
The City of Charleston
Sewerage System Revenue Bonds, Series 2004 A

Date of Closing: March 23, 2004



LOAN AGREEMENT

THIS WATER POLLUTION CONTROL REVOLVING FUND LOAN AGREEMENT (the "Loan Agreement"), made and entered into in several counterparts, by and among the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY, a governmental instrumentality and body corporate of the State of West Virginia (the "Authority"), the WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION (the "DEP"), and the local government designated below (the "Local Government").

CITY OF CHARLESTON (PLANT UPGRADE/TELEMETRY)
(Local Government)

W I T N E S S E T H:

WHEREAS, the United States Congress under Title VI of the federal Clean Water Act, as amended (the "Clean Water Act"), has provided for capitalization grants to be awarded to states for the express purpose of establishing and maintaining state water pollution control revolving funds for the planning, design, construction, acquisition and/or improvement of wastewater treatment facilities;

WHEREAS, pursuant to the provisions of Chapter 22C, Article 2 of the Code of West Virginia, 1931, as amended (the "Act"), the State of West Virginia (the "State") has established a state water pollution control revolving fund program (the "Program") to direct the distribution of loans to particular local governments pursuant to the Clean Water Act;

WHEREAS, under the Act the DEP is designated the instrumentality to enter into capitalization agreements with the United States Environmental Protection Agency ("EPA") to accept capitalization grant awards (U.S. General Services Administration; Catalog of Federal Domestic Assistance, 32nd Edition § 66.458 (1998)) and DEP has been awarded capitalization grants to partially fund the Program;

WHEREAS, under the Act and under the direction of DEP, the Authority has established a permanent perpetual fund known as the "West Virginia Water Pollution Control Revolving Fund" (hereinafter the "Fund");

WHEREAS, pursuant to the Act, the Authority and DEP are empowered to make loans from the Fund to local governments for the acquisition or construction of wastewater treatment projects by such local governments, all subject to such provisions and limitations as are contained in the Clean Water Act and the Act;

WHEREAS, the Local Government constitutes a local government as defined by the Act;

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

WHEREAS, the Local Government is authorized and empowered by the statutes of the State to acquire, construct, improve, operate and maintain a wastewater treatment 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 Government;

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

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

WHEREAS, having reviewed the Application and the Fund having available sufficient funds therefor, the Authority and DEP are willing to lend the Local Government the amount set forth on Schedule X attached hereto and incorporated herein by reference, through the purchase of revenue bonds of the Local Government with moneys held in the Fund, subject to the Local Government's satisfaction of certain legal and other requirements of the Program.

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

ARTICLE I

Definitions

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

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

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

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

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

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

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

1.8 "Program" means the wastewater treatment facility acquisition, construction and improvement program coordinated through the capitalization grants program established under the Clean Water Act and administered by DEP.

1.9 "Project" means the wastewater treatment facility project hereinabove referred to, to be constructed or being constructed by the Local Government in whole or in part with the net proceeds of the Local Bonds or being or having been constructed by the Local Government in whole or in part with the proceeds of bond anticipation notes or other interim financing, which is to be paid in whole or in part with the net proceeds of the Local Bonds.

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

1.11 "System" means the wastewater treatment facility owned by the Local Government, of which the Project constitutes all or to which the Project constitutes an improvement, and any improvements thereto hereafter constructed or acquired from any sources whatsoever.

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

ARTICLE II

The Project and the System

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

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

2.3 All real estate and interests in real estate and all personal property constituting the Project and the Project site heretofore or hereafter acquired shall at all times be and remain the property of the Local Government, subject to any mortgage lien or other security interest as is provided for in the Local Statute unless a sale or transfer of all or a portion of said property is approved by DEP and the Authority.

2.4 The Local Government agrees that the Authority and DEP and their respective duly authorized agents shall have the right at all reasonable times to enter upon the Project site and Project facilities and to examine and inspect the same. The Local Government further agrees that the Authority and DEP and their respective duly authorized agents shall, prior to, 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 DEP with respect to the System pursuant to the pertinent provisions of the Act.

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

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

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

2.8 The Local Government shall require that each of its contractors and all subcontractors maintain, during the life of the construction contract, workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Authority and DEP and shall verify or have verified such insurance prior to commencement of construction. Until the Project facilities are completed and accepted by the Local Government, the Local Government or (at the option of the Local Government) the contractor shall maintain builder's risk insurance (fire and extended coverage) on a one hundred percent (100%) basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Local Government, the prime contractor and all subcontractors, as their interests may appear. If facilities of the System which are detrimentally affected by flooding are or will be located in designated special flood or mudslide-prone areas and if flood insurance is available at a reasonable cost, a flood insurance policy must be obtained by the

Local Government on or before the Date of Loan Closing, as hereinafter defined, and maintained so long as any of the Local Bonds are outstanding. Prior to commencing operation of the Project, the Local Government must also obtain, and maintain so long as any of the Local Bonds are outstanding, business interruption insurance if available at a reasonable cost.

2.9 The Local Government shall provide and maintain competent and adequate engineering services satisfactory to the Authority and DEP covering the supervision and inspection of the development and construction of the Project and bearing the responsibility of assuring that construction conforms to the plans, specifications and designs prepared by the Consulting Engineers, which have been approved by all necessary governmental bodies. Such engineer shall certify to the Authority, DEP and the Local Government at the completion of construction that construction is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies. The Local Government shall require the Consulting Engineers to submit Recipient As-Built Plans, as defined in the SRF Regulations, to it within 60 days of the completion of the Project. The Local Government shall notify DEP in writing of such receipt. The Local Government shall submit a Performance Certificate, the form of which is attached hereto as Exhibit A, and being incorporated herein by reference, to DEP within 60 days of the end of the first year after the Project is completed.

2.10 The Local Government shall require the Consulting Engineers to submit the final Operation and Maintenance Manual, as defined in the SRF Regulations, to DEP when the Project is 90% completed. The Local Government shall at all times provide operation and maintenance of the System in compliance with any and all State and federal standards. The Local Government shall employ qualified operating personnel properly certified by the State before the Project is 50% complete and shall retain such a certified operator(s) to operate the System during the entire term of this Loan Agreement. The Local Government shall notify DEP in writing of the certified operator employed at the 50% completion stage.

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

2.12 The Local Government, commencing on the date contracts are executed for the 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 B and incorporated herein by reference, and forward a copy by the 10th of each month to DEP and the Authority.

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

ARTICLE III

Conditions to Loan; Issuance of Local Bonds

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

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

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

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

(d) The Local Government shall either have received bids or entered into contracts for the construction of the Project, which are in an amount and otherwise compatible with the plan of financing described in the Application; provided that, if the Loan will refund an interim construction financing, the Local Government must either be constructing or have constructed its Project for a cost and as otherwise compatible with the plan of financing described in the Application; and, in either case, the Authority and DEP shall have received a certificate of the Consulting Engineers to such effect, the form of which certificate is attached hereto as Exhibit D;

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

(f) The Local Government shall have obtained all requisite orders of and approvals from the Public Service Commission of West Virginia (the "PSC") and the West Virginia Infrastructure and Jobs Development 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 DEP shall have received an opinion of counsel to the Local Government, which may be local counsel to the Local Government, bond counsel or special PSC counsel but must be satisfactory to the Authority and DEP, to such effect;

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

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

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

(j) The net proceeds of the Local Bonds, together with all moneys on deposit or to be simultaneously deposited (or, with respect to proceeds of grant anticipation notes or other indebtedness for which a binding purchase contract has been entered, to be deposited on a date certain) and irrevocably pledged thereto and the proceeds of grants irrevocably committed therefor, shall be sufficient to pay the costs of construction

and acquisition of the Project as set forth in the Application, and the Authority and DEP shall have received a certificate of the Consulting Engineers, or such other person or firm experienced in the financing of wastewater treatment projects and satisfactory to the Authority and DEP, to such effect, such certificate to be in form and substance satisfactory to the Authority and DEP, and evidence satisfactory to the Authority and DEP of such irrevocably committed grants.

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

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

3.4 The Local Bonds shall be delivered to the Authority, at the offices of the Authority, on a date designated by the Local Government by written notice to the Authority, which written notice shall be given not less than ten (10) business days prior to the date designated; provided, however, that if the Authority is unable to accept delivery on the date designated, the Local Bonds shall be delivered to the Authority on a date as close as possible to the designated date and mutually agreeable to the Authority, DEP and the Local Government. The date of delivery so designated or agreed upon is hereinafter referred to as the "Date of Loan Closing." Notwithstanding the foregoing, the Date of Loan Closing shall in no event occur more than ninety (90) days after the date of execution of this Loan Agreement by the Authority or such later date as is agreed to in writing by DEP.

3.5 The Local Government understands and acknowledges that it is one of several local governments which have applied to the Authority and DEP for loans from the Fund to finance wastewater treatment projects and that the obligation of the Authority to make any such loan is subject to the Local Government's fulfilling all of the terms and conditions of this Loan Agreement on or prior to the Date of Loan Closing and to the requirements of the Program. The Local Government specifically recognizes that the Authority will not purchase the Local Bonds unless and until sufficient funds are available in the Fund to purchase all the Local Bonds and that, prior to such purchase, the Authority may purchase the bonds of other local governments set out in the State Project Priority List,

as defined in the SRF Regulations. The Local Government further specifically recognizes that all loans will be originated in conjunction with the SRF Regulations and with the prior approval of DEP.

3.6 The Local Government shall provide DEP with the appropriate documentation to comply with the special conditions regarding the public release and audit requirements established by federal and State regulations as set forth in Exhibit E 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 Government shall, as one of the conditions of the Authority and DEP to make the Loan, authorize the issuance of and issue the Local Bonds pursuant to an official action of the Local Government in accordance with the Local Statute, which shall, as 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 Government has existing outstanding indebtedness which has greater coverage or renewal and replacement fund requirements, then the greater requirements will prevail until said existing indebtedness is paid in full.

(b) Covenants substantially as follows:

(i) That the Local Bonds shall be secured by a pledge of either the net or gross revenues 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 Government shall complete the Project and operate and maintain the System in good condition;

(iv) That, except as otherwise required by State law or the Regulations, the System may not be sold, mortgaged, leased or otherwise disposed of, except as a whole, or substantially as a whole, provided that the net proceeds to be realized from such sale, mortgage, lease or other disposition shall be sufficient to fully pay all of the Local Bonds outstanding and further provided that portions of the System when no longer required

for the ongoing operation of such System as evidenced by certificates from the Consulting Engineer, may be disposed of with such restrictions as are normally contained in such covenants;

(v) That the Local Government shall not issue any other obligations payable from the revenues of the System which rank prior to, or equally, as to lien and security with the Local Bonds, except parity bonds which shall only be issued if net revenues of the System prior to issuance of such parity bonds, plus reasonably projected revenues from rate increases and the improvements to be financed by such parity bonds, shall not be less than one hundred fifteen percent (115%) of the maximum debt service in any succeeding year on all Local Bonds and parity bonds theretofore and then being issued and on any obligations secured by a lien on or payable from the revenues of the System prior to the Local Bonds and with the prior written consent of the Authority and DEP; provided, however, that additional parity bonds may be issued to complete the Project, as described in the Application as of the date hereof, without regard to the foregoing;

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

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

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

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

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

(xi) That the Local Government shall annually cause the records of the System to be audited by an independent certified public accountant or independent public accountant and shall submit the report of said audit to the Authority and DEP, which report shall include a statement that the Local Government is in compliance with the terms and provisions of the Local Act and this Loan Agreement and that the Local Government's revenues are adequate to meet its Operating Expenses and debt service and reserve requirements;

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

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

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

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

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

(xvii) That the Local Government shall on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the Commission the required interest, principal and reserve account payment. The Local Government shall complete the Monthly Payment Form, attached hereto as Exhibit F

and incorporated herein by reference, and submit a copy of said form along with a copy of the check or electronic transfer to the Authority by the 5th day of such calendar month;

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

(xx) That the Local Government 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 Local Government, then the Local Government shall enter into a termination agreement with the water provider; and

(xxi) That the Local Government shall submit all proposed change orders to the DEP for written approval. The Local Government shall obtain the written approval of the DEP 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 Government shall obtain the written approval of the DEP before expending any proceeds of the Local Bonds available due to bid/construction/project underruns.

The Local Government 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 G.

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

4.3 At least five percent (5%) of the proceeds of the Local Bonds will be advanced on the Date of Loan Closing. The remaining proceeds of the Local Bonds shall be advanced by the DEP monthly as required by the Local Government to pay Costs of the Project, provided, however, if the proceeds of the Local Bonds will be used to repay an interim financing, the proceeds will be advanced on a schedule mutually agreeable to the Local Government, the DEP and the Authority. The Local Bonds shall not bear interest during the construction period but interest shall commence accruing on the completion date as defined in the SRF Regulations, provided that the annual repayment of principal and payment of interest shall begin not later than one (1) year after the completion date. The repayment of principal and interest on the Local Bonds shall be as set forth on Schedule Y hereto. In no event shall the interest rate on or the net interest cost of the Local Bonds exceed any statutory limitation with regard thereto.

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

4.5 As provided by the SRF Regulations, the Local Government agrees to pay from time to time, if required by the Authority and DEP, the Local Government's allocable share of the reasonable administrative expenses of the Authority relating to the Program. Such administrative expenses shall be determined by the Authority and shall include, without limitation, Program expenses, legal fees paid by the Authority and fees paid to the trustee and paying agents for any bonds or notes to be issued by the Authority for contribution to the Fund and the fees and expenses of any corporate trustee for the Fund.

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

ARTICLE V

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

5.1 The Local Government hereby irrevocably covenants and agrees to comply with all of the terms, conditions and requirements of this Loan Agreement and the Local Act. The Local Government hereby further irrevocably covenants and agrees that, as one of the conditions of the Authority to make the Loan, it has fixed and collected, or will fix and collect, the rates, fees and other charges for the use of the System 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 Local Government hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates, fees and charges (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 Local Government defaults in any 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 Local Government hereby irrevocably covenants and agrees with the Authority that, in the event of any default hereunder by the Local Government, the Authority may exercise any or all of the rights and powers granted under Section 5 of the Act, including, without limitation, the right to impose, enforce and collect charges of the System.

ARTICLE VI

Other Agreements of the Local Government

6.1 The Local Government hereby acknowledges to the Authority and DEP its understanding of the provisions of the Act, vesting in the Authority and DEP certain powers, rights and privileges with respect to wastewater treatment projects in the event of default by the Local Government in the terms and covenants of this Loan Agreement, and

the Local Government hereby covenants and agrees that, if the Authority should hereafter have recourse to said rights and powers, the Local Government shall take no action of any nature whatsoever calculated to inhibit, nullify, void, delay or render nugatory such actions of the Authority in the due and prompt implementation of this Loan Agreement.

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

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

6.4 The Local Government hereby covenants that it will rebate any amounts required by Section 148 of the Internal Revenue Code of 1986, as amended, and will take all steps necessary to make any such rebates. In the event the Local Government fails to make any such rebates as required, then the Local Government shall pay any and all penalties, obtain a waiver from the Internal Revenue Service and take any other actions necessary or desirable to preserve the exclusion from gross income for federal income tax purposes of interest on the Local Bonds.

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

6.6 The Local Government hereby agrees to give the Authority and DEP prior written notice of the issuance by it of any other obligations to be used for the 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 Government hereby agrees to file with the Authority and DEP upon completion of acquisition and construction of the Project a schedule in substantially the form of Amended Schedule A to the Application, setting forth the actual costs of the Project and sources of funds therefor.

ARTICLE VII

Miscellaneous

7.1 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 Local Government supplementing the Local Act, a certified copy of which official action shall be submitted to the Authority.

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

7.3 This Loan Agreement may be executed in one or more counterparts, any of which shall be regarded for all purposes as an original and all of which constitute but one and the same instrument. Each party agrees that it will execute any and all documents or other instruments and take such other actions as may be necessary to give effect to the terms of this Loan Agreement.

