund)

City of Welch  
Welch, West Virginia

West Virginia Water Development Authority  
Charleston, West Virginia

West Virginia Bureau for Public Health  
Charleston, West Virginia

West Virginia Infrastructure and  
Jobs Development Council  
Charleston, West Virginia

Steptoe & Johnson PLLC  
Charleston, West Virginia

Ladies and Gentlemen:

I am counsel to the City of Welch in McDowell County, West Virginia (the "Issuer"), in connection with the above-captioned bond issue. As such counsel, I have examined copies of the approving opinion of Steptoe & Johnson, as bond counsel, an ARRA Assistance Agreement dated December 18, 2009, including all schedules and exhibits attached thereto (the "ARRA Assistance Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority") on behalf of the West Virginia Bureau for Public Health (the "BPH"), a loan agreement dated December 18, 2009, including all schedules and exhibits attached thereto (the "Loan Agreement" and together with the ARRA Assistance Agreement, the "Loan Agreements"), by and between the Issuer and the Authority on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council"), a Bond Ordinance duly enacted by the Issuer on December 7, 2009, as supplemented by a Supplemental Resolution duly adopted by the Issuer on December 7, 2009 (collectively, the "Bond Legislation"), and other documents relating to the above-captioned Bonds of the Issuer (the "Bonds"). All capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Bond Legislation and the Loan Agreements when used herein.

I am of the opinion that:

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

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

3. The Loan Agreements have been duly authorized, executed and delivered by the Issuer and, assuming due authorization, execution and delivery by the Authority, the BPH and the Council, constitutes a valid and binding agreement of the Issuer enforceable in accordance with its terms.

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

5. The Issuer has received all permits, licenses, approvals, exemptions, consents, registrations, certificates and authorizations required by law for the issuance of the Bonds, the acquisition and construction of the Project, the operation of the System and the imposition of rates and charges for use of the System, including, without limitation, the receipt of all requisite orders and approvals from the West Virginia Bureau for Public Health, the West Virginia Infrastructure and Jobs Development Council and the Public Service Commission of West Virginia, and has taken any other action required for the imposition of such rates and charges, including, without limitation, the enactment of an ordinance dated March 31, 2008 prescribing such rates and charges. The time for appeal of the Final Order has not expired prior to the date hereof; however, the parties to such order have indicated that they do not intend to appeal the Order. The Order remains in full force and effect.

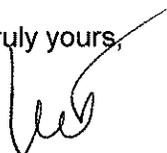
6. The Issuer has received the Recommended Decision of the Public Service Commission of West Virginia in Case No. 09-1280-W-SCN entered on November 19, 2009, which became Final Order on December 9, 2009, among other things, granting to the Issuer a certificate of public convenience and necessity for the Project and approving the financing for the Project. The time for appeal of the Final Order has not expired prior to the date hereof; however, the parties to such order have indicated that they do not intend to appeal the Order. The Order remains in full force and effect.

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

8. Prior to construction I will ascertain that all successful bidders have provided the drug-free workplace affidavit, submitted their drug free workplace plan, and the contracts contain language that comply with the Drug Free Workplace Act, Article 1D, Chapter 21 of the West Virginia Code. Prior to construction I will ascertain that all successful bidders have made required provisions for all insurance and payment and performance bonds and such insurance policies or binders and such bonds will be verified for accuracy and the surety bonds and the policies or other evidence of insurance coverage in connection with the Project, and ensure that such surety bonds and policies (i) are in compliance with the contracts; (ii) are adequate in form, substance and amount to protect the various interests of the Issuer; (iii) have been executed by duly authorized representatives of the proper parties; (iv) meet the requirements of the Act, the Bond Legislation and the Loan Agreements; and (vi) all such documents constitute valid and legally binding obligations of the parties thereto in accordance with the terms, conditions and provisions thereof.

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

Very truly yours,



WILLIAM S. WINFREY, II, ESQUIRE

LAW OFFICES  
**WILLIAM S. WINFREY, II.**

W. Va. State Bar 4093  
1608 West Main Street  
Post Office Box 1159  
Princeton, West Virginia 24740  
[bill@winfreylaw.com](mailto:bill@winfreylaw.com)

Telephone: (304)487-1887

December 18, 2009

Facsimile: (304)425-7340  
File No. 09-016

City of Welch, West Virginia  
88 Howard Street  
Welch, WV 24801

West Virginia Infrastructure and Jobs Development Council  
300 Summers Street, Suite 980  
Charleston, WV 25301

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

West Virginia Bureau of Public Health  
1 Davis Square, Suite 200  
Capitol and Washington Streets  
Charleston, WV 25301-1798

Re: Final Title Opinion for City of Welch, West Virginia  
Indian Ridge – Water Tanks Project

Ladies and Gentlemen:

We are counsel to the City of Welch, West Virginia, (the "Issuer") in connection with a proposed project to upgrade and replace storage tanks, which project is known as the Indian Ridge Water Tanks Project (the "Project"). We provide this final title opinion on behalf of the Issuer to satisfy the requirements of the West Virginia Infrastructure and Jobs Development Council (the "Council") and the West Virginia Bureau of Public Health for the Project. Please be advised of the following:

1. The Issuer is a duly created and validly existing municipality possessed with all the powers and authority granted to municipalities under the laws of the State of West Virginia to construct, operate and maintain the Project as approved by the West Virginia Department of Environmental Protection.

City of Welch, West Virginia  
West Virginia Infrastructure and Jobs Development Council  
West Virginia Water Development Authority  
West Virginia Bureau of Public Health  
December 18, 2009  
Page 2

2. The Issuer has obtained all necessary permits and approvals for the construction of the Project.

3. We have investigated and ascertained the location of, and are familiar with the legal description of, the necessary sites, including easements and/or rights of way, required for the Project as set forth in the plans for the Project prepared by Stafford Consultants, Inc., the consulting engineers for the Project.

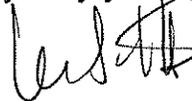
4. We have examined the records on file in the Office of the Clerk of the County Commission of McDowell County, West Virginia, the county in which the Project is to be located, and, in our opinion, the Issuer has acquired legal title or such other estate or interest in all of the necessary site components for the Project, including all easements and/or rights of way, with the exception of those listed in Paragraph 5, sufficient to assure undisturbed use and possession for the purpose of construction, operation and maintenance for the estimated life of the Project.

5. The following listed properties are to be acquired by eminent domain and the necessary filings have been made in the Office of the Clerk of the Circuit Court of McDowell County, West Virginia, to permit the Issuer a right-of-entry for the purpose of construction, operation and maintenance of the Project on the subject properties. The Issuer's title thereto is defeasible in the event the Issuer does not satisfy any resulting judgment and/or award in the proceedings for acquisition of said properties, and our certification is subject to the following pending litigation:

Name	Tax Map	Parcel
None		

6. All deeds, easements and rights of way which have been acquired to date by the Issuer have been duly recorded in the Office of the Clerk of the County Commission of McDowell County to protect the legal title to and interest of the Issuer.

Very truly yours,



William S. Winfrey, II

WSW,II/saw

City of Welch, West Virginia  
West Virginia Infrastructure and Jobs Development Council  
West Virginia Water Development Authority  
West Virginia Bureau of Public Health  
December 18, 2009  
Page 3

cc: Region I Planning & Development Council  
Stafford Consulting, Incorporated  
Step toe & Johnson, PLLC

CITY OF WELCH

Water Revenue Bonds, Series 2009 A  
(West Virginia DWTRF Program);  
Water Revenue Bonds, Series 2009 B  
(West Virginia DWTRF Program/ARRA); and  
Water Revenue Bonds, Series 2009 C  
(West Virginia Infrastructure Fund)

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 AGREEMENTS
11. INSURANCE
12. VERIFICATION OF SCHEDULE
13. RATES
14. SIGNATURES AND DELIVERY
15. BOND PROCEEDS
16. PUBLICATION OF PUBLIC HEARING ON BOND ORDINANCE
17. PUBLIC SERVICE COMMISSION ORDERS
18. SPECIMEN BOND
19. CONFLICT OF INTEREST
20. GRANTS
21. PROCUREMENT OF ENGINEERING SERVICES
22. SAFE DRINKING WATER ACT
23. EXECUTION OF COUNTERPARTS

On this 18th day of December, 2009, we, the undersigned MAYOR and CLERK of the City of Welch in McDowell County, West Virginia (the "Issuer"), and the undersigned COUNSEL TO THE ISSUER, hereby certify in connection with the City of Welch Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program) (the "Series 2009 A Bonds"), Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA) (the "Series 2009 B Bonds") and Water Revenue Bonds, Series

2009 C (West Virginia Infrastructure Fund) (the "Series 2009 C Bonds") dated the date hereof (collectively, the "Bonds" or the "Series 2009 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 in the Bond Ordinance of the Issuer duly enacted December 7, 2009, and the Supplemental Resolution duly adopted December 7, 2009 (collectively, the "Bond Legislation").

2. NO LITIGATION: No controversy or litigation of any nature is now pending or threatened, restraining, enjoining or affecting in any manner the issuance, sale or delivery of the Bonds, the 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 Gross 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.

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 Agreements, and the Issuer has met all conditions prescribed in the Loan Agreements. The Issuer has or can provide the financial, institutional, legal and managerial capabilities necessary to complete and operate the Project.

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

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

Bond Ordinance

Supplemental Resolution

ARRA Assistance Agreement for the Series 2009 A Bonds and Series 2009 B Bonds

Loan Agreement for the Series 2009 C Bonds

Public Service Commission Orders

Infrastructure Council Approval

Charter and Rules of Procedure

Oaths of Office of Officers and Councilmembers

Water Rate Ordinance

Minutes on Adoption and Enactment of Rate Ordinance

Affidavits of Publication of Rate Ordinance and Notice of Public Hearing

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

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

Evidence of Insurance

Bureau for Public Health Permit

6. INCUMBENCY AND OFFICIAL NAME: The proper corporate title of the Issuer is "City of Welch." The Issuer is a municipal corporation in McDowell 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 Clerk and 5 councilmembers, all duly elected, 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>
Martha Moore, Mayor	July 1, 2006	June 30, 2010
James R. Ingole	July 1, 2006	June 30, 2010
Emily Yeager	July 1, 2006	June 30, 2010
Mark W. Jones	July 1, 2006	June 30, 2010
William R. Spencer	July 1, 2006	June 30, 2010
Frank Cooley	July 1, 2006	June 30, 2010

Frank Cooley was appointed Mayor Pro Tem for the purposes of the Closing. The duly appointed Clerk is Robin G. Lee and acting Counsel to the Issuer is William Winfrey, Esquire, of Princeton, 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, operation and financing of the Project or 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. The successful bidders have provided the Drug-Free Workplace Affidavit as evidence of compliance with the provisions of Article 1D, Chapter 21 of the West Virginia Code. All insurance for the System required by the Bond Legislation is in full force and effect.

10. LOAN AGREEMENTS: As of the date hereof, (i) the representations of the Issuer contained in the Loan Agreements are true and correct in all material respects as if made on the date hereof; (ii) the Loan Agreements do 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 Agreements 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 Agreements not misleading; and (iv) the Issuer is in compliance with the Loan Agreements.

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

The Issuer will serve the additional customers at the location(s) as set forth in Certificate of Engineer. The Issuer will not reduce the amount of additional customers served by the project without the prior written approval of the Board of the Water Development Authority (the "Authority"). Following

completion of the Project the Issuer will certify to the Authority the number of customers added to the System.

11. **INSURANCE:** The Issuer will maintain or, as appropriate, will require all contractors to maintain worker's compensation, public liability, property damage insurance, standard hazard insurance, builder's risk insurance, flood insurance and business interruption insurance, where applicable, in accordance with the Resolution and the Loan Agreement. All insurance for the System required by the Resolution and the Loan Agreement are in full force and effect.

12. **VERIFICATION OF SCHEULE:** The final Schedule B attached to the Certificate of Consulting Engineer, accurately represents the estimated costs of the Project, the sources of funds available to pay the costs of the Project and the costs of financing of the Bonds.

13. **RATES:** The Issuer has duly enacted a water rate ordinance March 31, 2008, setting forth the respective rates and charges for the services of the water portion of the System. The time for appeal of such rate ordinance has expired prior to the date hereof without any appeal, and such rate ordinance is currently in effect.

14. **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 Clerk 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, register 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.

15. **BOND PROCEEDS:** On the date hereof, the Issuer received \$31,250 from the Authority and the BPH, being a portion of the principal amount of the Series 2009 A Bonds, \$-0- from the Authority and the BPH, being a portion of the principal amount of the Series 2009 B Bonds and \$-0- from the Authority and the Council, being a portion of the Series 2009 C Bonds. The balance of the principal amount of the Bonds will be advanced to the Issuer as acquisition and construction of the Project progresses.

16. **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 *Welch Daily News*, a newspaper published and of general circulation in the City of Welch, together with a notice to all persons concerned, stating that the Bond Ordinance had been adopted and that the Issuer contemplated the issuance of the Bonds described in such Bond Ordinance, stating that any person interested may appear before the Governing Body at the public hearing held at a public meeting of the Governing Body on the 7th day of December, 2009, at 5:30 p.m., at the City Hall and present protests, and stating that a certified copy of the Bond Ordinance was on file at the office of the Clerk of the Issuer for review by interested parties during the office hours of the Issuer. At such hearing all objections and suggestions were heard by

the Governing Body and the Bond Ordinance became finally adopted, enacted and effective as of the date of such public hearing, and remains in full force and effect.

17. PUBLIC SERVICE COMMISSION ORDER: The Issuer has received the Recommended Decision of the Public Service Commission of West Virginia in Case No. 09-1280-W-SCN entered on November 19, 2009, which became Final Order on December 9, 2009, among other things, 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 Final Order has not expired prior to the date hereof, however, the parties to such Order agree not to appeal the Order. The Order remains in full force and effect.

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

19. 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.

20. GRANTS: On the date hereof, the U.S. Environmental Protection Agency grant in the amount of \$130,169 is in full force and effect.

21. PROCUREMENT OF ENGINEERING SERVICES: The Issuer has complied in all respects with the requirements of Chapter 5G, Article 1 of the West Virginia Code of 1931, as amended, in the procurement of engineering services to be paid from proceeds of the Bonds. Counsel to the Issuer makes no representation regarding this paragraph.

22. SAFE DRINKING WATER ACT: The Project as described in the Bond Legislation complies with the Safe Drinking Water Act.

23. EXECUTION OF COUNTERPARTS: This document may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same document.

[Remainder of Page Intentionally Blank]

WITNESS our signatures and the official seal of the CITY OF WELCH as of the date first written above.

[CORPORATE SEAL]

SIGNATURE

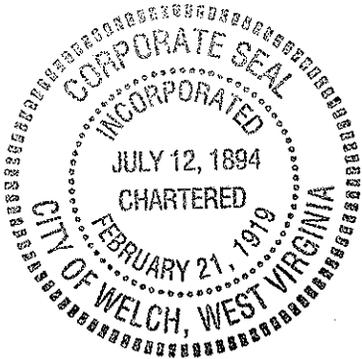
OFFICIAL TITLE

Frank Cooley  
Robin D. Lee

Mayor

Clerk

Counsel to Issuer



WITNESS our signatures and the official seal of the CITY OF WELCH as of the date first written above.

[CORPORATE SEAL]

SIGNATURE

OFFICIAL TITLE

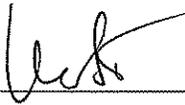
\_\_\_\_\_

Mayor

\_\_\_\_\_

Clerk

\_\_\_\_\_

A handwritten signature in black ink, appearing to be 'Welch', is written over the signature line.

Counsel to Issuer

EXHIBIT A

SPECIAL CONDITIONS – ARRA FUNDED PROJECTS

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

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

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

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

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

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

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

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

I. SUSPENSION AND DEBARMENT – The Local Entity shall comply with Subpart C of 2 CFR Part 180 and 2 CFR Part 1532, entitled “Responsibilities of Participants Regarding

Transactions (Doing Business with Other Persons). To the extent required by BPH, the Local Entity shall provide certifications as to compliance.

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

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

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

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

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

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

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

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

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

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

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

CITY OF WELCH

Water Revenue Bonds, Series 2009 A  
(West Virginia DWTRF Program);  
Water Revenue Bonds, Series 2009 B  
(West Virginia DWTRF Program/ARRA); and  
Water Revenue Bonds, Series 2009 C  
(West Virginia Infrastructure Fund)

CERTIFICATE OF ENGINEER

On this 18th day of December, 2009, I, Edward L. Shutt, Registered Professional Engineer, West Virginia License No. 7314, of Stafford Consultants, Inc., in Princeton, West Virginia, hereby certify as follows:

1. My firm is engineer for the acquisition and construction of certain extensions, additions, betterments and improvements (the "Project") to the waterworks portion of the existing public water system (the "System") of the City of Welch (the "Issuer"), to be constructed in McDowell County, West Virginia, which acquisition and construction are being financed in part by the proceeds of the above-captioned bonds (the "Series 2009 Bonds") of the Issuer. Capitalized terms used herein and not defined herein shall have the same meanings set forth in the Bond Ordinance enacted by the Issuer on December 7, 2009, and the Supplemental Resolution adopted by the Issuer on December 7, 2009, the ARRA Assistance Agreement dated December 18, 2009 by and between the Issuer and the West Virginia Water Development Authority (the "Authority") on behalf of the West Virginia Bureau for Public Health (the "BPH") (the "ARRA Assistance Agreement") and the loan agreement dated December 18, 2009 by and between the Issuer and the Authority on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council") (the "Loan Agreement", and together with the ARRA Assistance Agreement, the "Loan Agreements").

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. To the best of my knowledge, information and belief, (i) within the limits and in accordance with the applicable and governing contractual requirements relating to the Project, the Project will be constructed in general accordance with the approved plans, specifications and designs prepared by my firm and approved by the BPH and the Council and any change orders approved by the Issuer, the BPH and the Council and 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 40 years, if properly constructed, operated and maintained, excepting anticipated replacements due to normal wear and tear; (iii) the Issuer

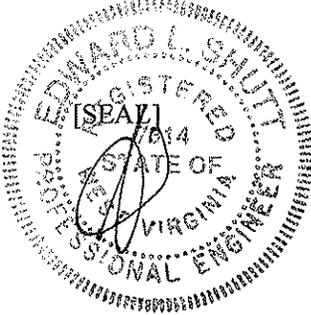
has received bids for the acquisition and construction of the Project which are in an amount and otherwise compatible with the plan of financing described in Schedule B, attached hereto as Exhibit A and the Issuer's counsel, William Winfrey, Esquire, has ascertained that all successful bidders have made required provisions for all insurance and payment and performance bonds and that such insurance policies or binders and such bonds have been verified for accuracy; (iv) the successful bidders received any and all addenda to the original bid documents; (v) the successful bidders have provided the Drug-Free Workplace Affidavit as evidence of compliance with the provisions of Article 1D, Chapter 21 of the West Virginia Code; (vi) the bid documents relating to the Project reflect the Project as approved by the BPH and the Council and the bid forms provided to the bidders contain the critical operational components of the Project; (vii) the successful bids include prices for every item on such bid forms; (viii) the uniform bid procedures were followed; (ix) the Issuer has obtained all applicable permits required by the laws of the State of West Virginia and the United States necessary for the acquisition and construction of the Project and the operation of the System; (x) the net proceeds of the Bonds, together with all other moneys on Deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants, if any, irrevocably committed therefor, are sufficient to pay the costs of acquisition and construction of the Project approved by the BPH and the Council; and (xi) attached hereto as Exhibit A is the final amended "Schedule B - Final Total Cost of Project, Sources of Funds and Costs of Financing" for the Project.

4. I have received the Buy American Certification from each contractor.

5. The Project will serve no new customers.

[Remainder of Page Intentionally Blank]

WITNESS my signature and seal as of the date first written above.



STAFFORD CONSULTANTS, INC.

  
\_\_\_\_\_  
Edward L. Shutt  
West Virginia License No. 7314

11.17.09  
950640.00003

**City of Welch EPA Project # XP-973426-01**

**IJDC# 2008W-1015 09DWTRFA036**

**Welch's Water Storage and Replacement Project**

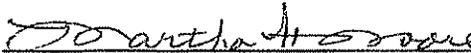
November 2009

**FINAL TOTAL COST OF PROJECT, SOURCES OF FUNDS, AND COST OF FINANCING**

		EPA / SAP	ARRA DWTRF	BASE DWTRF	
	Total	Grant	Debt	LOAN	WV IJDC Loan
<b>A. Cost of Project</b>			Forgiveness	0%, 30 years	
<b>1. Construction</b>					
Contact #1	1,041,400	0	438,760	339,706	262,934
Contact #2	372,480	0	186,240	0	186,240
Construction Other	12,000	0	0	0	12,000
Construction Contingency	71,294	0	0	71,294	0
<b>2. Technical Services</b>	196,500	77,000	0	119,500	0
<b>3. Legal Fees</b>	15,000	10,000	0	5,000	0
<b>4. Administrative</b>	45,000	12,000	0	33,000	0
<b>5. Acquisition Costs</b>	25,000	5,000	0	20,000	0
<b>6. Permits</b>	4,000	4,000	0	0	0
<b>7. Triad Engineering</b>	11,969	11,969	0	0	0
<b>8. Green Tree Consulting</b>	5,200	5,200	0	0	0
<b>9. Project Contingency</b>	16,500	5,000	0	11,000	500
<b>10. Other</b>	0	0	0	0	0
<b>11. Total of Lines 1 through 10</b>	<b>1,816,343</b>	<b>130,169</b>	<b>625,000</b>	<b>599,500</b>	<b>461,674</b>
<b>B. COST OF FINANCING</b>					
<b>12. Other costs</b>					
a. Bond Counsel	24,000	0	0	24,000	0
b. Registrar Fee	1,500	0	0	1,500	0
<b>13. Cost of Issuance</b>	25,500	0	0	25,500	0
<b>14. TOTAL PROJECT COSTS</b>	<b>1,841,843</b>	<b>130,169</b>	<b>625,000</b>	<b>625,000</b>	<b>461,674</b>
<b>C. SOURCE OF OTHER FUNDS</b>					
<b>16. Federal Grants (EPA/SAP)</b>	130,169	130,169	0	0	0
<b>17. State Grants (BPH ARRA Grant / Loan) IJDC</b>	0	0	0	0	0
<b>18. Total Grants</b>	130,169	130,169	0	0	0
<b>19. Size of Bond Issue</b>	<b>1,711,674</b>	<b>0</b>	<b>625,000</b>	<b>625,000</b>	<b>461,674</b>

Approved BY:

Approved BY:

  
 Martha H. Moore, Mayor -City of Welch

  
 Edward Shutt, P. E. Stafford Consultants, Inc.

DATE: 12-2-09

DATE: 12/2/09



---

December 18, 2009

CITY OF WELCH

Water Revenue Bonds, Series 2009 A  
(West Virginia DWTRF Program);  
Water Revenue Bonds, Series 2009 B  
(West Virginia DWTRF Program/ARRA); and  
Water Revenue Bonds, Series 2009 C  
(West Virginia Infrastructure Fund)

City of Welch  
Welch, West Virginia

West Virginia Water Development Authority  
Charleston, West Virginia

West Virginia Bureau for Public Health  
Charleston, West Virginia

Step toe & Johnson PLLC  
Charleston, West Virginia

West Virginia Infrastructure and  
Jobs Development Council  
Charleston, West Virginia

Ladies and Gentlemen:

Based upon the rates and charges as set forth in the water rate ordinance of the Issuer enacted March 31, 2008, and the projected operating expenses and the anticipated customer usage as furnished to us by Stafford Consultants, Inc., it is our opinion that such rates and charges will be sufficient to provide revenues which, together with other revenues of the water system of the Issuer, will pay all operating expenses and leave a balance each year equal to at least 115% of the maximum amount required in any year for debt service on the Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program), Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA) and Water Revenue Bonds, Series 2009 C (West Virginia Infrastructure Fund) (the "Bonds"), to be issued to the West Virginia Water Development Authority on the date hereof and all other obligations secured by or payable from the revenues of the System.

Very truly yours,

Michael D. Griffith, CPA, AFI  
Griffith & Associates, PLLC

MDG/dk

---

Michael D. Griffith, CPA, AFI  
michaelgriffithcpa@verizon.net

950 Little Coal River Road Alum Creek, WV 25003  
Phone: (304) 756.3600 Facsimile: (304) 756.2911

CITY OF WELCH

Water Revenue Bonds, Series 2009 A  
(West Virginia DWTRF Program);  
Water Revenue Bonds, Series 2009 B  
(West Virginia DWTRF Program/ARRA); and  
Water Revenue Bonds, Series 2009 C  
(West Virginia Infrastructure Fund)

CERTIFICATE AS TO USE OF PROCEEDS

On this 18th day of December, 2009, the undersigned Mayor of the City of Welch in McDowell County, West Virginia (the "Issuer"), being the official of the Issuer duly charged with the responsibility for the issuance of \$625,000 Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program) (the "Series 2009 A Bonds"), \$625,000 Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA) (the "Series 2009 B Bonds"), and \$461,674 Water Revenue Bonds, Series 2009 C (West Virginia Infrastructure Fund) (the "Series 2009 C Bonds"), each dated December 18, 2009 (collectively, the "Bonds"), hereby certifies as follows:

1. I am the officer of the Issuer duly charged with the responsibility of issuing the Bonds. I am familiar with the facts, circumstances and estimates herein certified and duly authorized to execute and deliver this certificate on behalf of the Issuer. Capitalized terms used herein and not otherwise defined herein shall have the meanings set forth in the Bond Ordinance duly enacted by the Issuer on December 7, 2009, as supplemented by Supplemental resolution duly adopted by the Issuer on December 7, 2009 (collectively, the "Bond Ordinance"), authorizing the Bonds.

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

3. This certificate is based upon facts, circumstances, estimates and expectations of the Issuer in existence on December 18, 2009, the date on which the Bonds are being physically delivered in exchange for \$31,250, being a portion of the principal amount of the Series 2009 A Bonds, \$-0-, being a portion of the principal amount of the Series 2009 B Bonds and \$-0-, being a portion of the principal amount of the Series 2009 C Bonds, and to the best of my knowledge and belief, the expectations of the Issuer set forth herein are reasonable.

4. In the Bond Ordinance pursuant to which the Bonds are issued, the Issuer has covenanted that it shall not take, or permit or suffer to be taken, any action with respect to Issuer's use of the proceeds of the Bonds which would cause any bonds, the interest on which is exempt from federal income taxation under Section 103(a) of the Internal Revenue Code of 1986, as amended, and the temporary and permanent regulations promulgated thereunder or under any predecessor thereto (collectively, the "Code"), issued by the West Virginia Water Development Authority (the "Authority"), the West Virginia Bureau for Public Health (the "BPH") or the West Virginia Infrastructure and Jobs Development Council (the "Council"), as the case may be, from which the proceeds of the Bonds are derived, to lose their status as tax-exempt bonds. The Issuer hereby covenants to take all actions necessary to comply with such covenant.

5. The Series 2009 A Bonds were sold on December 18, 2009, to the Authority, pursuant to an ARRA Assistance Agreement dated December 18, 2009, by and between the Issuer and the Authority on behalf of the BPH, for an aggregate purchase price of \$625,000 (100% of par), at which time, the Issuer received \$31,250 from the Authority and the BPH, being the first advance of the principal amount of the Series 2009 A Bonds. No accrued interest has been or will be paid on the Series 2009 A Bonds. The balance of the principal amount of the Series 2009 A Bonds will be advanced to the Issuer as acquisition and construction of the Project progresses.

6. The Series 2009 B Bonds were sold on December 18, 2009, to the Authority, pursuant to an ARRA Assistance Agreement dated December 18, 2009, by and between the Issuer and the Authority on behalf of the BPH, for an aggregate purchase price of \$625,000 (100% of par), at which time, the Issuer received \$-0- from the Authority and the BPH, being the first advance of the principal amount of the Series 2009 B Bonds. No accrued interest has been or will be paid on the Series 2009 B Bonds. The balance of the principal amount of the Series 2009 B Bonds will be advanced to the Issuer as acquisition and construction of the Project progresses.

7. The Series 2009 C Bonds were sold on December 18, 2009, to the Authority, pursuant to a Loan Agreement dated December 18, 2009, by and between the Issuer and the Authority on behalf of the Council, for an aggregate purchase price of \$461,674 (100% of par), at which time, the Issuer received \$-0- from the Authority and the Council, being the first advance of the principal amount of the Series 2009 C Bonds. No accrued interest has been or will be paid on the Series 2009 C Bonds. The balance of the principal amount of the Series 2009 C Bonds will be advanced to the Issuer as acquisition and construction of the Project progresses.

8. The Series 2009 A Bonds are being delivered simultaneously with the delivery of this certificate and are issued for the purposes of (i) paying a portion of the costs of acquisition and construction of certain additions, betterments and improvements to the existing public waterworks system of the Issuer (the "Project"), and (ii) paying certain costs of issuance of the Bonds and related costs.

9. The Series 2009 B Bonds are being delivered simultaneously with the delivery of this certificate and are issued for the purposes of (i) paying a portion of the costs of the Project, and (ii) paying certain costs of issuance of the Bonds and related costs.

10. The Series 2009 C Bonds are being delivered simultaneously with the delivery of this certificate and are issued for the purposes of (i) paying a portion of the costs of the Project, and (ii) paying certain costs of issuance of the Bonds and related costs.

11. Within 30 days after the delivery of the Bonds, the Issuer shall enter into agreements which require the Issuer to expend at least 5% of the net sale proceeds of the Bonds on the Project, constituting a substantial binding commitment. The acquisition and construction of the Project and the allocation of the net sale proceeds of the Bonds to expenditures of the Project shall commence immediately and shall proceed with due diligence to completion, and with the exception of proceeds deposited in the Series 2009 A Bonds Reserve Account, Series 2009 B Bonds Reserve Account and Series 2009 C Bonds Reserve Account, if any, all of the proceeds from the sale of the Bonds, together with any investment earnings thereon, will be expended for payment of costs of the Project on or before July 1, 2011. The acquisition and construction of the Project is expected to be completed by January 1, 2011.

12. The total cost of the Project is estimated at \$1,841,843. Sources and uses of funds for the Project are as follows:

SOURCES

Proceeds of the Series 2009 A Bonds	\$ 625,000
Proceeds of the Series 2009 B Bonds	\$ 625,000
Proceeds of the Series 2009 C Bonds	\$ 461,674
U.S. Environmental Protection Agency Grant	<u>\$ 130,169</u>
Total Sources	<u>\$1,841,843</u>

USES

Costs of Project	\$1,816,343
Costs of Issuance	<u>\$ 25,500</u>
Total Uses	<u>\$1,841,843</u>

13. Pursuant to Article V of the Bond Ordinance, the following special funds or accounts have been created relative to the Bonds:

- (1) Revenue Fund;
- (2) Renewal and Replacement Fund;
- (3) Series 2009 Bonds Construction Trust Fund;
- (4) Series 2009 A Bonds Sinking Fund;
- (5) Series 2009 A Bonds Reserve Account;
- (6) Series 2009 B Bonds Sinking Fund;
- (7) Series 2009 B Bonds Reserve Account;
- (8) Series 2009 C Bonds Sinking Fund; and
- (9) Series 2009 C Bonds Reserve Account.

14. Pursuant to Article VI of the Bond Ordinance, the proceeds of the Bonds will be deposited as follows:

- (1) Series 2009 A Bonds proceeds in the amount of \$-0- will be deposited in the Series 2009 A Bonds Sinking Fund.

(2) Series 2009 A Bonds proceeds in the amount of \$-0- will be deposited in the Series 2009 A Bonds Reserve Account.

(3) The proceeds of the Series 2009 A Bonds will be deposited in the Series 2009 Bonds Construction Trust Fund as received from time to time and applied solely to payment of costs of the Project, including costs of issuance of the Series 2009 A Bonds and related costs.

(4) Series 2009 B Bonds proceeds in the amount of \$-0- will be deposited in the Series 2009 B Bonds Sinking Fund.

(5) Series 2009 B Bonds proceeds in the amount of \$-0- will be deposited in the Series 2009 B Bonds Reserve Account.

(6) The proceeds of the Series 2009 B Bonds will be deposited in the Series 2009 Bonds Construction Trust Fund as received from time to time and applied solely to payment of costs of the Project, including costs of issuance of the Series 2009 B Bonds and related costs.

(7) Series 2009 C Bonds proceeds in the amount of \$-0- will be deposited in the Series 2009 C Bonds Sinking Fund.

(8) Series 2009 C Bonds proceeds in the amount of \$-0- will be deposited in the Series 2009 C Bonds Reserve Account.

(9) The proceeds of the Series 2009 C Bonds will be deposited in the Series 2009 Bonds Construction Trust Fund as received from time to time and applied solely to payment of costs of the Project, including costs of issuance of the Series 2009 C Bonds and related costs.