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

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

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

7.7 This Loan Agreement shall terminate upon the earlier of:

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

(ii) 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 DEP if the Local Government has failed to deliver the Local Bonds to the Authority;

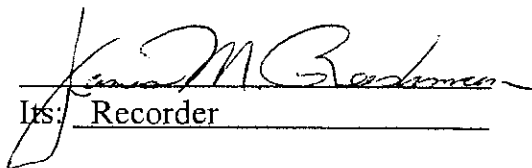
(iii) termination by the Authority and DEP pursuant to Section 6.2 hereof; or

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

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

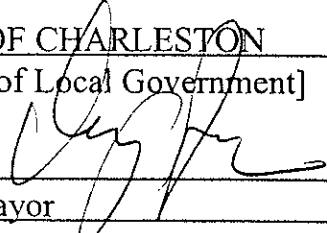
(SEAL)

Attest:


Its: Recorder

CITY OF CHARLESTON

[Name of Local Government]

By: 

Its: Mayor

Date: 2-26-2004

WEST VIRGINIA DEPARTMENT OF
ENVIRONMENTAL PROTECTION, DIVISION
OF WATER AND WASTE MANAGEMENT

By: 

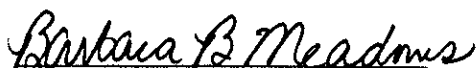
Its: Director

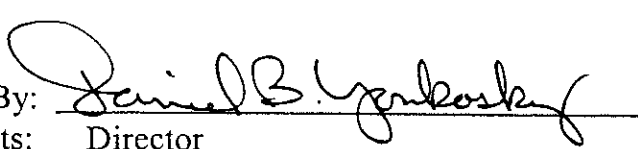
Date: 3-2-04

WEST VIRGINIA WATER DEVELOPMENT
AUTHORITY

(SEAL)

Attest:


Its: Secretary-Treasurer

By: 

Its: Director

Date: February 25, 2004

000832/00372
01/12/04

EXHIBIT A

FORM OF PERFORMANCE CERTIFICATE

[To Be Provided By DEP]

EXHIBIT B

MONTHLY FINANCIAL REPORT

Name of Local Government _____
 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 Government 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 Government 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 Government.

The Local Government must complete the Monthly Financial Report and forward it to the Water Development Authority by the 10th 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 C

PAYMENT REQUISITION FORM

(All Copies to Be Provided by DEP for Each Project)

EXHIBIT D

FORM OF CERTIFICATE OF CONSULTING ENGINEER

(Issuer)

(Name of Bonds)

I, _____, Registered Professional Engineer, West Virginia License No. _____, of _____, Consulting Engineers, _____, hereby certify 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 meaning set forth in the bond _____ adopted or enacted by the Issuer on _____, and the Loan Agreement by and among the Issuer, the West Virginia Water Development Authority (the "Authority"), and the West Virginia Department of Environmental Protection (the "DEP"), 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 the DEP and any change orders approved by the Issuer, the DEP 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 A attached hereto as Exhibit A, and my firm¹ 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 bid documents relating to the Project reflect the Project as approved by the DEP 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 thereof², 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 approved by the DEP; and (xi) attached hereto as Exhibit A is the final amended "Schedule A - Total Cost of Project; Sources of Funds and Cost of Financing" for the Project.

WITNESS my signature and seal on this ____ day of _____, ____.

By _____

West Virginia License No. _____

[SEAL]

¹If 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 _____, Esq.] and delete "my firm has ascertained that".

²If 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 E

SPECIAL CONDITIONS

A. PUBLIC RELEASE REQUIREMENT - The Local Government 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 Government 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 Government.

EXHIBIT F

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 Local Government] on [Date].

Sinking Fund:

Interest \$_____

Principal \$_____

Total: \$_____

Reserve Account: \$_____

Witness my signature this ____ day of_____.

[Name of Local Government]

By: _____
Authorized Officer

Enclosure: copy of check(s)

EXHIBIT G

OPINION OF BOND COUNSEL FOR LOCAL GOVERNMENT

[To Be Dated as of Date of Loan Closing]

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

West Virginia Department of Environmental Protection
1560 Kanawha Boulevard, East
Charleston, WV 25311

Ladies and Gentlemen:

We are bond counsel to _____ (the "Local Government"), 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"), among the Local Government, the West Virginia Water Development Authority (the "Authority") and the West Virginia Department of Environmental Protection (the "DEP"), and (ii) the issue of a series of revenue bonds of the Local Government, 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 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 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 Local Government on _____, as supplemented by the supplemental resolution duly adopted by the Local Government 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 Local Government and is a valid and binding special obligation of the Local Government, enforceable in accordance with the terms thereof.

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

3. The Local Government 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 Government and constitute valid and binding obligations of the Local Government, enforceable against the Local Government 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 Local Government to the Authority and are valid, legally enforceable and binding special obligations of the Local Government, 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,

SCHEDULE X

DESCRIPTION OF LOCAL BONDS

Principal Amount of Local Bonds \$9,835,120

Purchase Price of Local Bonds \$9,835,120

The Local Bonds shall bear no interest from the date of delivery to and including August 31, 2005. Commencing September 1, 2005, interest on the Local Bonds is payable quarterly, at a rate of 2% per annum. Commencing September 1, 2005, principal of the Local Bonds is payable quarterly, with an administrative fee of 1%. 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 Government 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 Government shall commence the payment of the 1/120 of the maximum annual debt service on the first day of the month it makes its first monthly payment to the Commission. The Local Government 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 net or gross revenues of the Local Government's system as provided in the Local Act.

The Local Government may prepay the Local Bonds in full at any time at the price of par upon 30 days' written notice to the Authority and DEP. The Local Government shall request approval from the Authority and DEP in writing of any proposed debt which will be issued by the Local Government on a parity with the 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 Local Government:

See next page.

**CITY OF CHARLESTON
SEWER REVENUE BONDS
WATER DEVELOPMENT AUTHORITY**

<u>SERIES</u>	<u>ISSUED</u>	<u>AMOUNT</u>
1989A	03/21/89	\$1,912,194
1989C	11/21/89	829,856
1993A	12/02/93	773,237*
1996A	10/09/96	2,671,058*
1996B	11/26/96	395,299*
1997A	07/22/97	732,688*
1997B	10/07/97	5,237,584*
1998A	12/10/98	994,537*
1999A	06/22/99	686,229
2001A	02/22/01	1,111,357*
2001B	05/22/01	823,741

* CWSRF

**CITY OF CHARLESTON
SEWER REFUNDING REVENUE BONDS**

2002A	12/01/02	1,755,000
2002B	12/01/02	5,160,000

SCHEDULE Y

City of Charleston Loan of \$9,835,120 2.0% Interest Rate, 1.0% Administrative Fee, 20 Years Closing Date: March 23, 2004 DEBT SERVICE SCHEDULE				
Date	Principal	Coupon	Interest	Total P+I
6/01/2004	-	-	-	-
9/01/2004	-	-	-	-
12/01/2004	-	-	-	-
3/01/2005	-	-	-	-
6/01/2005	-	-	-	-
9/01/2005	100,289.07	2.000%	49,175.60	149,464.67
12/01/2005	100,790.52	2.000%	48,674.15	149,464.67
3/01/2006	101,294.47	2.000%	48,170.20	149,464.67
6/01/2006	101,800.94	2.000%	47,663.73	149,464.67
9/01/2006	102,309.95	2.000%	47,154.73	149,464.68
12/01/2006	102,821.50	2.000%	46,643.18	149,464.68
3/01/2007	103,335.60	2.000%	46,129.07	149,464.67
6/01/2007	103,852.28	2.000%	45,612.39	149,464.67
9/01/2007	104,371.54	2.000%	45,093.13	149,464.67
12/01/2007	104,893.40	2.000%	44,571.27	149,464.67
3/01/2008	105,417.87	2.000%	44,046.80	149,464.67
6/01/2008	105,944.96	2.000%	43,519.71	149,464.67
9/01/2008	106,474.68	2.000%	42,989.99	149,464.67
12/01/2008	107,007.06	2.000%	42,457.62	149,464.68
3/01/2009	107,542.09	2.000%	41,922.58	149,464.67
6/01/2009	108,079.80	2.000%	41,384.87	149,464.67
9/01/2009	108,620.20	2.000%	40,844.47	149,464.67
12/01/2009	109,163.30	2.000%	40,301.37	149,464.67
3/01/2010	109,709.12	2.000%	39,755.55	149,464.67
6/01/2010	110,257.66	2.000%	39,207.01	149,464.67
9/01/2010	110,808.95	2.000%	38,655.72	149,464.67
12/01/2010	111,363.00	2.000%	38,101.68	149,464.68
3/01/2011	111,919.81	2.000%	37,544.86	149,464.67
6/01/2011	112,479.41	2.000%	36,985.26	149,464.67
9/01/2011	113,041.81	2.000%	36,422.86	149,464.67
12/01/2011	113,607.02	2.000%	35,857.66	149,464.68
3/01/2012	114,175.05	2.000%	35,289.62	149,464.67
6/01/2012	114,745.93	2.000%	34,718.74	149,464.67
9/01/2012	115,319.66	2.000%	34,145.02	149,464.68
12/01/2012	115,896.26	2.000%	33,568.42	149,464.68
3/01/2013	116,475.74	2.000%	32,988.94	149,464.68
6/01/2013	117,058.12	2.000%	32,406.56	149,464.68
9/01/2013	117,643.41	2.000%	31,821.27	149,464.68
12/01/2013	118,231.62	2.000%	31,233.05	149,464.67
3/01/2014	118,822.78	2.000%	30,641.89	149,464.67
6/01/2014	119,416.89	2.000%	30,047.78	149,464.67
9/01/2014	120,013.98	2.000%	29,450.69	149,464.67
12/01/2014	120,614.05	2.000%	28,850.62	149,464.67
3/01/2015	121,217.12	2.000%	28,247.55	149,464.67
6/01/2015	121,823.20	2.000%	27,641.47	149,464.67
9/01/2015	122,432.32	2.000%	27,032.35	149,464.67
12/01/2015	123,044.48	2.000%	26,420.19	149,464.67

Ferris, Baker Watts
West Virginia Public Finance Office

File = City of Charleston Loans.sf-SRF 2-24-04- SINGLE PURPOSE
2/24/2004 1:30 PM

City of Charleston
 Loan of \$9,835,120
 2.0% Interest Rate, 1.0% Administrative Fee, 20 Years
 Closing Date: March 23, 2004

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Interest	Total P+I
3/01/2016	123,659.71	2.000%	25,804.97	149,464.68
6/01/2016	124,278.00	2.000%	25,186.67	149,464.67
9/01/2016	124,899.39	2.000%	24,565.28	149,464.67
12/01/2016	125,523.89	2.000%	23,940.78	149,464.67
3/01/2017	126,151.51	2.000%	23,313.16	149,464.67
6/01/2017	126,782.27	2.000%	22,682.40	149,464.67
9/01/2017	127,416.18	2.000%	22,048.49	149,464.67
12/01/2017	128,053.26	2.000%	21,411.41	149,464.67
3/01/2018	128,693.53	2.000%	20,771.15	149,464.68
6/01/2018	129,336.99	2.000%	20,127.68	149,464.67
9/01/2018	129,983.68	2.000%	19,480.99	149,464.67
12/01/2018	130,633.60	2.000%	18,831.07	149,464.67
3/01/2019	131,286.77	2.000%	18,177.91	149,464.68
6/01/2019	131,943.20	2.000%	17,521.47	149,464.67
9/01/2019	132,602.91	2.000%	16,861.76	149,464.67
12/01/2019	133,265.93	2.000%	16,198.74	149,464.67
3/01/2020	133,932.26	2.000%	15,532.41	149,464.67
6/01/2020	134,601.92	2.000%	14,862.75	149,464.67
9/01/2020	135,274.93	2.000%	14,189.74	149,464.67
12/01/2020	135,951.30	2.000%	13,513.37	149,464.67
3/01/2021	136,631.06	2.000%	12,833.61	149,464.67
6/01/2021	137,314.22	2.000%	12,150.46	149,464.68
9/01/2021	138,000.79	2.000%	11,463.88	149,464.67
12/01/2021	138,690.79	2.000%	10,773.88	149,464.67
3/01/2022	139,384.25	2.000%	10,080.43	149,464.68
6/01/2022	140,081.17	2.000%	9,383.51	149,464.68
9/01/2022	140,781.57	2.000%	8,683.10	149,464.67
12/01/2022	141,485.48	2.000%	7,979.19	149,464.67
3/01/2023	142,192.91	2.000%	7,271.76	149,464.67
6/01/2023	142,903.87	2.000%	6,560.80	149,464.67
9/01/2023	143,618.39	2.000%	5,846.28	149,464.67
12/01/2023	144,336.48	2.000%	5,128.19	149,464.67
3/01/2024	145,058.17	2.000%	4,406.51	149,464.68
6/01/2024	145,783.46	2.000%	3,681.22	149,464.68
9/01/2024	146,512.37	2.000%	2,952.30	149,464.67
12/01/2024	147,244.94	2.000%	2,219.74	149,464.68
3/01/2025	147,981.16	2.000%	1,483.51	149,464.67
6/01/2025	148,721.07	2.000%	743.61	149,464.68
Total	9,835,120.00	-	2,122,053.80	11,957,173.80 *

*Plus \$13,262.85 one-percent administrative fee paid quarterly. Total fee paid over life of loan is \$1,061,028.

Ferris, Baker Watts
 West Virginia Public Finance Office

File = City of Charleston Loans.sf-SRF 2-24-04- SINGLE PURPOSE
 2/24/2004 1:30 PM

P.S.C. W. Va. No. 17
Canceling P.S.C. W. Va. No. 16

CHARLESTON, THE CITY OF, a municipal corporation
OF
CHARLESTON, WEST VIRGINIA
RATES, RULES AND REGULATIONS FOR FURNISHING
SEWERAGE AND SEWAGE DISPOSAL SERVICE
AT
Charleston, Kanawha County and vicinity, West Virginia
Filed with THE PUBLIC SERVICE COMMISSION
of
WEST VIRGINIA

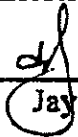
Issued July 5, 2001

Effective June 18, 2001

Passed by City Council

Issued by City of Charleston, a municipal corporation

By


Jay Goldman

Mayor, City of Charleston
Chairman, Charleston Sanitary Board

CITY OF CHARLESTON

P.S.C. W. Va. Tariff No. 17
Original page No. 2**Rules and Regulations**

- I. Rules and Regulations for the Government of Sewerage Utilities adopted by the Public Service Commission of West Virginia, and now in effect, and all amendments thereto, and modifications thereof hereafter made by said Commission.
- II. On all premises having a private water supply and connected with the sewer system and works there shall be installed a meter for measuring the amount of water supplied said premises.
- III. If for any reason there be no record of the amount of water supplied any month, then the charge shall be based upon the last available monthly meter reading.
- IV. Users, the nature and character of whose use is such that the amount of water discharged into the said system is deemed by the Sanitary Board to be substantially less than the amount of metered water supplied the premises, shall be charged for sewer service substantially on the basis of the amount of water discharged into the sewer system, as may be determined according to formulae approved by the Sanitary Board.
- V. In apartment buildings, mobile home courts, shopping centers and other places where more than one occupancy unit is served with water through one water meter, the customer shall be required to pay not less than the minimum monthly charge provided in the tariff for each occupancy.

CITY OF CHARLESTON

P.S.C. W. Va. Tariff No. 17
Original page No. 3RATES - For Sewage that does not contain industrial waste:

\$3.86 per thousand gallons in excess of 2,000 gallons used per month

RATES - For Sewage that contains industrial waste:

Where the character of sewage from any manufacturing or industrial plant, building or premises is such that it imposes a burden upon the sewer system in addition to the burden imposed by the average sewage entering the sewer system, the Sanitary Board may, if it deems advisable to do so, compel the owner, tenant or occupant of such manufacturing or industrial plant, building or premises to treat such sewage in such manner as shall be specified by the Sanitary Board before discharging into the sewer system. In the absence of such treatment sufficient to remove such additional burden, the charges for treatment of such sewage shall be as follows:

Monthly Service Charge	\$3,210.00
Volumetric Treatment Charge	\$1.750 per thousand gallons
Biochemical Oxygen Demand (BOD) Charge	\$0.258 per pound
Total Suspended Solids (TSS) Charge	\$0.202 per pound

When an industrial user is to be served, a preliminary study of its waste, and the cost of transport and treatment thereof, will be made. Waste containing materials which, in the judgment of the Sanitary Board, should not be introduced into the sewer system, need not be handled by it. The results of this preliminary study will be used to determine the feasibility of the proposed sewer service.

MINIMUM CHARGE

A charge of \$7.05 shall be the minimum for each month or fraction thereof. If, for any reason, there be no record of the amount of water supplied in any month, then the charge shall be based upon the last available monthly meter reading.

RECOVERY OF BANK CHARGES

If a bank or other financial institution returns a customer's check to the Sanitary Board due to insufficient funds in such customer's account and charges a fee to the Sanitary Board for such service, the fee charged will be added to the account of the customer whose check is returned.

CITY OF CHARLESTON

P.S.C. W. Va. Tariff No. 17

Original page No. 4

PRETREATMENT CHARGE

In addition to all other charges contained herein, all customers who operate under a pretreatment permit will pay an annual charge of \$2500.00, payable on July 1 of each year.

DISCONNECT, LIEN, AND RECONNECT FEES

If the Sanitary Board gives notice to a provider of water service to disconnect water service to a customer of the Sanitary Board, the following charges will be added to the account of such customer:

- a. A charge of \$20.00, plus any legally required certified mail charge, will be added to such customer's account at the time notice to disconnect is given to the water provider.
- b. A charge of \$4.00 to cover the cost of placing a lien on the property served will be added to the account of such customer at the time such lien is filed in the Office of the Clerk of the County Commission of the County where the property served is located.
- c. A reconnect charge of \$20.00 will be made at the time the customer pays the amounts due on such customer's account and requests the reconnection of water and sewer service.

NEW SERVICE FEE

A new service fee of \$250.00 shall be paid before sewer service can be obtained at any location not previously connected to the collection system of a sewer utility, to be paid for each water meter installed, regardless of the number of sewer connections made at said location.

GREASE TRAP CHARGE

In addition to all other charges contained herein, all customers who are required by the Sanitary Board to install a grease trap shall pay an annual charge of \$250.00, payable on July 1 of each year.

(A) SURCHARGES

Customers served from the facilities acquired from the Mt. Tyler Public Service District shall pay, in addition to the foregoing, a monthly surcharge of \$2.14 per month until the retirement of bonds issued by said District, as approved by the Public Service Commission of West Virginia in Case No. 98-0215-PSD-S-C.

Customers served from the facilities acquired from the Guthrie Public Service District

CITY OF CHARLESTON

P.S.C. W. Va. Tariff No. 17
Original page No. 5

shall pay, in addition to the foregoing, a monthly surcharge of \$1.75 per thousand gallons until the retirement of bonds issued by said District, as approved by the Public Service Commission of West Virginia in Case No. 00-0152-PSD-PC.

(A) Indicates change in rates

**PETITION OF THE SANITARY BOARD
OF
THE CITY OF CHARLESTON, WEST VIRGINIA**

TO THE COUNCIL OF THE CITY OF CHARLESTON, WEST VIRGINIA:

Pursuant to the provisions of Chapter 16, Article 13, Section 5 of the Code of West Virginia, 1931, as amended, the Sanitary Board (the "Sanitary Board") of The City of Charleston, West Virginia (the "City"), hereby petitions the Council of the City (the "Council") to enact an ordinance (the "Ordinance") which shall:

(a) authorize the design, acquisition and construction of certain extensions, additions, betterments and improvements to the existing sewerage system (the "System") of The City of Charleston set forth in Exhibit A hereto and incorporated herein by reference;

(b) authorize the issuance of not more than \$2,000,000 in aggregate principal amount of Sewerage System Bond Anticipation Notes, Series 2003 A (the "Notes"), to temporarily finance the cost of design and preliminary acquisition of Phase II;

(c) authorize the issuance of the Notes, pursuant to the terms of the proposal attached hereto as Exhibit B and incorporated herein by reference;

(d) authorize the issuance of not to exceed \$12,000,000 in aggregate principal amount of Sewerage System Revenue Bonds, Series 2003, in one or more additional series as may be required, of The City of Charleston, the proceeds of which, shall be used, along with other funds and moneys of, or available to, The City of Charleston which may be lawfully expended for such purposes, to permanently finance the cost of such design, acquisition and construction of Phase I and the design of Phase II, to fund reserve accounts for such bonds and to pay other costs in connection therewith; and

(e) contain such other provisions as may be necessary in the premises.

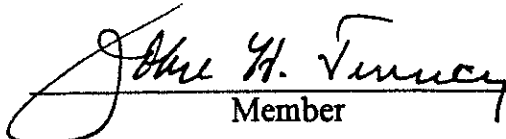
The Sanitary Board respectfully represents to the Council that one of the two persons appointed to the Sanitary Board by the Council is a registered professional engineer.

WITNESS our signatures on this 24th day of April, 2003.

THE SANITARY BOARD OF THE CITY
OF CHARLESTON, WEST VIRGINIA

By: 

Mayor of the City and
Ex-Officio Chairman


Member

Engineer-Member

EXHIBIT A

DESCRIPTION OF PROJECT

The design, acquisition and construction of certain extensions, additions, betterments and improvements to the existing sewerage system of the City, consisting of the installation of a new telemetry system on up to 82 pump stations, the upgrades to 4 pump stations, the Phase I improvements to the treatment plant and the preparation of the facilities planning study and the design of the additional treatment plant upgrade and all appurtenant facilities.

Bank One, West Virginia, NA tel 304 348 4411
Charleston fax 304 348 6903
707 Virginia Street East
PO Box 1113
Charleston, WV 25324-1113

EXHIBIT B



April 11, 2003

William Collison, Finance Director
The Sanitary Board of the City of Charleston
208 26th Street
Charleston, W.Va. 25312

Dear Bill,

We are in receipt of your request for proposal to provide a bond anticipation note. In accordance therewith Bank One, West Virginia, NA ("Bank One") is pleased to confirm its willingness to extend the following credit accommodations to you subject to the following terms and conditions (the "Commitment"). This Commitment is based on your representation of intent to use the credit accommodations as described herein.

Borrower: The Sanitary Board of the City of Charleston

Loan Amount: Two Million and 00/100 Dollars (\$2,000,000.00) (the "Loan")

Type: Non-Revolving Line of Credit

Use of Proceeds: Fund engineering and design costs, estimated to be \$1,750,000.00, associated with Physical Plant Upgrade Phases I and II together with an additional \$250,000.00 reserve for cost overruns and contingencies.

Maturity Date: Twenty-four (24) months from loan closing date, contingent, however, on compliance with the terms and conditions contained in all Loan Documents. All principal, accrued and unpaid interest together with any other sums due and owing are due in full on the Maturity Date.

Rate of Interest: Interest shall accrue on principal sums advanced under the line of credit Loan and shall be calculated based upon a year of 360 days and paid over a year of 365 days pursuant to the following interest rate options available to the Borrower:

Option I

A tax-exempt non-bank qualified variable interest rate indexed to 65% of the one-month London Interbank Offered Rate ("LIBOR") plus 235 basis points and subject to monthly calculation and adjustment. For purposes of illustration, one-month LIBOR currently approximates 1.30% and, on that basis, the interest rate would be computed as follows:

$$1.30\% \times 65\% = 0.85\% + 2.35\% = 3.20\% \text{ tax-exempt non-bank qualified}$$

Option II

A taxable variable interest rate indexed to one-month London Interbank Offered Rate ("LIBOR") plus 95 basis points and subject to monthly calculation and adjustment. For purposes of illustration, one-month LIBOR currently approximates 1.30% and, on that basis, the interest rate would be computed as follows:

$$1.30\% + 0.95 = 2.25\% \text{ taxable}$$

Terms of Repayment: Quarterly Loan payments of all accrued interest commencing 90 days after Loan closing and continuing on the same successive day of each quarter thereafter. The outstanding balance of principal, accrued interest and all other sums due hereunder shall be due and payable on the Maturity Date.

Loan Fees: An origination fee of One Thousand and 00/100 Dollars (\$1,000.00) shall be due and payable at Loan closing.

Documentation Fees: The Borrower shall be solely responsible for the payment of all

legal fees plus costs and expenses and other documentation fees incurred as a direct or indirect result of the preparation of documentation for this Loan regardless of whether closing shall occur.

- Prepayment:** The Borrower may at any time, without penalty or premium, prepay the Loan in whole or in part, with all prepayments being first applied to accrued but unpaid interest, then to any fees, and then to installments of principal in the inverse order of their maturity. No partial payment shall operate to postpone the payment of regularly scheduled installments.
- Events of Default:** Customary, including without limitation non-payment, incorrect or misleading representations, non-compliance with covenants, bankruptcy, failure to provide required and/or requested financial information and breach of term(s) of Loan Documents.
- Collateral:** Assignment of a first (and only) lien position on proceeds of an \$11,697,000.00 credit facility that the Borrower is currently in the process of establishing through the West Virginia State Revolving Fund.
- Loan Documents:** This proposed Loan shall be evidenced by a loan agreement, promissory note, security agreement, and such other agreements, instruments and documents as Bank One and its counsel may require in their sole and absolute discretion (collectively, the "Loan Documents"). The Loan Documents shall contain such further representations, warranties, covenants, events of default, remedies and general provisions that Bank One and its counsel deem necessary and shall otherwise be satisfactory in form and substance to Bank One and its counsel. The terms, covenants and conditions set forth herein are intended to be an outline of some of the principal provisions of the Loan Documents rather than a full and complete description or exclusive list of all terms, covenants and conditions therein.

Loan Covenants: Affirmative, negative and quantitative covenants as are normal and customary for financings of this type.

Documents
Required: Documents required to close shall include but are not limited to articles of incorporation, borrowing resolutions, certificates of incumbency, UCC lien searches, opinions of counsel and loan documents all in form and content acceptable to Bank One and its counsel.

Terms of
Commitment As a condition to the effectiveness of this commitment, Borrower affirms that it shall reimburse Bank One for all out-of-pocket costs incurred by Bank One in connection with the Loan, including, without limitation, fees of counsel, lien search charges, and other costs associated with underwriting and documenting the Loan. Such expenses shall be reimbursed by Borrower whether or not the Loan is closed.

Qualifications
Of Bidder: Bank One hereby affirms that it meets all required qualifications to bid on Borrower's Request For Proposal dated April, 2003 and, in compliance with the terms stated therein, specifically certifies the following:

- Bank One, West Virginia, NA is a wholly owned subsidiary of Bank One Corporation located at 1 Bank One Plaza, Chicago, Illinois 60670.
- Bank One complies with the requirements of the Equal Employment Opportunity Act and other similar laws of the State of West Virginia and certifies that it does not discriminate against any employee or applicant for employment on the basis of race, religion, color, sex, age, handicap, national origin or any other prohibited basis.
- Bank One complies with the requirements of the Immigration Reform and Control Act.
- Bank One complies with sales, consumer, use, business & occupation taxes imposed by the laws of the State of West

Virginia and ordinances of the City of Charleston.

- Bank One agrees to provide background and experience information of its principal officers and other key employees in writing within three (3) business days of such request by Borrower.

Bank One reserves the right to withdraw this commitment prior to closing as follows:

- A. If Bank One determines that a material adverse change has occurred in the financial condition or assets of the Borrower.
- B. If Bank One is advised prior to the closing of the Loan of any law or regulation which prevents or prohibits Bank One from making loans in accordance with terms and conditions contained herein or other conditions which, in the judgment of Bank One, have material adverse effect upon the Borrower's profitability or Bank One's ability to make loans and/or this Loan.
- C. This commitment presumes the full disclosure and accuracy of all pertinent information submitted by the Borrower to Bank One and may be canceled by Bank One if any such information is false, incomplete or inaccurate in any material respect or if the conditions represented or indicated to exist shall change in any material respect.

The above terms and conditions are intended to be a substantive outline of the transaction documents, which shall contain such representations, warranties, other than a full and complete description of all terms of the loan covenants, events of default and other provisions as Bank One deems necessary. By signing this letter you are authorizing Bank One to begin documenting the Loan transaction.

This written Commitment letter represents the final agreement between the Borrower and Bank One with respect to the Commitment described herein and may not be contradicted by evidence of prior, contemporaneous or subsequent oral agreements of the parties. There are no unwritten oral agreements between the parties. This Commitment letter may not be assigned to, or relied upon by any person or entity not a party to this Commitment.

This Commitment shall be governed by and construed in accordance with the laws of the State of West Virginia and applicable federal laws.

This Commitment shall become effective upon your written acceptance below on or before May 1, 2003 (the "Acceptance Date"). Upon its effectiveness, this Commitment shall remain effective until May 31, 2003 (the "Expiration Date"). The Acceptance Date and the Expiration Date may be extended by the mutual written consent of the parties hereto in order to accommodate the timing of required approvals by the Borrower. Unless Bank One otherwise agrees in writing, this Commitment shall expire on the Expiration Date to the extent the Loan has not been consummated and funding commenced by such date, in which event Bank One shall have no further obligation hereunder.

If the foregoing correctly sets forth our agreement in connection with the Commitment, please so acknowledge by signing and returning this letter to Bank One.

Sincerely,

Bank One, West Virginia, NA

By: 
Its: SENIOR VICE PRESIDENT

The terms and conditions of the Commitment are hereby accepted:

Borrower:

The Sanitary Board of the City of Charleston

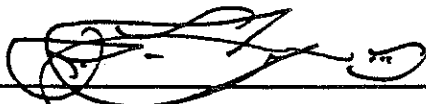
By: 
Its: Mayor

1 May 03
(Date)

SECTION V
CHARLESTON SANITARY BOARD
PROPOSAL FORM
24 Month \$2,000,000 Bond Anticipation Note
Bid Opening: Monday, April 14, 2003, 10:00AM LPT

Company Name: Bank One, West Virginia, NA
Company Address: 707 Virginia Street, East
Charleston, W.Va. 25324-1113
Telephone No.: (304) 348-4413
Fax No.: (304) 348-6903
Email Address: john t copenhagen@bankone.com

The above named company having carefully examined the Contract Documents and being fully informed with regard to the conditions to be met with the proposed equipment and/or items, and having read and examined the Information to Bidders, Detailed Specifications, Bid Proposal Form and any and all Addendums pertaining to this bid, and having had all questions or apparent discrepancies fully resolved, the undersigned proposes to provide and deliver all items specified in the Contract Documents, complete in every detail, all in full compliance and conformity with the Specifications herein now on file at the Sanitary Board of the City of Charleston at 208 26th Street, Charleston, WV 25312, for the following proposal

Signature: 
Title: Senior Vice President
Date: April 11, 2003
Telephone No. (304) 348-4413
Fax No. (304) 348-6903

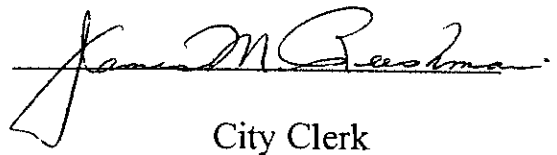
PROPOSAL IS IN THE FORM OF A COMMITMENT LETTER WHICH IS ATTACHED HERETO



CITY OF CHARLESTON
P.O. Box 2749
CHARLESTON, WEST VIRGINIA 25330

I, the undersigned City Clerk of Charleston, do hereby certify that the foregoing is
a true, correct and complete copy of Bill 6977,
enacted by the City Council of the City of Charleston on May 19, 2003.

Witness the signature of the undersigned City Clerk of the City of Charleston,
West Virginia, and the seal of the City, this 5th day of June, 2003.


City Clerk

Seal

Bill No. 6977

Ordinance No. _____

Introduced in Council:

May 5, 2003

Introduced by:

Larry Roller

Referred to:

Finance Committee

Passed by Council:

May 19, 2003

1 A Bill supplementing Ordinance No. 4423 passed by the Council of The City of Charleston,
2 West Virginia, on March 6, 1989, as supplemented by Ordinance No. 4506 passed by the
3 Council on November 6, 1989, by Ordinance No. 4954 passed by the Council on May 3,
4 1993, by Ordinance No. 6276 passed by the Council on September 3, 1996, by Ordinance
5 No. 6349 passed by the Council on June 2, 1997, by Ordinance No. 6532 passed by the
6 Council on November 16, 1998, by Ordinance No. 6544 passed by the Council on February
7 1, 1999, by Ordinance No. 6670 passed by the Council on February 5, 2001, by Ordinance
8 No. 6777 passed by the Council on March 19, 2001, and by Ordinance No. 6948 passed by
9 the Council on November 4, 2002; authorizing the design, acquisition and construction of
10 certain extensions, additions, betterments and improvements to the existing sewerage system
11 of The City of Charleston; authorizing the issuance of not more than \$12,000,000 in
12 aggregate principal amount of Sewerage System Revenue Bonds, Series 2003, in one or
13 more series as may be required, of The City of Charleston, the proceeds of which, shall be
14 used, along with other funds and moneys of, or available to, The City of Charleston which
15 may be lawfully expended for such purposes, to permanently finance the cost of such design,
16 acquisition and construction, to fund reserve accounts for such bonds and to pay other costs
17 in connection therewith; authorizing the issuance of not more than \$2,000,000 in aggregate
18 principal amount of Sewerage System Bond Anticipation Notes, Series 2003 A, to
19 temporarily finance the cost of such design, acquisition and construction; providing for the
20 rights and remedies of and security for the registered owners of such bonds and notes; and
21 adopting other provisions related thereto.

22
23 Be It Ordained by the Council of The City of Charleston, West Virginia:
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ARTICLE I

STATUTORY AUTHORITY, DEFINITIONS AND FINDINGS

Section 1.01. Authority of this Ordinance. This Ordinance is enacted pursuant to the provisions of Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended (the "Act"), and other applicable provisions of law, and as a supplement to Ordinance No. 4423 passed by the Council of The City of Charleston (the "Council") on March 6, 1989, as supplemented by Ordinance No. 4506 passed by the Council on November 6, 1989, by Ordinance No. 4954 passed by the Council on May 3, 1993, by Ordinance No. 6276 passed by the Council on September 3, 1996, by Ordinance No. 6349, passed by the Council on June 2, 1997, and by Ordinance No. 6532 passed by the Council on November 16, 1998, by Ordinance No. 6544 passed by the Council on February 1, 1999, by Ordinance No. 6670 passed by the Council on February 5, 2001, by Ordinance No. 6777 passed by the Council on March 19, 2001, and by Ordinance No. 6948 passed by the Council on November 4, 2002 (collectively, the "Prior Ordinances").