15. Moneys held in the Series 2009 A Bonds Sinking Fund will be used solely to pay principal of and interest, if any, on the Series 2009 A Bonds and will not be available to meet costs of acquisition and construction of the Project. All investment earnings on moneys in the Series 2009 A Bonds Sinking Fund and Series 2009 A Bonds Reserve Account, if any, will be withdrawn therefrom and deposited into the Series 2009 Bonds Construction Trust Fund during construction of the Project, and following completion of the Project, will be deposited, not less than once each year, in the Revenue Fund, and such amounts will be applied as set forth in the Bond Ordinance.

16. Moneys held in the Series 2009 B Bonds Sinking Fund will be used solely to pay principal of and interest, if any, on the Series 2009 B Bonds and will not be available to meet costs of acquisition and construction of the Project. All investment earnings on moneys in the Series 2009 B Bonds Sinking Fund and Series 2009 B Bonds Reserve Account, if any, will be withdrawn therefrom and deposited into the Series 2009 Bonds Construction Trust Fund during construction of the Project, and following completion of the Project, will be deposited, not less than once each year, in the Revenue Fund, and such amounts will be applied as set forth in the Bond Ordinance.

17. Moneys held in the Series 2009 C Bonds Sinking Fund will be used solely to pay principal of and interest, if any, on the Series 2009 C Bonds and will not be available to meet costs of

acquisition and construction of the Project. All investment earnings on moneys in the Series 2009 C Bonds Sinking Fund and Series 2009 C Bonds Reserve Account, if any, will be withdrawn therefrom and deposited into the Series 2009 Bonds Construction Trust Fund during construction of the Project, and following completion of the Project, will be deposited, not less than once each year, in the Revenue Fund, and such amounts will be applied as set forth in the Bond Ordinance.

18. Work with respect to the acquisition and construction of the Project will proceed with due diligence to completion. The acquisition and construction of the Project is expected to be completed within 12 months of the date hereof.

19. The Issuer will take such steps as requested by the Authority to ensure that the Authority's bonds meet the requirements of the Code.

20. With the exception of the amount deposited in the Series 2009 A Bonds Reserve Account, the Series 2009 B Bonds Reserve Account or the Series 2009 C Bonds Reserve Account, if any, all of the proceeds of the Bonds will be expended on the Project within 18 months from the date of issuance thereof.

21. The Issuer does not expect to sell or otherwise dispose of the Project in whole or in part prior to the last maturity date of the Bonds.

22. The amount designated as costs of issuance of the Bonds consists only of costs which are directly related to and necessary for the issuance of the Bonds.

23. All property financed with the proceeds of the Bonds will be owned and held by (or on behalf of) a qualified governmental unit.

24. No proceeds of the Bonds will be used, directly or indirectly, in any trade or business carried on by any person who is not a governmental unit.

25. The original proceeds of the Bonds will not exceed the amount necessary for the purposes of the issue.

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

27. The Bonds are not federally guaranteed.

28. The Issuer has retained the right to amend the Bond Ordinance authorizing the issuance of the Bonds if such amendment is necessary to assure that the Bonds remain public purpose bonds.

29. The Issuer has either (a) funded the Series 2009 A Bonds Reserve Account, the Series 2009 B Bonds Reserve Account and the Series 2009 C Bonds Reserve Account at the maximum amount of principal and interest which will mature and become due, respectively, on the Bonds in the then current or any succeeding year with the proceeds of the Bonds, or (b) created the Series 2009 A Bonds Reserve Account, the Series 2009 B Bonds Reserve Account and the Series 2009 C Bonds Reserve Account, which will be funded with equal payments made on a monthly basis over a 10-year

period until such Series 2009 A Bonds Reserve Account, Series 2009 B Bonds Reserve Account and Series 2009 C Bonds Reserve Account hold an amount equal to the maximum amount of principal and interest which will mature and become due, respectively, on the Bonds in the then current or any succeeding year. Moneys in the Series 2009 A Bonds Reserve Account, the Series 2009 A Bonds Sinking Fund, the Series 2009 B Bonds Reserve Account, the Series 2009 B Bonds Sinking Fund, the Series 2009 C Bonds Reserve Account and the Series 2009 C Bonds Sinking Fund will be used solely to pay principal of and interest on the Bonds and will not be available to pay costs of the Project.

30. There are no other obligations of the Issuer which (a) are to be issued at substantially the same time as the Bonds, (b) are to be sold pursuant to a common plan of financing together with the Bonds and (c) will be paid out of substantially the same sources of funds or will have substantially the same claim to be paid out of substantially the same sources of funds as the Bonds.

31. To the best of my knowledge, information and belief, there are no other facts, estimates and circumstances which would materially change the expectations herein expressed.

32. The Issuer will comply with instructions as may be provided by the Authority, at any time, regarding use and investment of proceeds of the Bonds, rebates and rebate calculations.

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

[Remainder of Page Intentionally Blank]

WITNESS my signature as of the date first written above.

CITY OF WELCH

By: Frank Cooley  
Its: Mayor

12.03.09  
950640.00003

CITY OF WELCH  
RESOLUTION ON OPEN GOVERNMENTAL PROCEEDINGS RULES

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

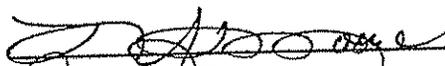
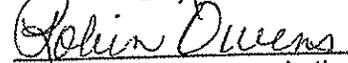
1. **Regular Meetings.** A notice shall be posted and maintained by the City Clerk at the front door or bulletin board of the Welch City Hall of the date, time and place fixed and entered of record by Council for the holding of regularly scheduled meetings. In addition, a copy of the agenda for each regularly scheduled meeting shall be posted at the same location by the City Clerk not less than 48 hours before such regular meeting is to be held. If a particular regularly scheduled meeting is canceled or postponed, a notice of such cancellation or postponement shall be posted at the same location as soon as feasible after such cancellation or postponement has been determined.

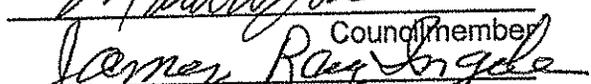
2. **Special Meetings.** A notice shall be posted by the City Clerk at the front door or bulletin board of the Welch City Hall not less than 48 hours before a specially scheduled meeting is to be held, stating the date, time, place and purpose for which such special meeting shall be held. If the special meeting is canceled, a notice of such cancellation shall be posted at the same location as soon as feasible after such cancellation has been determined.

These rules regarding notice of meetings shall replace any and all previous rules heretofore adopted by Council and apply to all City Board, Commissions, etc.

**NOW, THEREFORE, BE IT RESOLVED** that the Welch City Council hereby adopts these Open Governmental Proceedings Rules.

ADOPTED this 6 day of March, 2000.

  
\_\_\_\_\_  
Mayor  
  
\_\_\_\_\_  
Acting City Clerk

  
\_\_\_\_\_  
Councilmember  
  
\_\_\_\_\_  
Councilmember  
  
\_\_\_\_\_  
Councilmember  
  
\_\_\_\_\_  
Councilmember  
\_\_\_\_\_  
Councilmember

I HEREBY CERTIFY THAT THIS IS AN ATTESTED  
COPY OF RECORD.

Robin G. Lee  
Robin G. Lee, City Clerk

Dated: August 22, 2006

PART I

CHARTER

CHAPTER 3

(Senate Bill No. 97—By Mr. Wood)

AN ACT creating the municipal corporation of the City of Welch, in the county of McDowell, and state of West Virginia, and annulling the charter granted to said City of Welch by act of the legislature of West Virginia, chapter six, (House Bill one hundred and seventy-two) of the acts of one thousand nine hundred and nineteen, passed on the twenty-first day of February, nineteen hundred and nineteen, and all the acts amendatory thereto.

[Passed February 19, 1929; in effect from passage. Approved by the Governor.]

- § 1. City a body corporate.
- § 2. Boundaries of city.
- § 3. Boundaries of wards.
- § 4. Power to change corporate limits and wards; establishment of voting precinct.
- § 5. Council to be governing body.
- § 6. Eligibility of mayor and councilmen.
- § 7. Appointive officers.
- § 8. Corporate powers to be exercised by council.
- § 9. Duties of mayor.
- § 10. Duties of city clerk.
- § 11. Duties and powers of police judge.
- § 12. Duties of city attorney.
- § 13. Duties of city manager.
- § 14. Qualifications and duties of city engineer.
- § 15. Qualifications and duties of city health officer.
- § 16. Board of health, how constituted; powers and duties.
- § 17. Policemen, how appointed and salaries; chief of police, how appointed and duties.
- § 18. Officers may perform other duties; when.
- § 19. Terms of office of elective and appointive officers.
- § 20. Oath of office.
- § 21. Bonds of officers and employees.
- § 22. Salaries of elective and appointive officers.
- § 23. Removal of officer for cause, procedure; removal of appointive officers.
- § 24. Vacancies in elective and appointive offices.
- § 25. Nominating conventions.
- § 26. Qualification of voters.
- § 27. Registration of voters; compensation of registrars.
- § 28. Election of mayor and councilmen; how conducted and returned; tie vote; recount; appeal to circuit court in recount or contested election.
- § 29. Powers of council.
- § 30. City to have right of eminent domain.
- § 31. Abatement of nuisances; restrictions on gas or oil tanks.
- § 32. Establishment of jails and places for detention of prisoners.
- § 33. Franchises, for what purposes granted; restrictions on.
- § 34. Provisions concerning ordinances.

- § 35. Meetings of council; presiding officer; tie vote.
- § 36. Quorum to be a majority of members elected to council.
- § 37. Record books.
- § 38. Auditing of books and accounts of city.
- § 39. City funds, receipts and disbursements.
- § 40. Finance committee; budget.
- § 41. Taxes, levies for; poll tax; special levy.
- § 42. Assessment and collection of taxes; lien for taxes.
- § 43. Licenses.
- § 44. Bond issues.
- § 45. Indebtedness prohibited.
- § 46. Street paving and improvements.
- § 47. Bonds for paving and other improvements; application of assessments to pay bonds.
- § 48. Contracts for paving and other improvements; how cost assessed and collected; form of paving assessment certificates and interest coupons.
- § 49. Construction of sewers; cost of, how paid; assessment certificates for cost.
- § 50. Release of assessment liens; payment of assessment certificates.
- § 51. City bonds for paving and sewers; vote of people on.
- § 52. How lots abutting upon improvement to be described.
- § 53. When work completed, publication of notice of proposed assessment.
- § 54. Additional method of street improvement.
- § 55. Procedure for construction or relaying of sidewalks.
- § 56. Inconsistent ordinances and acts repealed.

*Be it enacted by the Legislature of West Virginia:*

*The City of Welch*

Sec. 1. That the inhabitants of so much of the county of McDowell in the state of West Virginia, included within the boundaries described in section two of this act shall be and remain, and they are hereby made a body politic and corporate by the name of the "City of Welch" and as such, and by that name, may contract and be contracted with, sue and be sued, plead and be impleaded, answer and be answered unto, and may purchase, take, receive, hold and use goods and chattels, lands and tenements, choses in action, or any interest, right or estate therein, either for the proper use of said city or in trust for the benefit of any person, association or corporation therein, and may grant, sell, convey and assign, let, pledge, mortgage, charge and encumber in any case and in any manner in which it would be lawful for a private individual so to do, except where such power may be limited by law, and may have and use a common seal and alter and renew the same at pleasure, and generally shall have the rights, franchises, capacities and powers conferred herein, and by the laws of this state, upon municipal corporations, not inconsistent with the provisions of this act.

*Corporate Limits*

Sec. 2. The corporate limits of the City of Welch shall be as follows:

Beginning at a set iron near the mouth of Big Branch of Elkhorn Fork of Tug river; thence south twenty-eight degrees nineteen minutes east one thousand one hundred and seventy feet to a set iron on the east side of Big Branch; thence south fifty degrees forty minutes west six thousand nine hundred fifty-five feet to a stake; thence south forty-eight

degrees forty-four minutes east two hundred thirty-six feet to a set rail; thence south sixty-seven degrees twenty-two minutes east one thousand seven hundred and twenty-one feet to a set rail; thence south forty-eight degrees twenty-eight minutes west three hundred forty-seven feet to a set rail; thence south twenty-nine degrees twenty-six minutes west five hundred and seventy-three feet to a tack in the root of a large beech tree on the north bank of Tug river; thence down Tug river the following courses and distances: north seventy degrees forty-seven minutes west five hundred and eight and five-tenths feet; north eighty-four degrees sixteen minutes west four hundred and eighty-two and five-tenths feet; north fifty-four degrees forty minutes west two hundred and ninety and five-tenths feet; north forty-nine degrees thirty-eight minutes west three hundred and twenty-two feet; north sixty-six degrees thirty-one minutes west two hundred and forty-six feet; north seventy degrees two minutes west four hundred and fourteen and five-tenths feet; thence leaving Tug river south thirty degrees west seven hundred and twenty-five feet to a stake on a spur; thence north fifty-four degrees thirty minutes west two thousand four hundred and fifty feet to a stake near Little Indian creek; thence north four degrees thirty minutes seven thousand nine hundred and fifty feet to a stake in a line of the present corporation limits; thence with same south seventy-seven degrees west eight hundred feet to a poplar, spruce pine and double beech on the bank of Cub branch; thence north sixty-four degrees thirty minutes west six hundred feet to the top of a spur where a white oak is called for; thence north twenty-two degrees east seven hundred feet to a stake on the north bank of Tug river; thence north eighty-three degrees thirty-six minutes west three hundred and seventy-three feet to a point in Tug river; thence continuing down Tug river north one degree forty minutes west four hundred and ninety feet to a point in Tug river; thence still continuing down Tug river north seventy degrees forty-four minutes east nine hundred and twenty-eight feet to a point in the line of the Central Pocahontas Coal Company's property; thence with said line of the Central Pocahontas Coal Company, south thirty-two degrees twenty-three minutes east four hundred and eighty feet to a hickory corner, on the top of the spur; thence continuing with said line of the Central Pocahontas Coal Company south twenty-two degrees three minutes west four hundred fifty-three and fourteen-one-hundredths feet to a corner designated by two spruce pines and two red oak stumps; thence continuing with said line of the Central Pocahontas Coal Company south sixty-four degrees ten minutes west one hundred feet to a point in the center of Tug river; thence leaving said line of the Central Pocahontas Coal Company due south one hundred and seventy-eight feet, more or less to the southern right of way line of the Oregon siding of the Norfolk and Western Railway Company; thence with the southern right of way line of said Norfolk and Western Railway Company in an easterly direction a distance of approximately one thousand one hundred and fifty feet to the intersection of said southern right of way line with the western right of way line of the main line of the Norfolk and Western Railway Company; thence with said western right of way line of the Norfolk and Western Railway Company's main line in a north-westerly direction to the intersection of said western right of way line with the southern edge of the county road from Welch to Davy; thence with the southern edge of said county road in a westerly direction to the intersection of said county road with the southern edge of the new concrete road leading to the bridge across Tug river at Hemphill; thence with the southern edge of said road in a southwesterly direction to its intersection with the above mentioned south twenty-two degrees three minutes west line; thence with the

reverse call of this line north twenty-two degrees three minutes east a distance of three hundred and ninety-five feet, more or less, to the above mentioned hickory corner; thence south eighty-four degrees thirty minutes east eighty-one feet; thence north seventy-three degrees six minutes east one hundred and seventy-eight and six-tenths feet; north seventy-eight degrees east three hundred and thirty-three and seven-tenths feet; north forty-seven degrees thirty minutes east ninety-two feet; north forty-nine degrees east ninety-seven feet; north sixty-two degrees thirty minutes east four hundred and ninety-seven feet; north forty-six degrees east two hundred twenty-four and six-tenths feet; north thirty-seven degrees east ninety-six and six-tenths feet; north seventy-six degrees east one hundred thirty-four and five-tenths feet; south eighty-eight degrees east one hundred and seventy-six feet; south thirty degrees east three hundred and eighty-three and one-tenth feet; south fifty-seven degrees east eighty-one and two-tenths feet; north eighty-nine degrees east two hundred and sixty-three feet; north eighty-eight degrees thirty minutes east two hundred and ninety-eight feet to a stake on top of the ridge between Tug river and Browns creek; thence leaving the top of said spur and ridge, south seventy-four degrees thirteen minutes east two thousand five hundred and thirty-three and six-tenths feet to a stake near the mouth of Grave Yard hollow of Browns creek and about twenty feet north of the county road; thence south fifty-three degrees forty-three minutes east three thousand four hundred and forty-nine feet, crossing Browns creek and the ridge between Browns creek and Elkhorn to a point of intersection between this line and the Pollard line; thence south two degrees thirty-four minutes west one thousand three hundred and fifteen feet, crossing the main line of the Norfolk and Western Railway Company and Elkhorn fork of Tug river, to the beginning, containing one thousand four hundred seventy-one and two-tenths acres.

#### *Boundaries of Wards*

Sec. 3. The City of Welch shall be divided into three wards, the boundaries of which shall be as follows:

##### *First Ward*

All the following described boundary shall constitute the first ward of the said city, to-wit:

Beginning at a tack in the root of a large beech on the east bank of Tug river, same being a corner of the corporate limits of the City of Welch, also being the southwest corner of the Southwood addition to said city; thence with the corporate lines of the said city in a northeasterly and northwesterly direction to the center of Elkhorn creek about two thousand feet below the mouth of Fish Trap branch; thence down Elkhorn creek with its center line in a northwesterly and southwesterly direction to its mouth or junction with Tug river; thence crossing Tug river due west to the corporate lines of said city; thence with the corporate lines of said city in a southerly, southeasterly and northeasterly direction to the place of beginning.

##### *Second Ward*

All the following described boundary shall constitute the second ward of said city, to-wit:

Beginning at a point, the junction of Elkhorn creek and Tug river, said point being the beginning of Tug fork, also a corner of the first ward; thence down Tug fork to a point south

from the west end of Central avenue of the Westwood addition to the City of Welch; thence due north to the corporate lines of said city; thence with the corporate lines in an easterly, southeasterly and southwesterly direction to the center of Elkhorn creek, a corner of the first ward; thence down Elkhorn creek with its center line to the place of beginning.

*Third Ward*

All the following described boundary shall constitute the third ward of said city, to-wit:

Beginning at the junction of Elkhorn creek and Tug river, a corner of the first and second wards; thence due west crossing Tug river to the corporate line; thence with the corporate lines of said city in a northerly, westerly and easterly direction to a point due north from the western end of Central avenue of the Westwood addition to the City of Welch; thence due south to the center of Tug fork; thence up Tug fork to its junction with Elkhorn creek, the place of beginning.

*Power to Change Corporate Limits and Wards*

Sec. 4. The council of the City of Welch shall have the power and authority to change the corporate limits of the City of Welch, and shall have the power and authority to change the number of wards in said city, and to change the lines of the respective wards from time to time.

No changes shall be made in the corporate limits of the City of Welch, the number of wards or the lines of said wards until at least three weeks notice of the proposed change shall have been given by the council, by publication of notice thereof in a newspaper of general circulation in said City of Welch, twice each week for three successive weeks. Said notice shall give the date on which the council will pass on the proposed changes and a brief statement of the changes proposed.

Any changes made under the provisions of this section shall be by ordinance passed and adopted in the manner hereinafter set forth in this charter.

*Establishment of Voting Precincts*

The council shall provide places for voting in each ward in all municipal elections of the city, and shall have the right to establish such voting precincts in the respective wards from time to time as it may deem necessary, and may increase or diminish the number of voting precincts in the respective wards, and may consolidate the voting places of two or more wards if in its opinion no inconvenience is placed upon the voters in the respective wards.

*Governing Body*

Sec. 5. The municipal authorities of the city shall consist of a mayor and five councilmen, who shall constitute and be known as "the council of the City of Welch." One councilman shall be elected by the voters of each of the respective wards and two councilmen shall be elected by the voters at large.

Sec. 6. No person shall be eligible to the office of mayor or councilman who is not at the time of his election entitled to vote in the city election and who was not, for the preceding year, assessed with taxes upon personal or real property, or both, within the city, of an assessed valuation of five hundred dollars and did not actually pay the taxes so assessed.

Sec. 7. In addition to the municipal authorities mentioned in section five, the city may have a police judge, city manager, city clerk, city auditor, city physician, health commissioner, building inspector, city attorney, city engineer, city collector and treasurer, jail keeper, humane officer or officers and such number of policemen and firemen as the council, by ordinance or resolution may direct.

The officers heretofore named in this section shall be appointed by the mayor, with the consent of the council, but none of such officers shall be appointed and take office until the council shall, by a majority of the full membership thereof, authorize the filling of such office and confirm said appointment. All of the officers named in this section shall be paid such salaries as are fixed by the council, except as herein otherwise provided, and such salaries shall be within the limits provided for by this act.

Sec. 8. All the corporate powers and functions pertaining to said city shall be exercised by its council, or under its authority and the corporate name of said city, unless otherwise provided by state law or municipal ordinance.

#### *Mayor—Duties*

Sec. 9. The mayor shall be the chief executive officer of the city and shall preside at all meetings of the council, and shall have a vote in case of a tie. He shall have charge and control of the police, except as herein otherwise provided; he shall see that the laws and ordinances of the city are enforced and shall keep and preserve a docket of all his proceedings in the trial of criminal cases in like manner and with like effect as provided by law in the case of a justice of the peace; he shall see that the peace and good order of the city are preserved and that persons or property therein are protected and to this end he may cause the arrest and detention of rioters and disorderly persons, and shall perform such other duties and services as the council may ordain in addition to the duties prescribed by this act and not inconsistent herewith. The city clerk, except as herein otherwise provided, shall perform the duties of the mayor whenever and so long as the mayor is, from any cause, unable to perform his official duties, and he shall, in the absence of the mayor, perform any and all the duties of the mayor, except he shall not preside over the council. In the absence of the mayor at a meeting of the council, the council shall select one of its own members to preside over its meeting, who shall have a vote as a councilman. If the mayor and clerk are both absent from the city or otherwise disabled from performing the duties of the mayor, the council may elect a mayor *pro tempore*. The mayor shall have the power at any time to appoint special policemen, who shall be sworn in, without confirmation of the council. The mayor shall have the power to appoint all non-elective officials of the city, but said appointments so made by the mayor shall not become effective until confirmed by a majority of the membership of the council. The mayor shall be the official head of the city for all ceremonial purposes, upon whom service may be had in civil process and by the governor for military purposes.

#### *City Clerk—Duties*

Sec. 10. The city clerk shall be *ex-officio* clerk of the city council. He shall keep a complete record of all ordinances, resolutions and acts of the city council. He shall enter in a separate volume all ordinances of a general nature, any violation of which shall subject any

person to any penalty, and carefully index the same. All ordinances providing for the issuance of bonds, or creation of a debt, or construction of any public improvement of any local or temporary nature, shall be entered in a separate volume of the city clerk and carefully indexed. He shall keep complete books of account showing all official transactions of the city, and of each department. All receipts, expenditures by the city, the source of all income and the purpose of all expenditures. He shall make out all vouchers and pay rolls of the city and shall do and perform all other duties which may be required of him by the council by any ordinance or resolution.

He shall attend all meetings of the council and keep in a proper minute book a record of its proceedings and sign his record of each said proceeding.

He shall prepare and cause to be served all notices required to be given to any person, firm or corporation and after proper service and return thereof of any notice, he shall file and preserve the same.

He shall file in convenient form, so as to be readily accessible, all correspondence carried on by the city or by any department thereof, and as custodian of all the books, records and proceedings of the council, he shall make and certify copies thereof whenever required and affix the corporate seal of the city to any paper required to be sealed and to any certified copy of any paper, order or proceeding which he may make. The minutes of every meeting, after being corrected, shall be signed by the mayor and city clerk and the copy of any record, paper, entry, order, ordinance, resolution or proceeding made by the council, or by the police court judge, when properly certified under the seal of the city shall be admissible as evidence in any court of the state in any proceeding in which the original paper or record, if presented, would be admissible.

The city clerk shall be *ex-officio* city treasurer and as such shall be custodian of all monies of the municipality and shall keep and preserve the same in such manner and in such place or places as shall be designated by the city council. He shall pay out money only on warrants issued and signed by him and countersigned by the mayor.

#### *Police Judge, Duties*

Sec. 11. This section shall cover the duties of the police judge when he is appointed and his appointment confirmed by the council, and until his appointment the powers and duties herein conferred shall be exercised and performed by the mayor.

The judicial power of the city shall be vested in a municipal court. Said court shall have exclusive jurisdiction of all criminal proceedings for the violation of any city ordinance, and any act committed inside the corporate limits of the City of Welch and made a misdemeanor under the laws of the state of West Virginia shall be an offense against the laws of said city, and the police judge, or the mayor until said police judge is appointed, in addition to the other powers herein granted, may try, convict and punish therefor, and in the absence of any specific ordinance relating thereto, may inflict the same penalties and collect the same fines for the benefit of said city as are prescribed by the state laws for the same offense.

The police judge shall be *ex-officio* a justice of the peace and a conservator of the peace, with authority to issue process for all offenses committed within the jurisdiction of the City of

Welch, of which a justice of the peace has jurisdiction under the state statutes, and shall perform all the duties vested by law in a justice of the peace, except that he shall have no jurisdiction in civil cases or causes of action arising outside of the corporate limits of the city. He may commit persons charged with felony or misdemeanor to jail or take bond for their appearance before the grand jury or the criminal court of McDowell county. He shall have authority to sentence an offender to labor upon the streets or at other public work of the city, until such time as their fines shall have been worked out, or until the sentence imposed has been performed. Offenders sentenced to work on the streets shall be allowed credit on their fines in the amount of one dollar for each day of labor, and during good behavior each prisoner shall be allowed five days good time for every thirty days sentence, that is, labor on the streets for twenty-five days shall be equivalent to service of thirty days.

The police judge shall keep a well bound book marked "POLICE COURT DOCKET" in which there shall be kept a record showing the style of each case and the deposition thereof, which record shall be indexed and numbered.

Before trying any person charged with any violation of any ordinance he shall issue a warrant, specifying the offense or violation charged; he shall render judgment in any case as the law of the state or the ordinance of the city applying thereto may require; he shall also have power to issue executions for all fines, penalties and costs imposed by him and he may require immediate payment of the same, and in default of such payment commit the person in default to jail.

In the trial of cases and the procedure thereof where none of the provisions herein apply, the police judge shall be governed by the laws of the state of West Virginia pertaining to justices of the peace.

In the trial of civil and criminal cases the police judge shall tax such costs as justices of the peace are entitled to under the laws of West Virginia, but said police judge shall not be entitled to any portion of the costs so taxed.

The police judge shall receive for his services a fair and reasonable annual salary, in such amount as the council may determine is fair and just, and the amount of salary so fixed shall be payable out of the general fund through the city treasury.

#### *City Attorney, Duties*

**Sec. 12.** The city attorney shall be a member of the bar of McDowell county in good standing and shall perform and discharge all duties and exercise all powers which shall be conferred upon him by any ordinance or resolution of the city council, and, in addition, he shall exercise the following powers:

(a) Be the legal adviser of and attorney and counsel for the city and for all administrative offices thereof, in respect to their official duties.

(b) Prosecute and defend all suits for or against the city and prepare all contracts, bonds and other writings in which the city is concerned, and endorse on each his approval of the form and correctness thereof.

(c) Be prosecuting attorney of the police court and prosecute all cases brought before such court, and perform the same duties so far as they are applicable thereto as are required of the

prosecuting attorney of the county, *provided, however*, that it shall be necessary for said city attorney to appear in criminal cases only when so requested by the mayor, police judge or other proper authority.

(d) The city council and all administrative officers of the city may require the opinion of the city attorney upon any question of law involving their respective powers and duties, and he shall furnish the same in writing when so requested.

(e) Be present at all regular meetings and special meetings of the city council to advise the mayor and council on legal questions arising and to advise the city clerk in the preparation of resolutions and ordinances, and perform such other services relating to his profession as may be required by the council.

(f) The city attorney shall receive for his services an annual retainer fee not to exceed three hundred dollars, said fee to be fixed by the council payable out of the city treasury; and shall be entitled to reasonable fees, in addition to the annual retainer, for the preparation of contracts, bonds, other writings and special services rendered, for which said attorney shall submit a monthly statement for the approval of the council.

#### *City Manager, Duties*

**Sec. 13.** Whenever in the opinion of the council it is deemed expedient and necessary for the welfare of the city to employ the services of a city manager, he may be appointed in the manner herein provided, and shall receive such salary as the council by ordinance may prescribe; and he shall have the right to employ such other help as the council may from time to time allow.

The city manager, when appointed, shall devote his entire time and attention to the duties of his office, unless otherwise provided by the council, and shall have supervision and control of the executive work and management of the heads of all departments under his control as directed by the mayor and council. He shall make all contracts for labor and supplies, and generally perform all the administrative work of the city, and such other duties as the council may require of him, and shall possess such other powers and perform such other duties as the council may prescribe.

Upon the appointment of a city manager the council shall pass a proper ordinance setting forth the specific and general duties of the city manager, prescribing the limits of his authority, and fixing his salary.

#### *City Engineer, Duties*

**Sec. 14.** The city engineer shall be a competent mechanical engineer and shall discharge all duties and exercise all powers which shall be conferred upon him by any ordinance or resolution of the city council, and in addition, he shall exercise the following powers:

(a) Make surveys and fix grades when required by the city council or city manager; prepare plats, plans and specifications of all improvements which may be undertaken when required; and inspect all work done by any contractor for the city while the work is being performed.

(b) Supervise the construction of all buildings, bridges and other structures, the erection of which is controlled or regulated by the city.

(c) Furnish to any resident, street and sewer grades and building lines whenever required on such terms as the council may prescribe.

(d) Examine all applications for permits to erect buildings and other structures, and approve the same in writing before they are passed upon by the city council.

(e) Make complete maps of all streets, alleys, lanes, parks and public property owned by the city and keep the same on file in his office, and furnish a copy thereof to the city clerk or city manager.

(f) Have general supervision of the streets and alleys in the city and see that the pavements, sidewalks, gutters and sewers are kept clean and repaired.

(g) General supervision of the work of repairing and keeping in repair all pavements, sidewalks, curbs and sewers in the city.

(h) Attend all regular and special meetings of the council and recommend improvements required or suitable for any street, alley, land or locality in the city.

The city engineer shall receive a reasonable compensation for his services, and may, in the discretion of the council, be paid an annual retainer fee, not to exceed one hundred dollars, payable out of the city treasury.

#### *City Health Officer, Duties*

Sec. 15. The city health officer shall be a member of the medical profession in good standing and shall discharge all duties and exercise all powers which shall be conferred upon him by any ordinance or resolution of the city council; he shall report all unsightly, unsanitary and obnoxious conditions existing within the corporate limits of the city; he shall examine all restaurants, hot dog stands, refreshment places and lunch stands within the city and report the sanitary condition thereof; he shall have the right to close any places found to be in an unhealthy and unsanitary condition, dangerous to the health of the inhabitants of the city; supervise the sanitary inspection of the production, transportation, storage and sale of food and food stuffs; he shall provide rules for the collection and disposal of garbage; in the time of epidemic or threatened epidemic he shall enforce such quarantine and isolation rules and regulations as are appropriate for the emergency, and shall at all times have supervision over all contagious and infectious diseases; and perform any and all other duties necessary and essential to promote a healthy and sanitary condition within the city.

#### *Board of Health*

Sec. 16. The mayor, health officer and city attorney are hereby constituted and shall be a city board of health, of which the city health officer shall be chairman, with authority to call meetings of such board of health at such times as he may deem necessary. The board of health shall do and perform all such duties and exercise such powers as may be required of or conferred upon it by legal ordinances or resolutions of the city council. The board of health shall have supervision of the sanitary conditions of the city, and shall have power to summon

witnesses, hear testimony and to do any and all other things necessary and proper in the performance of its duties under this act and shall have such other and further powers as are vested in county health officers and county boards of health under the general laws of the state in such case made and provided.

#### *Policemen, Duties*

**Sec. 17.** The mayor, with the approval of the council, shall appoint a sufficient number of police officers to properly police the city, and shall fix the salaries of said officers in such an amount as they may deem proper.

One of the policemen, so appointed, shall be designated by the mayor as chief of police, and he shall discharge such duties as may be required of him by any ordinance or resolution of the council and he shall act under the orders of the judge of the police court or mayor in administering the police department. He shall have immediate supervision of the other members of the police force and be responsible for the performance by them of their respective duties.

The chief of police and any other police officers appointed by the council shall have all power, rights and privileges within the corporate limits of said city in regard to the arrest of persons, the collection of claims and the execution and return of process as may be legally exercised by a constable of a district within this state; and said chief of police and all police officers so appointed may, without having any warrant or other process therefor, arrest any person who commits a felony, misdemeanor or infraction of the ordinances of the city (although the offense does not amount to a breach of the peace) in his presence.

It shall be the duty of the chief of police to collect the city taxes, licenses, levies, assessments, and other such city claims as are placed in his hands for collection by the council, and he may distrain and sell therefor in like manner as a sheriff may distrain and sell for state and county taxes; and he shall, in all other respects have the same powers as a sheriff to enforce the payment and collection thereof, and all monies collected by him shall be promptly turned over to the city clerk.

#### *Officers May Perform Other Duties*

**Sec. 18.** The mayor, city attorney, city engineer, chief of police, city health officer and any member of the council, or any other elective or appointive officer shall, during the time for which he was elected or appointed, be eligible for appointment to any office under the city; provided such employment is authorized by the council, by resolution for such appointment, but in no case shall the time of service be for a longer period than said council is selected to serve under this act.