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

A. The City of Charleston, West Virginia (the "City"), now owns a sewerage system (the "System"), both within and without the corporate limits of the City, consisting of a sewage treatment plant or plants and its collecting, intercepting and outlet sewers, lateral sewers, drains, force mains, conduits, pumping stations and ejector stations and all other appurtenances, extensions, improvements and betterments necessary, appropriate, useful, convenient or incidental for the collection, treatment, purification and disposal in a sanitary manner of liquid and solid waste, sewage and industrial waste.

B. In accordance with Section 2 of the Act, the System is under the supervision and control of the Sanitary Board of the City (the "Sanitary Board").

C. The Sanitary Board has presented a petition to the City for the design, acquisition and construction of certain extensions, additions, betterments and improvements to the System (the "Project") as more fully described on Exhibit A, the enactment of this Ordinance and the issuance of the Sewerage System Revenue Bonds, Series 2003 (the "Series 2003 Bonds") and the Sewerage System Bond Anticipation Notes, Series 2003 A (the "Notes").

D. The estimated maximum cost of design, acquisition and construction of the Project is \$12,000,000, which will be permanently obtained from the proceeds of the Series 2003 Bonds herein authorized.

E. The acquisition and construction of the System were financed or refinanced with proceeds of certain obligations of the City, which obligations are designated and have lien positions with respect to the Series 2003 Bonds as follows:

	<u>Designation</u>	<u>Lien Position</u>
1.	\$1,912,194 Sewer Revenue Bonds, Series 1989 A, dated March 21, 1989 (the "Series 1989 A Bonds").	First Lien
2.	\$829,856 Sewer Revenue Bonds, Series 1989 C, dated November 21, 1989 (the "Series 1989 C Bonds").	First Lien
3.	\$773,237 Sewerage System Revenue Bonds, 1993 Series A, dated December 2, 1993 (the "Series 1993 A Bonds").	First Lien
4.	\$2,671,058 Sewerage System Revenue Bonds, Series 1996 A, dated October 9, 1996 (the "Series 1996 A Bonds").	First Lien
5.	\$395,299 Sewerage System Revenue Bonds, Series 1996 B, dated November 26, 1996 (the "Series 1996 B Bonds").	First Lien
6.	\$732,688 Sewerage System Revenue Bonds, Series 1997 A, dated July 22, 1997 (the "Series 1997 A Bonds").	First Lien
7.	\$5,237,584 Sewerage System Revenue Bonds, Series 1997 B, dated October 7, 1997 (the "Series 1997 B Bonds").	First Lien
8.	\$994,537 Sewerage System Revenue Bonds, 1998 Series A, dated December 10, 1998 (the "Series 1998 A Bonds").	First Lien
9.	\$686,229 Sewerage System Revenue Bonds, 1999 Series A, dated June 22, 1999 (the "Series 1999 A Bonds").	First Lien
10.	\$1,111,357 Sewerage System Revenue Bonds, Series 2001 A, dated February 22, 2001 (the "Series 2001 A Bonds").	First Lien

11. \$823,741 Sewerage System Revenue Bonds, First Lien
2001 Series B, dated May 22, 2001
(the "Series 2001 B Bonds").
12. \$1,755,000 Sewerage System Refunding First Lien
Revenue Bonds, Series 2002 A, dated
December 1, 2002 (the "Series 2002 A Bonds")
13. \$5,160,000 Sewerage System Refunding First Lien
Revenue Bonds, Series 2002 B, dated
December 1, 2002 (the "Series 2002 B Bonds")
14. \$283,458 Supplemental Sewer Revenue Second Lien
Bonds, Series 1989 B, dated March 21, 1989
(the "Series 1989 B Bonds").
15. \$123,015 Supplemental Sewer Revenue Second Lien
Bonds, Series 1989 D, dated November 21, 1989
(the "Series 1989 D Bonds").
16. \$132,072 Sewerage System Revenue Bonds, Second Lien
1999 Series B, dated June 22, 1999
(the "Series 1999 B Bonds").
17. \$30,492 Sewerage System Revenue Bonds, Second Lien
2001 Series C, dated May 22, 2001
(the "Series 2001 C Bonds").

The Series 1989 A Bonds, the Series 1989 C Bonds, the Series 1993 A Bonds, the Series 1996 A Bonds, the Series 1996 B Bonds, the Series 1997 A Bonds, the Series 1997 B Bonds, the Series 1998 A Bonds, the Series 1999 A Bonds, the Series 2001 A Bonds, the Series 2001 B Bonds, the Series 2002 A Bonds and the Series 2002 B Bonds are collectively referred to as the "First Lien Bonds." The Series 1989 B Bonds, the Series 1989 D Bonds, the Series 1999 B Bonds and the Series 2001 C Bonds are collectively referred to as the "Second Lien Bonds," which are subordinate and junior to the First Lien Bonds and the Series 2003 Bonds. The First Lien Bonds and the Second Lien Bonds are collectively referred to as the "Prior Bonds."

F. The City derives revenues from the System, and, except for the pledges thereof to secure and pay the Prior Bonds, said revenues are not pledged or encumbered in any manner.

G. It is necessary and essential to design, acquire and construct the Project, generally described on Exhibit A hereto and incorporated herein by reference, in order to preserve the public health, to be financed through the issuance of the Series 2003 Bonds, in

1 the aggregate principal amount not to exceed \$12,000,000. The period of usefulness of the
2 System after completion of the Project is not less than 25 years.

3
4 H. The estimated revenues to be derived in each year after the enactment
5 of this Ordinance from the operation of the System will be sufficient to pay all Operating
6 Expenses of the System, the principal of and interest on the Prior Bonds and the Series 2003
7 Bonds and all funds and accounts and other payments provided for in this Ordinance and the
8 Prior Ordinances.

9
10 I. The Series 2003 Bonds and the Certificate of Authentication and
11 Registration to be endorsed thereon are to be in substantially the form set forth in Exhibit B
12 attached hereto and incorporated herein by reference with necessary and appropriate
13 variations, omissions and insertions as permitted or required by this Ordinance or a
14 Supplemental Resolution or as deemed necessary by the Registrar or the City.

15
16 J. All things necessary to make the Series 2003 Bonds, when authenticated
17 by the Registrar and issued as in this Ordinance provided, the valid, binding and legal special
18 obligations of the City according to the import thereof, and to validly pledge and assign those
19 funds pledged hereby to the payment of the principal of and interest on the Series 2003
20 Bonds, will be timely done and duly performed.

21
22 K. The enactment of this Ordinance, and the execution and issuance of the
23 Series 2003 Bonds, subject to the terms thereof, will not result in any breach of, nor
24 constitute a default under, any instrument to which the City is a party or by which it may be
25 bound or affected.

26
27 L. The City is a governmental unit which has general taxing powers to
28 finance operations of or facilities of the nature of the Project and the System; 95% or more
29 of the Net Proceeds of the Series 2003 Bonds are to be used for local government activities
30 of the City (or of a governmental unit the jurisdiction of which is entirely within the
31 jurisdiction of the City).

32
33 M. It is deemed necessary for the City to issue the Series 2003 Bonds in the
34 aggregate principal amount of not more than \$12,000,000, to permanently finance the costs
35 of design, acquisition and construction of the Project and to issue the Notes in the aggregate
36 principal amount of not more than \$2,000,000, to temporarily finance such costs. Such costs
37 shall be deemed to include the cost of all property rights, easements and franchises deemed
38 necessary or convenient therefor; interest on the Series 2003 Bonds prior to and during
39 construction or acquisition and for six months after completion of construction of the Project,
40 if any; engineering, fiscal and legal expenses; expenses for estimates of cost and revenue;
41 expenses for plans, specifications and surveys; other expenses necessary or incident to
42 determining the feasibility or practicability of the enterprise; administrative expense, any fees
43 or expenses of the Authority or DEP and any defaulted interest thereon, commitment fees,
44 discount, initial fees for the service of registrars, paying agents, depositories or trustees or
45 other costs in connection with the sale of the Series 2003 Bonds, and such other expenses as

1 may be necessary or incidental to the financing herein authorized, the construction or
2 acquisition of the Project and the placing of the same in operation, and the performance of
3 the things herein required or permitted, in connection with any thereof; provided, that
4 reimbursement to the City for any amounts expended by it for allowable costs prior to the
5 issuance of the Series 2003 Bonds or the repayment of the indebtedness incurred by the City
6 for such purposes shall be deemed part of the Cost of the Project.

7
8 N. It is in the best interests of the City that its Series 2003 Bonds be sold
9 to the Authority pursuant to the terms and provisions of the Loan Agreement by and among
10 the Authority, the DEP and the City.

11
12 O. Prior to the issuance of the Series 2003 Bonds, the City shall obtain (i)
13 a certificate from an independent certified public accountant stating that the coverage and
14 parity tests of the First Lien Bonds have been met; and (ii) the written consent of the
15 registered owners of the Prior Bonds to the issuance of the Series 2003 Bonds on a parity
16 with the First Lien Bonds and senior and prior to the Second Lien Bonds. The Series 2003
17 Bonds shall be issued with a lien on the Net Revenues on a parity with the lien held by the
18 registered owners of the First Lien Bonds, but the lien of the Series 2003 Bonds shall be
19 senior and superior to the lien of the registered owners of the Second Lien Bonds. Other than
20 the Prior Bonds, there are no other outstanding bonds or obligations of the City which are
21 secured by revenues or assets of the System.

22
23 The Notes shall be issued junior and subordinate to the Series 2003 Bonds and
24 the Prior Bonds with respect to liens, pledge and source of and security for payment and in
25 all other respects. The Notes shall be payable solely from and secured by the proceeds of the
26 Series 2003 Bonds.

27
28 P. The City has complied with all requirements of West Virginia law and
29 the Loan Agreement relating to the authorization of the design, acquisition, construction and
30 operation of Project and the System and issuance of the Series 2003 Bonds and the Notes,
31 or will have so complied prior to the issuance of any thereof, including, among other things,
32 the obtaining of a Certificate of Convenience and Necessity, if required, from the Public
33 Service Commission of West Virginia by final order not subject to appeal or rehearing.

34
35 Q. The City will not permit, at any time, any of the proceeds of the Series
36 2003 Bonds or any other funds of the City to be used directly or indirectly in a manner which
37 would result in the exclusion of the Series 2003 Bonds from the treatment afforded by
38 Section 103(a) of the Code.

39
40 R. The Project has been approved by the West Virginia Infrastructure and
41 Jobs Development Council as required under Chapter 31, Article 15A of the Code of West
42 Virginia, 1931, as amended.

43
44 Section 1.03. Ordinance Constitutes Contract. In consideration of the
45 acceptance of the Series 2003 Bonds authorized to be issued hereunder by those who shall

own the same from time to time, this Ordinance shall be deemed to be and shall constitute a contract between the City and such Registered Owners, and the covenants and agreements herein set forth to be performed by the City shall be for the equal benefit, protection and security of the Registered Owners of any and all of such Series 2003 Bonds issued hereunder, all of which shall be of equal rank and without preference, priority or distinction between any one Series 2003 Bond and any other Series 2003 Bonds by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

Section 1.04. Definitions. Except as provided below, terms used in this Supplemental Ordinance have the meanings set forth in the Prior Ordinances, as supplemented by this Supplemental Ordinance, unless the context expressly requires otherwise.

"Act" shall mean Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended and in effect on the date of enactment of this Ordinance.

"Authority" shall mean the West Virginia Water Development Authority, which is expected to be the original purchaser and Registered Owner of the Series 2003 Bonds on behalf of the SRF Program, or any other agency of the State of West Virginia that succeeds to the function of the Authority.

"Bondholder" or "Holder of the Bonds" or "Owner of the Bonds" or "Registered Owner" or any similar term shall mean any person who shall be the Registered Owner of any Outstanding Bond as hereinafter defined.

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

"City Clerk" shall mean the City Clerk of the City.

"Closing Date" shall mean the date or dates upon which there is an exchange of the Series 2003 Bonds for all or a portion of the proceeds of the Series 2003 Bonds from the Authority.

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

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

"Completion Date" shall mean the completion date of the Project as defined in the SRF Regulations.

1 "Consulting Engineers" shall mean the firm of consulting engineers set forth
2 in a supplemental resolution, or any engineer or firm of engineers, licensed by the State,
3 which shall at any time hereafter be retained by the City as Consulting Engineers for the
4 System in accordance with Chapter 5G, Article 1 of the Code of West Virginia, 1931, as
5 amended.

6 "Costs of the Project" shall mean those costs described in Section 1.02(M)
7 hereof to be a part of the cost of the acquisition and construction of the Project.

8 "Council" or "City Council" shall mean the Council of the City.

9 "DEP" shall mean the West Virginia Department of Environmental Protection
10 or any other agency of the State of West Virginia that succeeds to the function of the DEP.

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

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

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

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

22 "Loan Agreement" shall mean the Water Pollution Control Revolving Fund
23 Loan Agreement(s) by and among the Authority, the DEP and the City, providing for the
24 purchase of the Series 2003 Bonds from the City by the Authority, the form of which is
25 attached as Exhibit C hereto and incorporated herein by reference.

26 "Mayor" shall mean the Mayor of the City.

27 "Notes" shall mean the Sewerage System Bond Anticipation Notes, Series
28 2003 A, of the City, authorized by this Ordinance and a resolution supplemental hereto.

29 "Ordinance" shall mean the Prior Ordinances, as previously defined, as
30 supplemented by this Supplemental Ordinance and as further amended or supplemented.
31 Unless the context clearly requires a different meaning, reference to "this Ordinance" in the
32 Prior Ordinances shall mean the Ordinance.

1 "Outstanding" when used with reference to Series 2003 Bonds, as of any
2 particular date, describes all such Series 2003 Bonds theretofore and thereupon being
3 authenticated and delivered, except (i) any such Series 2003 Bond canceled by the Registrar,
4 at or prior to said date; (ii) any such Series 2003 Bond for the payment of which moneys,
5 equal to its principal amount, with interest to the date of maturity of any such Series 2003
6 Bond, shall be in trust hereunder and set aside for such payment (whether upon or prior to
7 maturity); (iii) any such Series 2003 Bond deemed to have been paid as provided in Section
8 6.13 hereof; and (iv) for purposes of consents or other action by a specified percentage of
9 Bondholders, any such Series 2003 Bond registered to the City.

10 "Paying Agent" shall mean the West Virginia Municipal Bond Commission.

11 "Private Business Use" shall mean use (directly or indirectly) in a trade or
12 business carried on by any person other than a governmental unit; provided that, use as a
13 member of the general public shall not be taken into account, all as determined by the Code.

14 "Program" or "SRF Program" shall mean the wastewater treatment facility
15 acquisition, construction and improvement program coordinated through the capitalization
16 grants program established under the Clean Water Act and administered by the DEP.

17 "Project" shall mean the extensions, additions, betterments and improvements
18 to the existing sewerage system of the City described in Exhibit A attached hereto.

19 "Registrar" shall mean the entity named as such in the Supplemental
20 Resolution.

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

22 "Reserve Accounts" shall mean, collectively, the respective Reserve Accounts
23 created for the Prior Bonds and the Series 2003 Bonds.

24 "Series 2003 Bonds" or "Bonds originally authorized hereby" or similar
25 phrases shall mean the Sewerage System Revenue Bonds issued in one or more series for the
26 purpose of paying a portion of the Costs of the Project and for such other purposes permitted
27 hereby and authorized by a resolution supplemental hereto.

28 "Series 2003 Bonds Construction Trust Fund" shall mean the Series 2003
29 Bonds Construction Trust Fund created by Section 4.01(C) hereof.

30 "Series 2003 Bonds Reserve Account" shall mean the Series 2003 Bonds
31 Reserve Account created by Section 4.03 hereof.

32 "Series 2003 Bonds Reserve Requirement" shall mean, as of any date of
33 calculation, the maximum amount of principal and interest which will become due on the
34 Series 2003 Bonds in the then current or any succeeding year.

1 "Series 2003 Bonds Sinking Fund" shall mean the Series 2003 Bonds Sinking
2 Fund created by Section 4.03 hereof.

3
4 "Sinking Funds" shall mean, collectively, the respective Sinking Funds created
5 for the Prior Bonds and the Series 2003 Bonds.

6
7 "SRF Administrative Fee" shall mean any administrative fee required to be
8 paid pursuant to the Loan Agreement.

9
10 "SRF Regulations" shall mean the regulations set forth in Title 47, Series 31
11 of the West Virginia Code of State Regulations.

12
13 "State" shall mean the State of West Virginia.