#### *Terms of Office*

**Sec. 19.** The mayor and five members of the council shall be elected for the term of four years and their successors shall be elected every four years thereafter, and their terms of office

shall begin on the first day of July of the year in which they shall be elected. All appointed officers shall hold office for a term of four years and until their successors are appointed and qualified, unless they are removed in the way and manner herein provided.  
(Ord. No. 97-CH-1, 11-3-97)

#### *Oath of Office*

**Sec. 20.** The mayor and councilmen, and all other officers provided for in this act, shall each, before entering upon the duties of their respective offices, and within fifteen days after receiving their certificates of election or appointment, take the oath or affirmation of office prescribed by law for all officers of this state, and make oath or affirmation that they will truly, faithfully and impartially, to the best of their ability, discharge the duties of their respective offices so long as they continue therein. Said oath or affirmation may be taken before any person authorized to administer oaths under the laws in force at the time the same is taken, or before the mayor or city clerk of said city after the oath of office has been administered to them. A copy of the oath of each officer, duly signed by him, shall be filed with the city clerk.

#### *Bonds of Officers and Employees*

**Sec. 21.** The council may require bond from any officer or employee in whatever sum they may fix. All bonds of officers or employees shall, before their acceptance, be approved by the council. The minutes of the meeting of council shall show all matters touching the consideration or approval of all bonds, and when said bonds are approved and accepted, they shall be recorded by the city clerk in a well bound book kept by him at his office for that purpose, which book shall be open to public inspection; and the recordation of such bonds, as aforesaid, shall be *prima facie* proof of their correctness, and they, as so recorded, as well as copies thereof duly attested by the city clerk under the seal of the city, shall be admitted as evidence in all courts of this state. The city clerk shall be the custodian of all bonds. All bonds, obligations or other writings taken in pursuance of any provision of this act, shall be made payable to "The City of Welch", and the respective persons, and their heirs, executors, administrators and assigns bound thereby, shall be subject to the same proceedings on said bonds, obligations and other writings for the purpose of enforcing the conditions of the terms thereof, by motion or otherwise, before any court of record held in and for the county of McDowell, that collectors of county levies and their sureties are or shall be subject to on their bonds for enforcing the payment of the county levies.

#### *Salaries*

**Sec. 22.** The salaries of the mayor and members of the council shall be fixed by the council and shall be payable out of the city treasury. The police judge, city manager, city clerk, city physician, city attorney, city engineer, policemen, firemen, and other appointive officers shall

receive such compensation as the council may prescribe by ordinance or order, unless said compensation be fixed by this act, and the same shall not be increased or diminished during the term for which the appointment was made.

(Ord. of 6-15-82)

**State law reference**—Authority of council to override charter provisions relating to salary, W. Va. Code § 8-5-12.

#### *Removal of Officer, Cause*

**Sec. 23.** Any member of the council and any city official either elected or appointed may be removed from his office by the council for the following causes: Official misconduct, incompetence, misappropriation of public funds, habitual drunkenness, neglect of duty or gross immorality. Such removal shall not be made except upon charges regularly filed and acted upon as follows: The charges against any officer shall be reduced to writing and entered of record by the council, and a summons shall thereupon be issued by the city clerk containing a copy of the charges and requiring the officer named therein to appear and answer the same on the day named therein, which summons may be served in the same manner as a summons commencing an action may be served, and the service must be made at least five days before the return day thereof, and it shall require the affirmative vote of a majority of all the members elected to council to remove any such official. An officer proceeded against under the provisions of this section shall be tried before the council and shall have the right to be represented by counsel, and the circuit court of McDowell county shall have concurrent jurisdiction with the council for any of the causes herein mentioned.

The mayor, or any other official having the power of appointment, shall have the right to remove any of his appointees and appoint another qualified person in his place, but such removal shall be made by means of writing served upon such official so removed; and all of the rights and powers of such official shall cease and end from the time of such removal by said appointing officer; *provided*, that the person so removed shall have the right to appeal to the council, which shall hear the charges, and may overrule the action of the mayor and re-instate such officer, or sustain the ruling of the mayor and affirm the removal and discharge.

#### *Vacancies*

**Sec. 24.** Whenever a vacancy for any cause whatever shall occur in the office of mayor or councilman, the council shall elect some qualified person to fill said vacancy until the next city election, and until his successor shall have been elected and qualified, and when such vacancy shall occur in the office of an appointive officer, his successor shall be appointed by the person making the original appointment, or his successor in office.

Whenever any person elected as a member of the governing body of the city is ineligible under this act, to hold said office or fails to qualify for said office as herein provided, said office shall be declared vacant and some person shall be elected to fill said vacancy as herein provided.

In event of the death of the mayor, the city council shall elect a person qualified to act as mayor, as herein provided, to fill the unexpired term of the deceased mayor, and in the event of the absence or inability of the mayor to perform the duties of his office for a period of ninety days, then the office of mayor shall be declared vacant and a successor elected to fill said vacancy in the manner aforesaid, and complete the term of office of the original mayor. In the absence or inability of any appointive city officials to perform the duties of their respective offices, the person or body making the original appointment shall designate some one to fill such office temporarily; or if such absence or inability extends over a period of sixty days, he or it may appoint some one to fill such office permanently.

#### *Nomination of Officers*

**Sec. 25.** Between the fifteenth and thirty-first day of March preceding a municipal election for the purpose of electing city officials, each political party shall at some convenient place, to be designated by the chairman of the city committee thereof, hold a convention for the purpose of nominating a mayor, councilmember from each ward and two councilmembers at large, and for all municipal political party executive committees to select their chairmen, secretary and executive committee members. Each of the political parties having the right to make nominations for city officials under the election laws of the City of Welch and state of West Virginia, shall give notice of the date, time, place and manner of such nominations as a Class II legal advertisement, as defined in the Code of West Virginia, as amended, in some daily newspaper printed in the City of Welch.

The chairman and secretary of any convention so held shall certify to the council of the City of Welch the names of the candidates named for the respective offices and executive committee positions.

The city clerk is hereby designated as the person in the municipality to perform the same duties performed by the county clerk and the circuit clerk in a county election.  
(Ord. No. 91-CH-2, 12-16-91)

#### *Qualification of Voters*

**Sec. 26.** Every person who has been a *bona fide* resident of the city for thirty days next preceding a city election therein, and who is a qualified voter under the constitution and laws of this state shall be entitled to vote at said city election in the election precinct in which he actually resides.

(Ord. No. 99-CH-1, 9-7-99)

#### *Registration of Voters*

**Sec. 27.** The registration of voters of the City of Welch shall be integrated with the system of permanent registration of voters established by West Virginia Code Section 3-2-1, et seq. No voter otherwise qualified shall be permitted to vote an unchallenged ballot at any election

CITY OF WELCH  
ORDINANCE 06-01

AN ORDINANCE TO AMEND §28 OF THE CHARTER OF THE CITY OF WELCH, WEST VIRGINIA FOR ELECTION OF ALL CITY OFFICIALS; TO SET QUALIFICATIONS OF NOMINEES; TO PROVIDE FOR FILING OF CANDIDATES AND TO SET DATES FOR A NONPARTISAN GENERAL ELECTION

Be it That § 28 of the City Charter is amended by the City Council as follows:

- Section \_\_\_-1        Non-partisan elections of city officials
- Section \_\_\_-2        Requirements and qualifications for candidates for city offices
- Section \_\_\_-3        Provisions for filing for election, and setting filing period
- Section \_\_\_-4        Provision for the date of a non-partisan general election

**SECTION 1: Non-partisan elections of city officials**

Upon the passage of this ordinance the election of all elected city officers for the city of Welch will be by a non-partisan ballot without reference or preference to any political party or affiliation. Such offices will open to any qualifying individual regardless of current party affiliation. As Chapter 3.5 of the City Code is in conflict with the provisions of this ordinance it is hereby repealed and amended.

**SECTION 2: Requirements and qualifications for candidates for city offices**

Any candidate filing for any elected office for the city of Welch must file a certificate of announcement at Welch Town Hall, during the appointed filing period, indicating which office he wishes to run for as a candidate. That candidate must have been a resident of the city of Welch for at least 30 days prior to filing for any office of the city of Welch. Such candidate must be at least 18 year of age, and not have any prior conviction of a felony in the United States of America or in any of its political subdivisions; and that candidate must file his or her certificate of announcement in person, unless that candidate has a physical handicap that would make it impossible to file in person. Each candidate will be assessed a filing fee equal to one percent of the salary received by that office in the year prior to the election.

**SECTION 3: Provisions for filing for election, and setting filing period.**

The period for filing a certificate of announcement will begin the second Tuesday in March and will end 14 days later. All candidates will meet at the Welch Town Hall on the 15<sup>th</sup> day after the beginning of the filing period and will select the order their names

will appear on the ballot by a random drawing to be conducted by the City Clerk. Any candidate who does not appear at this drawing will be placed on the ballot in alphabetical order by last name immediately after the last name randomly drawn for that particular office.

**SECTION 4: Provision for the date of a non-partisan general election**

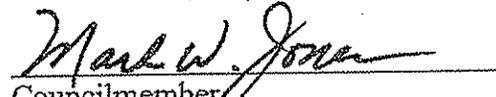
The election among those qualified candidates who have properly filed certificates of announcement will be held on the second Tuesday in June. The candidate who garners the plurality of the votes for a particular office will be declared the winner of the race for that particular office.

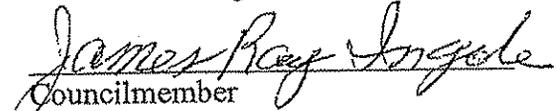
1<sup>st</sup> Reading - February 23, 2006

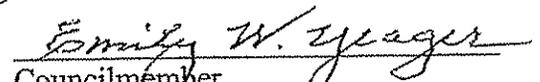
2<sup>nd</sup> Reading - March 6, 2006

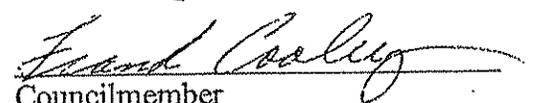
  
Martha H. Moore, Mayor

  
Robin Owens, City Clerk

  
Councilmember

  
Councilmember

  
Councilmember

  
Councilmember

\_\_\_\_\_  
Councilmember

for the purposes aforesaid, after having given at least five days' notice of the time, place and purpose of said meeting by publication in some newspaper of general circulation in said city.

The council may, and in the case of a special election shall, at a meeting to be held for that purpose at least fifteen days prior to the date of said election, register any legal voter or voters whose names have been omitted by said registrars, and said council shall give at least five days' notice of said meeting by publication in some newspaper of general circulation in said city, which notice shall state the time and place of said meeting and its intention to correct the registration of voters of said city, *however*, it shall not be necessary to have a special registration of voters for any special election, but the preceding registration of voters for the last general election, with such additions as are hereinbefore provided for, shall be the proper registration for such special election.

within the municipality unless he or she is duly registered under the provisions of West Virginia law. The registration records shall be maintained by and shall remain in the possession of the Clerk of the County Commission, except for use in municipal elections. (Ord. No. 99-CH-1, 9-7-99)

#### *Compensation of Registrars*

Each of said registrars appointed under the provisions of this act, shall receive as compensation for their services the sum of ten cents for each name so registered by them, which said amount shall also be allowed for each name thereafter added to said list, provided said registrars, when sitting for the purpose of amending, correcting and adding names to said registration list, as hereinabove provided, shall be paid a minimum fee of five dollars for their services. Compensation of the registrars shall be allowed by the council payable out of the city treasury.

#### *Elections*

**Sec. 28.** The first election for the mayor and council member under this charter (as amended by 97-CH-1) shall be held on the first Tuesday in June, one thousand nine hundred and ninety-eight, and every four years thereafter on the first Tuesday in June there shall be elected by the qualified voters of said city a mayor and two council members at large, and by the qualified voters of each of the three wards one council member.

The city clerk, immediately upon receiving certificate of nominations of candidates for city offices made by conventions held in the city, herein provided for, shall cause ballots to be printed with the names of candidates duly named placed thereon.

In all elections by the people, the mode of voting shall be by ballot, but the voters shall be left free to vote open, sealed or secret ballots, as they may elect. The election in said city shall be held and conducted, and the result thereof certified, returned and officially determined under the laws in force in this state relative to general elections, except that the persons conducting said election shall, on the day after the election is held, deliver the ballots, tally sheets and poll books to the city clerk, and thereafter the council of said city shall within five days (Sundays excepted) after said election, canvass the returns of said election and declare the results thereof, issuing certificates of election to the persons elected, as shown by said canvass of the returns thereof, and in all respects comply with the requirements of the laws of the state relating to elections in force at that time. The corporate authorities of said city shall perform all duties in relation to said elections required by general law of the county commission. And the provisions of the election laws of the state of West Virginia in effect on the date of said election, concerning elections by the people shall govern such elections and be applicable thereto, and the penalties therein prescribed for offenses relating to elections shall be enforced against the offenders of such corporate elections; and the said act shall have the same force and effect as if it were specially applicable in such corporate elections and was by this act re-enacted in *extenso*; except as above modified as to the time in which the returns of the election and canvass thereto shall be made.

Whenever two or more persons receive an equal number of votes for mayor or council member, the council in office at the time the election is held shall choose by lot which of the two or more persons receiving the same number of votes shall be entitled to the office for which he/she received the votes.

In the event of a demand by any candidate for a recount of the votes cast at said election or in event of the institution of a proceeding to contest said election, the council in office at the time of said election shall hold over and remain in office for the purpose of passing upon and deciding such recount or contest of election and for any other purpose; and nothing herein provided shall be construed to interfere with the duties, affairs and authority of the new and incoming council. The re-count or contest of election shall be made and conducted in the manner provided for as in contests for county and district officers, and the council by their proceedings in such cases shall, as nearly as practicable, conform with like proceedings of the county court in such cases.

The unsuccessful part in a recount or contested election shall have the right to appeal from the decision of the city council to the circuit court of McDowell county and upon an appeal being taken as aforesaid, it shall be the duty of the council to certify to the circuit court of said county, under the seal of the city, all the proceedings had in said recount or contested election.  
(Ord. No. 97-CH-1, 11-3-97)

#### *Corporate Powers*

**Sec. 29.** The council of said city shall have, and is hereby granted power to have said city surveyed, to lay out, open, vacate, straighten, broaden, change grade of, grade, re-grade, curb, widen, narrow, repair, pave and re-pave streets, alleys, roads, squares, plots, sidewalks and gutters for public use, and to alter, improve, embellish and ornament and light the same, and to construct and maintain public sewers and laterals, and shall, in all cases, have power and authority to assess upon and collect from, the property benefited thereby, such part of the expense thereof as shall be fixed by ordinance, except as hereinafter provided; to have control of all streets, avenues, roads, alleys and grounds for public use in said city, and to regulate the use thereof and driving thereon, and to have the same kept free from obstruction, pollution or litter on or over them; to have the right to control all bridges within said city, and the traffic thereover; to change the name of any street, avenue or road within said city, and regulate and cause the numbering and re-numbering of houses on any street, avenue or road therein; to regulate the naming of streets, avenues and public places; to regulate and determine the width of streets, sidewalks, roads and alleys; to order and direct the curbing, re-curbing, paving and re-paving and repairing of sidewalks and footways for public use in said city to be done and kept clean and in good order by the owners of adjacent property; to prohibit and punish the abuse of animals; to restrain and punish vagrants, medicants, beggars, tramps, prostitutes, drunken or disorderly persons within the city, and to provide for their arrest and manner of punishment; to prohibit and punish by fine the bringing into the city by railroads or other carriers, persons known to be paupers, dangerous or objectionable characters or afflicted with contagious diseases; to control and suppress disorderly houses of prostitution or ill-fame,

houses of assignation and gaming houses or any part thereof, to punish those engaged in gaming and to suppress all gaming or gambling houses, and all places where gambling or betting is in any way connected therewith; to prohibit within the city or within one mile thereof, slaughter houses, soap or glue factories and houses and places of like kind, and any other thing or business dangerous, unwholesome, unhealthy, offensive, indecent or dangerous to life, health, peace or property; to provide for the entry into the examination of all dwellings, lots, yards, enclosures, buildings and structures, cars, and vehicles of every description, and to ascertain their condition for health, cleanliness or safety; to regulate the building and maintenance of party walls, partition fences or lines, fire walls, fire places,

chimneys, boilers, smoke stacks and stove pipes; to provide for and regulate the safe construction, inspection and repairs of all public and private buildings, bridges, basements, culverts, sewers, or other buildings or structures of any description; to take down and remove or make safe and secure, any and all buildings, walls, structures or super-structures at the expense of the owners thereof, that are or may become dangerous, or to require the owners or their agents to take down and remove them or put them in a safe and sound condition at their own expense; to regulate, restrain or prohibit the erection of wooden or other buildings within the city; to regulate the height, construction and inspection of all new buildings hereafter erected, and the alteration and repair of any buildings already erected or hereafter erected in said city, and to require permits to be obtained for such buildings and structures, and plans and specifications thereof to be first submitted to the city engineer; to regulate the limit within which it shall be lawful to erect any steps, porticos, bay windows, bow windows, show windows, awnings, signs, columns, piers or other projection or structural ornaments of any kind for the houses or buildings fronting on any street of said city; to establish fire limits and to provide the kind of buildings and structures that may be erected therein, and to enforce all needful rules and regulations to guard against fire and danger therefrom; to require, regulate and control the construction of fire escapes for any building or other structures in said city, to control the opening and construction of ditches, drains, sewers, cess-pools, and gutters, and to deepen, widen and clear the same of stagnant water or filth, and to prevent obstruction therein, and to fill, close or abolish the same and to determine at whose expense the same shall be done; and to build and maintain fire station houses, crematories, jails, lockups, and other buildings, police stations and police courts, and to regulate the management thereof; to acquire, establish, lay off, appropriate, regulate maintain and control public grounds, squares and parks, hospitals, market houses, city buildings, libraries and other educational or charitable institutions, either within or without the city limits, and when the council determines that any real estate rights therein, or materials in or out of the city is necessary to be acquired by said city for any such city purpose, or for any public purpose, or is necessary in the exercise of its powers herein granted, the power of eminent domain is hereby conferred upon said city, and it shall have the right to institute condemnation proceedings against the owner thereof, whether said property be in or out of said city, in the same manner, to the same extent, and upon the same conditions as such power is conferred upon public service corporations by chapter forty-two of the code of West Virginia of the edition of one thousand nine hundred and six, and is now or may be hereafter amended; to purchase, lease or contract for and take care of all public buildings and structures and real estate deemed proper for the use of such city; and for the protection of the public to cause the removal of unsafe walls, structures or buildings, and the filling of excavations; to prevent injury or annoyance to the business of individuals from anything dangerous, offensive or unwholesome; to abate or cause to be abated all nuisances and to that end and thereabout to summon witnesses and hear testimony; to regulate or prohibit the keeping of gunpowder and other combustible or dangerous articles and to regulate the transportation of same through the streets, alleys and public places; to regulate, restrain or prohibit the use of firecrackers or other explosives or fireworks, and all noises or performances which may be dangerous, indecent or annoying to persons or tend to frighten horses or other animals; to provide and maintain proper places for the burial of the dead, in or out of the city, and to regulate interments therein upon such terms and

conditions as to price and otherwise, as may be determined; to provide for shade and ornamental trees, shrubbery, grass, flowers and other ornamentation, and the protection of the same; to provide for the poor of the city; to make suitable and proper regulations in regard to the use of the streets, public places, sidewalks and alleys by foot passengers, animals, vehicles, motors, automobiles, traction engines, railroad engines and cars, and to regulate the running and operation of the same so as to prevent obstruction thereon, encroachment thereto, injury, inconvenience or annoyance to the public; and to regulate fares and operation of motor vehicles used in the public transportation of passengers or property; to purchase or otherwise secure life, health and accident policies on the group or other convenient plan upon the members of the city police force and fire department, and as an element of compensation of such members may appropriate the moneys necessary to defray the cost thereof. Whenever in its opinion the safety of the public so requires, the council may authorize or require by ordinance any railroad company operating railroad tracks upon or across any public street or streets of the city, to construct and maintain overhead or undergrade crossings wherever the tracks of said company are laid upon or across the public streets of such city; to apportion the cost of the construction and maintenance of such crossings between any such railroad company and city in accordance with the state law; to prohibit prize fighting and cock and dog fighting; to license, tax, regulate or prohibit theaters, moving pictures, circuses and exhibition of showmen and shows of any kind, and the exhibition of natural or artificial curiosities, carnivals, menageries and musical exhibitions and performances, and other things or business on which the state does or may exact a license tax; to organize and maintain fire companies and departments, and to provide necessary apparatus, engines and implements for the same and to regulate all matters pertaining to the prevention and extinguishing of fires; to make proper regulations for guarding against danger and damage from fires, water or other elements; to regulate and control the kind and manner of plumbing and electric wiring, air-ships, balloons, wireless stations, radio stations and other appliances for the protection of the health and safety of said city; to levy taxes on persons, property and licenses; to license and tax dogs and other animals and regulate, restrain and prohibit them and all other animals and fowls running at large; to provide revenue for the city and appropriate the same to its expenses; to adopt rules for the transaction of business of its own regulation and government; to promote the general welfare of the city, and to protect the persons and property of citizens therein; to regulate and provide for the weighing of produce and other articles sold in said city and to regulate the transportation thereof and other things, through the streets, alleys and public places; to have the right to grant, refuse or revoke any and all licenses for the carrying on of any business within said city on which the state exacts a license tax; to establish and regulate markets and to prescribe the time for holding the same, and what shall be sold in such market, and to let stalls or apartments and regulate the same; to acquire and hold property for market purposes; to regulate the placing of signs, billboards, posters and advertising on or over the streets, alleys, sidewalks and public grounds of said city; to preserve and protect the peace, order and safety and health of the city and its inhabitants, including the right to regulate the sale and use of cocaine, morphine, opium and poisonous or dangerous drugs; to appoint and fix the place of holding city elections; to erect, own, lease, authorize or prohibit the erection of gas works, electric light works or water works in or near the city, and to operate the same, and to sell the product or services thereon and to

do any and all things necessary and incidental to the conduct of such business; to provide for the purity of water, milk, meats and provisions offered for sale in said city, and to that end provide for a system of inspecting the same and making and enforcing rules for the regulation of their sale, and to prohibit the sale of any unwholesome or tainted milk, meats, fish, fruit, vegetables, or the sale of milk, containing water or other things not constituting a part of pure milk; to provide for inspecting dairies and slaughter houses, whether in or outside of the city, where the milk and meat therefrom are offered for sale within said city, and to prohibit the sale of any article deemed unwholesome, and to condemn the same or destroy or abate it as a nuisance; to provide for the regulation of public processions so as to prevent interference with public traffic, or prohibit any parade or demonstration wherein the participants are marked, and to promote the good order of the city; to prescribe and enforce ordinances and rules for the purpose of protecting the health, property, lives, decency, morality, cleanliness and good order of the city and its inhabitants, and to protect places of divine worship in and about the premises where held and to punish violations of all ordinances, if the offense under and against the same shall also constitute offenses under the laws of the state of West Virginia or the common law; to provide for the employment and safe keeping of persons who may be committed in default of payment of fines, penalties or costs under this act, who are otherwise unable to discharge the same, by putting them to work for the benefit of the city upon the streets or other places in or out of the city provided by said city, and to use such means to prevent their escape while at work as the council may deem expedient; and the council may fix a reasonable rate per day as wages to be allowed such persons until the fine and costs against him are thereby discharged; to compel the attendance at public meetings of the members of the council; to have and exercise such additional rights, privileges and powers as are granted to municipalities by chapter forty-seven of the code of West Virginia as amended.

For all such purposes, except that of taxation and for purposes otherwise limited by this act, the council shall have jurisdiction, when necessary, for one mile beyond the corporation within said one mile limit.

And the council shall have the right to establish, construct and maintain public markets and parking places on any ground which does or shall belong to said city, or which it shall acquire, by purchase or otherwise, and to sell, release, repair, alter or remove any public markets or buildings which have been or shall be so constructed; to maintain on property owned by the City of Welch, or on certain designated streets, stalls for taxi cars and busses and to levy and collect a reasonable monthly rental for said stalls and parking places.

To carry into effect these enumerated powers and all other powers conferred upon said city expressly or by implication in this and other acts of the legislature, the council of said city shall have the powers in the manner herein prescribed, to adopt and enforce all needful orders, rules and ordinances not contrary to the laws and constitution of this state; and to prescribe, impose and enforce reasonable fines and penalties, including imprisonment in the city lock-up, jail or stationhouse, and to work prisoners found guilty, as the council may prescribe, and market the products of such labor, and with the consent of the county court of McDowell county entered of record, shall have the right to use the jail of said county for any purpose necessary to the administration of its affairs.

*Eminent Domain*

Sec. 30. The City of Welch as herein created or continued shall have the right under the power of eminent domain to condemn, acquire and appropriate any property and acquire the fee simple title or any lesser estate or easement therein for any public use, whether said property be located within or outside of the corporate limits of said city, including the right to acquire property for opening and widening streets, alleys and public places, and for the construction and maintenance of sewer lines, sewerage disposal plants, water lines and mains, pump stations, reservoirs or reservoir sites, dams for storing water, and the right to create storage reservoirs by flooding adjacent properties, and for every other purpose required in the construction, maintenance, and operation of water systems and plants for the purpose of supplying water to the public. The proceedings to acquire such lands, estates, or easements shall be the same as provided by general laws of the state of West Virginia for condemning and appropriating private property for public use.

*Nuisances*

Sec. 31. "The council of the city upon its own motion, or upon the recommendation of the city health officer, board of health, chief of police or mayor, shall have authority to abate and remove all nuisances in said city. It may compel the owners, agents, assignees, occupants or tenants of any lot, premises, property, building, or structure upon, or in which any nuisance may be, to abate and remove the same by orders therefor, and by ordinance provide a penalty for the violation of such orders."

Said council may also by its own officers, appointees, and employees abate and remove nuisances, including all obstructions on the streets and alleys of said city. It may by ordinance regulate the location, construction, repair, use, emptying, and cleaning of all water closets, privies, cess-pools, sinks, plumbing, drains, yards, lots, air ways, pens, stables, and other places where offensive and dangerous substances or liquids are, or may accumulate, and provide suitable penalties for violations of such regulations, which may be enforced against the owner, agent, assignee, occupant, or tenant of any premises or structure where such violation may occur.

It shall be unlawful for any filling station, garage, auto shop, store, person or corporation to maintain and operate gas or oil tanks or any other fixtures within the streets or upon the sidewalks in the city, and the maintenance of gas tanks, oil tanks and other fixtures upon the streets and sidewalks of the city shall be deemed a nuisance, and the city shall have the right to abate and remove the same as herein provided.

The owner, agent, tenant, assignee, or occupant of any such premises, lot, property, building or structure, as is mentioned herein, or the owner or operator of any gas tanks, oil tanks and other fixtures in and upon the streets and sidewalks as mentioned herein, shall be notified in writing to abate and remove said nuisance, which said notice shall be served by a police officer in the same manner provided for the service of process to commence suits, at least fifteen days before any further action is taken. Said notice shall require the person or corporation to abate and remove said nuisance or forthwith appear before the council and show cause why the same should not be abated and removed.

After the notice aforesaid, and the hearing, if required, is had, and upon the failure of the party responsible to abate and remove said nuisance, then the council, by a proper order passed and entered in the minutes of the meeting, shall abate and remove said nuisance, and collect the expenses thereof from the owner, occupant, tenant, agent, or assignee, by distress or sale, in the same manner in which taxes levied upon real estate for the benefit of said city are herein authorized to be collected. In the case of non-resident owners of real estate, the notice herein provided may be served upon any tenant, occupant, assignee, or rental agent of the owner, or by publication thereof once a week for two successive weeks in some newspaper of general circulation in said city. The abatement or removal of any such nuisance herein provided, shall be *prima facie* proof that the said notice to the owner, occupant, tenant, agent or assignee was given as herein prescribed."

The council may require all owners, tenants or occupants of improved property which may be located upon or near any street or alley along which may extend any sewer or system of sewerage, which the said city may construct, own or control, to connect with such sewer or system of sewerage, all privies, ponds, water closets, cess-pools, drains, or sinks located upon their respective properties or premises so that their contents may be made to empty into such sewer or system of sewerage, and shall have the right to charge a reasonable amount for the right to connect to such sewer.

#### *Establishment of Jails*

Sec. 32. The City of Welch shall have the right to establish jails and places for the detention of prisoners of said city at any place within McDowell county, and all prisoners arrested and imprisoned when awaiting trial or after conviction shall be imprisoned in the jail so established and designated by the council as the city jail, or such prisoners may be imprisoned in the county jail of McDowell county, West Virginia, and the jailer of said McDowell county is hereby required to receive and safely keep any prisoners of said city who shall be sentenced to the county jail under the provisions hereof. *Provided, however,* that the said city shall reimburse the county for all expenses sustained in keeping such prisoners.

In the event the city council establishes a jail under the provisions of this act, then said council shall have the right to employ a jailor therefor at a reasonable salary, and to employ such other servants as may be necessary to properly maintain said jail.

The establishment and maintenance of said jail shall be paid for out of the general fund.

#### *Franchises*

Sec. 33. Franchises shall be granted by the council, allowing to persons or corporations, for a limited time, such occupancy of portions of the street as may be necessary for works of public utility and service, such as steam railway tracks, street railway tracks, poles and trolley wires, telephone and telegraph poles and subways, electric light and other electric poles, wires and subways, and gas and steam pipe lines, water, water lines and pipes. But no such franchise shall hereafter be granted except under the following restrictions:

- (1) No ordinance, granting any franchise for the use of the streets, alleys or public grounds of the city for any of the purposes of public utility above named, or for any other purpose of like nature, shall be passed unless it shall have been first proposed to the council, and notice of the object, nature and extent of the franchise shall have been published for at least thirty days by the applicant in some newspaper of general circulation in the City of Welch, before being acted upon, and shall have received a vote of the majority of the members of the council at a regular meeting after said publication. The votes thereon shall be taken by ayes and noes, and the same entered upon the minute book.
- (2) Every grant of any such franchise shall be for a limited period of time. If no limit be expressly provided for in the grant, the franchise shall be valid for one year only. In no case shall the franchise extend for a period exceeding fifty years.
- (3) No grant of any such franchise shall be made without, at the time of making it, providing that the grantee shall indemnify the city against all damages caused by the construction of such work. All reasonable additional provisions and conditions may be made for the protection of the public from unnecessary damage or inconvenience by reason of such works and the operation thereof. The franchise, when granted and reduced to writing, shall first be approved by the city attorney, before being executed by the mayor and city clerk.
- (4) No grant of a franchise or the extension of, or an addition to, any line of such work, over any additional street or territory of the city, shall be made for a period extending beyond the time limited for the expiration of the franchise of the principal work of which it is an extension; and if the franchise of the principal company or work is one which was granted before this act goes into effect, and is not limited as to time, the franchise granted for the extension or addition shall nevertheless be made subject to the conditions hereof, including a time limit of not exceeding fifty years. If a franchise be secured from the city by an individual or by an independent or new company, and the work constructed thereunder afterwards becomes a part of it, or be operated as a part of a larger work of the same kind whose franchise was previously obtained and is limited to expire earlier, such later franchise shall, by reason of such annexation, merger, or single operation, expire simultaneously with such earlier franchise.

#### *Ordinances*

Sec. 34. All ordinances shall be adopted in accordance with the following requirements:

- (1) The style of ordinances of the city shall be, "Be it enacted and ordained by the council of the City of Welch."
- (2) All ordinances shall be presented in writing.
- (3) No ordinance shall contain more than one subject which shall be clearly expressed in its title.

- (4) A proposed ordinance shall be read by title at not less than two meetings of the council with at least one week intervening between each meeting, unless a member of the council demands that the ordinance be read in full at one or both meetings. If such demand is made, the ordinance shall be read in full as demanded.
- (5) At least five days before the meeting at which a proposed ordinance, the principal object of which is the raising of revenue for the city, is to be finally adopted, the council shall cause notice of the proposed adoption of said proposed ordinance to be published as a legal advertisement one time in two qualified newspapers of opposite politics whose publication area shall be the City of Welch. The notice shall state the subject matter and general title or titles of such proposed ordinance, the date, time and place of the proposed final vote of adoption, and the place or places within the city where such proposed ordinance may be inspected by the public. A reasonable number of copies of the proposed ordinance shall be kept at such place or places and be made available for public inspection. Said notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance.
- (6) A proposed ordinance shall not be materially amended at the same meeting at which finally adopted.
- (7) The council may adopt, by ordinance, building codes, housing codes, plumbing codes, sanitary codes, electrical codes, fire prevention codes, or any other technical codes dealing with general public health, safety or welfare, or a combination of the same, or a comprehensive code of ordinances, in the manner prescribed in this subsection (7). Before any such ordinance shall be adopted, the code shall be either printed or type-written and shall be presented in pamphlet form to the council at a regular meeting, and copies of such code shall be made available for public inspection. The ordinance adopting such code shall not set out said code in full, but shall merely identify the same. The vote on adoption of said ordinance shall be the same as on any other ordinance. After adoption of the ordinance, such code or codes shall be certified by the mayor and shall be filed as a permanent record in the office of the city clerk, who shall not be required to transcribe and record the same in the ordinance book as other ordinances are transcribed and recorded. It shall not be necessary that the code itself be so published, but before final adoption of any such proposed ordinance, notice of the proposed adoption of such ordinance and code shall be given by publication as herein provided for ordinances the principal object of which is the raising of revenue for the city, which notice shall also state where, within the city, the code or codes will be available for public inspection.
- (8) The council may enact an ordinance without complying with the rules prescribed in this section only (1) in the case of a pressing public emergency making procedure in accordance with the provisions of this section danger to the public health, safety or morals, and by affirmative vote of two thirds of the members elected to the governing body, or (2) when otherwise provided in this charter. The nature of any such emergency shall be set out in full in the ordinance.

- (9) All ordinances passed by the council shall be kept in a well bound book, and shall be indexed.
- (10) No ordinance shall become effective unless a majority of the members elected to council vote in the affirmative for the passage of the ordinance.
- (Ord. No. 91-CH-1, 12-16-91)

#### *Meetings of Council*

Sec. 35. The regular meetings of the council shall be publicly held at the city hall on the first Monday in each calendar month, the hour of such meetings to be fixed by the council in the rules adopted by it.

Special meetings of the council shall be held when called by the mayor or three members of the council. In the latter case the call therefor shall be in writing and signed by the members issuing it and shall state the time and place of meeting and the purpose thereof; and a copy thereof shall be served upon each member of the governing body then in the city. No business other than that stated in such call shall be considered at such meeting.

The mayor shall be the presiding officer of all regular or special meetings of the council, and whenever for any reason he shall be absent from the city, or unable to attend the duties of his office temporarily, a member of the council shall be selected as president *pro tem* of the council and as such perform the duties of the mayor, and preside over said council meeting.

Unless otherwise herein provided, the vote upon any question or motion before the council may be *viva voce* when unanimous; but if the question or motion does not receive the unanimous vote of the members present, the vote shall be taken by roll call of the members and made a part of the minutes of the meeting, and when the vote is unanimous the minutes shall so state.

The mayor shall have a vote as a member of the council, and in the event his vote upon any motion, question, resolution or ordinance, shall cause a tie vote of the members of the council present then said motion, question, resolution or ordinance shall be declared lost and not carried. In no case shall the presiding officer vote twice on the same proposition.

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

#### *Quorum*

Sec. 36. A majority of the whole number of members elected to the council shall be necessary for the transaction of business, but a smaller number may adjourn from time to time and may compel the attendance of absent members, in such manner and under such penalties as it may by rules provide. If a majority of the whole number of members elected to the council be present at a regular meeting they may proceed to business although the mayor be not present. In the absence of the mayor the councilmen present shall select one of their number as presiding officer *pro tem* of the council.

*Record Books*

Sec. 37. The council shall cause to be kept by the city clerk in a well bound book to be called the "Minute Book" an accurate record of all its proceedings, ordinances, acts, orders and resolutions, and in another to be called "Ordinance Book," accurate copies of all general ordinances adopted by the council; both of which shall be accurately indexed and open to the inspection of anyone required to pay taxes in the city, or who may be otherwise interested therein.

All oaths and bonds of officers in the city, and all papers of the council shall be endorsed, filed and securely kept by the city clerk. The bonds of officers shall be recorded in a well bound book to be called "Record of Bonds."

The council shall from time to time cause such additional books to be kept by the city clerk as are necessary to properly record the proceedings of the council and keep in an orderly condition records of the financial and other affairs of the city.

*Auditing Books*

Sec. 38. The council shall by proper ordinance provide for the auditing of all the books and accounts of the city, at least once each year, and shall appoint or employ a reputable person for such purpose, and such audit shall show the complete financial condition of the city at the time thereof, and the receipts and disbursements of all monies during such year. The council shall also provide by ordinance for the publication of such audit of the financial condition of the city at least once each year, and such audit shall be spread upon the records of the council and be a public record for all purposes.

*City Funds—Receipt and Disbursement*

Sec. 39. All monies belonging to the city shall be paid over to the city clerk who shall be *ex officio* treasurer of the city, and no money shall be paid out by the city clerk, except as the same shall have been appropriated by the council and upon an order signed by the mayor, and

not otherwise. All warrants for the disbursement of funds for the city shall be signed by the city clerk and countersigned by the mayor.

*Estimate of Expenses*

Sec. 40. A financial committee shall be appointed from the council members, by the mayor, which, together with the mayor shall constitute a finance committee which shall on or before the first day of August in each year, prepare and submit to the council a budget or estimate of the amount of money necessary and advisable to be expended by the city for the current year next ensuing and to be provided for by the tax levy as herein provided for such current year, in which estimate the finance committee shall ascertain and present a detailed and itemized account or estimate of the money necessary to pay interest on the bonded indebtedness of the city, the amount required for the several sinking funds, for the reduction of the principals thereof, the amount to be expended severally for the streets, alleys, curbing, water works, police department, fire department, street paving, sewers, salaries, parks, real and personal property, contingent expenses and other proper municipal expenditures and expenses, together with an itemized statement of the estimated receipts, other than that to be derived from the annual levy, and after receiving such estimates, and before making the levy the council shall apportion the rate thereof (including estimated receipts for licenses and all other sources), among the several funds to ascertain and provide for, which said apportionment when adopted, shall be spread upon the records of the council.

*Taxation*

Sec. 41. The council shall be governed in all respects in laying the annual levy or any additional or special levy by chapter nine of the acts of the extraordinary session of the legislature of West Virginia of one thousand nine hundred and eight and by chapter eighty-five of the acts of the session of the legislature of one thousand nine hundred and fifteen as the same is amendatory of certain sections of the said chapter nine of the said acts of one thousand nine hundred and eight, except that they may include a poll tax of not exceeding one dollar each year upon each able-bodied man therein, who is above the age of twenty-one years and not over fifty years of age, which poll tax shall be used exclusively for opening, improving and maintaining roads, streets and alleys of the city, and shall designate the same as the "street taxes"; and the said council may also impose such license tax upon dogs and other animals as they may deem proper, and collect the same from the owners of such animals as other taxes are collected, and prescribe such rules, regulations and penalties governing the payment of such tax on animals as they may deem reasonable. And the general annual levy upon the taxable property within the corporate limits of said city shall not exceed the sum of eighty cents upon each one hundred dollars valuation. But in addition to said levies above mentioned, and in addition to any levies provided by the general law, with which these are not meant to conflict, the council of said city is empowered to and shall lay a special annual levy not to exceed ten cents on each one hundred dollars valuation of the property in said city for the purpose of creating a sinking fund with which to pay off the principal of the present outstanding bonded indebtedness of said city when the same becomes due and for the purpose of paying annually, when due, the interest coupons of the said present outstanding bonded indebtedness of the said city, which said special levy shall be continued annually by the

council for as many years as may be necessary to pay off said present outstanding bonded indebtedness and the interest coupons that may become due thereon, but no longer. Also, in addition to the above, the said council, beginning with the year one thousand nine hundred and twenty-five, is empowered to and shall lay a special annual levy not to exceed five cents on each one hundred dollars valuation of the property in the said city for the purpose of paying off any outstanding orders issued against the treasury of said city prior to July the first, one thousand nine hundred and twenty-four, and for the purpose of paying off any debts contracted prior to said date, or any judgment taken against the said city prior to said date. And both of the aforesaid special levies, when collected, shall be used for no other purpose than for the aforesaid purposes for which they shall be laid as aforesaid.

*Assessment and Collection of Taxes*

Sec. 42. For the purpose of taxation the assessed valuation of real and personal property within the city, subject to taxation, shall be the same as the assessed valuation placed thereon by the assessor of McDowell county for real and personal property lying within the corporate limits of the city. The city clerk shall list all real and personal property subject to taxation within the city, together with the names of the owners thereof and return the same to the council on or before the first day of October of each year. He shall ascertain the assessed valuation of all real and personal property fixed by the county assessor and place said valuation opposite the names of the owners of said real and personal property.

He shall make out proper tax tickets in the following manner, to-wit: There shall be a single ticket for the whole amount charged to any person, firm or corporation, and after the tickets have been examined, compared and found to be correct by the council, they shall be turned over to the chief of police by the first day of November following the levy. The chief of police shall receipt for the gross amount and then give notice by publication in a newspaper of general circulation in the city and posting thereof in conspicuous places in said city for at least ten days, stating that the tax tickets are in his hands for collection, the penalty for non-payment thereof, and where the same may be paid; *provided, however*, that the chief of police may first mail to the taxpayers tax tickets for tax on their property and in the event of non-payment proceed to collect the same in the manner herein provided. Immediately upon the payment of said taxes or any part thereof, any amount so collected shall be turned over to the city clerk who shall receipt therefor. All taxes shall be due and payable within thirty days after expiration of the notice posted and published or mailed as aforesaid, and in case the same are not paid within that time, the chief of police may distrain and sell therefor in like manner as the officer collecting state taxes may distrain therefor, and he shall have in all other respects the same power to enforce the payment and collection thereof. On all tickets remaining uncollected in the hands of the chief of police on the first day of January following notice and publication of taxes aforesaid, a penalty of five per cent shall be added and collected, together with six per cent interest until paid.

A discount of two and one-half per cent may be allowed on all taxes paid on or before November thirtieth.

There shall be a lien upon all real estate within said city for the city taxes assessed thereon, including such penalties and interest added thereto for nonpayment thereof as are

prescribed by this act, from the first day of January following the date when said taxes are due and payable as herein provided. Said lien may be enforced in any court of record in McDowell county by proper suit, provided such suit be entered within five years after said liens attach as herein provided, such suit may either be by or in the name of the City of Welch as plaintiff or said city may intervene by petition in any suit to sell or enforce the lien against real estate which is subject to such liens for said taxes. The liens herein created shall have priority over all other liens except those for taxes due the state and county. It shall be the duty of the city clerk at the expiration of the tax collection period to return to the auditor of the state of West Virginia, real estate delinquent for the nonpayment of taxes in the same manner as the sheriff of McDowell county is authorized, empowered and directed to make return of real estate delinquent for the nonpayment of taxes. And the laws of the state of West Virginia in relation to delinquent taxes and the sale of property therefor are hereby in all respects adopted as to all proceedings in relation to taxes for city purposes delinquent in said city. And the powers and duties conferred by the laws of said state upon county courts and their clerks and sheriffs in regard to delinquent taxes and their collection, are hereby in all things conferred upon said city council, its city clerk and other city officials whose duties are of a similar nature as those of said county officials, in so far as the same may be directly or by implication applicable in the collection of delinquent taxes due said city.

#### *Licenses*

Sec. 43. Whenever anything for which state license is required is to be done within the city, the city council may require a city license to be had for doing the same and may in any case require from any person licensed a bond with surety in such penalty and with such conditions as may be proper for the protection of the public health, safety or morals. The council shall prescribe by ordinance the time and manner in which licenses of all kinds shall be applied for and granted and shall require the payment of the taxes thereon to the city clerk before the delivery thereof to the person applying therefor, which tax shall include the same fees for the issuance of such license as are charged for similar services of state and county officers, which fee shall be paid into the city treasury.

The council may refuse to grant license to any person or corporation for good cause shown and shall have the right to revoke any such license granted for a breach of any of the conditions or for other good cause shown, but the person or corporation holding such license shall first be given reasonable notice of the time and place of hearing and adjudicating the matter of the revocation of said license, as well as the cause alleged for said revocation, and shall be entitled to be heard in person, or by counsel, in opposition to such revocation. The term for which license provided for in this chapter is granted shall be governed by the general laws of the state relative to state licenses.

#### *Bond Issues*

Sec. 44. The council of the said city shall have the right to bond the said city for the purpose of paving the said streets, or for other permanent improvements, or for the purpose of taking up paying off or refunding any already outstanding city bonds or items of indebtedness, whenever the council thereof may deem the same necessary; but the aggregate indebtedness of the said city for all purposes shall never at any time exceed five *per centum* of the

assessed valuation of the taxable property therein according to the last assessment next preceding said date. The said council shall provide a fund for the payment of the interest annually on the said indebtedness so created, and to pay the principal thereof within and not exceeding thirty-four years; *provided*, that no debt shall be contracted hereunder, unless all questions connected with the same be first submitted to a vote of the qualified voters of said city, and have received three-fifths of all the votes cast for and against the same.

#### *Indebtedness Prohibited*

Sec. 45. The council of the said city shall not, at any time, or for any purpose, create any indebtedness against the said city except as provided in the next preceding section, exceeding the available assets of the said city for the current year; and if the said council shall create such indebtedness or issue orders on the city for an amount exceeding the amount of money collected for that year for said city from all sources, and the amount of money then in the treasury appropriated, the members of said council shall be severally and jointly liable for the payment of the excess of such indebtedness or orders over the amount of money applicable thereto, and the same may be recovered in any court having jurisdiction thereof. Any councilman violating the provisions of this section shall be deemed guilty of malfeasance in office, and may be removed as such councilman in pursuance of section twenty-three of this act. *Provided, however*, this shall not be applicable to such members who have voted against said excess; and, *provided, further*, that the vote of each member of council shall be recorded.

#### *Street Paving and Improvements*

Sec. 46. (a) The council of the City of Welch may order and cause any avenue, street, road or alley therein to be graded, or curbed or recurbed with stone, concrete or other suitable material, or paved or repaved, between curbs, with brick, wooden blocks, asphalt or other suitable materials, or to be graded and curbed or recurbed and paved or repaved as aforesaid or to be macadamized or to be otherwise permanently improved or repaired, under such supervision as may be directed by ordinance or resolution, upon the best bid to be obtained by advertising for proposals therefor, except the city may do the work without letting it to contract as hereinafter provided in (d) of this section; and may purchase or condemn land for opening or widening avenues, streets, roads and alleys. The entire cost, or any part thereof, designated by the council, of such grading, curbing and paving or macadamizing, or other permanent improvements, of any of the avenues, streets, roads and alleys as aforesaid, from and including the curb of either side thereof to the middle thereof and the cost, or any part thereof, of purchasing or condemning land as aforesaid for street purposes, may be assessed to and required to be paid by the owners of the land, lots or fractional parts of the lots, fronting or bounding on such avenue, street, road or alley so improved, except as otherwise provided in (c) and (g) of this section.

(b) Payment is to be made by all land owners on either side of such portion of any avenue, street, road or alley so paved, opened, widened, or improved in such proportion to the total cost (less the portion, if any, chargeable to the street or other railway company) as the frontage in feet of his abutting land bears to the total frontage of all the land so abutting on said avenue, street, road or alley or portion thereof opened, widened, paved or improved as aforesaid; but the cost of such paving or improvement on said avenue, street, road or alley (not including

opening or widening), shall not include any portion or amount paid for the paving or improvement of intersections of avenues, streets, roads or alley, unless the work be done, and the payment made therefor, as especially provided in (c) and (g) of this section.

(c) *Provided*, the council of the City of Welch may order and cause any work to be done, and improvements made, set out in (a) of this section and in addition to the assessment provided for in (a) of this section, may assess proportionately the property abutting or abounding on such avenue, street, road or alley so improved with the total cost of the paving, grading and curbing or macadamizing or other permanent improvements of the intersections of the avenue, streets, roads or alleys so paved or otherwise permanently improved.

*Provided, further*, that if the said council propose, order and cause such improvements to be made under this clause of this section they shall first enact an ordinance or resolution setting forth the work and improvements to be done, the extent of said improvement and manner of paying for the same, which ordinance or resolution shall be published once a week for two consecutive weeks in two newspapers of opposite politics, published and of general circulation in said city. In such publication the council shall set a time of at least ten days from the date of the first publication in which objection and protest may be made against the proposed improvement as aforesaid by the owners of the property against which said assessment is proposed to be made, and if, at or before such time so set by the directors, the *bona fide* owners of more than three-fifths in lineal feet of the property abutting upon the avenue, street, road or alley proposed to be improved as aforesaid, shall file separately or jointly their written protest setting forth the fact, under oath, that they are the *bona fide* owners of said property, with the council, objecting to and protesting against the work to be done and the improvement to be made under this clause in this section, the council shall proceed no further hereunder and shall make note of the discontinuance of such proposed work and improvement under this clause of this section in their minute book. If the owners of more than three-fifths of said property do not file objection or protest as herein provided, the council may immediately by ordinance or resolution, order and direct such work to be done, improvement made and the assessments levied against said property in manner set out in this section, and the other sections of this act. The publication of the ordinance herein provided for shall be sufficient if the title to the same is published, with a statement of the purpose of the ordinance setting out between what points the improvement is proposed to be made, and the method under which payment for the same is to be made, and stating the time at which objections may be heard.

(d) The city itself, after any work or improvement is finally ordered to be done or made in manner and form provided in this act, may, at its election, do such work and make such improvement, and collect the cost thereof, in the manner set out in this act. The decision of the city to do such work, or make such improvement, may be without notice or after the publication of the notice to contractors mentioned in this section, or after the rejection of all bids for doing the same.

(e) The cost of grading, curbing and paving, or otherwise improving the intersections, or parts of intersections, of avenues, streets, roads or alleys, on the plans adopted by the council for such work, shall be paid by the city, except as otherwise provided in (c) and (g) of this section.

(f) And if any such avenue, street, road, or alley be occupied by street car track, or tracks of other railroads, the cost of said improvements of the space between the rails and two additional feet outside of each rail shall be assessed to and borne and paid entirely by the person or company owning or operating such street car or other railway line, unless otherwise provided by the franchise of such street car or other railway company granted previous to the passage of this act.

(g) *Provided*, the council, if they so elect, may order and cause any avenue, street, road or alley, including intersections, public park or public place, to be widened, graded or changed in grade, and curbed or recurbed, and paved or repaved, with brick, concrete, asphalt or any other suitable materials, or macadamized or otherwise permanently improved, including the construction or [of] retaining walls, sewers, drains, water pipes, water dams and water courses in connection therewith and may purchase land, or condemn land for any public avenue, street, road or alley, or part thereof, or park or other public purpose, and the council may assess all or any part of the entire cost of such improvements (or taking of land or both) upon the abutting, adjacent, contiguous and other lots or land especially benefited by such improvement in the proportion in which such lot or land is especially benefited by the improvement. The council, when they decide to order the improvements under this plan, shall, by ordinance or resolution, before doing the same, fix the approximate total amount of the special benefits to be derived from such improvements to the abutting, adjacent, contiguous and other specially benefited land or lots assessed and setting out the names of the owners, the approximate amount of the special benefits to the lot or land of each owner and the approximate amount of the total cost of the proposed improvements, the council may in fixing such assessments take into consideration the assessed value of the lots or land as fixed for the last assessment year for state and county purposes.

*Provided, further*, that if the said council proposes to order and cause such improvements to be made under this clause of this section, it shall first enact an ordinance or resolution setting forth the work and improvements proposed to be done, the extent of said improvements and manner of paying for the same, which ordinance or resolution shall be published once a week for two consecutive weeks in two newspapers of opposite politics published and of general circulation in said city, in which publication the council shall set a time of at least ten days from the date of the first publication in which objection may be made against the proposed improvement as aforesaid by the owners of the property against which said assessment is proposed to be made.

The publication of the ordinance herein provided for shall be sufficient if the title to the same is published with a statement of the purposes of the ordinance setting out at what place the improvement is proposed to be made, and the method under which payment for the same is to be made, the lots and land with the names of the owners of record thereof and the approximate amounts to be assessed against each lot, and the owner thereof, and stating the time at which objections may be filed.

(h) When the council shall deem it expedient and proper to cause any avenue, street, road or alley, or any portion thereof, in such city, to be graded, or graded and paved, curbed, or macadamized, or otherwise permanently improved, or land to be acquired or taken for street

purposes, as provided in (a) of this section, or shall deem it expedient and proper to cause the construction of any public sewer in or under such avenue, street, road or alley or land or easement therein to be acquired or taken therefor, or elsewhere, or cause any other permanent improvements to be undertaken, contemplated by this or any other section, or sections, they shall, by ordinance or resolution, order the work done, stating the method of payment thereof, and, if it be let to contract, notice shall be in the following manner, to-wit:

(i) The notice for the bids or proposals for doing such work and making such improvements, shall be published for at least fifteen days in two newspapers of opposite politics, or in one newspaper, if two such newspapers be not published in the city. If the publication of the notice cannot be procured in any newspaper in said city at reasonable rates, then said notice may be given in the manner directed by the council. Said notice shall state, when, where and how the bids or proposals shall be made; and whether so stated in the notice or not, the city may reject any and all bids for such proposed work. Before advertising for bids on the work, the city shall approve and adopt plans and specifications therefor, and the advertisement for bids, and the contract awarded thereon, shall refer to such plans and specifications. The fact that such contract shall be let for said work shall be *prima facie* proof that the notice mentioned above was given as required herein.

(j) The cost of said paving, macadamizing or otherwise permanent improvement may be paid in either one of the two ways provided for in this act (to be specified by ordinance by the council).

(k) If the abutting land on any such avenue, street, road or alley sought to be improved as aforesaid, or in which a sewer is ordered laid, is not laid off into lots by a map of record, the council may, for the purpose of making the assessments provided for in this section and other sections herein, lay off said land into lots of such sizes as the council deems advisable for the purpose of laying the proper assessment against such land.

Sec. 47. [(a)] Said city of Welch is hereby authorized to issue its bonds for the purpose of providing for the costs of grading, paving and curbing, or macadamizing, or otherwise permanently improving the avenues, streets, roads and alleys of said city, or acquiring ground for opening public avenues, streets, roads, alleys or parks, or constructing main and lateral sewers, or both in anticipation of special assessments to be made upon the property abutting upon the avenues, streets, roads and alleys so improved or benefited. Said bonds may be in such an amount as shall be sufficient to pay the entire costs and expenses of said improvements for which such special assessment are to be levied; and said city is authorized to sell said bonds, but not below the par value thereof. The amount for which said bonds are to be issued may be made of five bonds, payable in two, four, six, eight and ten years, respectively, from the date of their issue, and shall bear interest not to exceed six per cent *per annum*, payable annually; or may be of four bonds, payable in one, two, three and four years, respectively from the date of their issue, and shall bear interest not to exceed six per cent *per annum*, payable annually, and the date of said four year bonds, when issued, shall conform, as near as can be, to the date of assessment laid against real estate for the purpose of procuring revenue to retire said bonds; *provided*, the city shall have the right to redeem and pay off, at any interest paying period, all or any number of said undue bonds of the said four year issue of

bonds provided for in this section. In the issuance and sale of said bonds the said city shall be governed by the restriction and limitations of the constitution of this state and the restriction and limitations of the state laws of this state relating to the issuance and sales of bonds, so far as such state laws are not in conflict with the provisions of this act; and the assessments as provided for and required to be paid herein shall be applied to the liquidation of said bonds and interest thereon, and if, by reason of the penalties collected with the delinquent assessments there be any balance after the payment of the bonds and all accrued interest and costs, it shall be turned into the city treasury to the credit of the interest and sinking fund of the city.

(b) And it shall be the duty of the council to immediately certify such assessments to the treasurer for collection, as herein provided; and for the purpose of facilitating the collection of such assessments against the properties herein, the council may issue assessment certificates, with the interest coupons attached thereto, to be delivered to and charged against the city treasurer who shall collect the same and as such certificates and coupons are paid he shall deliver the cancelled certificates to the party paying the same. A copy of the said order shall be certified by the city clerk to the clerk of the county court of the county, who is hereby required to record and index the same in the proper trust deed book in the name of each person against whose property assessments appear therein.

(c) The amounts so assessed against said lots and owners thereof, respectively, if assessed for the liquidation of the five bonds payable in two, four, six, eight and ten years, respectively, after date, shall be paid in ten payments as follows: that is to say, one-tenth of said amount, together with the interest on the whole assessment for one year, shall be paid into the treasury of the city before the first day of the following January; and a like one-tenth part, together with the interest for one year on the whole amount remaining unpaid, shall be paid before the first day of January of each succeeding year thereafter, until all shall have been paid; and the amount so assessed against said lots and owners thereof, respectively, if for the liquidation of the four bonds payable in one, two, three and four years, respectively, after date, shall be paid in five payments, as follows: that is to say, one-fifth of said amount, with interest, shall be paid in thirty days from date of assessment; and one-fifth of said amount, together with interest on the whole unpaid assessment, shall be paid into the treasury of the city before one year from date of such assessment; and a like one-fifth part together with the interest on the whole amount remaining unpaid, before two years from the date of such assessment, and a like amount in each succeeding year thereafter, until all shall have been paid. All of said installments shall bear interest at six *per centum per annum*, payable annually from the date of assessment. *Provided, however*, that the owner of any land, so assessed for the cost of any of the permanent improvements herein mentioned, shall have the right at any time to anticipate and pay the whole of such undue assessment and interest thereon until the day on which the next undue assessment shall become due, and have the lien against the property so assessed released as hereinafter provided.

(d) If any assessment shall not be paid when due, then a penalty of four per cent *per annum* shall be added and collected on the amount of such assessment after it is due until its payment, and such four per cent penalty shall be in addition to the six per cent interest which the assessment carries, and shall be a lien the same as the assessment, and the council shall

cause to be enforced the payment of said assessment and interest and penalty in all respects as herein provided for the collection of taxes due the city; and said assessment shall be a lien upon the property liable therefor the same as for taxes, which lien may be enforced in the same manner as provided for the sale of property for the payment of taxes and tax liens; and the liens herein provided for shall have priority over all other liens except those for taxes due the state and county, and shall be on a parity with taxes and assessments due the city.

(e) When all of said assessments shall be paid in full to the treasurer, he shall deliver to the owner of said property a release of the lien therefor, which may be recorded in the office of the clerk of the county court as other releases of liens are recorded.

Under this plan for the payment of the costs of such permanent improvements of avenues, streets, roads and alleys, and the construction of sewers, the contractor (if the work is let to contract) shall look only to the city for the payment of the work, and in no sense to the abutting land owners.

(f) If the abutting land on any such avenue, street, road or alley sought to be improved as aforesaid, or in which a sewer is ordered laid, is not laid off into lots by a map of record, the council may, for the purpose of making the assessments provided for in this section and other sections herein, lay off said land into lots of such size as the council deems advisable for the purpose of laying the proper assessment against such land.

**Sec. 48.** The council may contract for such paving (including grading and curbing), or other said improvements, to be done as aforesaid, and may acquire or take land for street and park purposes, as aforesaid, and may, if the council so elect stipulate that the cost thereof, in whole or in part, shall be paid in installments by the abutting property owners, as provided in (a) and (c) of section forty-six, or specially benefitted property owners, as provided in (g) of said section, in five equal or nearly equal installments (making four in terms of dollars only and when practicable in multiples of ten, the cents and odd amounts to be covered by the first installment), except as hereinafter provided in this section, to be evidenced by a certificate issued therefor against each separate lot or tract of land, setting out the total amount of such assessment against the same, payable in five installments except as hereinafter provided, as follows: The first in thirty days after date of certificate, the second on the first day of May of the year following the year in which the certificate is issued, and the remaining three on the first day of May of the three following years respectively. The date of certificate in case of permanent improvement of streets or other roadways shall be the day on which the city received said work from the contractor, and it shall bear interest at the rate not to exceed six per cent *per annum*, payable on the due date of each principal installment, which certificates are to be signed in person by the mayor and clerk, or other person or persons designated of record by the council. Said certificates shall bear coupons designated "principal installment coupons," representing the respective amounts of the installments to be paid under the same, and which coupons shall be due and payable on the dates provided for the payment of the installments in this section, and said certificate shall also bear interest coupons representing the interest to be paid on said assessment and which said interest coupons shall be due and payable at the same time the principal installment coupons are due and payable. Upon the due date of any principal installment coupons excepting the first, the accrued interest on so

much of said assessment as remains unpaid shall be due and payable and shall be represented by interest coupons as hereinabove set out. The interest on the first principal installment coupon shall be paid when the said principal installment coupon is paid, both the principal installment and interest coupons shall be signed by the mayor and clerk, or other person or persons designated, of record by the council, either in person or by stamp bearing a *fac simile* of the written name of person signing or lithographed in *fac simile* on said principal installments and interest coupons.

The certificates herein provided for may be sold either to the contractor doing the paving or other improvements, or to any other person, and which shall cover the entire cost of such work provided for in the ordinance or resolution, including the cost of acquiring or taking land for street or park purposes, the cost of surveys, notices and other things pertaining thereto; *provided*, when the entire amount to be assessed against any lot or piece of ground under the provisions of this section does not exceed fifty dollars, then such amount shall be covered by only one set of said coupons, payable in thirty days after date of its issue; if only fifty and not more than one hundred dollars, then such amount shall be covered by only two principal installment and interest coupons, payable in thirty days after date of certificate and on the first day of May of the year succeeding the year in which the certificate was issued, respectively; if over one hundred and not more than one hundred and fifty dollars, then such amount shall be covered by only three principal installment and interest coupons, payable in thirty days from date of certificate and on the first day of May of the year succeeding the year in which the certificate was issued and on the first day of May in one year thereafter, respectively; if over one hundred and fifty dollars and not more than two hundred dollars, then such amount shall be covered by only four principal installment and interest coupons payable in thirty days after date of certificate and on the first day of May of the year succeeding the year in which the certificate was issued and on the first day of May in one and two years thereafter, respectively; if more than two hundred dollars, then such amount shall be covered by five principal installment and interest coupons payable in thirty days after date of certificate and on the first day of May of the year succeeding the year in which the certificate was issued and on the first day of May in one, two and three years thereafter, respectively; *provided, further*, the city in negotiating and selling such certificates, shall not be held as guarantor or in any way liable for payment thereof, except upon the direct action of the council as expressed by resolution of record. And the certificate and coupons covering the amount of the assessment and interest shall be paid by the owner of the land, lot or fractional part thereof, so assessed for the cost of said improvement on such avenue, street, road or alley so paved or improved, or land acquired or taken as aforesaid. The amount specified in said assessment certificates shall be a lien in the hands of the holder thereof upon the lands, lots or parts thereof so assessed, and shall also be a debt against the owner of such real estate, and said amount shall draw interest from the date of said certificates, payable on the due date of each principal installment coupon; and the payment of any debt may be enforced as provided by law for the collection of other debts or such lien may be enforced in the name of the holder of such certificate in the manner provided by law for the enforcement of other liens against real estate, and accrued interest shall be a lien the same as amount set out in assessment certificate.

After a contract has been made by the council to pave or otherwise permanently improve any public road, avenue, street or alley in said city under this act, and the paving or other permanent improvement, or stipulated part thereof, has been completed, or the cost of acquiring or taking land as aforesaid, has been ascertained, the council shall assess the amount each lot shall bear and shall make a written report, stating the number of lots and the blocks or tracts of land, when not laid off into lots, the names of the owners of such lots or land when known, and the amount assessed thereon; and when the said council approves said report, or modifies it and then approves it, a copy of said report, so adopted by the council, when certified to by the city clerk of said city, shall be recorded in the clerk's office of the county court of McDowell county, in a trust deed book and shall be a continuing tax lien upon the lot or ground against which the assessment is made until the certificates as aforesaid are paid, except as otherwise provided in this act, and the clerk shall index the same in the name of each lot or land owner mentioned therein. *Provided*, any property owner shall have the right to pay the whole amount of any such assessment against his property as soon as the same shall have been ascertained, but before the day on which the city enters such assessments of record after the two weeks' notice provided in section forty-six; and such payment shall be made to the city clerk, who shall give the proper receipt therefor, and such assessment, so paid, shall not be included in the report to be recorded in the office of the county clerk as set out in this section; and the amount so paid to the clerk shall forthwith be paid to the contractor or other person entitled thereto, which shall operate as full discharge of the amount of such indebtedness of such property owner. The certificates and principal installment and interest coupons herein provided for may be made in the following form or to the same effect:

No. \_\_\_\_\_ STATE OF WEST VIRGINIA \$ \_\_\_\_\_ (State Coat of Arms)

PAVING ASSESSMENT CERTIFICATE:

This certifies that \_\_\_\_\_ as the owner of a lot, piece or parcel of real estate, situate in the City of Welch, known and designated as Lot No. \_\_\_\_\_ in Block No. \_\_\_\_\_, has been duly assessed the sum of \_\_\_\_\_ dollars, with interest from this date at the rate of six *per centum per annum*, payable on the due date of each principal installment coupon as hereinafter set out, which assessment has been made to pay the cost of the public improvement hereinafter recited.

This certificate is one of a series issued pursuant to the provisions of the charter of the City of Welch, West Virginia, and the laws of the state of West Virginia, to pay the cost of grading, curbing and paving \_\_\_\_\_ from \_\_\_\_\_ to \_\_\_\_\_ in the City of Welch, West Virginia.

The charter of the City of Welch, West Virginia, requires assessments for such improvements to be made payable in installments as follows:

(a) If not more than fifty dollars in one installment, due in thirty days after date of certificate.