14
15 "Supplemental Ordinance" or "this Ordinance" shall mean this ordinance as
16 hereafter amended or supplemented.

17
18 "Supplemental Resolution" shall mean any resolution, ordinance or order of
19 the City supplementing or amending this Ordinance and, when preceded by the article "the",
20 refers specifically to the supplemental resolutions authorizing the sale of one or more series
21 of the Series 2003 Bonds or the Notes; provided, that any matter intended by this Ordinance
22 to be included in the Supplemental Resolution with respect to the Series 2003 Bonds and the
23 Notes and not so included may be included in another Supplemental Resolution.

24
25 "Surplus Revenues" shall mean the Net Revenues not required by the Prior
26 Ordinances and this Ordinance, as supplemented and amended, to be set aside and held in,
27 including but not limited to, any sinking funds, reserve accounts and renewal and
28 replacement funds.

29
30 "System" shall mean the complete existing sewerage system now owned by
31 the City and managed by the Sanitary Board, consisting of a sewerage treatment and
32 collection system, and shall include any extensions, additions, betterments and improvements
33 thereto, including the Project, hereafter acquired or constructed for the sewerage system from
34 any sources whatsoever, both within and without the City.

35
36 Words importing singular number shall include the plural number in each case
37 and vice versa, and words importing persons shall include firms and corporations. Words
38 importing the masculine gender include all other genders.

39
40 Additional terms and phrases are defined in this Ordinance as they are used.
41 Accounting terms not specifically defined herein shall be given meaning in accordance with
42 general accepted accounting principles.
43

1 The terms "herein", "hereunder", "hereby", "hereto", "hereof" and any similar
2 terms refer to this Ordinance; and the term "hereafter" means after the date of the enactment
3 of this Ordinance.
4

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

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ARTICLE II

AUTHORIZATION OF EXTENSIONS, ADDITIONS,
BETTERMENTS AND IMPROVEMENTS TO SYSTEM

Section 2.01. Authorization of Extensions, Additions, Betterments and Improvements. There is hereby authorized and ordered the acquisition and construction of the Project at an estimated cost not to exceed \$12,000,000, in accordance with plans and specifications prepared by the Consulting Engineers, approved by the DEP and the City, and on file in the office of the Sanitary Board.

The City has received bids and will enter into contracts for the planning, design, acquisition and construction of the Project which are in an amount and otherwise compatible with the financing plan submitted to the SRF Program.

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ARTICLE III

AUTHORIZATION, TERMS, EXECUTION AND REGISTRATION OF BONDS

Section 3.01. Authorization and Terms of Bonds. For the purposes of capitalizing interest on the Series 2003 Bonds, if any, funding the Series 2003 Bonds Reserve Account, paying Costs of the Project not otherwise provided for, paying costs of issuance of the Series 2003 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 Series 2003 Bonds of the City. The Series 2003 Bonds shall be issued in one or more series as set forth in the Supplemental Resolution, designated "Sewerage System Revenue Bonds, Series 2003," in an aggregate principal amount of not more than \$12,000,000. The Series 2003 Bonds shall be issued in such principal amounts, shall have the series designation, shall be dated as of the date of delivery thereof, shall bear interest at such rate or rates, not exceeding the then legal maximum rate, and shall mature at such times and in such amounts as shall be set forth in the Schedule Y to the Loan Agreement and in the Supplemental Resolution. The repayment of principal, interest and the SRF Administrative Fee on the Series 2003 Bonds shall be as set forth in the Schedule Y to the Loan Agreement. The Series 2003 Bonds shall contain such other terms, provisions, conditions and limitations, all as provided by this Ordinance and the Loan Agreement and as the Council of the City shall prescribe by resolution (or by supplemental or amendatory ordinance of said Council as said Council shall determine) adopted in connection with the sale of such Series 2003 Bonds.

The Series 2003 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 2003 Bonds shall be paid by check or draft mailed to the registered owner thereof at the address as it appears on the books of the Bond Registrar, provided, that so long as the Authority is the owner thereof, interest on the Series 2003 Bonds may be paid by wire transfer or other methods satisfactory to the City, the Paying Agent and the Authority.

Unless otherwise provided by the Supplemental Resolution, the Series 2003 Bonds shall be issued in the form of a single bond, fully registered to the Authority, with a record of advances and a debt service schedule attached, representing the aggregate principal amount, and shall mature in principal installments, all as provided in the Loan Agreement and the Supplemental Resolution. The Series 2003 Bonds shall be exchangeable at the option and expense of the Bondholder for another fully registered Series 2003 Bonds in aggregate principal amount equal to the amount of the Series 2003 Bonds then Outstanding, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of the Series 2003 Bonds; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

1 Subsequent series of Bonds may be issued in fully registered form, in such
2 denominations and shall have such terms as set forth in the Supplemental Resolution.
3

4 Section 3.02. Execution of Bonds. The Series 2003 Bonds shall be executed
5 in the name of the City by the Mayor and attested by the City Clerk, and the seal of the City
6 shall be affixed thereto or imprinted thereon. In case any one or more of the officers who
7 shall have signed or sealed any of the Bonds shall cease to be such officer of the City before
8 the Bonds so signed and sealed have been sold and delivered, such Bonds may nevertheless
9 be sold and delivered as herein provided and may be issued as if the person who signed or
10 sealed such Bonds had not ceased to hold such office. Any Bonds may be signed and sealed
11 on behalf of the City by such person as, at the actual time of the execution of such Bonds,
12 shall hold the proper office in the City, although at the date of such Bonds such person may
13 not have held such office or may not have been so authorized.
14

15 Section 3.03. Authentication and Registration. No Series 2003 Bond shall be
16 valid or obligatory for any purpose or entitled to any security or benefit under this Ordinance
17 unless and until the Certificate of Authentication and Registration on such Bond,
18 substantially in the form set forth in Exhibit B, shall have been duly manually executed by
19 the Registrar. Any such executed Certificate of Authentication and Registration upon any
20 such Bond shall be conclusive evidence that such Bond has been authenticated, registered
21 and delivered under this Ordinance. The Certificate of Authentication and Registration on
22 any Bond shall be deemed to have been executed by the Registrar if manually signed by an
23 authorized officer of the Registrar, but it shall not be necessary that the same officer sign the
24 Certificate of Authentication and Registration on all of the Bonds issued hereunder.
25

26 Section 3.04. Negotiability, Transfer and Registration. Subject to the
27 provisions for transfer of registration set forth below, the Series 2003 Bonds shall be, and
28 have all of the qualities and incidents of negotiable instruments under the Uniform
29 Commercial Code of the State of West Virginia, and each successive owner, in accepting any
30 of said Bonds shall be conclusively deemed to have agreed that such Bonds shall be and have
31 all of the qualities and incidents of negotiable instruments under the Uniform Commercial
32 Code of the State of West Virginia, and each successive owner shall further be conclusively
33 deemed to have agreed that said Bonds shall be incontestable in the hands of a bona fide
34 holder for value in the manner provided hereinafter in the form of said Bonds.
35

36 So long as any of the Bonds remain Outstanding, the City, through the
37 Registrar, shall keep and maintain books for the registration and transfer of the Bonds.
38

39 Bonds shall be transferable only upon the books of the Registrar, by the
40 Registered Owner thereof in person or by the Registered Owner's attorney duly authorized
41 in writing, upon surrender thereto, together with a written instrument of transfer satisfactory
42 to the Registrar, duly executed by the Registered Owner or the Registered Owner's duly
43 authorized attorney.
44

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

12
13 Section 3.05. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Series
14 2003 Bond shall become mutilated or be destroyed, stolen or lost, the City may, in its
15 discretion, issue and deliver a new Bond in exchange and substitution for such mutilated
16 Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and substitution
17 for the Bond destroyed, stolen or lost, and upon the Owner's furnishing the City proof of
18 ownership thereof and satisfactory indemnity and complying with such other reasonable
19 regulations and conditions as the City may prescribe and paying such expenses as the City
20 may incur and the Registrar shall authenticate the new Bond. All Bonds so surrendered shall
21 be canceled by the Registrar and held for the account of the City. If such Bond shall have
22 matured or be about to mature, instead of issuing a substitute Bond, the City may pay the
23 same, upon being indemnified as aforesaid, and, if such Bond be lost, stolen, or destroyed,
24 without surrender therefor.

25
26 Any such duplicate Bonds issued pursuant to this Section shall constitute
27 original, additional contractual obligations on the part of the City, whether or not the lost,
28 stolen or destroyed Bonds be at any time found by anyone, and such duplicate Bonds shall
29 be entitled to equal and proportionate benefits and rights as to lien and source of security for
30 payment from the revenues pledged herein with all other Bonds issued hereunder.

31
32 Section 3.06. Bonds not to be Indebtedness of the City. The Series 2003
33 Bonds shall not, in any event, be or constitute a corporate indebtedness of the City within the
34 meaning of any constitutional or statutory provision or limitation, but shall be payable solely
35 from the Net Revenues derived from the operation of the System as herein provided on a
36 parity with the First Lien Bonds but senior and superior to the Second Lien Bonds. No
37 Owner or Owners of any of the Series 2003 Bonds shall ever have the right to compel the
38 exercise of the taxing power of the City to pay the Series 2003 Bonds or any interest thereon.

39
40 Section 3.07. Bonds Secured by Pledge of Net Revenues. The payment of the
41 debt service of all the Series 2003 Bonds shall be secured forthwith equally and ratably with
42 each other by a first lien on the Net Revenues derived from the System on a parity with the
43 First Lien Bonds but senior and superior to the Second Lien Bonds. Such Net Revenues in
44 an amount sufficient to pay the principal of and interest on and other payments for the Series
45 2003 Bonds and the Prior Bonds and to make the payments into the sinking funds and the

1 reserve accounts therein and in the Renewal and Replacement Fund established herein or in
2 the Prior Ordinances are hereby irrevocably pledged to the payment of the principal of and
3 any interest on the Series 2003 Bonds and the Prior Bonds as the same become due.
4

5 Section 3.08. Form of Bonds. The text of the Series 2003 Bonds shall be
6 substantially as set forth in Exhibit B, with such omissions, insertions and variations as may
7 be necessary and desirable and authorized or permitted by this Ordinance or any subsequent
8 resolution or ordinance adopted or enacted prior to the issuance thereof.
9

10 Section 3.09. Sale of Bonds; Execution of Loan Agreement. The Series 2003
11 Bonds shall be sold to the Authority, pursuant to the terms and conditions of the Loan
12 Agreement. The Mayor is specifically authorized and directed to execute the Loan
13 Agreement for each series of the Series 2003 Bonds and the City Clerk is directed to affix
14 the seal of the City, attest the same and deliver the Loan Agreement to the Authority and
15 DEP. The Loan Agreement, including all schedules and exhibits attached thereto, attached
16 hereto as Exhibit C and incorporated herein by reference, is hereby approved and ratified and
17 specifically incorporated into this Ordinance.
18

19 Section 3.10. Bonds are Issued as Parity Bonds. The Series 2003 Bonds are
20 issued as and shall constitute additional Parity Bonds in accordance with the Prior
21 Ordinances. Prior to the issuance of the Series 2003 Bonds, the following must occur:
22

23 A. The City must receive the written consent of the Authority for the
24 issuance of parity bonds.
25

26 B. The coverage and parity requirements of the Prior Ordinances must be
27 satisfied.
28

29 C. Unless waived in writing by the Authority, the City must enter into
30 written contracts for the immediate design, acquisition or construction of the Project not later
31 than simultaneously with the delivery of the Series 2003 Bonds.
32

33 D. The Series 2003 Bonds shall not be issued unless all the payments into
34 the respective funds and accounts provided for in the Prior Ordinances on account of the
35 Prior Bonds and any other payments provided for in the Prior Ordinances, shall have been
36 made in full as required to the date of delivery of the Series 2003 Bonds.
37

38 Section 3.11. Filing of Amended Schedule. Within 60 days following the
39 Completion Date, the City will file with the Authority and the DEP, a schedule, the form of
40 which will be provided by the DEP, setting forth the actual costs of the Project and sources
41 of funds used therefor.
42

ARTICLE IV

APPLICATION OF BOND
PROCEEDS; FUNDS AND ACCOUNTS

Section 4.01. Application of Bond Proceeds. From the moneys received from time to time from the sale of the Series 2003 Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. From the proceeds of the Series 2003 A Bonds, there shall first be deposited with the Commission in the Series 2003 A Bonds Sinking Fund, the amount, if any, set forth in the Supplemental Resolution as capitalized interest.

B. Next, from the proceeds of the Series 2003 Bonds, there shall be deposited with the Commission in the Series 2003 Bonds Reserve Account, the amount, if any, set forth in the Supplemental Resolution for funding of the Series 2003 Bonds Reserve Account.

C. There is hereby created and established with the Depository Bank a special fund, designated the "Series 2003 Bonds Construction Trust Fund". The remaining moneys derived from the sale of the Series 2003 Bonds shall be deposited by the City as received from time to time in the Series 2003 Bonds Construction Trust Fund. Moneys in the Series 2003 Bonds Construction Trust Fund shall be used solely to pay Costs of the Project and until so transferred or expended, are hereby pledged as additional security for the Series 2003 Bonds.

D. After completion of acquisition and construction of the Project, as certified by the Consulting Engineers, and all costs have been paid, any remaining proceeds of the Series 2003 A Bonds shall be expended as approved by the DEP.

Section 4.02. Disbursements From the Bond Construction Trust Fund. On or before the Closing Date, the City shall have delivered to the DEP and the Authority a report listing the specific purposes for which the proceeds of the Series 2003 Bonds will be expended and the disbursement procedures for such proceeds, including an estimated monthly draw schedule. Payments for Costs of the Project shall be made monthly.

Except as provided in Section 4.01 hereof, disbursements from the Series 2003 Bonds Construction Trust Fund shall be made only after submission to, and approval from, the Authority and the DEP of the following:

(1) A completed and signed "Payment Requisition Form," a form of which is attached to the Loan Agreement, in compliance with the construction schedule and

(2) a certificate, signed by the Mayor and the Consulting Engineers, stating that:

1 (A) None of the items for which the payment is proposed to be made
2 has formed the basis for any disbursements theretofore made;

3
4 (B) Each item for which the payment is proposed to be made is or
5 was necessary in connection with the Project and constitutes a Cost of the Project;

6
7 (C) Each of such costs has been otherwise properly incurred; and

8
9 (D) Payment for each of the items proposed is then due and owing.

10
11 Pending such application, moneys in the Series 2003 Bonds Construction Trust
12 Fund shall be invested and reinvested in Qualified Investments at the written direction of the
13 City.

14
15 Section 4.03. Funds and Accounts; Flow of Funds. The funds and accounts
16 established by the Prior Ordinances are hereby continued. In addition to the funds and
17 accounts established by the Prior Ordinances, there are hereby created at the Commission the
18 "Series 2003 Bonds Sinking Fund" and the "Series 2003 Bonds Reserve Account" with
19 respect to the Series 2003A Bonds. Following the monthly payment of Operating Expenses,
20 the City shall make monthly payments to the Commission for the Prior Bonds as required
21 under the Prior Ordinances and the Series 2003 Bonds as follows:

22
23 (1) Simultaneously with the interest payments made pursuant to the Prior
24 Ordinances with respect to the First Lien Bonds, the City shall also deposit with the
25 Commission in the Series 2003 Bonds Sinking Fund on the first day of each month,
26 commencing 4 months prior to the first interest payment date of the Series 2003 Bonds, a
27 sum equal to 1/3rd of the amount of interest which will become due on the Series 2003
28 Bonds on the next ensuing quarterly interest payment date; provided that, in the event the
29 period to elapse between the date of such initial deposit in the Series 2003 Bonds Sinking
30 Fund and the next quarterly interest payment dated is less than 4 months, then such monthly
31 payments shall be increased proportionately to provide, 1 month prior to the next quarterly
32 interest payment date, the required amount of interest coming due on such date.

33
34 (2) Simultaneously with the principal payments made pursuant to the Prior
35 Ordinances with respect to the First Lien Bonds, the City shall also deposit with the
36 Commission in the Series 2003 Bonds Sinking Fund on the first day of each month,
37 commencing 4 months prior to the first principal payment date of the Series 2003 Bonds,
38 a sum equal to 1/3rd of the amount of principal which will mature and become due on the
39 Series 2003 Bonds on the next ensuing quarterly principal payment date; provided that, in
40 the event the period to elapse between the date of such initial deposit in the Series 2003
41 Bonds Sinking Fund and the next quarterly principal payment dated is less than 4 months,
42 then such monthly payments shall be increased proportionately to provide, 1 month prior to
43 the next quarterly principal payment date, the required amount of principal coming due on
44 such date.