(b) If more than fifty dollars and not more than one hundred dollars, in two installments, due in thirty days and on the first day of May of the year succeeding the year in which the certificate was issued.

After a contract has been made by the council to pave or otherwise permanently improve any public road, avenue, street or alley in said city under this act, and the paving or other permanent improvement, or stipulated part thereof, has been completed, or the cost of acquiring or taking land as aforesaid, has been ascertained, the council shall assess the amount each lot shall bear and shall make a written report, stating the number of lots and the blocks or tracts of land, when not laid off into lots, the names of the owners of such lots or land when known, and the amount assessed thereon; and when the said council approves said report, or modifies it and then approves it, a copy of said report, so adopted by the council, when certified to by the city clerk of said city, shall be recorded in the clerk's office of the county court of McDowell county, in a trust deed book and shall be a continuing tax lien upon the lot or ground against which the assessment is made until the certificates as aforesaid are paid, except as otherwise provided in this act, and the clerk shall index the same in the name of each lot or land owner mentioned therein. *Provided*, any property owner shall have the right to pay the whole amount of any such assessment against his property as soon as the same shall have been ascertained, but before the day on which the city enters such assessments of record after the two weeks' notice provided in section forty-six; and such payment shall be made to the city clerk, who shall give the proper receipt therefor, and such assessment, so paid, shall not be included in the report to be recorded in the office of the county clerk as set out in this section; and the amount so paid to the clerk shall forthwith be paid to the contractor or other person entitled thereto, which shall operate as full discharge of the amount of such indebtedness of such property owner. The certificates and principal installment and interest coupons herein provided for may be made in the following form or to the same effect:

No. \_\_\_\_\_ STATE OF WEST VIRGINIA \$ \_\_\_\_\_ (State Coat of Arms)

PAVING ASSESSMENT CERTIFICATE:

This certifies that \_\_\_\_\_ as the owner of a lot, piece or parcel of real estate, situate in the City of Welch, known and designated as Lot No. \_\_\_\_\_ in Block No. \_\_\_\_\_, has been duly assessed the sum of \_\_\_\_\_ dollars, with interest from this date at the rate of six *per centum per annum*, payable on the due date of each principal installment coupon as hereinafter set out, which assessment has been made to pay the cost of the public improvement hereinafter recited.

This certificate is one of a series issued pursuant to the provisions of the charter of the City of Welch, West Virginia, and the laws of the state of West Virginia, to pay the cost of grading, curbing and paving \_\_\_\_\_ from \_\_\_\_\_ to \_\_\_\_\_ in the City of Welch, West Virginia.

The charter of the City of Welch, West Virginia, requires assessments for such improvements to be made payable in installments as follows:

(a) If not more than fifty dollars in one installment, due in thirty days after date of certificate.

(b) If more than fifty dollars and not more than one hundred dollars, in two installments, due in thirty days and on the first day of May of the year succeeding the year in which the certificate was issued.

mayor and clerk, and the principal installment and interest coupons, respectively hereunto attached, to be signed by its mayor and clerk this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Clerk. Mayor.  
No. \_\_\_\_\_ \$ \_\_\_\_\_

PRINCIPAL INSTALLMENT COUPON

On the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, there will be due and payable to the bearer hereof, from \_\_\_\_\_ the sum of \_\_\_\_\_ dollars, being the \_\_\_\_\_ installment on certificate No. \_\_\_\_\_, of the City of Welch, West Virginia, for the curbing, grading and paving of \_\_\_\_\_ from \_\_\_\_\_ to \_\_\_\_\_.

\_\_\_\_\_  
Clerk. Mayor.  
No. \_\_\_\_\_ \$ \_\_\_\_\_

INTEREST COUPON

On the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ there will be due and payable to the bearer hereof, from \_\_\_\_\_ the sum of \_\_\_\_\_ dollars, representing interest at six *per centum* from \_\_\_\_\_ to \_\_\_\_\_ of certificate No. \_\_\_\_\_ of the City of Welch, West Virginia, for curbing, grading and paving of \_\_\_\_\_ from \_\_\_\_\_ to \_\_\_\_\_.

\_\_\_\_\_  
Clerk. Mayor.

**Sec. 49.** The council of said city is authorized and empowered to order and cause to be constructed, in said city, or part within and part outside of the limits of said city, a public sewer or sewers, either main or lateral, or both, by contract or direct by the city, for the benefit of said city or any part thereof, and to purchase land or easement therein or to condemn land or easement therein, for such sewer; and when the council shall order and complete the construction of any such sewer or any part thereof in said city, the owners of the property abutting thereon or abutting upon an avenue, street, road, or alley in which such sewer shall be constructed, or abutting on any land or easement therein specially procured for the purpose of the construction of a sewer therein, may be charged with all or any part of the cost thereof, including the cost of such sewer at and across intersections of avenues, streets, roads and alleys adjacent thereto. If said work is let to contract the provisions of (i) of section forty-six shall apply.

When said sewer is completed in any one block, or between two designated points, the council shall cause a report to be made in writing setting forth the total cost of such sewer and a description of the lots or lands as to location, frontage and ownership liable therefor, including the cost of acquiring or taking land or easement therein for such purpose and cost of surveys, notices, etc., therefor, together with the amount chargeable against each lot or piece of land and the owner thereof. If any lot fronts on two streets, or on a street (or road) and alley,

in which a sewer is constructed, it may be assessed on both said streets, or street and road, or street (or road) and alley. Said council shall enter an order upon its records setting forth the location and owner of each lot or piece of land, and the amounts of said sewer assessments there against, calculated in the same way as provided for street paving in (c) of section forty-six herein. The city clerk shall file a certified copy of said order with the clerk of the county court of McDowell county, who shall record the same in the proper trust deed book, and index the same in the name of each owner, and any lot or land thus charged with said assessment. The entry of such order shall constitute and be an assessment for such proportionate amounts so fixed therein against respective lots and land and the owners thereof; and said council shall thereupon certify the same to the treasurer for collection; and for the purpose of facilitating the collection of such assessments against the properties as hereinbefore set out, the council may issue assessment certificates, with principal installment and interest coupons attached thereto, in form and manner provided for street improvement certificates and coupons in section forty-eight to be delivered to and charged against the city treasurer, who shall collect the same, and as such coupons and certificates are paid he shall deliver the cancelled coupons and certificates to the party paying the same:

*Provided*, the council, if they so elect, may, after passage and publication of ordinance or resolution, as provided in (g) of section forty-six, order and cause the construction of any such sewer, and may acquire or take land or easement therein, either in or outside said city, or both, for said sewer purposes, and assess all or any part of the cost thereof upon and against the abutting, adjacent, contiguous and other lots of land specially benefitted by the construction of such sewer, as provided in (g) of section forty-six and said assessments along with accrued interest thereon shall be a lien upon such lots or land, and a debt against the owners thereof for the amount so charged against them respectively, which debt may be collected as provided by law for the collection of other debts of like kind, and which lien may be enforced in the same manner as provided for the enforcement of paving liens in this act; and the city shall have exclusive ownership and control of that part of any such sewer constructed outside of said city, unless otherwise provided by some ordinance of the city.

The amounts so assessed against said abutting lots or land, or lots or lands specially benefitted, and which shall be a lien there against, shall be collected in the manner provided in this act for the collection of paving liens.

Said assessments shall be divided into five installments each for one-fifth of the amount thereof, as near as practicable (making four in terms of dollars only, and when practicable, in multiples of ten, the cents and odd amounts to be covered by the first installment), the first due and payable in thirty days, the second on the first day of May of the year succeeding the year in which said certificates were issued and a like amount on the first day of May for each succeeding year thereafter from the time of receiving said sewer (except as hereinafter provided in this section), all bearing interest at six *per centum per annum* from such date, interest payable on the due date of each principal installment; and the council may issue sewer certificates, and principal installment and interest coupons thereon as of such date, as provided in section forty-eight of this act for street improvement assessments, as further evidence of said indebtedness and lien therefor, and said certificates may be sold or negotiated, at not less than par and without any kind of discount to the contractors doing such work,

or other person, if the council deem it expedient; *provided*, the city, in negotiating and selling such certificates, shall not be held as guarantor or in any way liable for payment thereof, except upon the direct action of the council as expressed by resolution of record. But the owner of the land or lot so assessed may, at any time, anticipate and pay such assessment or certificates with interest thereon until the day on which the next undue assessment shall become due. And if such assessment shall not exceed fifty dollars, then such amount shall be covered by only one set of said coupons, payable thirty days after date of its issue of certificate. If over fifty dollars and not more than one hundred dollars, then such amount shall be covered by only two principal installments and interest coupons, each, payable in thirty days and on the first day of May of the year succeeding the year in which the certificate was issued, respectively; if over one hundred dollars and not more than one hundred and fifty dollars, then such amount shall be covered by only three principal installments and interest coupons, each, payable in thirty days and on the first day of May of the year succeeding the year in which the certificate was issued, and on the first day of May one year thereafter respectively; if over one hundred and fifty dollars and not more than two hundred dollars then such amount shall be covered by only four principal installments and interest coupons, each payable in thirty days, and on the first day of May of the year succeeding the year in which the certificate was issued, and on the first day of May in one and two years thereafter, respectively; and if more than two hundred dollars, then such amount shall be covered by five principal installment and interest coupons payable in thirty days and on the first day of May of the year succeeding the year in which the certificate was issued, and on the first day of May in one, two and three years thereafter, respectively; and the term equal amounts herein shall mean as nearly equal as practicable, that is, four installments being expressed in terms of dollars only, and, when practicable, in multiples of ten, the cents and odd amounts being covered by the first installment.

All assessments along with accrued interest thereon, made under this section shall constitute and be a lien upon said lots or lands, respectively, which shall have priority over all other liens except for state, county and municipal taxes.

The certificates and principal installment and interest coupons provided for in this section may be made and issued in form or to the same effect as provided for certificates and principal and interest coupons for street improvements in section forty-eight.

If two newspapers of opposite politics are not published in the city at the time of the passage of any of the ordinances provided in this act to be published, then the same may be published in one newspaper of general circulation in the city, as provided by this act, and if the publication of the ordinance cannot be procured in any newspaper in said city at reasonable rates or for any other cause, then the same may be posted for the period provided in this act for publication, at the front door of the city hall, and such posting shall be equivalent to publication as herein provided.

All certificates, principal installment and interest coupons provided for in this act shall be made payable at the office of the treasurer of the City of Welch.

**Sec. 50.** In addition to the provisions for the release of said assessment liens, either for street paving or other permanent street improvements, or construction of sewers, or elsewhere

set out in this act, on the presentation by the land or lot owner of any of the certificates issued as aforesaid against him or his predecessor in the title to such lot or land, the clerk of the county court shall mark upon the margin of the trust deed book at which said certified report is recorded, that the lien is released as to the land or lot mentioned in such certificate to the extent of the amount of the certificates thus exhibited; and the county clerk shall thereupon write across the face of said certificates the date of their production to him for the release of lien, and shall sign his name thereto in his official capacity, for which he shall receive in advance a fee of twenty-five cents for each certificate so marked, from the person demanding the release of the lien aforesaid; but if more than one of the serial certificates against the land or lot or lots shall be produced at the same time, the fee to the county clerk shall not exceed twenty-five cents for the release of the liens as to all of the certificates thus produced and relating to the same real estate.

*Provided*, that the owner of any lot or land against which any paving or sewer certificate is an unreleased lien of record shall make and produce to the county clerk, or some person for such owner shall make and produce an affidavit setting out therein such certificate (or certificates) has been paid in full, and after diligent search, cannot be found, said county clerk shall upon the payment of a fee of twenty-five cents, file and preserve said affidavit as a public document and shall forthwith note the release of said lien to the extent of said lost certificate (or certificates) and the lots or land against which it is a lien upon the margin of the trust deed book as aforesaid, and noting therewith the filing of said affidavit, which shall operate as a release of such lien to the extent of such marginal notation. If the affidavit so filed be false, the person making oath and subscribing thereto shall be guilty of a felony and upon conviction thereof shall be fined not to exceed one thousand dollars, or sentenced to be confined in the penitentiary for a term of not more than two years, or both, in the discretion of the court passing sentence.

*Provided, further*, that any paving or sewer lien, which may be created in consequence of the provisions of this act, the last payment of which is not yet due, shall not, under any circumstances, be a lien against the lot or land or fractional part of a lot or land, against which it may have been assessed and made a lien for a longer period than two years after the last assessment or certificate of the same date and group, representing such lien, shall have become due and payable, unless some suit or action, at the termination of said two years period, shall be pending for the enforcement of the lien, or unless the amount of the lien or some part thereof is in some way involved in a suit or action pending at the end of said two year period.

All of the assessment certificates, which may be issued under the provisions of this act, shall be made payable at the office of the treasurer, who shall receive payments thereon when due, if tendered to him, and interest thereon from the date of such payments shall cease. The treasurer shall keep a separate and special account of all said sums of money received by him, and he shall hold said money in trust for the person who thereafter delivers to the treasurer for cancellation any and all certificates on which the treasurer has received full payment as aforesaid; but the owner of said certificate shall not be entitled to interest on said sum after the date of payment thereof to the treasurer. When the whole amount of any such assessment lien shall have been paid to the treasurer as aforesaid, or the treasurer shall be convinced that

all of the paving or sewer certificates against any land, lot or fractional part of lot, shall have been paid in full, he shall when demanded, execute a release of said lien in the manner hereinbefore provided for the release of paving liens. If the city shall have no person for treasurer, the clerk, unless some other person is designated by ordinance or resolution, which the council is hereby authorized to enact, shall perform the duties herein required to be performed by the treasurer.

**Sec. 51.** It shall be lawful for said City of Welch to issue and sell its bonds, as provided in this act for the sale of other paving and sewer bonds, to pay the city's part of the cost of construction of said sewers and for the paving or other permanent improvements of streets and alleys, as required by this act; and said city may levy taxes, in addition to all other taxes, authorized by law, to pay such bonds and interest thereon; *provided*, that the total indebtedness of the city for all purposes shall not exceed five *per centum* of the total value of all taxable property therein.

It is expressly provided that no bonds shall be issued under the provisions of this act, unless and until the question of issuing said bonds shall have first been submitted to a vote of the people of said city and shall have received three-fifths of all votes cast at said election for and against the same. The council of said city may provide by ordinance for submitting to the people at any regular election, or special election called for that purpose, the question whether or not said city shall be authorized to issue bonds for the purpose specified in this act; but the ordinance relating to the issuance of said bonds, and the submission of the same to the vote of the people, need not specify in detail the location of the improvements contemplated to be paid for out of, and works to be constructed with, the proceeds of sale of said aggregated issue authorized thereby; and if at such election the people by their vote thereon shall authorize the issuance of said bonds, said council may order the sale of same, as needed for said improvements, and works, dealing with all the requirements set forth in this act; and notwithstanding any other provisions of law it shall be sufficient description of the purpose for which said election is held for the ordinance calling the same or submitting said question to a vote at any general election, if it shall recite that it authorized the council to issue bonds for the purpose of grading, paving, curbing, sewerage or otherwise permanently improving the streets, roads and alleys of said city.

The provisions of state law concerning bond elections shall, so far as they are not in conflict with the provisions of this act, apply to the bond election herein provided for.

**Sec. 52.** In setting forth the lots and land abutting upon the improvement it shall be sufficient to describe them as the lots and lands abounding and abutting upon said improvements, between and including the termini of said improvements, or by the description by which they are described on the land books of the county, and this rule of description shall apply in all proceedings in which lots or lands are to be charged with special assessments.

**Sec. 53.** When work shall have been completed on any avenue, street, road or alley or part thereof as provided in section forty-six or forty-eight or the construction of any sewer or other work shall have been completed on any avenue, street, road or alley, or part thereof, or elsewhere, as provided in section forty-nine and said assessments there against shall have been calculated as provided in this act, the council shall give notice, by publication at least

once a week for two successive weeks in two newspapers of opposite politics published in said city, or in one newspaper if two such papers be not published therein, that an assessment under this act is about to be made against the property so assessed and the owners thereof, mentioning the kind of work and the location thereof; and the owners of said property shall have a right to appear before said council, either in person or by attorney or agent, at any regular or special meeting called for that purpose within two weeks of the first publication thereof, and move the council to correct any apportionment of the assessment excessive or improperly made; and the council shall have the power to make any such corrections before it enters the same, as corrected, upon its records.

If the publication in the newspapers aforesaid cannot be had at reasonable rates, or for any other cause, the notice may be given in some other manner designated of record by the council. The fact that said assessments shall have been entered of record, as provided by this act, shall be *prima facie* proof that the notice mentioned herein was given as prescribed in this section.

#### *Additional Method of Street Improvement*

Sec. 54. In addition to the methods herein provided for the construction and improvement of streets and sewers, the city council shall have the power, upon the petition in writing of the owners, of the greater amount of frontage of the lots abutting on any street or alley or between any two cross streets, or alleys, to provide for the construction, reconstruction, repair and maintenance of all local improvements including the grading, paving, sewerage and otherwise permanently improving of streets and alleys of the city, and to provide for the assessment of the cost thereof, including all incidental expenses and the cost of intersections of streets, with interest payable annually, against the abutting or other specially benefitted properties, according to their frontages, on each side of such streets or alleys, and against the owners thereof, upon the following conditions:

(a) Plan and resolution. The city council, when deemed expedient by it, shall cause plans, specifications, profiles and estimates of the proposed improvements by grading, paving, curbing, sewerage or otherwise locally improving any streets or alleys, to be made and filed in the office of the mayor, and shall by ordinance and resolution prescribe generally the location and character of the proposed improvement and refer to such plans, specifications, profiles and estimates.

(b) Notice and hearing. The city council shall then cause notice thereof to be published once in some newspaper published in said city, fixing the date for a hearing thereon not less than one week after the adoption of such resolution. At the date stated in such resolution and notice, or at any adjourned meeting, the city council shall hear objections to the proposed improvement and may correct, amend or modify such plans, specifications, profiles and estimates, not extending such improvement to any other street or part of street, and may pass or adopt a resolution or ordinance providing for such improvement, by direct employment of labor or by contract with the lowest responsible bidder, and for the assessment of the cost thereof against the abutting or specially benefitted properties on each side of such street or alley.

(c) Assessment, docketing and payment. The assessment and docketing of liens and other matters pertaining to certain improvements when the method provided in this section is used by the city council shall be the same in all manner and respects as provided in sections forty-six to fifty-three of this charter.

*Sidewalks*

Sec. 55. The council may cause any sidewalk to be constructed, laid, relaid or otherwise permanently improved in the City of Welch in the following manner and upon the following terms: Notice shall first be given to the abutting property owners by publication in one newspaper by giving location, estimated frontage and depth, but no error in said publication shall in any way affect the validity of the certificate hereinafter provided for, or any of them. The contract for same shall, after due advertisement in which the council shall reserve the right to reject any and all bids, be let to the lowest bidder and upon completion and acceptance of the work the council shall order the mayor and city clerk to issue to the contractor doing the work a certificate for the amount of the assessment to be paid by the owner of any lot or fractional part thereof fronting on such sidewalk, and the amount specified in said assessment certificate shall be a lien in the hands of the holder thereof upon the lot or part of a lot fronting on such sidewalk, and such certificate shall draw interest from the date of said assessment, and the payment may be enforced in the name of the holder of such certificate by a proper suit in equity in any court having proper jurisdiction to enforce such liens and the council shall fix the amount of such assessment and do all things in connection therewith necessary as is provided for paving and improving streets and alleys and such certificate shall be issued for each abutting lot or portion thereof payable six months from the date of the completion and acceptance of the work and shall be a lien in the hands of the holder thereof upon the particular lot against which they are assessed in the same way and manner as assessments for street paving liens. Nothing herein shall be construed to prevent any abutting lot owners from having his own sidewalk put in if done before the advertising hereinbefore mentioned and provided same is done according to the lines, grades and specifications of the city engineer, for which no charge shall be made. The total cost of constructing, laying, relaying or otherwise permanently improving any sidewalk or walks shall be borne by the owners of the land abutting upon said sidewalk or sidewalks according to the following plan, that is to say, payment is to be made according to the proportion of square feet in front of any lot or portion thereof bears to the whole assessments or cost of improvements.

*Inconsistent Ordinances and Acts Repealed*

Sec. 56. All ordinances of the City of Welch, as they exist at the time of the passage of this act, which are inconsistent herewith, are hereby abrogated and repealed, and all acts and parts of acts inconsistent with any of the provisions of this act are hereby repealed.

# OATH OF OFFICE

State of West Virginia, County of McDowell, to wit:

I do solemnly swear that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and that I will faithfully discharge the duties of the Office of the Mayor of the City of Welch, McDowell County, West Virginia, to the best of my skill and judgement: So Help Me God.

  
Martha H. Moore, Mayor

Subscribed and sworn to before me, the undersigned authority, this    day of July, 2006

  
Robin G. Lee, City Clerk



Term of Office - 4 years  
July 1, 2006 thru June 30, 2010

## OATH OF OFFICE

State of West Virginia, County of McDowell, to wit:

I do solemnly swear that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and that I will faithfully discharge the duties of the Member of the City Council of the City of Welch, McDowell County, West Virginia, to the best of my skill and judgement: So Help Me God.

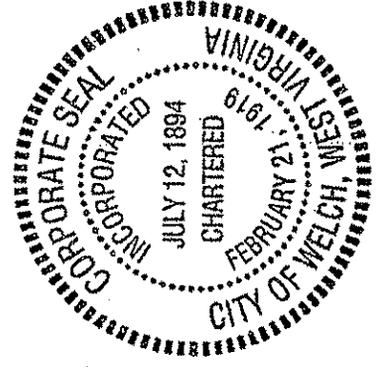
*Frank Cooley*

Frank Cooley, Councilmember

Subscribed and sworn to before me, the undersigned authority, this July day of July, 2006

*Robin G. Lee*

Robin G. Lee, City Clerk

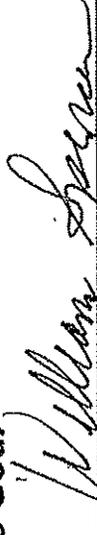


Term of Office - 4 years  
July 1, 2006 thru June 30, 2010

## OATH OF OFFICE

State of West Virginia, County of McDowell, to wit:

I do solemnly swear that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and that I will faithfully discharge the duties of the Member of the City Council of the City of Welch, McDowell County, West Virginia, to the best of my skill and judgement: So Help Me God.

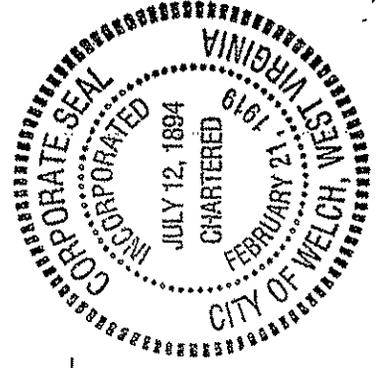


William Spencer, Councilmember

Subscribed and sworn to before me, the undersigned authority, this day of July, 2006



Robin G. Lee, City Clerk

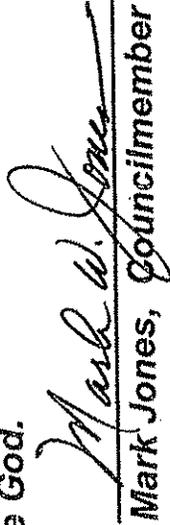


Term of Office - 4 years  
July 1, 2006 thru June 30, 2010

## OATH OF OFFICE

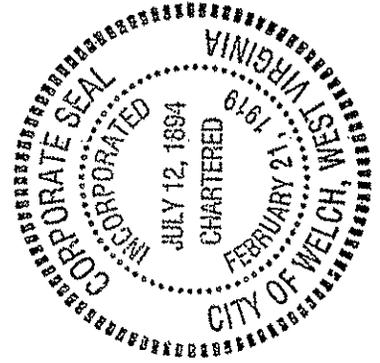
State of West Virginia, County of McDowell, to wit:

I do solemnly swear that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and that I will faithfully discharge the duties of the Member of the City Council of the City of Welch, McDowell County, West Virginia, to the best of my skill and judgement: So Help Me God.

  
Mark Jones, Councilmember

Subscribed and sworn to before me, the undersigned authority, this July, 2006

  
Robin G. Lee, City Clerk



Term of Office - 4 years  
July 1, 2006 thru June 30, 2010

## OATH OF OFFICE

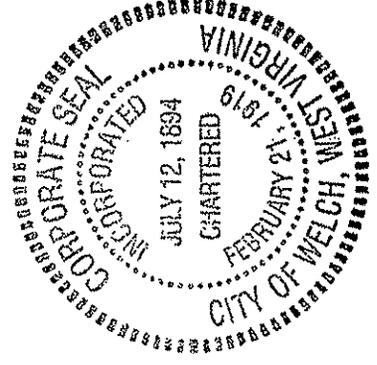
State of West Virginia, County of McDowell, to wit:

I do solemnly swear that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and that I will faithfully discharge the duties of the Member of the City Council of the City of Welch, McDowell County, West Virginia, to the best of my skill and judgement: So Help Me God.

  
\_\_\_\_\_  
Emily Yeager, Councilmember

Subscribed and sworn to before me, the undersigned authority, this    day of July, 2006

  
\_\_\_\_\_  
Robin G. Lee, City Clerk



Term of Office - 4 years  
July 1, 2006 thru June 30, 2010

## OATH OF OFFICE

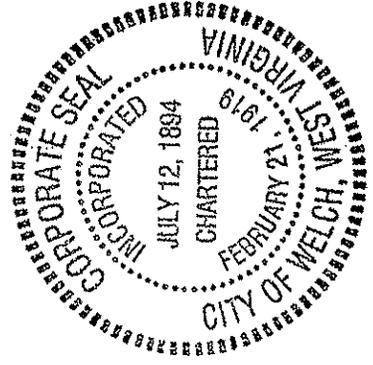
State of West Virginia, County of McDowell, to wit:

I do solemnly swear that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and that I will faithfully discharge the duties of the Member of the City Council of the City of Welch, McDowell County, West Virginia, to the best of my skill and judgement: So Help Me God.

  
James R. Ingole, Sr., Councilmember

Subscribed and sworn to before me, the undersigned authority, this July, 2006

  
Robin G. Lee, City Clerk



Term of Office - 4 years  
July 1, 2006 thru June 30, 2010

Water and Sewer Rate Ordinance

Ordinance 08-03

CITY OF Welch

AN ORDINANCE ESTABLISHING AND FIXING RATES, DELAYED PAYMENT PENALTIES, CONNECTION CHARGES, RE-CONNECTION CHARGES AND OTHER CHARGES FOR SERVICE TO CUSTOMERS OF THE WATERWORKS SYSTEM AND SEWERAGE SYSTEM OF THE CITY OF WELCH, AMENDING AND REPLACING WELCH CITY CODE §12-82 AND §12-102.

THE CITY COUNCIL OF THE CITY OF WELCH HEREBY ORDAINS: The following schedule of rates, delayed payment penalties, connection charges, re-connection charges and other charges are hereby fixed and determined as the rates, delayed payment penalties, connection charges, re-connection charges and other charges to be charged to customers of the waterworks system and sewerage system of the City of Welch throughout the territory served.

SECTION 12-82. SCHEDULE OF WATER RATES

SCHEDULE NO. 1

APPLICABILITY

Applicable in entire territory served on bills rendered between the period 45 days after passage through April 30, 2009.

AVAILABILITY

Available for general residential, commercial and industrial water service.

RATES (CUSTOMERS WITH METERED WATER SUPPLY)

First	3,000 gallons used per month	\$6.50	per 1,000 gallons
Next	7,000 gallons used per month	\$5.75	per 1,000 gallons
Next	90,000 gallons used per month	\$4.50	per 1,000 gallons
All over	100,000 gallons used per month	\$3.50	per 1,000 gallons

FLAT RATE CHARGE (CUSTOMERS WITH NON-METERED WATER SUPPLY)

Equivalent to 4,000 gallons of water usage, \$25.25.

MINIMUM CHARGE

No minimum bill will be rendered for less than \$16.25 per month which is the equivalent of 2,500 gallons.

Size \_\_\_\_\_ Minimum

RECEIVED  
2009 APR 3 AM 8 30  
WVA PUBLIC SERVICE  
COMMISSION  
SECRETARY'S OFFICE

5/8 inch meter	\$16.25
3/4 inch meter	\$33.75
1 inch meter	\$56.25
1-1/4 inch meter	\$82.13
1-1/2 inch meter	\$112.50
2 inch meter	\$180.00
3 inch meter	\$337.50
4 inch meter	\$562.50
6 inch meter	\$1,125.00
8 inch meter	\$1,800.00
10 inch meter	\$2,520.00

SCHEDULE NO. 2

APPLICABILITY

Applicable in entire territory served on bills rendered between May 1, 2009 through April 30, 2010.

AVAILABILITY

Available for general residential, commercial, industrial and sale for resale (non contract) water service.

RATES (CUSTOMERS WITH METERED WATER SUPPLY)

First	3,000 gallons used per month	\$6.75	per 1,000 gallons
Next	7,000 gallons used per month	\$6.75	per 1,000 gallons
Next	140,000 gallons used per month	\$5.00	per 1,000 gallons
All over	150,000 gallons used per month	\$3.75	per 1,000 gallons

FLAT RATE CHARGE (CUSTOMERS WITH NON-METERED WATER SUPPLY)

Equivalent to 4,000 gallons of water usage, \$27.00.

MINIMUM CHARGE

No minimum bill will be rendered for less than \$20.25 per month which is the equivalent of 3,000 gallons.

<u>Size</u>	<u>Minimum</u>
5/8 inch meter	\$20.25
3/4 inch meter	\$30.38
1 inch meter	\$50.63
1-1/4 inch meter	\$73.91
1-1/2 inch meter	\$101.25
2 inch meter	\$162.00
3 inch meter	\$303.75
4 inch meter	\$506.25
6 inch meter	\$1,012.50
8 inch meter	\$1,620.00

10 inch meter

\$2,268.00

SCHEDULE NO. 3

APPLICABILITY

Applicable in entire territory served on bills rendered commencing May 1, 2010.

AVAILABILITY

Available for general residential, commercial, industrial and sale for resale (non contract) water service.

RATES (CUSTOMERS WITH METERED WATER SUPPLY)

First	3,000 gallons used per month	\$7.50	per 1,000 gallons
Next	7,000 gallons used per month	\$7.00	per 1,000 gallons
Next	190,000 gallons used per month	\$5.00	per 1,000 gallons
All over	200,000 gallons used per month	\$3.75	per 1,000 gallons

FLAT RATE CHARGE (CUSTOMERS WITH NON-METERED WATER SUPPLY)

Equivalent to 4,000 gallons of water usage, \$29.50

MINIMUM CHARGE

No minimum bill will be rendered for less than \$22.50 per month which is the equivalent of 3,000 gallons.

<u>Size</u>	<u>Minimum</u>
5/8 inch meter	\$22.50
3/4 inch meter	\$33.75
1 inch meter	\$56.25
1-1/4 inch meter	\$82.13
1-1/2 inch meter	\$112.50
2 inch meter	\$180.00
3 inch meter	\$337.50
4 inch meter	\$562.50
6 inch meter	\$1,125.00
8 inch meter	\$1,800.00
10 inch meter	\$2,520.00

## WATER RATES COMMON TO ALL SCHEDULES

### DELAYED PAYMENT PENALTY

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

### RE-CONNECTION/ADMINISTRATIVE FEE

If any delinquent bill is not paid within thirty (30) days after rendition, services to the premises may be disconnected or shut off and a re-connection charge of fifty dollars (\$50.00) shall be collected for reinstating service when any such bill is paid.

### CONNECTION CHARGE

There will be a charge for connection to the system of five hundred dollars (\$500.00) or actual cost of installation, including labor and materials.

### SURCHARGE

Two and one-half (2 ½) [percent] surcharge on water rates for customers out of city limits.

### WATER RESALE RATE

The rates for water sold for the purposes of resale shall remain unchanged at the rate set by §12-85 of the Welch City Code.

## SECTION 12-102 SCHEDULE OF SEWER RATES

### SCHEDULE I-A

#### APPLICABILITY

Applicable in entire territory served on bills rendered between the date 45 days after passage through April 30, 2009.

#### AVAILABILITY OF SERVICE

Available for domestic, commercial, industrial sewer service.

#### RATES

First 3000 gallons used	\$7.70	per 1,000 gallons per month
Next 7000 gallons used	\$7.25	per 1,000 gallons per month
Next 90,000 gallons used	\$6.25	per 1,000 gallons per month
Next 100,000 gallons used	\$5.90	per 1,000 gallons per month

#### MINIMUM BILL

Each customer shall pay a minimum charge of \$19.25 per month based on 2,500 gallons of water usage per month.

UN-METERED RATE

A flat fee of \$30.13, based on 4,000 gallons of water usage per month, will be charged for all un-metered sewer customers.

SCHEDULE I-B

APPLICABILITY

Applicable in entire territory served on bills rendered between May 1, 2009 through April 30, 2010.

AVAILABILITY OF SERVICE

Available for domestic, commercial, industrial (except unusual industrial waste) and resale (non contract) sewer service.

RATES

First 3000 gallons used	\$8.00	per 1,000 gallons per month
Next 7000 gallons used	\$8.00	per 1,000 gallons per month
Next 190,000 gallons used	\$6.25	per 1,000 gallons per month
Next 200,000 gallons used	\$6.25	per 1,000 gallons per month

MINIMUM BILL

Each customer shall pay a minimum charge of \$24.00 per month based on 3,000 gallons of water usage per month.

UN-METERED RATE

A flat fee of \$32.00, based on 4,000 gallons of water usage per month, will be charged for all un-metered sewer customers.

## SCHEDULE I-C

### APPLICABILITY

Applicable in entire territory served on bills rendered commencing May 1, 2010.

### AVAILABILITY OF SERVICE

Available for domestic, commercial, industrial (except unusual industrial waste) and resale (non contract) sewer service.

### RATES

First 10,000 gallons used	\$9.00	per 1,000 gallons per month
Next 40,000 gallons used	\$7.00	per 1,000 gallons per month
Next 200,000 gallons used	\$7.00	per 1,000 gallons per month
Next 250,000 gallons used	\$7.00	per 1,000 gallons per month

### MINIMUM BILL

Each customer shall pay a minimum charge of \$27.00 per month based on 3,000 gallons of water usage per month.

### UN-METERED RATE

A flat fee of \$34.00, based on 4,000 gallons of water usage per month, will be charged for all un-metered sewer customers.

### SEWER RATES COMMON TO SCHEDULES I-A, I-B and I-C

### SERVICE CONNECTION CHARGE

For existing customers currently charged for the use of sanitary sewer system there will be no connection charge. For all other customers there will be a charge for connection to the system of five hundred dollars (\$500.00) or actual cost of installation, including labor and materials.

### DELAYED PAYMENT PENALTY

The above tariff is net. On all current usage billings not paid within twenty (20) days, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

### RE-CONNECTION / ADMINISTRATIVE FEES

If any bill is not paid within thirty (30) days from the date of billing, water service to the customer will be disconnected and will not be restored until all past due bills have been paid in full, together with all penalty and re-connection charges.

MINIMUM BILL FOR SEWER SERVICE FOR NON-CUSTOMERS

As authorized by West Virginia Code §8-18-22 any business or residence abutting any street, alley, public right-of-way or easement on which the City of Welch Sanitary System has a located a sewer line shall be given a written notice by the City of Welch to the owner or occupant thereof requiring them to connect to the municipal sewer system. The City of Welch will thereafter bill the owner or occupant a bill for sewer services based upon the business or residences actual water usage. If that usage cannot be accurately ascertained the owner or occupant will be assessed a sewer bill based on the current minimum sewer bill in force for the City of Welch.

MINIMUM BILL FOR THE BUREAU OF PRISONS

No minimum bill will be rendered for the Federal Bureau of Prisons Indian Ridge Facility of less than \$19,063.00 per month which is the equivalent of 3,000,000 gallons.

SCHEDULE II

SURCHARGE FORMULA TO BE APPLIED IN CASES WHERE SURFACE DRAINAGE IS CONNECTED TO THE CITY'S SANITARY SEWER SYSTEM

Where the City has discovered that a customers roof drain, down spouts, storm sewer or other similar facilities conducting surface water have been connected to the City's sewer system, and such customer has failed to take appropriate action, within thirty (30) days of receipt of a demand by the City in accordance with the Rules and Regulations of the Public Service Commission, to eliminate such connection, a surcharge will be imposed upon the customer calculated on the basis of the following formula:

$$S = A \times R \times .0006233 \times C$$

S - The surcharge in dollars

A - The area under roof and/or the area of any other water collection surface connected to the sanitary sewer, in square feet

R - The measured monthly rainfall, in inches

.0006233 - A conversion factor to change inches of rain x square feet of surface to thousands of gallons of water

C - The City's approved rate per thousand gallons of metered water usage

The City shall not impose the surcharge unless and until the customer has been notified by certified mail, return receipt requested, or by hand delivery, that it has been established by smoke testing, dye testing, or on-site inspection that rain or other surface water is being introduced into the sanitary sewer system at the customers location, and that the customer has not acted within thirty (30) days from receipt of such notice to divert the water from the sanitary sewer system.

Said surcharge shall be calculated and imposed for each month that said condition continues to exist. Failure to pay the surcharge and/or correct the situation shall give rise to the possible termination of water service in accordance with the Rules and Regulations of the Public Service Commission of West Virginia.

### SCHEDULE III

#### APPLICABLE INSIDE AND OUTSIDE OF THE CORPORATE LIMITS OF

#### CITY OF WELCH

Where the amount of sanitary sewage discharged into the City's wastewater collection and/or transmission and/or treatment system by certain industrial plant or plants cannot be accurately determined by the use of the plants water meter or meters, and said plant cannot install a flow meter to measure such waste, a special formula will be used whereby such plant or plants will pay to the City a sewer charge calculated at fifty (50) gallons of water per each employee at the plant each working day.

This explanation is not part of the rate schedule:  
This schedule is included on an if-and-when basis.

### SCHEDULE IV

#### APPLICABILITY

Applicable in entire territory served.

#### AVAILABILITY OF SERVICE

Available for wastewater and leachate haulers.

#### RATES

Commodity Charge - Each hauler shall pay a commodity charge of \$20.00 per 1,000 gallons per load. Load will be two (2) times the actual capacity of the truck or other transport method delivering wastewater and leachate as determined or verified by Welch.

#### DELAYED PAYMENT PENALTY

The above tariff is net. On all current usage billings not paid within twenty (20) days, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

### SECTION 3. EFFECTIVE DATE

The initial rates, charges and penalties provided herein first shall become effective forty-five (45) days after final enactment hereof, or as soon

thereafter as the same may be approved by the Public Service Commission of West Virginia.

**SECTION 4. 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 5. STATUTORY NOTICE AND PUBLIC HEARING**

Upon introduction hereof, the City Clerk 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 Welch News, a qualified newspaper published and of general circulation in the City of Welch, and said notice shall state that this Ordinance has been introduced, and that any person interested may appear before Council at the City Hall, Welch, West Virginia, on the 31<sup>st</sup> day of March 2008, at 5:30 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.

Passed on First Reading:            March 3, 2008

Passed on Second Reading

Following Public Hearing:           March 31, 2008          



\_\_\_\_\_  
Martha H. Moore, Mayor City of  
Welch

CERTIFICATION AND NOTICE

The foregoing Ordinance has been introduced and adopted on first reading at a meeting of the Council held on Monday, March 3, 2008. Any person interested may appear before the Council of the City of Welch at the City Hall in Welch, West Virginia, on Monday, March 31, 2008 at 5:30 p.m., being the date, time and place of the proposed final adoption of this Ordinance, and be heard. The Council will then take such action as it shall deem proper in the premises. The proposed ordinance may be inspected by the public at the Office of the Clerk in the City Hall, Welch, West Virginia.



---

Robin Lee, City Clerk

*City of Welch  
88 Howard Street  
Welch, WV 24801*

*Phone 304-436-3113 email: [welchwy@mcsww.net](mailto:welchwy@mcsww.net) Fax 304-436-2546*

---

*City of Welch Council Meeting  
March 3, 2008*

A regular meeting of the Welch City Council held on Monday, March 3, 2008 at 5:30pm in the Welch City Hall, present were: Martha Moore, Mayor, Frank Cooley, William Spencer, Emily Yeager, James R. Ingole, Sr., Councilors, Danny Barie, Michael Griffith, CPA and Robin Lee, City Clerk

**Visitors Present**

Jack Caffrey, member of the Welch Water Board and Welch Sanitary Board, David Falin, member of the Welch Water Board

Mayor Moore opened the meeting as properly advertised. Councilor Spencer gave the invocation. Councilor Cooley led the Pledge of Allegiance.

**Approval of Minutes**

The minutes of February 19, 2008 were approved upon a motion by Councilor Spencer, seconded by Councilor Ingole, motion carried unanimously.

**Approval of Invoices**

The invoices will be presented at the next regular meeting of the Council for approval.

**Police, Fire, Department Reports**

The Police Department Report was reviewed.

**Building Permits**

The Building Permits administered by the McDowell County Redevelopment Authority for the City of Welch were reviewed. Total collected for the month of December, 2007 was \$5.00.

**3<sup>rd</sup> Reading-Sewer Bond Ordinance, Public Hearing**

Mayor Moore opened the public hearing to receive comments regarding the Sewer Bond. There being no comments, the public hearing was closed. Mayor Moore stated the Sewer Bond is needed to assist in funding the Indian Ridge Industrial Park Sewer Project. The issuance of the Bonds will be used (i) to pay a portion of the costs of the acquisition and construction of certain extensions, additions, betterments, and improvements to the public sewerage system of the Issuer (the Project) and (ii) to pay certain costs of issuance of the Bonds and related costs. The Bonds are payable solely from revenues to be derived from the ownership and operation of the system of the city. There will be no rate increase to the citizens as a result of the Sewer Bond. She and Michael Griffith, CPA stated that minimum sewer bill received from the Bureau of Prisons will cover the costs of the

Sewer Bond. Discussion was held. Motion was made by Councilor Spencer to approve the 3<sup>rd</sup> reading, motion seconded by Councilor Cooley, motion passed unanimously.

**Ordinances -1<sup>st</sup> Reading Water and Sewer Rate Ordinance**

Mayor Moore conducted the first reading of the Water and Sewer Rate Increase Ordinance. Mr. Griffith presented and explained the financial forms and schedule of increases. Mr. Griffith stated there is a deficit in the Water and Sewer Fund operations. He stated there will be a significant loss to the Water Fund and Sewer Fund in there are no rate increases. He reported that if there is no increase to the water rates, the Water Fund will be in critical shape. Mr. Griffith explained the three year increase plan to the water and sewer rates. The increase will cover the operation and maintenance expenses and capital needs. The water rates will increase 40.2 % over a three year period and the sewer rates will increase 17.2%. The rates are based on costs of service. The rates will also cover the financing of the Water tanks that need to be upgraded. The funding application is pending at the Infrastructure Council. Discussion was held on other cities and towns and their rates. Discussion was held. Motion to pass the first reading was made by Councilor Spencer, seconded by Councilor Cooley, motion passed with one opposition from Councilor Yeager.

**Downtown Redevelopment Project**

Mayor Moore presented the engineering/architect agreement from Triad Engineering for the Downtown Redevelopment Project. Triad Engineering listed \$65,100 as their costs for the project. Discussion was held. Motion was made by Councilor Yeager to approve the agreement, seconded by Councilor Ingole, motion passed unanimously.

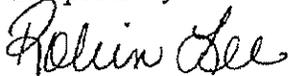
**Resolutions, Personnel, Business & Occupation Tax, Parking, Budget Revisions, Legal Matters, Flood Prevention/Information, Property Issues, Utility Updates, Economic Updates, Airport**

No discussion was held.

**Adjournment**

There being no other business to come before the council, Councilor Yeager made a motion to adjourn the meeting and the meeting was adjourned.

Respectfully Submitted,



Robin Lee  
City Clerk



Approved  
Martha H. Moore, Mayor

*City of Welch  
88 Howard Street  
Welch, WV 24801*

*Phone 304-436-3113 email: welchwx@mcs.wv.net Fax 304-436-2546*

---

*City of Welch Special Council Meeting/Public Hearing  
March 31, 2008*

A special meeting of the Welch City Council held on Monday, March 31, 2008 at 5:30pm in the Welch City Hall, present were: Martha Moore, Mayor, Frank Cooley, William Spencer, Emily Yeager, James R. Ingole, Sr., Mark Jones, Councilors, Michael Griffith, CPA and Robin Lee, City Clerk

**Visitors Present**

There were no visitors present.

Mayor Moore opened the meeting as properly advertised. Councilor Spencer gave the invocation. Councilor Cooley led the Pledge of Allegiance.

**Public Hearing-Water and Sewer Rate Increase**

Mayor Moore opened the public hearing to receive comments on the Water and Sewer Rate Increase. There be no comments made the public hearing was closed.

**2<sup>nd</sup> Reading-Ordinance No.08-03 Water and Sewer Rate Increase**

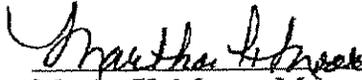
Mayor Moore conducted the second reading of Ordinance No. 08-03, Water and Sewer Rate Increase Ordinance. Michael Griffith, CPA explained the rate increases and the pro forma financial statements justifying the increases. Mr. Griffith explained the Water and Sewer Rates will be increased over a three year period. The total increase for the water rates will be approximately 40.2%. The total increase for the sewer rates will be approximately 17.2%. The water rates will be increased and effective as follows: 18.2%, May, 2008, 8.5% May, 2009 and 9.3%, May, 2010. The sewer rates will be increased and effective as follows: 3.9%, May, 2008, 6.2%, May, 2009 and 6.3%, May, 2010. Mr. Griffith stated that the rate blocking structure will also be changed. There will be no increase to the resale customer, McDowell County PSD. Discussion was held regarding the current financial status of the Water Fund and the Sewer Fund. Mr. Griffith also stated that both funds will be in better financial condition once the Federal Bureau of Prisons begins service. The new rates need to be in place currently in order to meet the existing and necessary expenses. Motion was made by Councilor Spencer to approve the 2<sup>nd</sup> reading of the ordinance, seconded by Councilor Ingole, motion passed with one opposition from Councilor Yeager. Councilor Yeager stated her concern was the uneven or higher percentage of rate increase in the Water Fund during the first year of the increase compared to the other two years. Mr. Griffith explained the Water Fund is in serious financial difficulty and the higher increase in the first year is crucial.

Adjournment

There being no other business to come before the council, Councilor Yeager made a motion to adjourn the meeting and the meeting was adjourned.

Respectfully Submitted,

  
Robin Lee  
City Clerk

 Approved  
Martha H. Moore, Mayor

AFFIDAVIT OF PUBLICATION:

State of West Virginia  
County of McDowell, to wit:

I, Irene Wooten, being first duly sworn upon my oath, do depose and say that I am the Legal Editor of the Welch News, Inc., a corporation, publisher of the newspaper entitled The Welch News, a Republican newspaper; that I have duly authorized by the board of directors of such corporation to execute this affidavit of publication; that such newspaper has been published 3 times a week except weekends and holidays, for at least fifty weeks during the calendar year, in the Municipality of Welch, McDowell County, West Virginia; that such newspaper is a newspaper of "general circulation", as that term is defined in article three, chapter fifty-nine of the Code of West Virginia, 1931, as amended, within the publication are or areas of the aforesaid municipality and McDowell County, West Virginia; that such newspaper is circulated to the general public at a definite price or consideration; that such newspaper is a newspaper to which the general public resorts for passing events of a political, religious, commercial and social nature, and for current happenings, announcements, miscellaneous, reading matters, advertisements, and other notices; that the annexed notice of

Water/Sewer Rates

City of Welch \*

88 Howard St.

Welch, WV 24801

was duly published in said newspaper once a week for 2 successive weeks, (Class II), commencing with the issue of the 4 day of Mar., 20 08, and ending with the issue of the 21 day of Mar., 20 08 and was posted at the (if required)

\_\_\_\_\_ on the day of \_\_\_\_\_, 20\_\_\_\_ that said annexed notice was published on the following dates: 3/14/08 & 3/21/08

and that the cost of publishing said annexed notice as aforesaid was \$ 630.02

Irene Wooten  
Irene Wooten, Legal Editor  
The Welch News

Taken subscribed and sworn to before me in my said county this 28 day of Mar., 20 08

Bush A. Pittet  
Notary Public, State of West Virginia

## LEGAL NOTICE

### NOTICE CITY OF WELCH, WEST VIRGINIA

Notice is hereby given that the City of Welch, a municipal corporation will hold a hearing before the final vote on a proposed ordinance, the principal object of which is the increase of water and sewer rates for customers of the water and sewer system operated by the City of Welch. The title of such ordinance is "Ordinance to Increase Water and Sewer Rates". The final vote on adoption of said proposed ordinance shall be held in the Council Chambers of the City of Welch, City Hall, 88 Howard Street, Welch, West Virginia on March 31, 2009 at 5:30 p.m. Interested parties may appear and be heard at such time with respect to the passage of the proposed ordinance. Copies of the proposed ordinance are available at the Office of the Clerk, Welch City Hall, Welch, West Virginia.

### Water and Sewer Rate Ordinance Ordinance 08-03

#### CITY OF WELCH

AN ORDINANCE ESTABLISHING AND FIXING RATES, DELAYED PAYMENT PENALTIES, CONNECTION CHARGES, RE-CONNECTION CHARGES AND OTHER CHARGES FOR SERVICE TO CUSTOMERS OF THE WATERWORKS SYSTEM AND SEWERAGE SYSTEM OF THE CITY OF WELCH, AMENDING AND REPLACING WELCH CITY CODE §12-62 AND §12-102.

THE CITY COUNCIL OF THE CITY OF WELCH HEREBY ORDAINS: The following schedule of rates, delayed payment penalties, connection charges, re-connection charges and other charges are hereby fixed and determined as the rates, delayed payment penalties, connection charges, re-connection charges and other charges to be charged to customers of the waterworks system and sewerage system of the City of Welch throughout the territory served.

### SECTION 12-62. SCHEDULE OF WATER RATES SCHEDULE NO. 1

#### APPLICABILITY

Applicable in entire territory served on bills rendered between the period 45 days after passage through April 30, 2009.

#### AVAILABILITY

Available for general residential, commercial and industrial water service.

#### RATES (CUSTOMERS WITH METERED WATER SUPPLY)

First 3,000 gallons used per month	\$6.50
per 1,000 gallons	
Next 7,000 gallons used per month	\$5.75
per 1,000 gallons	
Next 90,000 gallons used per month	\$4.50
per 1,000 gallons	
All over 100,000 gallons used per month	\$3.50
per 1,000 gallons	

#### FLAT RATE CHARGE (CUSTOMERS WITH NON-METERED WATER SUPPLY)

Equivalent to 4,000 gallons of water usage.

\$25.25.

#### MINIMUM CHARGE

No minimum bill will be rendered for less than \$16.25 per month which is the equivalent of 2,500 gallons.

SIZE	MINIMUM
5/8 inch meter	\$16.25
3/4 inch meter	\$33.75
1 inch meter	\$56.25
1 1/4 inch meter	\$82.13
1 1/2 inch meter	\$112.50
2 inch meter	\$180.00
3 inch meter	\$337.50
4 inch meter	\$562.50
6 inch meter	\$1,125.00
8 inch meter	\$1,800.00
10 inch meter	\$2,520.00

#### SCHEDULED NO. 2

#### APPLICABILITY

Applicable in entire territory served on bills rendered between May 1, 2009 through April 30, 2010.

#### AVAILABILITY

Available for general residential, commercial, industrial and sale for resale (non contract) water service.

## RATES

First 3,000 gallons used per month	\$8.00
per 1,000 gallons	
Next 7,000 gallons used per month	\$8.00
per 1,000 gallons	
Next 190,000 gallons used per month	\$6.25
per 1,000 gallons	
Next 200,000 gallons used per month	\$6.25
per 1,000 gallons	

#### MINIMUM BILL

Each customer shall pay a minimum charge of \$24.00 per month based on 3,000 gallons of water usage per month.

#### UN-METERED RATE

A flat fee of \$32.00, based on 4,000 gallons of water usage per month, will be charged for all unmetered sewer customers.

#### SCHEDULE I-C

#### APPLICABILITY

Applicable in entire territory served on bills rendered commencing May 1, 2010.

#### AVAILABILITY OF SERVICE

Available for domestic, commercial, industrial (except unusual industrial waste) and resale (non contract) sewer service.

#### RATES

First 10,000 gallons used per month	\$9.00
per 1,000 gallons	
Next 40,000 gallons used per month	\$7.00
per 1,000 gallons	
Next 200,000 gallons used per month	\$7.00
per 1,000 gallons	
Next 250,000 gallons used per month	\$7.00
per 1,000 gallons	

#### MINIMUM BILL

Each customer shall pay a minimum charge of \$27.00 per month based on 3,000 gallons of water usage per month.

#### UN-METERED RATE

A flat fee of \$34.00, based on 4,000 gallons of water usage per month, will be charged for all unmetered sewer customers.

#### SEWER RATES COMMON TO SCHEDULES 1-A, 1-B and I-C

#### SERVICE CONNECTION CHARGE

For existing customers currently charged for the use of sanitary sewer system there will be no connection charge. For all other customers there will be a charge for connection to the system of five hundred dollars (\$500.00) or actual cost of installation, including labor and materials.

#### DELAYED PAYMENT PENALTY

The above tariff is net. On all current usage billings not paid within twenty (20) days, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

#### RE-CONNECTION/ADMINISTRATIVE FEES

If any bill is not paid within sixty (60) days from the date of billing, water service to the customer will be disconnected and will not be restored until all past due bills have been paid in full, together with all penalty and re-connection charges.

#### MINIMUM BILL FOR SEWER SERVICE FOR NON-CUSTOMERS

As authorized by West Virginia Code §8-16-22 any business or residence abutting any street, alley, public right-of-way or easement on which the City of Welch Sanitary System has a located a sewer line shall be given a written notice by the City of Welch to the owner or occupant thereof requiring them to connect to the municipal sewer system. The City of Welch will thereafter bill the owner or occupant a bill for sewer services based upon the business or residences actual water usage. If that usage cannot be accurately ascertained the owner or occupant will be assessed a sewer bill based on the current minimum sewer bill in force for the City of Welch.

#### MINIMUM BILL FOR THE BUREAU OF PRISONS

No minimum bill will be rendered for the Federal Bureau of Prisons Indian Ridge Facility of less than \$19,063.00 per month which is the equivalent of 3,000,000 gallons.

## CERTIFICATION AND NOTICE

The foregoing Ordinance has been introduced and adopted on first reading at a meeting of the Council held on Monday, March 3, 2008. Any person interested may appear before the Council of the City of Welch at the City Hall in Welch, West Virginia, on Monday, March 31, 2008 at 5:30 p.m., being the date, time and place of the proposed final adoption of this Ordinance, and be heard. The Council will take such action as it shall deem proper in the premises. The proposed ordinance may be inspected by the public at the Office of the Clerk in the City Hall, Welch, West Virginia.

Robin Lee, City Clerk

**RATES (CUSTOMERS WITH METERED WATER SUPPLY)**

First 3,000 gallons used per month \$6.75 per 1,000 gallons  
Next 7,000 gallons used per month \$6.75 per 1,000 gallons  
Next 140,000 gallons used per month \$5.00 per 1,000 gallons  
All over 150,000 gallons used per month \$3.75 per 1,000 gallons

**FLAT RATE CHARGE (CUSTOMERS WITH NON-METERED WATER SUPPLY)**

Equivalent to 4,000 gallons of water usage, \$27.00.

**MINIMUM CHARGE**  
No minimum bill will be rendered for less than \$20.25 per month which is the equivalent of 3,000 gallons.

SIZE	MINIMUM
5/8 inch meter	\$20.25
3/4 inch meter	\$30.38
1 inch meter	\$50.63
1 1/4 inch meter	\$73.91
1 1/2 inch meter	\$101.25
2 inch meter	\$162.00
3 inch meter	\$303.75
4 inch meter	\$508.25
6 inch meter	\$1,012.50
8 inch meter	\$1,620.00
10 inch meter	\$2,268.00

**SCHEDULE NO. 3**

**APPLICABILITY**  
Applicable in entire territory served on bills rendered commencing May 1, 2010.

**AVAILABILITY**  
Available for general residential, commercial, industrial and sale for resale (non contract) water service.

**RATES (CUSTOMERS WITH METERED WATER SUPPLY)**

First 3,000 gallons used per month \$7.50 per 1,000 gallons  
Next 7,000 gallons used per month \$7.00 per 1,000 gallons  
Next 190,000 gallons used per month \$5.00 per 1,000 gallons  
All over 200,000 gallons used per month \$3.75 per 1,000 gallons

**FLAT RATE CHARGE (CUSTOMERS WITH NON-METERED WATER SUPPLY)**

Equivalent to 4,000 gallons of water usage, \$29.50.

**MINIMUM CHARGE**  
No minimum bill will be rendered for less than \$22.50 per month which is the equivalent of 3,000 gallons.

SIZE	MINIMUM
5/8 inch meter	\$22.50
3/4 inch meter	\$33.75
1 inch meter	\$56.25
1 1/4 inch meter	\$82.13
1 1/2 inch meter	\$112.50
2 inch meter	\$180.00
3 inch meter	\$337.50
4 inch meter	\$582.50
6 inch meter	\$1,125.00
8 inch meter	\$1,800.00
10 inch meter	\$2,520.00

**WATER RATES COMMON TO ALL SCHEDULES**

**DELAYED PAYMENT PENALTY**  
The above schedule is net. On all accounts not paid in full within twenty days of date of bill, ten percent will be added to the amount shown.

**RE-CONNECTION/ADMINISTRATIVE FEE**  
If any delinquent bill is not paid within thirty (30) days after rendition, services to the premises may be disconnected or shut off and a re-connection charge of fifty dollars (\$50.00) shall be collected for reinstating service when any such bill is paid.

**CONNECTION CHARGE**  
There will be a charge for connection to the system of five hundred dollars (\$500.00) or actual cost of installation, including labor and materials.

**SURCHARGE**  
Two and one-half (2 1/2) percent surcharge on water rates for customers out of city limits.

**WATER RESALE RATE**  
The rates for water sold for the purpose of resale shall remain unchanged at the rate set by §12-85 of the Welch City Code.

**SECTION 12-102 SCHEDULE OF SEWER RATES**

**SCHEDULE I-A**

**APPLICABILITY**  
Applicable in entire territory served on bills rendered between the date 45 days after passage through April 30, 2009.

**AVAILABILITY OF SERVICE**  
Available for domestic, commercial, industrial sewer service.

**SCHEDULE II SURCHARGE FORMULA TO BE APPLIED IN CASES WHERE SURFACE DRAINAGE IS CONNECTED TO THE CITY'S SANITARY SEWER SYSTEM**

Where the City has discovered that a customer's roof drain, down spouts, storm sewer or other similar facilities conducting surface water have been connected to the City's sewer system, and such customer has failed to take appropriate action, within thirty (30) days of receipt of a demand by the City in accordance with the Rules and Regulations of the Public Service Commission, to eliminate such connection, a surcharge will be imposed upon the customer calculated on the basis of the following formula:

$S = A \times R \times .0008233 \times C$   
S - The surcharge is dollars  
A - The area under roof and/or the area of any other water collection surface connected to the sanitary sewer, in square feet  
R - The measured monthly rainfall, in inches - .0006233 - A conversion factor to change inches of rain x square feet of surface to thousands of gallons of water  
C - The City's approved rate per thousand gallons of metered water usage.

The City shall not impose the surcharge unless and until the customer has been notified by certified mail, return receipt requested, or by hand delivery, that it has been established by smoke testing, dye testing, or on-site inspection that rain or other surface water is being introduced into the sanitary sewer system at the customer's location, and that the customer has not acted within thirty (30) days from receipt of such notice to divert the water from the sanitary sewer system.

Said surcharge shall be calculated and imposed for each month that said condition continues to exist. Failure to pay the surcharge and/or correct the situation shall give rise to the possible termination of water service in accordance with the Rules and Regulations of the Public Service Commission of West Virginia.

**SCHEDULE III APPLICABLE INSIDE AND OUTSIDE OF THE CORPORATE LIMITS OF CITY OF WELCH**

Where the amount of sanitary sewage discharge into the City's wastewater collection and/or transmission and/or treatment system by certain industrial plant or plants cannot be accurately determined by the use of the plant's water meter or meters, and said plant cannot install a flow meter to measure such waste, a special formula will be used whereby such plant or plants will pay to the City a sewer charge calculated at fifty (50) gallons of water per each employee at the plant each working day.

This explanation is not part of the rate schedule.

This schedule is included on an if-and-when basis.

**SCHEDULE IV**

**APPLICABILITY**  
Applicable in entire territory served.

**AVAILABILITY OF SERVICE**  
Available for wastewater and leachate haulers.

**RATES**  
**Commodity Charge** - Each hauler shall pay a commodity charge of \$20.00 per 1,000 gallons per load. Load will be two (2) times the actual capacity of the truck or other transport method delivering wastewater and leachate as determined or verified by Welch.

**DELAYED PAYMENT PENALTY**  
The above tariff is net. On all current usage billings not paid within twenty (20) days, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

**SECTION 3 EFFECTIVE DATE**

The initial rates, charges and penalties provided herein first shall become effective forty-five (45) days after final enactment hereof, or as soon thereafter as the same may be approved by the Public Service Commission of West Virginia.

**SECTION 4 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.

**RATES**

First 3,000 gallons used per month \$7.70 per 1,000 gallons  
Next 7,000 gallons used per month \$7.25 per 1,000 gallons  
Next 90,000 gallons used per month \$6.25 per 1,000 gallons  
Next 100,000 gallons used per month \$5.90 per 1,000 gallons

**MINIMUM BILL**

Each customer shall pay a minimum charge of \$19.25 per month based on 2,500 gallons of water usage per month.

**UN-METERED RATE**

A flat fee of \$30.13, based on 4,000 gallons of water usage per month, will be charged for all unmetered sewer customers.

**SCHEDULE I-B**

**APPLICABILITY**

Applicable in entire territory served on bills rendered between May 1, 2009 through April 30, 2010.

**AVAILABILITY OF SERVICE**

Available for domestic, commercial, industrial (except unusual industrial waste) and resale (non contract) sewer service.

**SECTION 5 STATUTORY NOTICE AND PUBLIC HEARING**

Upon introduction hereof, the City Clerk 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 Welch News, a qualified newspaper published and of general circulation in the City of Welch, and said notice shall state that this Ordinance has been introduced, and that any person interested may appear before Council at the City Hall, Welch, West Virginia, on the 31st day of March 2008, at 5:30 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.

Passed on First Reading: March 3, 2008

Passed on Second Reading

Following Public Hearing:

Martha H. Moore, Mayor City of Welch

AFFIDAVIT OF PUBLICATION:

State of West Virginia  
County of McDowell, to wit:

I, Irene Wooten, being first duly sworn upon my oath, do depose and say that I am the Legal Editor of the Welch News, Inc., a corporation, publisher of the newspaper entitled The Welch News, a Republican newspaper; that I have duly authorized by the board of directors of such corporation to execute this affidavit of publication; that such newspaper has been published 3 times a week except weekends and holidays, for at least fifty weeks during the calendar year, in the Municipality of Welch, McDowell County, West Virginia; that such newspaper is a newspaper of "general circulation", as that term is defined in article three, chapter fifty-nine of the Code of West Virginia, 1931, as amended, within the publication are or areas of the aforesaid municipality and McDowell County, West Virginia; that such newspaper is circulated to the general public at a definite price or consideration; that such newspaper is a newspaper to which the general public resorts for passing events of a political, religious, commercial and social nature, and for current happenings, announcements, miscellaneous, reading matters, advertisements, and other notices; that the annexed notice of

PUBLIC NOTICE OF CHANGE IN RATES  
CITY OF WELCH

88 HOWARD STREET

WELCH, WV 24801

was duly published in said newspaper once a week for TWO successive weeks, (Class II), commencing with the issue of the 9 day of APRIL, 2008, and ending with the issue of the 16 day of APRIL, 2008 (and was posted at the (if required) \_\_\_\_\_ on the day of \_\_\_\_\_, 20\_\_\_\_ that said annexed notice was published on the following dates: \_\_\_\_\_

and that the cost of publishing said annexed notice as aforesaid was \$ 124.73

*Irene Wooten*  
Irene Wooten, Legal Editor  
The Welch News

Taken subscribed and sworn to before me in my said county this 28 day of APRIL, 2008

*Berchie A. Pettiford*  
Notary Public, State of West Virginia

Notary Seal

VED  
APR 8 41  
SERVICE  
STATION  
OFFICE

TARIFF FORM NO 12  
PUBLIC NOTICE OF CHANGE IN RATES BY MUNICIPALITIES  
NOTICE is hereby given that the CITY OF WELCH has adopted by ordinance, on March 31, 2008, a tariff containing a three phase increase in rates, tolls and charges for furnishing water service to 1,227 customers at Welch and vicinity, in McDowell County, West Virginia.