1 (3) Simultaneously with the reserve account payments made pursuant to
2 the Prior Ordinances with respect to the First Lien Bonds, the City shall also deposit with the
3 Commission in the Series 2003 Bonds Reserve Account, if not fully funded upon issuance
4 of the Series 2003 Bonds, on the first day of each month, commencing 4 months prior to the
5 first principal payment date of the Series 2003 Bonds, an amount equal to 1/120th of the
6 Series 2003 Bonds Reserve Requirement; provided that, no further payments shall be made
7 into the Series 2003 Bonds Reserve Account when there shall have been deposited therein,
8 and as long as there shall remain on deposit therein, an amount equal to the Series 2003
9 Bonds Reserve Requirement.

10
11 (4) The City shall next, on the first day of each month, transfer from the
12 Revenue Fund and remit to the Depository Bank for deposit in the Renewal and Replacement
13 Fund, an amount equal to 2 1/2% of the Gross Revenues each month (as previously set forth
14 in the Prior Ordinances and not in addition thereto), exclusive of any payments for account
15 of any Reserve Account. All funds in the Renewal and Replacement Fund shall be kept apart
16 from all other funds of the City or of the Depository Bank and shall be invested and
17 reinvested in accordance with Section 4.04 hereof. Withdrawals and disbursements may be
18 made from the Renewal and Replacement Fund for replacements, repairs, or improvements
19 or extensions to the System; provided that, any deficiencies in any Reserve Account, except
20 to the extent such deficiency exists because the required payments into such account have
21 not, as of the date of determination of a deficiency, funded such account to the maximum
22 extent required hereof, shall be promptly eliminated with moneys from the Renewal and
23 Replacement Fund.

24
25 Moneys in the respective Sinking Funds shall be used only for the purposes of
26 paying principal of and interest on the respective series of Bonds as the same shall become
27 due. Moneys in the respective Reserve Accounts shall be used only for the purposes of
28 paying principal of and interest on the respective series of Bonds as the same shall become
29 due, when other moneys in the respective Sinking Funds are insufficient therefor, and for no
30 other purpose.

31
32 All investment earnings on moneys in the respective Reserve Accounts shall
33 be transferred, not less than once each year, to the respective Bond Construction Trust Funds
34 prior to completion of the Project and thereafter, to the respective Sinking Funds.

35
36 Any withdrawals from the respective Reserve Accounts which result in a
37 reduction in the balance therein to below the applicable reserve requirement shall be
38 subsequently restored from the first Net Revenues available after all required payments to
39 the respective Sinking Funds for payment of debt service on the Bonds have been made in
40 full.

41
42 Moneys in the Sinking Funds and the Reserve Accounts shall be invested and
43 reinvested by the Commission in accordance with Section 4.04 hereof.

44
45 If, on any monthly payment date, the revenues are insufficient to place the
46 required amount in any of the funds or accounts as provided herein and in the Prior
47 Ordinances, the deficiency shall be made up in subsequent payments, in addition to the

1 payments which would otherwise be required to be made into the funds and accounts on
2 subsequent payment dates.

3
4 Interest, principal or reserve payments, whether made for a deficiency or
5 otherwise, shall be made on a parity and pro rata, with respect to the First Lien Bonds and
6 the Series 2003 Bonds and thereafter, with respect to the Second Lien Bonds, in accordance
7 with the respective principal amounts then Outstanding.

8
9 The City shall on the first day of each month (if the first day is not a business
10 day, then the first business day of each month) deposit with the Commission the required
11 interest, principal and reserve account payments. The City shall complete the Monthly
12 Payment Form, a form of which is attached to the Loan Agreement, and submit a copy of
13 said form along with a copy of the check to the Authority by the 5th day of such calendar
14 month. Simultaneously with the payments required above, the City shall remit to the
15 Commission the SRF Administrative Fee as required under the Loan Agreement.
16 Additionally, at such time as required by the Authority and DEP, the City shall make its Debt
17 service payments to the Commission through automatic debit or other electronic bank
18 transfer.

19
20 Except as provided above, all sinking fund, reserve account, and renewal and
21 replacement fund payments shall remain as governed by the Prior Ordinances.

22
23 The Gross Revenues of the System shall only be used for purposes of the
24 System.

25
26 Section 4.04. Investments. Any moneys held as a part of the funds and
27 accounts created by this Ordinance, other than the Revenue Fund, shall be invested and
28 reinvested by the Commission, the Depository Bank or such other bank or national banking
29 association holding such fund or account, as the case may be, at the direction of the City in
30 any Qualified Investments to the fullest extent possible under applicable laws, this
31 Ordinance, the Prior Ordinances, the need for such moneys for the purposes set forth herein
32 and the specified restrictions and provisions set forth in this Section 4.04.

33
34 Any investment shall be held in and at all times deemed a part of the fund or
35 account in which such moneys were originally held, and the interest accruing thereon and
36 any profit or loss realized from such investment shall be credited or charged to the
37 appropriate fund or account. The investments held for any fund or account shall be valued
38 at the lower of cost or then current market value, or at the redemption price thereof if then
39 redeemable at the option of the holder, including the value of accrued interest and giving
40 effect to the amortization of discount. The Commission, the Depository Bank or such other
41 bank or national banking association, as the case may be, shall sell and reduce to cash a
42 sufficient amount of such investments whenever the cash balance in any fund or account is
43 insufficient to make the payments required from such fund or account, regardless of the loss
44 of such liquidation. The Depository Bank or such other bank or national banking association
45 may make any and all investments permitted by this section through its own investment or
46 trust department and shall not be responsible for any losses from such investments, other than
47 for its own negligence or willful misconduct.

1 The Depository Bank shall keep complete and accurate records of all funds,
2 accounts and investments, and shall distribute to the City, at least once each year (or more
3 often if reasonably requested by the City), a summary of such funds, accounts and
4 investment earnings. The City shall retain all such records and any additional records with
5 respect to such funds, accounts and investment earnings so long as any of the Series 2003
6 Bonds are Outstanding and as long thereafter as necessary to comply with the Code and
7 assure the exclusion of interest on the Series 2003 Bonds from gross income for federal
8 income tax purposes.

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ARTICLE V

DEFAULT AND REMEDIES

Section 5.01. Events of Default. Each of the following events shall constitute an "Event of Default" with respect to the Series 2003 A Bonds:

(1) If default occurs in the due and punctual payment of the principal of or interest on the Series 2003 A Bonds; or

(2) If default occurs in the City's observance of any of the covenants, agreements or conditions on its part relating to the Series 2003 A Bonds set forth in this Ordinance, any supplemental resolution or in the Series 2003 A Bonds, and such default shall have continued for a period of 30 days after the City 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 Registered Owner of a Bond; or

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

(4) If default occurs with respect to the Prior Bonds or the Prior Ordinances.

Section 5.02. 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 City to perform its duties under the Act and the Ordinance relating thereto, including but not limited to the making and collection of sufficient rates or charges for services rendered by the System, (iii) bring suit upon the Bonds; (iv) by action at law or bill in equity require the City 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; provided that, all rights and remedies of the Holders of the Series 2003 A Bonds shall be on a parity with those of the Registered Owners of the First Lien Bonds and senior and prior to those of the Registered Owners of the Second Lien Bonds.

Section 5.03. Appointment of Receiver. Any Registered Owner of a Bond may, by proper legal action, compel the performance of the duties of the City under the Ordinance 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 the Series 2003 A Bonds, any Registered Owner of a Bond shall, in addition to all other remedies or rights,

1 have the right by appropriate legal proceedings to obtain the appointment of a receiver to
2 administer the System or to complete the acquisition and construction of the Project on
3 behalf of the City, with the power to charge rates, rentals, fees and other charges sufficient
4 to provide for the payment of Operating Expenses of the System, the payment of the Bonds
5 and interest and the deposits into the funds and accounts hereby established, and to apply
6 such rates, rentals, fees, charges or other revenues in conformity with the provisions of this
7 Ordinance and the Act.

8
9 The receiver so appointed shall forthwith, directly or by his or her or its
10 agents and attorneys, enter into and upon and take possession of all facilities of the System
11 and shall hold, operate and maintain, manage and control such facilities, and each and every
12 part thereof, and in the name of the City exercise all the rights and powers of the City with
13 respect to said facilities as the City itself might exercise.

14
15 Whenever all that is due upon the Bonds and interest thereon and under
16 any covenants of this Ordinance for reserve, sinking or other funds and upon any other
17 obligations and interest thereon having a charge, lien or encumbrance upon the revenues of
18 the System shall have been paid and made good, and all defaults under the provisions of this
19 Ordinance shall have been cured and made good, possession of the System shall be
20 surrendered to the City upon the entry of an order of the court to that effect. Upon any
21 subsequent default, any Registered Owner of any Bonds shall have the same right to secure
22 the further appointment of a receiver upon any such subsequent default.

23
24 Such receiver, in the performance of the powers hereinabove conferred
25 upon him or her or it, shall be under the direction and supervision of the court making such
26 appointment, shall at all times be subject to the orders and decrees of such court and may be
27 removed thereby, and a successor receiver may be appointed in the discretion of such court.
28 Nothing herein contained shall limit or restrict the jurisdiction of such court to enter such
29 other and further orders and decrees as such court may deem necessary or appropriate for the
30 exercise by the receiver of any function not specifically set forth herein.

31
32 Any receiver appointed as provided herein shall hold and operate the
33 System in the name of the City and for the joint protection and benefit of the City and
34 Registered Owners of the Bonds. Such receiver shall have no power to sell, assign, mortgage
35 or otherwise dispose of any assets of any kind or character belonging or pertaining to the
36 System, but the authority of such receiver shall be limited to the completion of the Project
37 and the possession, operation and maintenance of the System for the sole purpose of the
38 protection of both the City and Registered Owners of such Bonds and the curing and making
39 good of any Event of Default with respect thereto under the provisions of this Ordinance, and
40 the title to and ownership of the System shall remain in the City, and no court shall have any
41 jurisdiction to enter any order or decree permitting or requiring such receiver to sell, assign,
42 mortgage or otherwise dispose of any assets of the System.

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ARTICLE VI

ADDITIONAL COVENANTS OF THE CITY

All the covenants, agreements and provisions of the Prior Ordinances shall remain in full force and effect as long as the Prior Bonds and the Series 2003 Bonds are outstanding and shall apply to the Series 2003 Bonds as if fully set out herein. The following covenants are supplemental and in addition to the covenants set forth in the Prior Ordinances.

Section 6.01. Completion of Project; Permits and Orders. The City shall complete the Project as promptly as possible and operate and maintain the System as a revenue-producing enterprise in good condition and in compliance with all federal and state requirements and standards.

The City has obtained 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 and the West Virginia Infrastructure and Jobs Development Council necessary for the acquisition and construction of the Project and the operation of the System and all approvals for the issuance of the Series 2003 Bonds required by state law, with all requisite appeal periods having expired without successful appeal.

Section 6.02. Insurance and Construction Bonds. The City hereby covenants and agrees that so long as the Series 2003 Bonds remain Outstanding, the City 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. The City will require that each of its contractors and all subcontractors maintain, during the life of the construction contract, workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Authority and the DEP, so long as the Authority is the Owner of the Series 2003 Bonds. In the event the Loan Agreement so requires, such insurance shall be made payable to the order of the Authority, the City, the prime contractor and all subcontractors, as their interests may appear. The City will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance (fire and extended coverage) on a one hundred percent (100%) basis (completed value form) on the insurable portion of the Project, to protect the interests of the City, the Authority, the prime contractor and all subcontractors as their interests may appear, in accordance with the Loan Agreement, during construction of the Project in the full insurable value thereof. In time of war, the City shall also carry in said amount such insurance as may be available against loss or damage by the risks and hazards of war. The proceeds of all such insurance policies shall be disposed of as provided in the Ordinance and otherwise shall be placed in the Renewal and Replacement Fund and used only for the repair and restoration of the damaged or destroyed properties or for the other purposes provided herein for the Renewal and Replacement Fund. The City will also carry liability insurance for damage or injury to persons or property in amounts adequate for such purposes and customarily carried with respect to works and properties similar to the System. The City shall carry such other insurance as is required by the Authority and DEP and as set forth in the Loan Agreement,

1 including but not limited to flood insurance and business interruption insurance, to the extent
2 available at reasonable cost to the City. The City shall verify all such insurance prior to
3 commencement of construction.

4
5 The City shall require all contractors engaged in the construction of the
6 Project to furnish a performance bond and a payment bond, each in an amount equal to 100%
7 of the contract price of the portion of the Project covered by the particular contract as
8 security for the faithful performance of such contract. The City shall verify such bonds prior
9 to commencement of construction.

10
11 Section 6.03. Issuance of Other Obligations Payable Out of Revenues.
12 The City shall give the Authority and the DEP prior written notice of its issuance of any
13 other obligations to be issued for the System, payable from the revenues of the System or
14 from any grants for the Project, or any other obligations related to the Project or the System.

15
16 In addition to the limitations on the issuance of parity obligations set forth
17 in the Prior Ordinances, no parity obligations payable out of revenues of the System shall be
18 issued after the issuance of the Series 2003 Bonds without the prior written consent of the
19 Authority and the DEP and without complying with the parity requirements of the Loan
20 Agreement.

21
22 Section 6.04. Engineering Services and Operating Personnel. Prior to the
23 issuance of the Series 2003 Bonds, the City shall obtain the certificate of the Consulting
24 Engineers in the form attached to the Loan Agreement stating, among other things, that the
25 Project has been or will be constructed in accordance with the approved plans, specifications
26 and designs as submitted to the DEP and the Authority, the Project is adequate for the
27 purposes for which it was designed, the funding plan as submitted to the DEP and the
28 Authority is sufficient to pay the costs of acquisition and construction of the Project and all
29 permits required by federal and state laws for construction of the Project have been obtained.

30
31 The City shall provide and maintain competent and adequate engineering
32 services satisfactory to the Authority and the DEP covering the supervision and inspection
33 of the development and construction of the Project and bearing the responsibility of assuring
34 that construction conforms to the plans, specifications and designs prepared by the
35 Consulting Engineers, which have been approved by all necessary governmental bodies.
36 Such engineer shall certify to the Authority, the DEP and the City at the completion of
37 construction that construction of the Project is in accordance with the approved plans,
38 specifications and designs, or amendments thereto, approved by all necessary governmental
39 bodies.

40
41 The City shall require the Consulting Engineers to submit Recipient
42 As-Built Plans, as defined in the SRF Regulations, to it within 60 days of the completion of
43 the Project. The City shall notify the DEP in writing of such receipt. The City shall submit
44 a Performance Certificate, the form of which is attached as Exhibit A to the Loan
45 Agreement, and is incorporated herein by reference, to the DEP within 60 days of the end
46 of the first year after the Project is completed.
47

1 The City shall require the Consulting Engineers to submit the final
2 Operation and Maintenance Manual, as defined in the SRF Regulations, to the DEP when
3 the Project is 90% completed. The City shall at all times provide operation and maintenance
4 of the System in compliance with any and all State and federal standards.
5

6 The City shall employ qualified operating personnel properly certified by
7 the State before the Project is 50% complete and shall retain such a certified operator to
8 operate the System during the entire term of the Loan Agreement. The City shall notify the
9 DEP in writing of the certified operator employed at the 50% completion stage.
10

11 Section 6.05. Compliance With Loan Agreement and Law. The City
12 hereby covenants and agrees to perform, satisfy and comply with all terms, conditions and
13 requirements of the Loan Agreement and to comply with all applicable laws, rules and
14 regulations issued by the Authority, the DEP or other State, federal or local bodies in regard
15 to the construction of the Project and operation, maintenance and use of the System.
16 Notwithstanding anything herein to the contrary, the City will provide the DEP with copies
17 of all documents submitted to the Authority.
18

19 Section 6.06. Books: Records and Audit. The City shall keep complete
20 and accurate records of the cost of acquiring the Project site and the costs of acquiring,
21 constructing and installing the Project. The City shall permit the Authority and the DEP, or
22 their agents and representatives, to inspect all books, documents, papers and records relating
23 to the Project and the System at all reasonable times for the purpose of audit and
24 examination. The City shall submit to the Authority and the DEP such documents and
25 information as they may reasonably require in connection with the acquisition, construction
26 and installation of the Project, the operation and maintenance of the System and the
27 administration of the Loan Agreement or any state and federal grants or other sources of
28 financing for the Project.
29

30 Subject to the terms, conditions and provisions of the Loan Agreement and
31 the Act, the City has acquired, or shall do all things necessary to acquire, the proposed site
32 of the Project and shall do, is doing or has done all things necessary to construct the Project
33 in accordance with the plans, specifications and designs prepared by the Consulting
34 Engineers. All real estate and interests in real estate and all personal property constituting
35 the Project and the Project site heretofore or hereafter acquired shall at all times be and
36 remain the property of the City.
37

38 The City shall permit the Authority and the DEP, or their agents and
39 representatives, to inspect all records pertaining to the operation and maintenance of the
40 System at all reasonable times following completion of construction of the Project and
41 commencement of operation thereof, or, if the Project is an improvement to an existing
42 system, at any reasonable time following commencement of construction.
43

44 The City will keep books and records of the System, which shall be
45 separate and apart from all other books, records and accounts of the City, in which complete
46 and correct entries shall be made of all transactions relating to the System, and any owner
47 of the Series 2003 Bonds issued pursuant to the Ordinance shall have the right at all

1 reasonable times to inspect the System and all parts thereof and all records, accounts and data
2 of the City relating thereto.