The proposed Phase I increase rates and charges will become effective 45 days from the effective date of the ordinance, unless otherwise ordered by the Public Service Commission, and will produce approximately \$108,000 annually in additional revenue, an increase of 18.8%. The average monthly bill for the various classes of customers will be changed as follows:

BASED ON	(\$) INCREASE	INCREASE (%)
Residential (4,000 gal/mo.)	\$3.84	18.3%
Commercial (4,000 gal/mo.)	\$3.84	18.3%
Industrial (4,000 gal/mo.)	\$3.84	18.3%
Retail	0	0
Governmental (4,000 gal/mo.)	\$3.84	18.3%

The proposed Phase II increased rates and charges will become effective May 1, 2008, unless otherwise ordered by the Public Service Commission. The Phase II rates will produce approximately \$88,500 annually in additional revenue, an increase of 13.4%. The average monthly bill for the various classes of customers will be changed as follows:

BASED ON	(\$) INCREASE	INCREASE (%)
Residential (4,000 gal/mo.)	\$2.12	6.5%
Commercial (4,000 gal/mo.)	\$2.12	6.5%
Industrial (4,000 gal/mo.)	\$2.12	6.5%
Retail	0	0
Governmental (4,000 gal/mo.)	\$2.12	6.5%

The proposed Phase III increased rates and charges will become effective May 1, 2010, unless otherwise ordered by the Public Service Commission. The Phase III rates (and expected new revenue from a new large customer) will produce approximately \$114,000 annually in additional revenue, an increase of 21.1%. The average monthly bill for the various classes of customers will be changed as follows:

BASED ON	(\$) INCREASE	INCREASE (%)
Residential (4,000 gal/mo.)	\$2.50	9.3%
Commercial (4,000 gal/mo.)	\$2.50	9.3%
Industrial (4,000 gal/mo.)	\$2.50	9.3%
Retail	0	0
Governmental (4,000 gal/mo.)	\$2.50	9.3%

The increases shown are based on averages of all customers in the indicated class. Individual customers may receive increases that are greater or less than average. Furthermore, the requested rates and charges are only a proposal and are subject to change (increase or decrease) by the Public Service Commission for review of this filing. The Commission shall review and approve or modify the increased rates only upon the filing of a petition within thirty (30) days of the adoption of the ordinance changing said rates or charges, by:

- (1) Any customer approved by the changed rates or charges who presents to the Commission a petition signed by not less than twenty-five percent of the customers served by such municipally operated public utility; or
- (2) Any customer who is served by a municipally operated public utility and who resides outside the corporate limits and who is affected by the change in said rates or charges and who presents to the Commission a petition alleging discrimination between customers within and without the municipal boundaries. Said petition shall be accompanied by evidence of discrimination; or
- (3) Any customer or group of customers who are affected by said change in rates who reside within the municipal boundaries and who present a petition to the Commission alleging discrimination between said customer or group of customers and other customers of the municipal utility. Said petition shall be accompanied by evidence of discrimination.

All petitions should be addressed to:  
Public Service Commission of West Virginia  
Executive Secretary  
201 Brooke Street, P.O. Box 812  
Charleston, West Virginia 25323

A complete copy of the proposed rates, as well as a representative of the utility to provide any information requested concerning it, is available to all customers, prospective customers, or their agents at the office of the city:  
City of Welch Municipal Building  
88 Howard Street  
Welch, West Virginia 24801

Acopy of the proposed rates is available for public inspection at the office of:  
Public Service Commission of West Virginia  
Executive Secretary  
201 Brooke Street, P.O. Box 812  
Charleston, West Virginia 25323

TARIFF FORM NO 12  
PUBLIC NOTICE OF CHANGE IN RATES BY MUNICIPALITIES  
NOTICE is hereby given that the CITY OF WELCH has adopted by ordinance, on March 31, 2008, a tariff containing a three phase increase in rates, tolls and charges for furnishing sewer service to 600 customers at Welch and vicinity, in McDowell County, West Virginia.

The proposed Phase I increase rates and charges will become effective 45 days from the effective date of the ordinance, unless otherwise ordered by the Public Service Commission, and will produce approximately \$23,000 annually in additional revenue, an increase of 3.8%. The average monthly bill for the various classes of customers will be changed as follows:

BASED ON	(\$) INCREASE	INCREASE (%)
Residential (4,000 gal/mo.)	\$1.13	3.9%
Commercial (4,000 gal/mo.)	\$1.13	3.9%
Industrial (4,000 gal/mo.)	\$1.13	3.9%
Retail	Not Applicable	Not Applicable
Governmental (4,000 gal/mo.)	\$1.13	3.9%

The proposed Phase II increased rates and charges will become effective May 1, 2008, unless otherwise ordered by the Public Service Commission. The Phase II rates will produce approximately \$25,000 annually in additional revenue, an increase of 9.7%. The average monthly bill for the various classes of customers will be changed as follows:

BASED ON	(\$) INCREASE	INCREASE (%)
Residential (4,000 gal/mo.)	\$1.87	6.2%
Commercial (4,000 gal/mo.)	\$1.87	6.2%
Industrial (4,000 gal/mo.)	\$1.87	6.2%
Retail	Not Applicable	Not Applicable
Governmental (4,000 gal/mo.)	\$1.87	6.2%

The proposed Phase III increased rates and charges will become effective May 1, 2010, unless otherwise ordered by the Public Service Commission. The Phase III rates (and expected new revenue from a new large customer) will produce approximately \$272,000 annually in additional revenue, an increase of 33.2%. The average monthly bill for the various classes of customers will be changed as follows:

BASED ON	(\$) INCREASE	INCREASE (%)
Residential (4,000 gal/mo.)	\$2.00	6.3%
Commercial (4,000 gal/mo.)	\$2.00	6.3%
Industrial (4,000 gal/mo.)	\$2.00	6.3%
Retail	Not Applicable	Not Applicable
Governmental (4,000 gal/mo.)	\$2.00	6.3%

The increases shown are based on averages of all customers in the indicated class. Individual customers may receive increases that are greater or less than average. Furthermore, the requested rates and charges are only a proposal and are subject to change (increase or decrease) by the Public Service Commission for review of this filing. The Commission shall review and approve or modify the increased rates only upon the filing of a petition within thirty (30) days of the adoption of the ordinance changing said rates or charges, by:

- (1) Any customer approved by the changed rates or charges who presents to the Commission a petition signed by not less than twenty-five percent of the customers served by such municipally operated public utility; or
- (2) Any customer who is served by a municipally operated public utility and who resides outside the corporate limits and who is affected by the change in said rates or charges and who presents to the Commission a petition alleging discrimination between customers within and without the municipal boundaries. Said petition shall be accompanied by evidence of discrimination; or
- (3) Any customer or group of customers who are affected by said change in rates who reside within the municipal boundaries and who present a petition to the Commission alleging discrimination between said customer or group of customers and other customers of the municipal utility. Said petition shall be accompanied by evidence of discrimination.

All petitions should be addressed to:  
Public Service Commission of West Virginia  
Executive Secretary  
201 Brooke Street, P.O. Box 812  
Charleston, West Virginia 25323

CITY OF WELCH

Water Revenue Bonds, Series 2009 A  
(West Virginia DWTRF Program);  
Water Revenue Bonds, Series 2009 B  
(West Virginia DWTRF Program/ARRA); and  
Water Revenue Bonds, Series 2009 C  
(West Virginia Infrastructure Fund)

EXCERPT OF MINUTES ON ADOPTION OF BOND ORDINANCE, SUPPLEMENTAL  
RESOLUTION AND SWEEP RESOLUTION

The undersigned CLERK of the City of Welch of hereby certifies that the following is a true and correct excerpt of the minutes of a regular meeting of the said Council:

\*\*\*

\*\*\*

\*\*\*

The Council of the City of Welch met in regular session, pursuant to notice duly posted, on the 7th day of December, 2009, in McDowell County, West Virginia, at the hour of 5:30 p.m.

PRESENT:

Robin Lee, Clerk  
James R. Ingole  
Emily Yeager  
William R. Spencer  
Frank Cooley  
Danny Barie, City Attorney  
David Hammond, Steptoe & Johnson

William Spencer moved and James Ingole seconded motion to appoint Frank Cooley as Mayor Pro Tem. All voted in favor.

Frank Cooley, Mayor Pro Tem, presided, and Robin Lee, acted as Clerk. Frank Cooley announced that a quorum of members was present and that the meeting was open for any business properly before it.

Thereupon, the Frank Cooley opened the floor for the public hearing on the Bond ordinance. Upon no comment, Frank Cooley presented for third reading the Bond Ordinance entitled:

ORDINANCE AUTHORIZING ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC WATERWORKS SYSTEM OF THE CITY OF WELCH AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF WELCH OF NOT MORE THAN \$1,500,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2009 A (WEST VIRGINIA DWTRF PROGRAM); NOT MORE THAN \$1,500,000 IN ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2009 B (WEST VIRGINIA DWTRF PROGRAM/ARRA), AND NOT MORE THAN \$500,000 IN ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2009 C (WEST VIRGINIA INFRASTRUCTURE FUND) 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 ARRA ASSISTANCE AGREEMENT AND 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

and caused the same to be read and there was discussion. Thereupon, upon motion duly made by Emily Yeager and seconded by William Spencer it was unanimously ordered that the said Ordinance be adopted and be in full force and effect on and from the date hereof.

Thereupon, Frank Cooley presented a proposed Supplemental Resolution in writing entitled:

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNT, DATE, MATURITY DATE, REDEMPTION PROVISION, INTEREST RATE, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICE AND OTHER TERMS OF THE WATER REVENUE BONDS, SERIES 2009 A (WEST VIRGINIA DWTRF PROGRAM), WATER REVENUE BONDS, SERIES 2009 B (WEST VIRGINIA DWTRF PROGRAM/ARRA) AND WATER REVENUE BONDS, SERIES 2009 C (WEST VIRGINIA INFRASTRUCTURE

FUND) OF THE CITY OF WELCH; RATIFYING AND APPROVING AN ARRA ASSISTANCE AGREEMENT AND 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.

and caused the same to be read and there was discussion. Thereupon, upon motion duly made by William Spencer and seconded by Emily Yeager it was unanimously ordered that the said Supplemental Resolution be adopted and be in full force and effect on and from the date hereof.

Next, Frank Cooley presented a proposed Sweep Resolution for the authorization of electronic monthly debt service and reserve fund payments to the Municipal Bond Commission. Thereupon, on motion duly made by James Ingole and seconded by William Spencer, it was unanimously ordered that the said Sweep Resolution be adopted.

\*\*\*

\*\*\*

\*\*\*

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

[Remainder of Page Intentionally Blank]

CERTIFICATION

I hereby certify that the foregoing is a true copy of the minutes of the City of Welch and that such actions remain in full force and effect and have not been amended, rescinded, superseded, repealed or changed.

WITNESS my signature on this 18th day of December, 2009.

  
\_\_\_\_\_  
Clerk

*City of Welch  
88 Howard Street  
Welch, WV 24801*

*Phone 304-436-3113 email: welchwo@mcsww.net Fax 304-436-2546*

---

*City of Welch Council Meeting  
November 2, 2009*

A regular meeting of the Welch City Council held on Monday, November 2, 2009 at 5:30pm in the Welch City Hall, present were: Martha Moore, Mayor, Frank Cooley, William Spencer, Emily Yeager, James R. Ingole, Sr., Mark Jones, Councilors, Danny Barie, Attorney, and Robin Lee, City Clerk

*Visitors Present*

Rachel Lester, Executive Director, Stephanie East, Loan Manager, McDowell Economic Development Authority

Mayor Moore opened the meeting as properly advertised. Councilor Spencer gave the invocation. Councilor Cooley led the Pledge of Allegiance.

*Approval of Minutes*

The minutes of October 13, 2009 were approved upon a motion by Councilor Cooley, seconded by Councilor Jones, motion carried unanimously.

*Approval of Invoices*

Councilor Jones moved to approve the invoices for the General and Garbage Funds totaling \$123,891.71, Councilor Cooley seconded, motion carried unanimously. The invoices listed for Jim's Engine & Radiator Shop listed were previously approved by Council at the October 13, 2009 meeting.

*Police, Fire, Department Reports*

The Police Department Report was reviewed.

*Building Permits*

The Building Permits administered by the McDowell County Redevelopment Authority were not received prior to the meeting.

*Home Based Business/McDowell Economic Development Authority*

Rachel Lester and Stephanie East from the McDowell Economic Development Authority addressed the Council with information regarding Home Based Businesses. Ms. Lester spoke about how the Authority has contacted local vendors, crafters, artists, etc. about starting home based businesses to help promote at home business throughout McDowell County. She stated how the Authority could assist potential home based businesses with loans through the Economic Development Authority, marketing, support, training and also assist with websites to help market the business. She stated this could create jobs, bring revenue to the county, tourism, and also build a unique "Made in McDowell"

brand. Ms. Lester asked for Council to help, support, encourage and "spread the word" about the information regarding Home Based Businesses. Discussion held.

#### **Parking Request**

A letter from Dis-N-Dat was presented requesting four parking spaces near the business located on Elkhorn/Wyoming Street. The parking spaces would be located on Collins Lot. Discussion held. Councilor Spencer made a motion to allow them four permit parking spaces beginning January 1, 2010 and to pay quarterly, Councilor Yeager seconded, motion passed unanimously.

#### **2nd Reading-Ordinance #09-07 Ward Redistricting**

The second reading of the Ordinance #09-07 Ward Redistricting was conducted by Mr. Barie. The ordinance amends the existing three wards. Motion was made by Councilor Spencer to approve the second reading, seconded by Councilor Yeager, motion passed unanimously.

#### **1<sup>st</sup> Reading Ordinance-Transfer Property-Water Bypass Tank**

The first reading of the Ordinance to Transfer Property for the Water Bypass Tank was conducted by Mr. Barie. This ordinance provides for the transfer of real estate owned by the Department of Transportation located on Rt. 52 By-Pass to the City of Welch as the site of a water storage tank. The second reading of the ordinance was approved by Councilor Cooley, seconded by Councilor Jones, motion passed unanimously.

#### **2nd Reading-Bond Ordinance-Water Tanks Project**

Mayor Moore conducted the second reading of the Bond Ordinance authorizing acquisition and construction of additions, betterments and improvements to the existing public waterworks system of the City of Welch and the financing of the cost, not otherwise provided, therefore through the issuance by the City of Welch of not more than \$1,500,000 in aggregate principal amount of Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program); not more than \$1,500,000 in original aggregate principal amount of water revenue bonds, series 2009 B (West Virginia DWTRF Program/ARRA), and not more than \$500,000 in original aggregate principal amount of Water Revenue Bonds, Series 2009 C (West Virginia infrastructure fund) 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 ARRA assistance agreement and 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. Mayor Moore explained the project includes the following: 300,000 gallon Rout 52 By-Pass Tank Replacement, 125,000 gallon Stewart Street Tank Replacement, North Welch Tank Renovations, Jr. Poca, Linden Street, Tank Renovations, 400,000 gallon Water Treatment Plant Concrete Reservoir Renovations and a Water Treatment Plant Reservoir Telemetry. Motion to approve the second reading was made by Councilor Yeager, motion seconded by Councilor Spencer, motion passed unanimously.

Excess Levy Election Order

No discussion was held.

Resolutions

A resolution was presented for Council's approval for the City of Welch Sewer Lines-Contract 7D. The resolution states the City of Welch authorized the filing of an application with the Appalachian Regional Commission for sewer lines, the City of Welch will comply with all laws and regulations pertaining to the program, Martha Moore, Mayor is the designated as the authorized official to act in connection with the application and the City of Welch will provide the twenty percent match as required by the Appalachian Regional Commission guidelines. Motion was made by Councilor Ingole to approve the resolution, seconded by Councilor Spencer, motion passed unanimously.

Utility Updates

R. D. Bailey Lake Water Project-Mayor Moore and Robin Lee attended a meeting at Twin Falls Park regarding the R. D. Bailey Lake Water Project. She stated the meeting was to ask for support from the USDA-DC office regarding the needs of the project. All communities and public service districts are interested and support the project. The project involves Mingo, Wyoming and McDowell Counties. A map was presented to Council showing the proposed areas that would be served by this project.

Personnel, Business & Occupation Tax, Budget Revisions, Legal Matters, Flood Prevention/Information, Economic Updates, Airport

No discussion was held.

Adjournment

There being no other business to come before the council, Councilor Yeager made a motion to adjourn the meeting and the meeting was adjourned.

Respectfully Submitted,

  
Robin Lee  
City Clerk

  
Martha H. Moore, Mayor

*City of Welch  
88 Howard Street  
Welch, WV 24801*

*Phone 304-436-3113 email: [welchww@mcsww.net](mailto:welchww@mcsww.net) Fax 304-436-2546*

---

*City of Welch Council Meeting  
October 13, 2009*

A regular meeting of the Welch City Council held on Tuesday, October 13, 2009 at 5:30pm in the Welch City Hall, present were: Martha Moore, Mayor, Frank Cooley, William Spencer, Emily Yeager, James R. Ingole, Sr., Mark Jones, Councilors, Danny Barie, Attorney, Richard VanDyke, Chief of Police Sherman P. McKinney, Patrolman and Robin Lee, City Clerk

*Visitors Present*

Russell and Elizabeth Rice, Residents, Lake Drive, Shirley Farmer, Claybourne Phillips, Donna West, Yvonne Church, residents, Virginia Avenue

Mayor Moore opened the meeting as properly advertised. Councilor Spencer gave the invocation. Councilor Cooley led the Pledge of Allegiance.

*Approval of Minutes*

The minutes of September 14, 2009 were approved upon a motion by Councilor Yeager, seconded by Councilor Jones, motion carried unanimously.

*Approval of Invoices*

Councilor Yeager moved to approve the invoices for the General and Garbage Funds totaling \$256,681.09, Councilor Spencer seconded, motion carried unanimously.

*Police Department Invoices*

Chief VanDyke presented several invoices for Council's review on repairs to 2003 Crown Victoria, Invoice #28562, \$130.00 (troubleshoot engine), Invoice #29128, \$2,250.00, (complete engine rebuild), all Jim's Engine & Radiator Shop. Invoice #D169576, H. C. Lewis Oil Company (starter and air filter). Chief VanDyke explained the repairs were necessary to repair the 2003 Crown Victoria Police Cruiser from the May 9, 2009 flood. Payment of \$2,250.00 was received from the Office of Emergency Services for the repairs. He further explained the history of the invoices and felt there should not be a charge for parts at H. C. Lewis Oil Company in addition to the complete rebuild. Discussion was held. Motion was made by Councilor Yeager to pay the invoices, seconded by Councilor Spencer, motion passed unanimously with one abstention by Councilor Ingole.

*Police, Fire, Department Reports*

The Police Department Report was reviewed.

### **Building Permits**

The Building Permits administered by the McDowell County Redevelopment Authority for the City of Welch were reviewed for the months of July, August and September, 2009. The McDowell County Redevelopment Authority by letter dated October 5, 2009 has asked for a waiver of the monthly permit payments due to the change in management and their financial condition until January 1, 2010. Discussion held. Motion was made by Councilor Spencer to waive the monthly permit payments until January 1, 2010, seconded by Councilor Jones, motion passed unanimously. The permits issued by the Authority are listed as follows: Month of July, 2009: Replace Porch, Beverly Finney, \$5.00, Roof, John Sidote, \$5.00, HVAC, Valley Air, \$5.00, Electrical, JetBroadband, \$5.00, North Welch Church of God, (waiver), Month of August, 2009: Roof, Howard Linkous, \$5.00, Roof, Tyson Realty, \$5.00, Electrical, Gilbert Stubbs, \$5.00, Electrical, Amanda Roberts, New Structure/Electrical, Karen Hughes, \$5.00, Roof, Ramano Roofing, \$5.00, MH S/U, Mickey Roberts, \$5.00, Construction, Clay Phillips, \$5.00, HVAC, Floyd Cox, \$5.00, September, 2009: Electrical, Nicholas Construction, \$5.00, Roof-Powell's Construction, \$5.00, Electrical, Gloria Craft, \$5.00, Electrical, Lena Bright, \$5.00, HVAC, Pat Freeman, \$5.00, HVAC, Eugene Smith, \$5.00, Roof, Mary Duncan, \$5.00, Wall Repair, Ron Hassan, \$5.00, Electrical, Violet Lester, \$5.00.

### **Visitors-Parking/Virginia Avenue**

Yvonne Church and members of her family appeared before Council and addressed their concerns regarding parking problems at Virginia Avenue between the buildings owned by Mr. Thomchin and Ms. Farmer. Ms. Farmer and Mr. Phillips also addressed the Councils with problems that have occurred between the neighbors and parking in this area. Pictures were presented for Council's review. Discussion was held. It was the consensus of the Council that parking can take place against the building in the alley as long as the roadway is not blocked. Parked vehicles must be against the building.

### **Visitors-Lake Drive/Paving Request**

Mr. and Mrs. Russell Rice addressed the Council with a request that Lake Drive be paved. Mr. Rice spoke of the condition of the street and also presented a petition to Council for a request for paving. Mayor Moore stated she was told at the beginning of the year that Lake Drive was on the list for paving by the Department of Highways; however she just recently found out that it was not. Mayor Moore stated she would speak with the Department of Highways and request that Lake Drive be included on the next paving schedule.

### **1st Reading-Ordinance #09-07 Ward Redistricting**

The first reading of the Ordinance #09-07 Ward Redistricting was conducted by Mr. Barie. The ordinance amends the existing three wards. Motion was made by Councilor, Jones to approve the first reading, seconded by Councilor Spencer, motion passed unanimously.

### **1st Reading-Bond Ordinance-Water Tanks Project**

Mayor Moore conducted the first reading of the Bond Ordinance authorizing acquisition and construction of additions, betterments and improvements to the existing public

waterworks system of the City of Welch and the financing of the cost, not otherwise provided, therefore through the issuance by the City of Welch of not more than \$1,500,000 in aggregate principal amount of Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program); not more than \$1,500,000 in original aggregate principal amount of water revenue bonds, series 2009 B (West Virginia DWTRF Program/ARRA), and not more than \$500,000 in original aggregate principal amount of Water Revenue Bonds, Series 2009 C (West Virginia infrastructure fund) 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 ARRA assistance agreement and 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. Mayor Moore explained the project includes the following: 300,000 gallon Rout 52 By-Pass Tank Replacement, 125,000 gallon Stewart Street Tank Replacement, North Welch Tank Renovations, Jr. Poca, Linden Street, Tank Renovations, 400,000 gallon Water Treatment Plant Concrete Reservoir Renovations and a Water Treatment Plant Reservoir Telemetry.

Property Issues/Updates

Mayor Moore reported an invoice was received from the Glem Company for a balance remaining on the wall located on Elkhorn Street. She explained this was fund by FEMA. Presently there are cracks in the wall. She stated the bill will not be paid and Glem Company is aware of the condition of the wall.

Utility Updates

Mayor Moore stated the City of Welch has received approximately \$39,000,000 since 1984 in funding from different federal and state agencies. Most projects have been for sewer and water.

R. D. Bailey Water Project-Mayor Moore stated she recently attended a meeting to discuss R. D. Bailey Dam as a source of water for McDowell, Wyoming and Mingo counties. The project will be funded by USDA and AML. Discussion held.

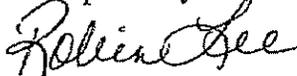
Resolutions, Personnel, Business & Occupation Tax, Budget Revisions, Legal Matters, Flood Prevention/Information, Economic Updates, Airport

No discussion was held.

Adjournment

There being no other business to come before the council, Councilor Yeager made a motion to adjourn the meeting and the meeting was adjourned.

Respectfully Submitted,



Robin Lee  
City Clerk



Approved  
Martha H. Moore, Mayor

**AFFIDAVIT OF PUBLICATION:**

State of West Virginia  
County of McDowell, to wit:

I, Irene Wooten, being first duly sworn upon my oath, do depose and say that I am the Legal Editor of the Welch News, Inc., a corporation, publisher of the newspaper entitled The Welch News, a Republican newspaper; that I have duly authorized by the board of directors of such corporation to execute this affidavit of publication; that such newspaper has been published 3 times a week except weekends and holidays, for at least fifty weeks during the calendar year, in the Municipality of Welch, McDowell County, West Virginia; that such newspaper is a newspaper of "general circulation", as that term is defined in article three, chapter fifty-nine of the Code of West Virginia, 1931, as amended, within the publication are or areas of the aforesaid municipality and McDowell County, West Virginia; that such newspaper is circulated to the general public at a definite price or consideration; that such newspaper is a newspaper to which the general public resorts for passing events of a political, religious, commercial and social nature, and for current happenings, announcements, miscellaneous, reading matters, advertisements, and other notices; that the annexed notice of

Public Hearing - City of Welch  
Stephoe & Johnson, Attys at Law  
PO Box 1588  
Charleston, WV 25326-1588

was duly published in said newspaper once a week for 2 successive weeks, (Class II), commencing with the issue of the 16 day of Nov., 2009, and ending with the issue of the 23 day of Nov., 2009 (and was posted at the (if required)

\_\_\_\_\_ on the  
day of \_\_\_\_\_, 20\_\_\_\_ that said annexed  
notice was published on the following dates: 11/16/09  
& 11/23/09

and that the cost of publishing said annexed notice as aforesaid was \$ 91.98.

Irene Wooten  
Irene Wooten, Legal Editor  
The Welch News

Taken subscribed and sworn to before me in my said county this 27 day of Nov., 2009.

Rushi A. Raloff  
Notary Public, State of West Virginia

**LEGAL NOTICE**

**NOTICE OF PUBLIC HEARING ON  
CITY OF WELCH BOND ORDINANCE**

A public hearing will be held on the following-entitled Ordinance at a regular meeting of the Council of the City of Welch (the "City") to be held on Monday, December 7, 2009, at 5:30 p.m., at the City Hall, 88 Howard Street, Welch, 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 ACQUISITION AND CONSTRUCTION OF ADDITIONS; BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC WATERWORKS SYSTEM OF THE CITY OF WELCH AND THE FINANCING OF THE COST; NOT OTHERWISE PROVIDED; THEREOF THROUGH THE ISSUANCE BY THE CITY OF WELCH OF NOT MORE THAN \$1,500,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2009 A (WEST VIRGINIA DWTRF PROGRAM); NOT MORE THAN \$1,500,000 IN ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2009 B (WEST VIRGINIA DWTRF PROGRAM/ARRA), AND NOT MORE THAN \$500,000 IN ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2009 C (WEST VIRGINIA INFRASTRUCTURE FUND) 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 ARRA ASSISTANCE AGREEMENT AND 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 2, 2009

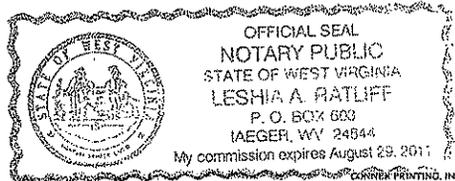
The above-quoted title of the Ordinance describes generally the contents thereof and the purposes of the Bonds contemplated thereby. The City contemplates the issuance of the Bonds described in the Ordinance. The proceeds of the Bonds will be used (i) to pay a portion of the costs of acquisitions and construction of certain additions, betterments and improvements to the existing public waterworks system of the issuer (the "Project"); and (ii) to pay certain costs of issuance of the Bonds and related costs. The Bonds are payable solely from revenues to be derived from the ownership and operation of the water system of the City. No taxes may at any time be levied for the payment of the Bonds or the interest thereon.

A certified copy of the above-entitled Ordinance is on file with the Council at the office of the City Clerk for review by interested parties during regular office hours.

Following the public hearing, the Council intends to enact the Ordinance upon final reading.  
Dated: November 9, 2009.

Robin Lee  
City Clerk

11/16, 23 2ic



**WV MUNICIPAL BOND COMMISSION**

1207 Quarrier Street  
Suite 401  
Charleston, WV 25301  
(304) 558-3971

**NEW ISSUE REPORT FORM**

Date of Report: 18-Dec-09

ISSUE: City of Welch  
Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program)

ADDRESS: 88 Howard Street, Welch, WV 24801 COUNTY: McDowell

PURPOSE OF ISSUE:

New Money: x  
Refunding: \_\_\_\_\_

REFUNDS ISSUE(S) DATED: NA

ISSUE DATE: 18-Dec-09

CLOSING DATE: 18-Dec-09

ISSUE AMOUNT: \$625,000

RATE: 0% Administrative Fee: 0%

1ST DEBT SERVICE DUE: 1-Sep-11

1ST PRINCIPAL DUE 1-Sep-11

1ST DEBT SERVICE AMOUNT \$5,209

PAYING AGENT: Municipal Bond Commission

BOND COUNSEL:

Firm: Steptoe & Johnson PLLC  
Contact: John Stump, Esquire  
Phone: (304) 353.8196

UNDERWRITERS COUNSEL

Firm: Jackson Kelly, PLLC  
Contact: Samme Gee, Esquire  
Phone: (304) 340-1318

CLOSING BANK:

Bank: MCNB  
Contact: Carol Miller  
Phone: 304.436.4112

ESCROW TRUSTEE:

Firm: \_\_\_\_\_  
Contact: \_\_\_\_\_  
Phone: \_\_\_\_\_

KNOWLEDGEABLE ISSUER CONTACT

Contact: Martha Moore  
Position: Mayor  
Phone: 304.436.3113

OTHER:

Agency: West Virginia Bureau for Public Health  
Contact: Robert DeCrease  
Position: Manager  
Phone: (304) 558-2981

DEPOSITS TO MBC AT CLOSE

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

REFUNDS & TRANSFERS BY MBC AT CLOSE

By: \_\_\_\_\_ Wire \_\_\_\_\_  
\_\_\_\_\_ Check \_\_\_\_\_  
\_\_\_\_\_ IGT \_\_\_\_\_  
To Escrow Trustee \$ \_\_\_\_\_  
To Issuer \$ \_\_\_\_\_  
To Cons. Invest. Funr \$ \_\_\_\_\_  
To Other: \_\_\_\_\_ \$ \_\_\_\_\_

NOTES: The Series 2009 A Reserve Account to be funded over 10 years  
\_\_\_\_\_  
\_\_\_\_\_

FOR MUNICIPAL BOND COMMISSION USE ONLY:

DOCUMENTS REQUIRED: \_\_\_\_\_  
TRANSFERS REQUIRED: \_\_\_\_\_  
\_\_\_\_\_

**WV MUNICIPAL BOND COMMISSION**  
 1207 Quarrier Street  
 Suite 401  
 Charleston, WV 25301  
 (304) 558-3971

**NEW ISSUE REPORT FORM**

Date of Report: 18-Dec-09

ISSUE: <u>City of Welch</u> <u>Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Progam/ARRA)</u>	
ADDRESS: <u>88 Howard Street, Welch, WV 24801</u>	COUNTY: <u>McDowell</u>
PURPOSE OF ISSUE: New Money: <u> x </u> Refunding: <u> </u>	
REFUNDS ISSUE(S) DATED: <u> NA </u>	CLOSING DATE: <u> 18-Dec-09 </u>
ISSUE DATE: <u> 18-Dec-09 </u>	RATE: <u> 0% Administrative Fee: none </u>
ISSUE AMOUNT: <u> \$625,000 </u>	1ST PRINCIPAL DUE <u> 100% forgivable </u>
1ST DEBT SERVICE DUE: <u> 100% forgivable </u>	PAYING AGENT: <u> Municipal Bond Commission </u>
1ST DEBT SERVICE AMOUNT <u> 100% forgivable </u>	
<b>BOND COUNSEL:</b> Firm: <u> Steptoe &amp; Johnson PLLC </u> Contact: <u> John Stump, Esquire </u> Phone: <u> (304) 353.8196 </u>	<b>UNDERWRITERS COUNSEL</b> Firm: <u> Jackson Kelly, PLLC </u> Contact: <u> Samme Gee, Esquire </u> Phone: <u> (304) 340-1318 </u>
<b>CLOSING BANK:</b> Bank: <u> MCNB </u> Contact: <u> Carol Miller </u> Phone: <u> 304.436.4112 </u>	<b>ESCROW TRUSTEE:</b> Firm: <u> </u> Contact: <u> </u> Phone: <u> </u>
<b>KNOWLEDGEABLE ISSUER CONTACT</b> Contact: <u> Martha Moore </u> Position: <u> Mayor </u> Phone: <u> 304.436.3113 </u>	<b>OTHER:</b> Agency: <u> West Virginia Bureau for Public Health </u> Contact: <u> Robert DeCrease </u> Position: <u> Manager </u> Phone: <u> (304) 558-2981 </u>
<b>DEPOSITS TO MBC AT CLOSE</b> By: <u> </u> Wire <u> </u> Accrued Interest: \$ <u> </u> <u> </u> Check <u> </u> Capitalized Interest: \$ <u> </u> <u> </u> Reserve Account: \$ <u> </u> <u> </u> Other: \$ <u> </u>	
<b>REFUNDS &amp; TRANSFERS BY MBC AT CLOSE</b> By: <u> </u> Wire <u> </u> To Escrow Trustee \$ <u> </u> <u> </u> Check <u> </u> To Issuer \$ <u> </u> <u> </u> IGT <u> </u> To Cons. Invest. Fund \$ <u> </u> <u> </u> To Other: <u> </u> \$ <u> </u>	
NOTES: <u> The Series 2009 B Bonds are 100% forgivable. The Series 2009 B Reserve Account will not be funded. </u> <u> </u> <u> </u>	
<b>FOR MUNICIPAL BOND COMMISSION USE ONLY:</b> DOCUMENTS REQUIRED: <u> </u> TRANSFERS REQUIRED: <u> </u> <u> </u>	

**WV MUNICIPAL BOND COMMISSION**

1207 Quarrier Street  
Suite 401  
Charleston, WV 25301  
(304) 558-3971

**NEW ISSUE REPORT FORM**

Date of Report: 18-Dec-09

ISSUE: City of Welch  
Water Revenue Bonds, Series 2009 C (West Virginia Infrastructure Fund)

ADDRESS: 88 Howard Street, Welch, WV 24801 COUNTY: McDowell

PURPOSE OF ISSUE:  
New Money: x  
Refunding: \_\_\_\_\_

ISSUE DATE: 18-Dec-09 REFUNDS ISSUE(S) DATED: NA  
ISSUE AMOUNT: \$461,674 CLOSING DATE: 18-Dec-09  
1ST DEBT SERVICE DUE: 1-Sep-11 RATE: 0% Administrative Fee: 0%  
1ST DEBT SERVICE AMOUNT \$2,998 1ST PRINCIPAL DUE 1-Sep-11  
PAYING AGENT: Municipal Bond Commission

BOND COUNSEL: Firm: Stepto & Johnson PLLC  
Contact: John Stump, Esquire  
Phone: (304) 353.8196

UNDERWRITERS COUNSEL: Firm: Jackson Kelly, PLLC  
Contact: Samme Gee, Esquire  
Phone: (304) 340-1318

CLOSING BANK: Bank: MCNB  
Contact: Carol Miller  
Phone: 304.436.4112

ESCROW TRUSTEE: Firm: \_\_\_\_\_  
Contact: \_\_\_\_\_  
Phone: \_\_\_\_\_

KNOWLEDGEABLE ISSUER CONTACT: Contact: Martha Moore  
Position: Mayor  
Phone: 304.436.3113

OTHER: Agency: West Virginia Infrastructure and  
Jobs Development Council  
Contact: Angela Chestnut, P.E.  
Position: Director  
Phone: 304.558.4607

DEPOSITS TO MBC AT CLOSE

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

REFUNDS & TRANSFERS BY MBC AT CLOSE

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

NOTES: The Series 2009 C Reserve Account to be funded over 10 years  
\_\_\_\_\_  
\_\_\_\_\_

FOR MUNICIPAL BOND COMMISSION USE ONLY:  
DOCUMENTS REQUIRED: \_\_\_\_\_  
TRANSFERS REQUIRED: \_\_\_\_\_  
\_\_\_\_\_

CITY OF WELCH

Water Revenue Bonds, Series 2009 A  
(West Virginia DWTRF Program);  
Water Revenue Bonds, Series 2009 B  
(West Virginia DWTRF Program/ARRA); and  
Water Revenue Bonds, Series 2009 C  
(West Virginia Infrastructure Fund)

ACCEPTANCE OF APPOINTMENT AS DEPOSITORY BANK

MCNB, Welch, West Virginia, hereby accepts appointment as Depository Bank in connection with the Bond Ordinance of the City of Welch (the "Issuer") enacted December 7, 2009, and the Supplemental Resolution of the Issuer adopted December 7, 2009 (the "Bond Legislation"), authorizing issuance of the Issuer's Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program), dated December 18, 2009, issued in the principal amount of \$625,000, Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA), dated December 18, 2009, issued in the principal amount of \$625,000 and Water Revenue Bonds, Series 2009 C (West Virginia Infrastructure Fund), dated December 18, 2009, issued in the principal amount of \$461,674 (collectively, the "Bonds"), and agrees to serve as Depository Bank in connection with the Bonds, all as set forth in the Bond Legislation.

WITNESS my signature on this 18th day of December, 2009.

MCNB

By:   
Its: Authorized Officer

11.18.09  
950640.00003

CITY OF WELCH

Water Revenue Bonds, Series 2009 A  
(West Virginia DWTRF Program);  
Water Revenue Bonds, Series 2009 B  
(West Virginia DWTRF Program/ARRA); and  
Water Revenue Bonds, Series 2009 C  
(West Virginia Infrastructure Fund)

ACCEPTANCE OF DUTIES AS REGISTRAR

THE HUNTINGTON NATIONAL BANK, Charleston, West Virginia, hereby accepts appointment as Registrar in connection with the City of Welch Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program), dated December 18, 2009, in the principal amount of \$625,000, Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA), dated December 18, 2009, in the principal amount of \$625,000, and Water Revenue Bonds, Series 2009 C (West Virginia Infrastructure Fund), dated December 18, 2009, in the principal amount of \$461,674 (collectively, the "Bonds"), and agrees to perform all duties of Registrar in connection with the Bonds, all as set forth in the Bond Legislation authorizing issuance of the Bonds.

WITNESS my signature on this 18th day of December, 2009.

THE HUNTINGTON NATIONAL BANK

By:   
Its: Authorized Officer

11.18.09  
950650.00003

CITY OF WELCH

Water Revenue Bonds, Series 2009 A  
(West Virginia DWTRF Program);  
Water Revenue Bonds, Series 2009 B  
(West Virginia DWTRF Program/ARRA); and  
Water Revenue Bonds, Series 2009 C  
(West Virginia Infrastructure Fund)

CERTIFICATE OF REGISTRATION OF BONDS

THE HUNTINGTON NATIONAL BANK, Charleston, West Virginia, as Registrar under the Bond Legislation and Registrar's Agreement providing for the above-captioned bond issue of the City of Welch (the "Issuer"), hereby certifies that on the date hereof, the single, fully registered Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program), of the Issuer, dated December 18, 2009, in the principal amount of \$625,000, numbered AR-1, the single, fully registered Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA), of the Issuer, dated December 18, 2009, in the principal amount of \$625,000, numbered BR-1 and the single, fully registered Water Revenue Bonds, Series 2009 B (West Virginia Infrastructure Fund), of the Issuer, dated December 18, 2009, in the principal amount of \$461,674, numbered CR-1, were registered as to principal and interest, if any, in the name of "West Virginia Water Development Authority" in the books of the Issuer kept for that purpose at our office, by a duly authorized officer on behalf of The Huntington National Bank, as Registrar.

WITNESS my signature on this 18th day of December, 2009.

THE HUNTINGTON NATIONAL BANK

By:   
Its: Authorized Officer

11.18.09  
950640.00003

CITY OF WELCH

Water Revenue Bonds, Series 2009 A  
(West Virginia DWTRF Program);  
Water Revenue Bonds, Series 2009 B  
(West Virginia DWTRF Program/ARRA); and  
Water Revenue Bonds, Series 2009 C  
(West Virginia Infrastructure Fund)

REGISTRAR'S AGREEMENT

THIS REGISTRAR'S AGREEMENT, dated as of the 18th day of December, 2009, by and between the CITY OF WELCH, a municipal corporation and political subdivision of the State of West Virginia (the "Issuer"), and THE HUNTINGTON NATIONAL BANK, Charleston, West Virginia (the "Registrar").

WHEREAS, the Issuer has, contemporaneously with the execution hereof, issued and sold its \$625,000 Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program), \$625,000 Water Revenue Bonds, Series 2009 B (West Virginia DWTRF Program/ARRA), and \$461,674 Water Revenue Bonds, Series 2009 C (West Virginia Infrastructure Fund) each dated the date hereof, in fully registered form (the "Bonds"), pursuant to a Bond Ordinance of the Issuer duly enacted December 7, 2009, and a Supplemental Resolution of the Issuer duly adopted December 7, 2009 (collectively, the "Bond Legislation");

WHEREAS, capitalized words and terms used in this Registrar's Agreement and not otherwise defined herein shall have the respective meanings given them in the Bond Legislation, a copy of which is attached as EXHIBIT A hereto and incorporated herein by reference;

WHEREAS, the Bond Legislation provides for an appointment by the Issuer of a Registrar for the Bonds; and

WHEREAS, the Issuer desires to appoint, and by the Bond Legislation and this Registrar's Agreement does appoint, the Registrar to act as Registrar under the Bond Legislation and to take certain other actions hereinafter set forth;

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

1. Upon the execution of this Registrar's Agreement by the Issuer and the Registrar and during the term hereof, the Registrar does accept and shall have and carry out the powers and duties of Registrar for the Bonds, all as set forth in the Bond Legislation, such duties including, among other things, the duties to authenticate, register and deliver Bonds upon original issuance and when properly presented for exchange or transfer, and shall do so with the intention of maintaining the 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.

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 Welch  
                              88 Howard Street  
                              Welch, West Virginia 24801  
                              Attention: Mayor

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 date first written above.

CITY OF WELCH

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

THE HUNTINGTON NATIONAL BANK

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

11.18.09  
950640.00003

REGISTRAR: The Huntington National Bank  
One Huntington Square  
Charleston, West Virginia 25301  
Attention: Corporate Trust Department

8. The Registrar is hereby requested and authorized to authenticate, register and deliver the Bonds in accordance with the Bond Legislation.

9. This document may be executed in one or more counterparts each of which shall be deemed an original and all of which shall constitute but one and the same document.

[Remainder of Page Intentionally Blank]

IN WITNESS WHEREOF, the parties hereto have respectively caused this Registrar's Agreement to be signed in their names and on their behalf, all as of the date first written above.

CITY OF WELCH

By: Frank Coaley  
Its: Mayor

THE HUNTINGTON NATIONAL BANK

By: [Signature]  
Its: Authorized Officer

EXHIBIT A

Included in transcript as Documents No. 1 and No. 2

SCHEDULE OF COMPENSATION

Private Financial Group  
P.O. Box 633 - WE3013  
Charleston, West Virginia 25322-0633



STATEMENT OF REGISTRAR'S FEES  
Invoice Date December 18, 2009

**City of Welch**  
**Account Number 6089001809**

City of Welch  
Water Revenue Bonds, Series 2009 A  
C/o John C. Stump  
Steptoe & Johnson, PLLC  
P.O. Box 1588  
Charleston, WV 25326-1588

SUMMARY OF ACCOUNT

\*\*\*\*\*  
FEE CALCULATION FOR December, 2009  
\*\*\*\*\*

TOTAL AMOUNT	\$	500.00
TOTAL DUE	\$	<u>500.00</u>

- \* FEE INVOICES ARE PAYABLE WITHIN 30 DAYS. IF PAYMENT \*
- \* IS NOT RECEIVED, FEES WILL BE DEDUCTED FROM THE PLAN \*
- \* .. MAIL CHECK TO: HUNTINGTON NATIONAL BANK, ATTN: BARRY. . \*
- \* .. GRIFFITH, PO BOX 633, CHARLESTON, WV 25322-0633 . . . . . \*

**PLEASE INCLUDE A COPY OF THIS INVOICE WITH YOUR PAYMENT**

IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT  
Barry Morgan Griffith at (304)348-5035

Private Financial Group  
P.O. Box 633 - WE3013  
Charleston, West Virginia 25322-0633



STATEMENT OF REGISTRAR'S FEES  
Invoice Date December 18, 2009

**City of Welch**  
**Account Number 6089001809**

City of Welch  
Water Revenue Bonds, Series 2009 B  
C/o John C. Stump  
Steptoe & Johnson, PLLC  
P.O. Box 1588  
Charleston, WV 25326-1588

SUMMARY OF ACCOUNT

\*\*\*\*\*  
FEE CALCULATION FOR December, 2009  
\*\*\*\*\*

TOTAL AMOUNT	\$	500.00
<b>TOTAL DUE</b>	<b>\$</b>	<b><u>500.00</u></b>

- \* FEE INVOICES ARE PAYABLE WITHIN 30 DAYS. IF PAYMENT \*
- \* IS NOT RECEIVED, FEES WILL BE DEDUCTED FROM THE PLAN \*
- \* .. MAIL CHECK TO: HUNTINGTON NATIONAL BANK, ATTN: BARRY. . \*
- \* .. GRIFFITH, PO BOX 633, CHARLESTON, WV 25322-0633 . . . . . \*

**PLEASE INCLUDE A COPY OF THIS INVOICE WITH YOUR PAYMENT**

IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT  
Barry Morgan Griffith at (304)348-5035

Private Financial Group  
P.O. Box 633 - WE3013  
Charleston, West Virginia 25322-0633



STATEMENT OF REGISTRAR'S FEES  
Invoice Date December 18, 2009

**City of Welch**  
**Account Number 6089001809**

City of Welch  
Water Revenue Bonds, Series 2009 C  
C/o John C. Stump  
Steptoe & Johnson, PLLC  
P.O. Box 1588  
Charleston, WV 25326-1588

SUMMARY OF ACCOUNT

\*\*\*\*\*  
FEE CALCULATION FOR December, 2009  
\*\*\*\*\*

TOTAL AMOUNT	\$	500.00
TOTAL DUE	\$	<u>500.00</u>

- \* FEE INVOICES ARE PAYABLE WITHIN 30 DAYS. IF PAYMENT \*
- \* IS NOT RECEIVED, FEES WILL BE DEDUCTED FROM THE PLAN \*
- \* .. MAIL CHECK TO: HUNTINGTON NATIONAL BANK, ATTN: BARRY. . \*
- \* .. GRIFFITH, PO BOX 633, CHARLESTON, WV 25322-0633 . . . . . \*

**PLEASE INCLUDE A COPY OF THIS INVOICE WITH YOUR PAYMENT**

IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT  
Barry Morgan Griffith at (304)348-5035



# CERTIFICATE OF LIABILITY INSURANCE

OP ID CM  
WELCH-1

DATE (MM/DD/YYYY)

11/23/09

<b>PRODUCER</b>  Commercial Insurance Services 340 MacCorkle Ave. Ste #200 Charleston WV 25314 Phone: 304-345-8000 Fax: 304-345-8014	<b>THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.</b>	
	<b>INSURERS AFFORDING COVERAGE</b>	<b>NAIC #</b>
<b>INSURED</b>  City Of Welch Welch Municipal Bldg. 88 Howard Street Welch WV 24801	INSURER A: Argonaut Great Central Ins. Co	
	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	

## COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	ADD'L INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
A		<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	PE-4613980-03	08/01/09	08/01/10	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ex occurrence) \$ 500,000 MED EXP (Any one person) \$ N/A PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 6,000,000 PRODUCTS - COMP/OP AGG \$ 6,000,000 Emp Ben. 2,000,000
A		<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	PE-4613980-03	08/01/09	08/01/10	COMBINED SINGLE LIMIT (Ex accident) \$ 2,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
		<b>GARAGE LIABILITY</b> <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY: AGG \$
		<b>EXCESS / UMBRELLA LIABILITY</b> <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE  <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$
A		<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under SPECIAL PROVISIONS below <input type="checkbox"/> Y/N	PE-4613980-03	08/01/09	08/01/10	W/C STATU-TORY LIMITS <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
		OTHER				

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS  
 Certificate holder is named as additional insured as respects water project.

<b>CERTIFICATE HOLDER</b>  WV Water Development Authority 180 Association Drive Charleston WV 25311	<b>CANCELLATION</b> SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL <u>10</u> DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE 
---	--

ACORD 25 (2009/01)

© 1988-2009 ACORD CORPORATION. All rights reserved.

The ACORD name and logo are registered marks of ACORD

## **IMPORTANT**

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

## **DISCLAIMER**

This Certificate of Insurance does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

# State of West Virginia

## OFFICE OF ENVIRONMENTAL HEALTH SERVICES

CAPITOL & WASHINGTON STREETS 1 DAVIS SQUARE, SUITE 200 CHARLESTON, WV 25301  
Telephone (304) 558-2981

### PERMIT

(Water)  
**PROJECT:** Indian Ridge Industrial Park, Phase 1 **PERMIT NO.:** 18,100  
**LOCATION:** near Welch **COUNTY:** McDowell **DATE:** 9-17-2008

THIS IS TO CERTIFY that after reviewing plans, specifications, application forms, and other essential information that

City of Welch  
88 Howard Street  
Welch, West Virginia 24801

is hereby granted approval to: install approximately 1,430 LF of 16", 30,567 LF of 12", 20 LF of 10", 170 LF of 8", 515 LF of 6", 90 LF of 4" and 50 LF of 2" water line; one (1) 705 G.P.M. duplex water booster station and one (1) 690 G.P.M. duplex water booster station; two (2) 500,000 gallon water storage tanks; one (1) 3"/3" (in series) pressure reducing valve station; one (1) master meter station; 304 water meters; and all necessary valves, controls and appurtenances.

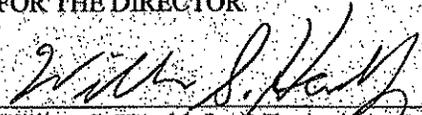
Facilities are to serve the Indian Creek Industrial Park, Phase 1, McDowell Federal Correction Institute and 304 existing customers.

**NOTE:** This permit is contingent upon: 1) All new water line and water storage tanks being disinfected, flushed and bacteriologically tested, prior to use; 2) Maintaining a minimum ten (10) feet horizontal separation between sewer and water lines and a minimum 18" vertical separation between crossing sewer and water lines, with the water line to be over the sewer line; and 3) Enclosing the proposed 500,000 gallon tanks with a minimum six (6) feet high fence with a locking gate.

The Environmental Engineering Division of the OEHS Beckley District Office (304) 256-6666 is to be notified when construction begins.

Validity of this permit is contingent upon conformity with plans, specifications, application forms, and other information submitted to the West Virginia Bureau for Public Health.

FOR THE DIRECTOR

  
William S. Herold, Jr., P.E., Assistant Manager  
Infrastructure and Capacity Development  
Environmental Engineering Division

WSH:cls

pc: Stafford Consultants Inc.  
James W. Ellars, P.E., PSC-Engineering Division  
Amy Swann, PSC-Water and Wastewater Division  
McDowell County Health Department  
OEHS-EED Beckley DO



**STEP TOE &  
JOHNSON**  
F.L.L.C.  
ATTORNEYS AT LAW

Chase Tower, Eighth Floor  
P.O. Box 1588  
Charleston, WV 25326-1588  
(304) 353-8000 (304) 353-8180 Fax  
www.step-toe-johnson.com

Writer's Contact Information

## CLOSING MEMORANDUM

**To:** Financing Team

**From:** John C. Stump, Esquire

**Date:** December 18, 2009

**Re:** City of Welch  
88 Howard Street, Welch, WV 24801  
Water Revenue Bonds, Series 2009 A (West Virginia DWTRF Program),  
Water Revenue Bonds, Series 2009 B (West Virginia DWTRF  
Program/ARRA) and Water Revenue Bonds, Series 2009 C (West  
Virginia Infrastructure Fund)

### 1. DISBURSEMENTS TO THE CITY OF WELCH

- A. Payor: West Virginia Bureau for Public Health  
Source: Water Revenue Bonds, Series 2009 A  
Amount: \$31,250  
Form: Wire  
Payee: City of Welch  
Routing No. 051501723  
Bank: MCNB, 75 Wyoming Street, Welch, WV  
Account No: 0416330  
Contact: Carol Miller 304.436.4112 or 1.800.532.9553  
Account: Series 2009 Bonds Construction Trust Fund
- B. Payor: West Virginia Bureau for Public Health  
Source: Water Revenue Bonds, Series 2009 B  
Amount: \$-0-  
Form: Wire  
Payee: City of Welch  
Routing No. 051501723  
Bank: MCNB, 75 Wyoming Street, Welch, WV  
Account No: 0416330  
Contact: Carol Miller 304.436.4112 or 1.800.532.9553  
Account: Series 2009 Bonds Construction Trust Fund

**35**

C. Payor: West Virginia Infrastructure and Jobs  
Development Council  
Source: Water Revenue Bonds, Series 2009 C  
Amount: \$-0-  
Form: Wire  
Payee: City of Welch  
Routing No. 051501723  
Bank: MCNB, 75 Wyoming Street, Welch, WV  
Account No: 0416330  
Contact: Carol Miller 304.436.4112 or 1.800.532.9553  
Account: Series 2009 Bonds Construction Trust Fund

11.18.09  
950640.00003

**RESOLUTION OF THE CITY OF WELCH APPROVING INVOICES RELATING TO THE  
CONSTRUCTION AND OTHER SERVICES FOR THE PROPOSED WATER  
STORAGE TANK PROJECT AND AUTHORIZING PAYMENT THEREOF,**

**WHEREAS,** The City of Welch has reviewed the invoices attached hereto and incorporated herein by reference relation to the Water Storage Tank Upgrade and Replace Project funded by the State of West Virginia Department of Health & Human Services Bureau of Public Health and find as follows:

- (a) That none of the items for which payment is proposed to be made has formed the basis for any disbursements theretofore made.
- (b) That each item for which payment is proposed to be paid 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.
- (d) That payment for each of the items proposed is due and owing.

***NOW, THEREFORE BE IT RESOLVED*** by the City of Welch as follows:

There is hereby authorized and directed the payment of the attached invoices as follows:

<b>Vendor</b>	<b>DESCRIPTION</b>	<b>TOTAL</b>
Stephoe and Johnson, PLLC	Loan Closing Costs	<b>\$24,000.00</b>
Huntington National Bank	Registrar Fee	<b>\$1,500.00</b>
1st Construction Invoice	Will be applied to the 1st Construction Invoice	<b>\$5,750.00</b>
		<b>\$31,250.00</b>

**Adopted by the City of Welch at a meeting held on the 9th day of November 2009.**

**CITY OF WELCH**

By: 

**ITS: Mayor**

**DATE: November 9, 2009**

State of West Virginia  
**WATER DEVELOPMENT AUTHORITY**  
 180 Association Drive, Charleston, WV 25311-1217  
 (304) 558-3612 - (304) 558-0299 (Fax)  
 Internet: www.wvwda.org - Email: contact@wvwda.org

Date 12/1/09 Time 2:30 LGA Welch Program DWTRF

**PRECLOSING ATTENDANCE LIST**

NAME	COMPANY, AGENCY, OR ORGANIZATION	TELEPHONE	FAX	E-MAIL
Carol A. Cummings	WDA	304-558-3612	304-558-0299	ccummings@wvwda.org
Ryan White	Jackson Kelly PLLC	304 340-1883	304 340-1872	srwhite@jacksonkelly.com
S Anne Gore	Jackson Kelly PLLC	304.340.1378	"	sgore@jacksonkelly.com
John Stump	Stump Johnson PLLC	304 353.8191	304 353.8181	john.stump@stumpjohnson.com

The Authority requests that the following information concerning the individual who will be responsible for sending Debt Service Payments to the Municipal Bond Commission be provided. (If that individual is in attendance, he/she should also sign above.) Please Print:

Name Martha Moore Telephone 304 436.3113 E-Mail N/A  
 Address 88 Howard Street, Welch, WV 24801

REMINDER: As a participant in this program, the Local Governmental Agency (LGA) agrees and is required to submit annually to the WDA a copy of its audited financial statements and a copy of its adopted budget. Also, pursuant to the Loan Agreement and the NonArbitrage Certificate (both of which are contained in the bond transcript) you are to provide annually to the WDA a rebate calculation certificate or an exception opinion showing whether a rebate amount is due to the US Government under arbitrage requirements in Section 148(f) of the US Internal Revenue Code, 1986, as amended.

## **SWEEP RESOLUTION**

### **City of Welch**

**WHEREAS**, The City of Welch (the "Issuer") is a governmental body and political subdivision of West Virginia;

**WHEREAS**, the Issuer has issued bonds, as more specifically set forth on Exhibit A, attached hereto and incorporated herein by reference (the "Bonds");

**WHEREAS**, the Issuer makes or will make monthly debt service payments on and transfers reserve funds for the Bonds by check to the West Virginia Municipal Bond Commission (the "MBC") which in turn pays the owners of the Bonds and deposits funds in the reserve accounts;

**WHEREAS**, the MBC may accept such monthly payments by electronic funds transfer, thereby eliminating delay in payments and lost checks;

**WHEREAS**, the Issuer finds and determines that it is in the best interest of the Issuer, its citizens and the owners of the Bonds that the administrative fees, monthly debt service and reserve fund payments be made by electronic funds transfer with the State Treasurer sweeping the Issuer's account.

### **NOW THEREFORE BE IT RESOLVED AS FOLLOWS:**

1) The monthly administrative fees, debt service payments on and reserve funds for the Bonds, as set forth in Exhibit A, shall be made to the MBC by an electronic transfer by the State Treasurer from the accounts set forth in Exhibit A, to the extent funds are available, in such form and at such directions as are provided by the MBC.

2) The Mayor and Clerk are hereby authorized to sign and execute all such documents as are necessary to facilitate the electronic transfer of the Bond debt service and reserve fund payments.

3) This resolution shall be effective immediately upon adoption.

Adopted this 7th day of December, 2009.

  
\_\_\_\_\_  
Mayor



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

AUG 17 2009

Honorable Martha Moore, Mayor  
City of Welch  
88 Howard Street  
Welch, West Virginia 24801

Re: EPA Project No. XP-973426-01  
City of Welch

Dear Mayor Moore:

We have received your January 28, 2009 request to revise the Project Budget in the referenced grant. We approve the Project Budget as follows:

Administration	\$62,000
Legal/Fiscal	\$55,000
Basic A/E Fees	\$335,100
Other A/E Fees	\$28,300
Inspection Fees	\$75,000
A/E Subsurface Investigation	\$29,969
A/E Geo-Technical	\$20,790
Construction	\$3,710,973
Land/Right-of-Ways	\$25,000
Permits	\$59,000
Contingency	\$350,068
Total	\$4,751,200
EPA Share @100%	\$4,751,200

The total Federal share remains at \$4,751,200. If you have any questions, please contact me at (215) 814-5770.

Sincerely,

Bruce Smith, EPA Project Officer  
Office of Infrastructure and Assistance

cc: Mike Johnson, WV DEP  
Ginger Gibson, Region I Planning and Development Council  
Ed Shutt, Stafford Consultants



## American Recovery and Reinvestment Act of 2009 (ARRA)

### Project Certification

**Program:** West Virginia Drinking Water Treatment Revolving Fund (DWTRF)

**Project:** City of Welch, McDowell County

**Description:** The project will replace an existing 100,000 storage tank and a 300,000 gallon water storage tank, sandblast and paint three other existing water storage tanks, repair the water reservoir, and replace the reservoir outlet valve. This project will provide safe and reliable drinking water for the customers of the City of Welch.

#### Total Project Cost

\$1,841,843

#### ARRA Assistance Provided

\$625,000

I hereby certify that the above project has received the full review and vetting required by federal law and that the investment of federal and state funds in this infrastructure project is an appropriate use of taxpayer dollars.

This certification will be posted on the Governor's website and linked to the federal ARRA website [www.recovery.gov](http://www.recovery.gov).

Patsy A. Hardy, Cabinet Secretary, FACHE, MSN, MBA

Date

WEST VIRGINIA  
Department of



**PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON**

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 16th day of April 2009

**GENERAL ORDER NO. 182.09**

Public Service Commission intended procedures concerning water and sewer projects that are funded with federal stimulus funds.

**COMMISSION ORDER**

Earlier this year, Congress enacted and the President signed the *American Recovery and Reinvestment Act of 2009*. Under this legislation, the State of West Virginia is to receive certain stimulus funds, a portion of which will be dedicated to the construction of water and sewer infrastructure. The Public Service Commission ("Commission") has received information from various funding agencies. The State Bureau for Public Health through its drinking water treatment revolving fund will have approximately \$19.5 million for water projects. In addition, the State Department of Environmental Protection through the clean water state revolving fund will have approximately \$61 million for sewer projects. Both of these state agencies have indicated that they intend to have the projects bid by August 2009 and contracts awarded by October 2009. In addition, certain other stimulus funds for water and sewer projects will be administered by the U.S. Department of Agriculture, Rural Utilities Service.

Although the Commission is not a funding source for the stimulus funds, it will nonetheless be called upon to process utility applications for certificates of public convenience and necessity ("certificates") to authorize the construction of stimulus-funded water and sewer projects. Given the aggressive schedule planned by the funding agencies, and the requirement in the federal law that water and sewer projects be "shovel ready," meaning under construction within a quick time line, the Commission intends to expedite these applications to the greatest extent possible consistent with existing State Law.

As a preliminary observation, the Commission would stress that applications must be complete and the statutory thirty-day notice to the public must be given at the outset of the application. Failure to file complete applications or failure to provide timely public notice will lead to delays in processing projects and jeopardize the ability to receive federal stimulus funds. The Commission anticipates that it will receive (i) new applications for water and sewer projects using federal stimulus funds, (ii) amendments to pending applications

containing some measure of federal stimulus funds, and (iii) petitions to reopen certificates already issued seeking to amend funding by including federal stimulus funds. The Commission issues this General Order to inform the public, regulated utilities, attorneys who practice before the Commission, funding agencies, and the staff of the Commission of its intended procedures and processes.

With respect to new stimulus project applications, the Commission intends that applicants and Staff observe the following procedures. At the outset, the Commission again stresses that it is essential that a utility project sponsor file a complete application and provide timely public notice of its application.

1. Staff assigned to the case should immediately review the filing to determine if it is complete. The Initial Joint Staff Memorandum should be filed within ten days.<sup>1</sup>

2. If the filing is complete and does not require an increase in rates for the project, Staff should file its Final Joint Staff Memorandum in thirty-five days which allows for the protest period assuming the applicant has timely published notice.

3. If the filing is complete and includes a proposed increase in rates for the project, Staff may deem it necessary to file a data request for items needed to complete the review and make a final Staff recommendation. This data request should be filed within ten days. The applicant should expedite its response to Staff's requests and Staff should file its Final Joint Staff Memorandum within forty-five to sixty days

4. If the filing is not complete, irrespective of whether or not the application seeks an increase in rates, Staff should file a data request, if necessary, for the items needed to complete the review and make a final Staff recommendation. This data request should be filed within ten days. The applicant should expedite its responses to Staff's requests and Staff should file its Final Joint Staff Memorandum within forty-five to sixty days.

5. If rates are required for the project and a rate change has not been included with the application:

- A. For municipalities, the processing time is out of the Commission's ability to control. Staff needs to determine where the municipality is in the ordinance process and what else is needed to process the case. This should all be part of the Initial Joint Staff Memorandum to let the Commission know if the case can be processed or needs dismissed. (Certificates and rate ordinances need to be coordinated for a municipal appeal.) Data requests should still be filed within the ten-day period.

---

<sup>1</sup> Days in this Order are calendar days. Filings due on weekends or holidays are due the next working day.

- B. Public service districts ("districts") that need rates for the project can follow steps 1 and 3 or 4 above.
- C. Districts that require rates outside of the project and are in default on bonds cannot move forward. Staff must address this in its initial memorandum.

5. For newly-filed water or sewer applications for certificates of convenience and necessity where the funding is described at the time of the filing as Stimulus Funding the Commission shall designate the filings as "SCN." The Commission, its Staff and Administrative Law Judges, will process those designated filings as expeditiously as possible.

The stimulus funds may be used to replace existing funding for projects that are ready to proceed, allowing the State of West Virginia to fund more projects than planned and provide an enhanced investment in water and sewer infrastructure to unserved and under-served areas of the State. To expedite the processing of projects that have already received a certificate and are eligible to receive stimulus funds, the Commission plans the following process and procedures:

6. In instances where municipalities or municipal water or sewer boards ("municipal utilities") have already been granted certificates, and in the event the municipality is awarded a stimulus assistance funding package to replace either existing grant or loan funding from another source, the municipal utility shall only be required to file with the Commission a letter from the funding agency that describes the change in the project funding. The filing will be treated as a closed entry by the Executive Secretary and the Commission anticipates no further action by the Commission.

7. Similarly, for districts that are awarded a stimulus assistance funding package equivalent to the existing grant money from another source, that has no impact on rates, the district shall only be required to file with the Commission a letter from the funding agency that describes the change in the project funding. The filing will be treated as a closed entry by the Executive Secretary and the Commission anticipates no further action by the Commission.

8. In the event that a district is awarded a stimulus assistance funding package and the benefit to the customers of such improved financing is lower project costs, the district will only be required to file a petition to reopen the original formal case granting the certificate in order that the Commission may review the rates established for the project.

The Commission will provide for such petitions to reopen to be handled in an expedited manner. To that end, the district will be required to file with its petition to reopen a letter from the funding agency that describes the change in project funding, specifically setting forth the newly-committed funding and an accompanying calculation by the district

of the impact to its rates together with supporting documentation. Upon the filing of this information, Staff will perform a review of the revised project funding and rate calculations and file a final recommendation with the Commission stating its recommended rates as soon as possible, but no later than ten days after receipt of the petition. The Commission will issue an order as soon thereafter as possible.

9. For districts that are awarded a stimulus assistance funding package to supplement funding to deal with a cost overrun in whole or part, that has no impact on rates, the district may utilize the enhanced funding to first fund any project alternatives that were reviewed as either deducts or adducts that were approved as a part of the original certificate, contingent upon funding, in order that all portions of the project can be constructed. In this event, the district shall be required to file with the Commission a letter from the funding agency that describes both the change in the project funding and also notes the deducts or adducts that will be funded for construction. The filing will be treated as a closed entry by the Executive Secretary and the Commission anticipates no further action on its part.

The issuance of these guidelines should expedite these projects and the continuing effort to provide quality water and sewer service throughout the State of West Virginia. The Commission understands that there will be instances and situations where events will disrupt these intended procedures; however, the Commission expects all parties to use their best efforts to process these cases in a timely manner. Finally, given the aggressive time frame contemplated by the funding agencies and the intent to have bids out by August 2009, project applications should be filed no later than June 1, 2009, to avoid jeopardizing the timely consideration of those applications.

IT IS SO ORDERED.

IT IS FURTHER ORDERED that the Executive Secretary of the Commission give public notice of this order in a manner deemed most efficient and appropriate.

APPROVED AND FORWARDED:

  
Sandra Squire  
Executive Secretary

go18209c.wpd