3
4 The accounting system for the System shall follow current generally
5 accepted accounting principles and safeguards in accordance with the rules and regulations
6 of the Public Service Commission of West Virginia and the Act. Separate control accounting
7 records shall be maintained by the City. Subsidiary records as may be required shall be kept
8 in the manner, on the forms, in the books, and along with other bookkeeping records as
9 prescribed by the City. The City shall prescribe and institute the manner by which subsidiary
10 records of the accounting system which may be installed remote from the direct supervision
11 of the City shall be reported to such agent of the City as the Council shall direct.

12
13 The City shall file with the Authority and DEP, and shall mail in each year
14 to any Registered Owner or Owners of Series 2003 Bonds requesting the same, an annual
15 report containing the following:

16
17 (A) A statement of Gross Revenues, Operating Expenses and Net
18 Revenues derived from and relating to the System.

19
20 (B) A balance sheet statement showing all deposits in all the
21 funds and accounts provided for in this Ordinance and the status of all said funds and
22 accounts.

23
24 (C) The amount of any bonds, notes or other obligations
25 Outstanding.

26
27 The City shall also, at least once a year, cause the books, records and
28 accounts of the System to be completely audited by Independent Accountants in compliance
29 with the applicable OMB Circular, or any successor thereto, and the Single Audit Act, or any
30 successor thereto, to the extent legally required, and, shall mail upon request, and make
31 available generally, the report of the Independent Accountants, or a summary thereof, to any
32 Registered Owner or Owners of Series 2003 Bonds and shall submit said report to the
33 Authority and the DEP. The report of said audit shall include a statement that the City is in
34 compliance with the terms and provisions of the Act, this Ordinance and the Loan
35 Agreement and that the revenues of the System are adequate to meet its Operating Expenses
36 and Debt service and reserve requirements.

37
38 The City shall, commencing on the date contracts are executed for the
39 construction of the Project and for two years following the completion of the Project, each
40 month complete a Monthly Financial Report, a form of which is attached to the Loan
41 Agreement and forward a copy to the Authority and the DEP by the 10th day of each month.

42
43 The City shall, during construction of the Project, complete Payment
44 Requisition Forms, a form of which is attached to the Loan Agreement and forward a copy
45 to the DEP in compliance with the City's construction schedule.
46

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

4
5 The City shall permit the Authority or the DEP, or their agents and
6 representatives, to enter and inspect the Project site and Project facilities at all reasonable
7 times. Prior to, during and after completion of construction and commencement of operation
8 of the Project, the City shall also provide the Authority and the DEP, or their agents and
9 representatives, with access to the System site and System facilities as may be reasonably
10 necessary to accomplish all of the powers and rights of the Authority and the DEP with
11 respect to the System pursuant to the Act.

12
13 Section 6.07. Operating Budget. The City shall annually prepare and
14 adopt by resolution a detailed, balanced budget of the estimated revenues and expenditures
15 for the operation and maintenance of the System during the succeeding Fiscal Year and shall
16 submit a copy of such budget to the Authority and the DEP within 30 days of the adoption
17 thereof.

18
19 Section 6.08. Tax Covenants. The City hereby further covenants and
20 agrees as follows:

21
22 A. PUBLIC PURPOSE BONDS. The City shall use the Series 2003
23 Bond proceeds solely for the Project and as otherwise set forth herein, and the Project will
24 be operated solely for as a public purpose and as local governmental activity of the City.

25
26 B. PRIVATE ACTIVITY BOND COVENANT. The City shall not
27 permit at any time or times any of the proceeds of the Series 2003 Bonds or any other funds
28 of the City to be used directly or indirectly in a manner which would result in the exclusion
29 of the Series 2003 Bonds from the treatment afforded by Section 103(a) of the Code by
30 reason of the classification of the Series 2003 Bonds as "private activity bonds" within the
31 meaning of the Code. The City will take all actions necessary to comply with the Code in
32 order to assure the tax-exempt status of the Series 2003 Bonds.

33
34 C. PRIVATE LOAN LIMITATION. The City shall assure that not in
35 excess of 5% of the proceeds of the Series 2003 Bonds are used, directly or indirectly, to
36 make or finance a loan (other than loans constituting Nonpurpose Investments) to persons
37 other than state or local government units.

38
39 D. FEDERAL GUARANTEE PROHIBITION. The City shall not take
40 any action or permit or suffer any action to be taken if the result of the same would be to
41 cause the Series 2003 Bonds to be "federally guaranteed" within the meaning of Section
42 149(b) of the Code.

43
44 E. INFORMATION RETURN. The City shall file all statements,
45 instruments and returns necessary to assure the tax-exempt status of the Series 2003 Bonds,
46 and the interest thereon, including, without limitation, the information return required under
47 Section 149(e) of the Code.

1 F. FURTHER ACTIONS. The City shall take any and all actions that
2 may be required of it (including those deemed necessary by the Authority) so that the interest
3 on the Series 2003 Bonds will be and remain excludable from gross income for federal
4 income tax purposes, and will not take any actions, or fail to take any actions (including
5 those deemed necessary by the Authority) which would adversely affect such exclusion.
6

7 Section 6.09. Rebate Covenant. The City is a governmental unit with
8 general taxing powers to finance operations of or facilities of the nature of the Project and
9 the System. As covenanted above, the Series 2003 Bonds are not private activity bonds
10 within the meaning of the Code, and ninety-five percent (95%) or more of the net proceeds
11 (as defined in the Code) of the Series 2003 Bonds will be used for local governmental
12 activities of the City (or of a governmental unit the jurisdiction of which is entirely within
13 the jurisdiction of the City). The City reasonably expects to expend the proceeds of the
14 Series 2003 Bonds within the time period that would provide an exception from the rebate
15 requirements of Section 148(f) of the Code. Notwithstanding the foregoing, if the City is in
16 fact subject to such rebate requirements, the City hereby covenants to rebate to the United
17 States the amounts required by the Code and to take all steps necessary to make such rebates.
18 In the event the City fails to make such rebates as required, the City shall pay any and all
19 penalties and obtain a waiver from the Internal Revenue Service in order to maintain the
20 tax-exempt status of interest on the Series 2003 Bonds.
21

22 Section 6.10. Arbitrage. The City covenants that (i) it will not take, or
23 permit or suffer to be taken, any action with respect to the proceeds of the Series 2003 Bonds
24 which would cause the Series 2003 Bonds to be "arbitrage bonds" within the meaning of
25 Section 148 of the Code, and (ii) it will take all actions that may be required of it (including,
26 without implied limitation, the timely filing of a federal information return with respect to
27 the Series 2003 Bonds) so that the interest on the Series 2003 Bonds will be and remain
28 excluded from gross income for federal income tax purposes, and will not take any actions
29 which would adversely affect such exclusion.
30

31 Section 6.11. Tax Certificate and Rebate. The City shall deliver a
32 certificate of arbitrage, a tax certificate or other similar certificate to be prepared by
33 nationally recognized bond counsel or tax counsel relating to payment of arbitrage rebate and
34 other tax matters as a condition to issuance of the Series 2003 Bonds. In addition, the City
35 covenants to comply with all Regulations from time to time in effect and applicable to the
36 Series 2003 Bonds as may be necessary in order to maintain the exclusion from gross income
37 for federal income tax purposes of interest on the Series 2003 Bonds and fully comply with
38 Section 148(f) of the Code, and covenants to take such actions, and refrain from taking such
39 actions, as may be necessary to fully comply with such Section 148(f) of the Code and such
40 Regulations, regardless of whether such actions may be contrary to any of the provisions of
41 the Ordinance.
42

43 If it is determined that the City does not qualify for an exception to
44 Section 148 of the Code or the City is otherwise subject to rebate in connection with the
45 Series 2003 Bonds, the City shall calculate, annually, the rebatable arbitrage, determined in
46 accordance with Section 148(f) of the Code. Upon completion of each such annual
47 calculation, unless otherwise agreed by the Authority, the City shall deposit, or cause to be

1 deposited, with the Depository Bank in a separate fund designated the Rebate Fund, such
2 sums as are necessary to cause the aggregate amount on deposit in the Rebate Fund to equal
3 the sum determined to be subject to rebate to the United States, which, notwithstanding
4 anything herein to the contrary, shall be paid from investment earnings on the underlying
5 fund or account established hereunder and on which such rebatable arbitrage was earned or
6 from other lawfully available sources. Notwithstanding anything herein to the contrary, the
7 Rebate Fund shall be held free and clear of any lien or pledge hereunder, if any, and used
8 only for payment of rebatable arbitrage to the United States. The City shall pay, or cause to
9 be paid, to the United States, from the Rebate Fund, the rebatable arbitrage in accordance
10 with Section 148(f) of the Code and such Regulations. In the event that there are any
11 amounts remaining in the Rebate Fund following all such payments required by the
12 preceding sentence, the Depository Bank shall pay said amounts to the City to be used for
13 any lawful purpose of the System. The City shall remit payments to the United States in the
14 time and at the address prescribed by the Regulations as the same may be from time to time
15 in effect with such reports and statements as may be prescribed by such Regulations. In the
16 event that, for any reason, amounts in the Rebate Fund are insufficient to make the payments
17 to the United States which are required, the City shall assure that such payments are made
18 by the City to the United States, on a timely basis, from any funds lawfully available
19 therefor. In addition, the City shall cooperate with the Authority in preparing rebate
20 calculations and in all other respects in connection with rebates and hereby consents to the
21 performance of all matters in connection with such rebates by the Authority at the expense
22 of the City. The City may provide for the employment of independent attorneys, accountants
23 or consultants compensated on such reasonable basis as the City may deem appropriate in
24 order to assure compliance with this Section 6.11. The City shall keep and retain, or cause
25 to be kept and retained, records of the determinations made pursuant to this Section 6.11 in
26 accordance with the requirements of Section 148(f) of the Code. In the event the City fails
27 to make such rebates as required, the City shall pay the required rebate amount and all
28 interest, penalties and other amounts, from lawfully available sources, and obtain a waiver
29 from the Internal Revenue Service, if necessary, and take any other actions necessary, in
30 order to maintain the exclusion of interest on the Series 2003 Bonds from gross income for
31 federal income tax purposes.

32
33 The City shall submit to the Authority within 15 days following the end
34 of each Bond Year a certified copy of its rebate calculation and certificate with respect
35 thereto or, if the City qualifies for the small governmental issue exception to rebate or any
36 other exception therefrom, then the City shall submit to the Authority a certificate stating that
37 it is exempt from such rebate provisions and that no event has occurred to its knowledge
38 during the Bond Year which would make the Series 2003 Bonds subject to rebate. The City
39 shall also furnish to the Authority, at any time, such additional information relating to rebate
40 as may be reasonably requested by the Authority, including information with respect to
41 earnings on all funds constituting "gross proceeds" of the Series 2003 Bonds (as such term
42 "gross proceeds" is defined in the Code).

43 Section 6.12. Securities Laws Compliance. The City will provide the
44 Authority, in a timely manner, with any and all information that may be requested of it
45 (including its annual audit report, financial statements, related information and notices of
46 changes in usage and customer base) so that the Authority may comply with the provisions
47 of SEC Rule 15c2-12 (17 CFR Part 240).

1
2 Section 6.13. Payment of Bonds. If the City shall pay or there shall
3 otherwise be paid, to the Registered Owners of the Series 2003 Bonds, the principal thereof,
4 and redemption premium, if applicable, and interest due or to become due thereon, at the
5 times and in the manner stipulated therein and in the Ordinance, then the pledge of Net
6 Revenues and any other moneys and securities pledged under this Ordinance and all
7 covenants, agreements and other obligations of the City to the Registered Owners shall
8 thereupon cease, terminate and become void and be discharged and satisfied, except as may
9 otherwise be necessary to assure the exclusion of interest on the Series 2003 Bonds from
10 gross income for federal income tax purposes.

11
12 Section 6.14. Rates and Charges. The City has obtained any and all
13 approvals of rates and charges required by state law and has taken any other action required
14 to establish and impose such rates and charges , with all requisite appeal periods having
15 expired without successful appeal. Such rates and charges shall be sufficient to comply with
16 the requirements of the Loan Agreement. The initial schedule of rates and charges for the
17 services and facilities of the System shall be as set forth in the sewer rate ordinance of the
18 City duly enacted on November 6, 2000, which rates are incorporated herein by reference
19 as a part hereof.

20
21 So long as the Series 2003 Bonds are outstanding, the City covenants and
22 agrees to fix and collect rates, fees and other charges for the use of the System and to take
23 all such actions necessary to provide funds sufficient to produce the required sums set forth
24 in this Ordinance and in compliance with the Loan Agreement. In the event the schedule of
25 rates, fees and charges initially established for the System in connection with the Series 2003
26 Bonds shall prove to be insufficient to produce the required sums set forth in this Ordinance
27 and the Loan Agreement, the City hereby covenants and agrees that it will, to the extent or
28 in the manner authorized by law, immediately adjust and increase such schedule of rates, fees
29 and charges and take all such actions necessary to provide funds sufficient to produce the
30 required sums set forth in this Ordinance and the Loan Agreement.

31
32 The City shall diligently enforce and collect all fees, rentals or other
33 charges for the services and facilities of the System, and take all steps, actions and
34 proceedings for the enforcement and collection of such fees, rentals or other charges which
35 shall become delinquent to the full extent permitted or authorized by the Act, the rules and
36 regulations of the Public Service Commission of West Virginia and other laws of the State
37 of West Virginia.

38
39 Whenever any fees, rates, rentals or other charges for the services and
40 facilities of the System shall remain unpaid for a period of 30 days after the same shall
41 become due and payable, the property and the owner thereof, as well as the user of the
42 services and facilities, shall be delinquent until such time as all such rates and charges are
43 fully paid. To the extent authorized by the laws of the State and the rules and regulations of
44 the Public Service Commission of West Virginia, rates, rentals and other charges, if not paid
45 when due, shall become a lien on the premises served by the System. The City further
46 covenants and agrees that, it will, to the full extent permitted by law and the rules and
47 regulations promulgated by the Public Service Commission of West Virginia, discontinue

1 and shut off the services of the System, and any services and facilities of the water system,
2 if so owned by the City, to all users of the services of the System delinquent in payment of
3 charges for the services of the System and will not restore such services of either system until
4 all delinquent charges for the services of the System, plus reasonable interest and penalty
5 charges for the restoration of service, have been fully paid and shall take all further actions
6 to enforce collections to the maximum extent permitted by law. If the waterworks facilities
7 are not owned by the City, the City will, to the extent allowed by law, use diligent efforts to
8 enter into a termination agreement with the provider of such water, subject to any required
9 approval of such agreement by the Public Service Commission of West Virginia and all
10 rules, regulations and orders of the Public Service Commission of West Virginia.

11
12 Section 6.15. Contracts; Public Releases. A. The City shall,
13 simultaneously with the delivery of the Series 2003 Bonds or immediately thereafter, enter
14 into written contracts for the immediate acquisition or construction of the Project.

15
16 B. The City shall submit all proposed change orders to the DEP for
17 written approval. The City shall obtain the written approval of the DEP before expending
18 any proceeds of the Series 2003 Bonds held in "contingency" as set forth in the
19 schedule attached to the certificate of the Consulting Engineer. The Issuer shall also obtain
20 the written approval of the DEP before expending any proceeds of the Series 2003 Bonds
21 made available due to bid or construction or project underruns.

22
23 C. The City shall list the funding as being provided by the DEP and the
24 Authority in any press release, publication, program, bulletin, sign or other public
25 communication that references the Project, including but not limited to any program
26 document distributed in conjunction with any ground breaking or dedication of the Project.
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ARTICLE VII

AUTHORIZATION OF THE NOTES

Section 7.01. Authorization of the Notes. To provide funds for the design, acquisition and construction of the Project when other funds are temporarily not available therefor, there shall be and hereby are authorized to be issued the Notes of the City. The Notes shall be designated as "Sewerage System Bond Anticipation Notes, Series 2003 A," in an aggregate principal amount of not to exceed \$2,000,000. The exact amount and terms of the Notes shall be approved by the Council of the City in a resolution supplemental hereto. The text of the Notes shall be in substantially the form set forth in a resolution supplemental hereto.

Section 7.02. Security for the Notes. The principal of and interest on the Notes shall be payable solely from and secured by the proceeds of the Series 2003 Bonds. The Notes shall not, in any event, be or constitute a corporate indebtedness of the City within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the proceeds of the Series 2003 Bonds. No Owner of the Notes shall ever have the right to compel the exercise of the taxing power of the City to pay the Notes or any interest thereon.

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ARTICLE VIII
MISCELLANEOUS

Section 8.01. Modification or Amendment. Prior to the issuance of the Series 2003 Bonds, this Ordinance may be amended or supplemented in any way by a Supplemental Resolution. Following issuance of the Series 2003 Bonds, no material modification or amendment of this Ordinance or of any ordinance or resolution amendatory hereof or supplemental hereto which would materially and adversely affect the rights of Registered Owners shall be made without the consent in writing of the Registered Owners of the Series 2003 Bonds then Outstanding and to be affected by said modification; provided, however, that no change shall be made in the maturity of any Series 2003 Bonds or the rate of interest thereon, or in the principal amount thereof, or affecting the unconditional promise of the City to pay such principal and interest out of the revenues of the System without the consent of the Registered Owner thereof. No amendment or modification shall be made which would reduce the percentage of the principal amount of Series 2003 Bonds required for consent to the above- permitted amendments or modifications. Notwithstanding the foregoing, this Ordinance may be amended without the consent of any Registered Owner 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 exclusion of interest on the Series 2003 A Bonds from gross income of the Registered Owners thereof.

Section 8.02. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, such invalidity shall not affect any of the remaining provisions of this Ordinance, the Supplemental Resolution or the Series 2003 Bonds.

Section 8.03. Repeal of Conflicting Ordinances. All ordinances, resolutions and orders, or parts thereof, other than the Prior Ordinances, in conflict with this Ordinance are, to the extent of such conflict, repealed.

Section 8.04. Covenant of Due Procedure. The City covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the final enactment and passage of this Ordinance do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Mayor, the City Clerk and members of Council and the Sanitary Board were at all times when any actions in connection with this Ordinance occurred, and are, duly in office and duly qualified for such office.

Section 8.05. Statutory Notice and Public Hearing. Upon adoption hereof, the abstract of this Ordinance in the form set forth in Exhibit D attached hereto and incorporated herein by reference, shall be published once a week for two successive weeks, with at least 6 full days intervening between each publication, in the Charleston Gazette and

1 Charleston Daily Mail, 2 qualified newspapers published and of general circulation in The
2 City of Charleston, together with a notice stating that this Ordinance has been adopted and
3 that the City contemplates the issuance of the Series 2003 Bonds, and that any person
4 interested may appear before the Council upon a certain date, not less than 10 days
5 subsequent to the date of the first publication of such abstract of this Ordinance and notice,
6 and present protests, and that a certified copy of this Ordinance is on file with the City for
7 review by interested persons during office hours of the City. The Council hereby determines
8 that the abstract contains sufficient information as to give notice of the contents hereof. At
9 such hearing, all objections and suggestions shall be heard and the Council shall take such
10 action as it shall deem proper in the premises.

11
12 Section 8.06. Effective Date. This Ordinance shall take effect
13 immediately following public hearing and final reading hereof.

1 EXHIBIT A

2
3 DESCRIPTION OF PROJECT

4
5 The design, acquisition and construction of certain extensions, additions,
6 betterments and improvements to the existing sewerage system of the City, consisting of the
7 installation of a new telemetry system on 70 pump stations, the upgrades to 2 pump stations,
8 the Phase I improvements to the treatment plant and the preparation of the facilities planning
9 study and the design of the treatment plant upgrade and all appurtenant facilities.

EXHIBIT B

[FORM OF BOND]

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
COUNTY OF KANAWHA
THE CITY OF CHARLESTON
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2003

No. AR-_____ \$_____

KNOW ALL MEN BY THESE PRESENTS: That THE CITY OF CHARLESTON, a municipal corporation and political subdivision of the State of West Virginia, in Kanawha County of said State (the "City"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority "), or registered assigns, the sum of _____ DOLLARS (\$_____), or such lesser amount as shall have been advanced to the City 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 _____, as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference, with interest on each installment at the rate of _____ percent (____%) per annum as set forth on said EXHIBIT B. The interest and the SRF Administrative Fee (as defined in the hereinafter described Ordinance) on this Bond shall also be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing _____ 1, _____, as set forth on EXHIBIT B attached hereto.

Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of principal, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the Paying Agent(as defined in the hereinafter described Ordinance). The interest on this Bond is payable by check or draft mailed to the registered owner hereof at the address as it appears on the books of the Registrar (as defined in the hereinafter described Ordinance) on the 15th day of the month preceding an interest payment date or by such other method as shall be mutually agreeable so long as the Authority is registered owner hereof.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Department of Environmental Protection (the "DEP") and as otherwise provided by the Loan Agreement dated _____, among the Authority, the DEP and the City.

1 This Bond is issued (i) to pay the costs of design, acquisition and
2 construction of certain extensions, additions, betterments and improvements to the existing
3 sewerage system of the City (the "Project"); (ii) to fund a reserve account for this Bond; and
4 (iii) to pay certain costs of issuance hereof and related costs. The existing sewerage system
5 of the City, the Project and any further additions, betterments and improvements thereto are
6 herein called the "System." This Bond is issued under the authority of and in full compliance
7 with the Constitution and statutes of the State of West Virginia, including particularly
8 Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended (the "Act"),
9 Ordinance No. 4423 passed by the City on March 6, 1989, as supplemented by Ordinance
10 No. 4506 passed by the City on November 6, 1989, Ordinance No. 4954 passed by the City
11 on May 3, 1993, Ordinance No. 6276 passed by the City on September 3, 1996, Ordinance
12 No. 6349 passed by the City on June 2, 1997, Ordinance No. 6532 passed by the City on
13 November 16, 1998, Ordinance No. 6544 passed by the City on February 1, 1999, Ordinance
14 No. 6670 passed by the City on February 5, 2001, Ordinance No. 6777 passed by the City on
15 March 19, 2001, Ordinance No. 6948 passed by the City on November 4, 2002, Ordinance
16 No. _____ passed by the City on _____, 2003, and a Supplemental Resolution
17 adopted by the City on _____, 2003 (collectively, the "Ordinance"), and is subject to all the
18 terms and conditions thereof. The Ordinance provides for the issuance of additional bonds
19 under certain conditions, and such bonds would be entitled to be paid and secured equally
20 and ratably from and by the funds and revenues and other security provided for this Bond
21 under the Ordinance.

22
23 This Bond is issued on a parity with respect to liens, pledge and source of
24 and security for payment with the First Lien Bonds and senior to the Second Lien Bonds, all
25 as defined in the Ordinance.

26
27 This Bond is payable only from and secured by a pledge of a first lien on
28 the Net Revenues as defined in the Ordinance, to be derived from the operation of the
29 System, on a parity with the First Lien Bonds and senior to the Second Lien Bonds, moneys
30 in the Reserve Account created under the Ordinance (the "Series 2003 Bonds Reserve
31 Account") and unexpended proceeds of this Bond. Such Net Revenues shall be sufficient
32 to pay the principal of and interest on all bonds which may be issued pursuant to the Act and
33 which shall be set aside as a special fund hereby pledged for such purpose. This Bond does
34 not constitute a corporate indebtedness of the City within the meaning of any constitutional
35 or statutory provisions or limitations, nor shall the City be obligated to pay the same or the
36 interest hereon except from said special fund provided from the Net Revenues, the moneys
37 in the Series 2003 Bonds Reserve Account and unexpended proceeds of this Bond. Pursuant
38 to the Ordinance, the City has covenanted and agreed to establish and maintain just and
39 equitable rates and charges for the use of the System and the services rendered thereby,
40 which shall be sufficient to provide for the reasonable expenses of operation, repair and
41 maintenance of the System, and to leave a balance each year equal to at least 115% of the
42 maximum amount payable in any year for principal of and interest on this Bond and all
43 obligations secured by a lien on or payable from such revenues on a parity with this Bond,
44 including the Prior Bonds; provided however, that so long as there exists in the Series 2003
45 Bonds Reserve Account an amount equal to the maximum amount of principal and interest

1 which will become due on this Bond in the then current or any succeeding year and in the
2 respective reserve accounts established for any obligations outstanding on a parity with this
3 Bond, including the Prior Bonds, an amount equal to the requirement therefor, such
4 percentage may be reduced to 110%. The City has entered into certain further covenants
5 with the registered owners of this Bond for the terms of which reference is made to the
6 Ordinance. Remedies provided the registered owners of this Bond are exclusively as
7 provided in the Ordinance, to which reference is here made for a detailed description thereof.
8

9 This Bond is transferable, as provided in the Ordinance, only upon the
10 books of the Registrar, kept for that purpose at the office of the Registrar, by the registered
11 owner, or by its attorney duly authorized in writing, upon the surrender of this Bond, together
12 with a written instrument of transfer satisfactory to the Registrar, duly executed by the
13 registered owner or its attorney duly authorized in writing.
14

15 This Bond, under the provision of the Act, is and has all the qualities and
16 incidents of a negotiable instrument under the Uniform Commercial Code of the State of
17 West Virginia.
18

19 All money received from the sale of this Bond, after reimbursement and
20 repayment of all amounts advanced for preliminary expenses as provided by law and the
21 Ordinance, shall be applied solely to the payment of the costs of the Project and costs of
22 issuance hereof as described in the Ordinance, and there shall be and hereby is created and
23 granted a lien upon such moneys, until so applied, in favor of the registered owner of this
24 Bond.
25

26 IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts,
27 conditions and things required to exist, happen and be performed precedent to and at the
28 issuance of this Bond do exist, have happened, and have been performed in due time, form
29 and manner as required by law, and that the amount of this Bond, together with all other
30 obligations of the City, does not exceed any limit prescribed by the Constitution or statutes
31 of the State of West Virginia and that a sufficient amount of the Net Revenues of the System
32 has been pledged to and will be set aside into said special fund by the City for the prompt
33 payment of the principal of and interest on this Bond.
34

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

1 IN WITNESS WHEREOF, THE CITY OF CHARLESTON has caused
2 this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed or imprinted
3 hereon and attested by its City Clerk, and has caused this Bond to be dated ____, 2003.
4

5
6 [SEAL]

Mayor

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9 ATTEST:

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11 _____
12 City Clerk
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Date: _____, 2003.

By _____
Its Authorized Officer

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EXHIBIT A

RECORD OF ADVANCES

AMOUNT

DATE

AMOUNT

DATE

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(36) \$

Total \$ _____

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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 City with full power of substitution in the premises.

Dated: _____, ____.

In the presence of:

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EXHIBIT C

SRF-LP-1
(02/03/03)

LOAN AGREEMENT

THIS WATER POLLUTION CONTROL REVOLVING FUND LOAN AGREEMENT (the "Loan Agreement"), made and entered into in several counterparts, by and among the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY, a governmental instrumentality and body corporate of the State of West Virginia (the "Authority"), the WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION (the "DEP"), and the local government designated below (the "Local Government").

(Local Government)

WITNESSETH:

WHEREAS, the United States Congress under Title VI of the federal Clean Water Act, as amended (the "Clean Water Act"), has provided for capitalization grants to be awarded to states for the express purpose of establishing and maintaining state water pollution control revolving funds for the planning, design, construction, acquisition and/or improvement of wastewater treatment facilities;

WHEREAS, pursuant to the provisions of Chapter 22C, Article 2 of the Code of West Virginia, 1931, as amended (the "Act"), the State of West Virginia (the "State") has established a state water pollution control revolving fund program (the "Program") to direct the distribution of loans to particular local governments pursuant to the Clean Water Act;

WHEREAS, under the Act the DEP is designated the instrumentality to enter into capitalization agreements with the United States Environmental Protection Agency ("EPA") to accept capitalization grant awards (U.S. General Services Administration; Catalog of Federal Domestic Assistance, 32nd Edition § 66.458 (1998)) and DEP has been awarded capitalization grants to partially fund the Program;

WHEREAS, under the Act and under the direction of DEP, the Authority has established a permanent perpetual fund known as the "West Virginia Water Pollution Control Revolving Fund" (hereinafter the "Fund");

1 WHEREAS, pursuant to the Act, the Authority and DEP are empowered
2 to make loans from the Fund to local governments for the acquisition or construction of
3 wastewater treatment projects by such local governments, all subject to such provisions and
4 limitations as are contained in the Clean Water Act and the Act;

5
6 WHEREAS, the Local Government constitutes a local government as
7 defined by the Act;

8
9 WHEREAS, the Local Government is included on the DEP State Project
10 Priority List and the Intended Use Plan and has met DEP's pre-application requirements for
11 the Program;

12
13 WHEREAS, the Local Government is authorized and empowered by the
14 statutes of the State to acquire, construct, improve, operate and maintain a wastewater
15 treatment project and to finance the cost of acquisition and construction of the same by
16 borrowing money to be evidenced by revenue bonds issued by the Local Government;

17
18 WHEREAS, the Local Government intends to construct, is constructing
19 or has constructed such a wastewater treatment project at the location and as more
20 particularly described and set forth in the Application, as hereinafter defined (the "Project");

21
22 WHEREAS, the Local Government has completed and filed with the
23 Authority and DEP an Application for a Loan with attachments and exhibits and an
24 Amended Application for a Loan also with attachments and exhibits (together, as further
25 revised and supplemented, the "Application"), which Application is incorporated herein by
26 this reference; and

27
28 WHEREAS, having reviewed the Application and the Fund having
29 available sufficient funds therefor, the Authority and DEP are willing to lend the Local
30 Government the amount set forth on Schedule X attached hereto and incorporated herein by
31 reference, through the purchase of revenue bonds of the Local Government with moneys held
32 in the Fund, subject to the Local Government's satisfaction of certain legal and other
33 requirements of the Program.

34
35 NOW, THEREFORE, in consideration of the premises and the mutual
36 agreements hereinafter contained, the Local Government, DEP and the Authority hereby
37 agree as follows:
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ARTICLE I

Definitions

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

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

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

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

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

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

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

1.8 "Program" means the wastewater treatment facility acquisition, construction and improvement program coordinated through the capitalization grants program established under the Clean Water Act and administered by DEP.

1.9 "Project" means the wastewater treatment facility project hereinabove referred to, to be constructed or being constructed by the Local Government in whole or in part with the net proceeds of the Local Bonds or being or having been constructed by the Local Government in whole or in part with the proceeds of bond anticipation notes or other interim financing, which is to be paid in whole or in part with the net proceeds of the Local Bonds.

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

1.11 "System" means the wastewater treatment facility owned by the

1 Local Government, of which the Project constitutes all or to which the Project constitutes an
2 improvement, and any improvements thereto hereafter constructed or acquired from any
3 sources whatsoever.

4
5 1.12 Additional terms and phrases are defined in this Loan Agreement
6 as they are used.

7 8 ARTICLE II

9 10 The Project and the System

11
12 2.1 The Project shall generally consist of the construction and
13 acquisition of the facilities described in the Application, to be, being or having been
14 constructed in accordance with plans, specifications and designs prepared for the Local
15 Government by the Consulting Engineers, the DEP and Authority having found, to the extent
16 applicable, that the Project is consistent with the applicable provisions of the Program.

17
18 2.2 Subject to the terms, conditions and provisions of this Loan
19 Agreement and the Local Act, the Local Government has acquired, or shall do all things
20 necessary to acquire, the proposed site of the Project and shall do, is doing or has done all
21 things necessary to construct the Project in accordance with the plans, specifications and
22 designs prepared for the Local Government by the Consulting Engineers.

23
24 2.3 All real estate and interests in real estate and all personal property
25 constituting the Project and the Project site heretofore or hereafter acquired shall at all times
26 be and remain the property of the Local Government, subject to any mortgage lien or other
27 security interest as is provided for in the Local Statute unless a sale or transfer of all or a
28 portion of said property is approved by DEP and the Authority.

29
30 2.4 The Local Government agrees that the Authority and DEP and their
31 respective duly authorized agents shall have the right at all reasonable times to enter upon
32 the Project site and Project facilities and to examine and inspect the same. The Local
33 Government further agrees that the Authority and DEP and their respective duly authorized
34 agents shall, prior to, during and after completion of construction and commencement of
35 operation of the Project, have such rights of access to the System site and System facilities
36 as may be reasonably necessary to accomplish all of the powers and rights of the Authority
37 and DEP with respect to the System pursuant to the pertinent provisions of the Act.

38
39 2.5 The Local Government shall keep complete and accurate records of
40 the cost of acquiring the Project site and the costs of constructing, acquiring and installing
41 the Project. The Local Government shall permit the Authority and DEP, acting by and
42 through their Directors or duly authorized agents and representatives, to inspect all books,
43 documents, papers and records relating to the Project and the System at any and all
44 reasonable times for the purpose of audit and examination, and the Local Government shall
45 submit to the Authority and DEP such documents and information as it may reasonably

1 require in connection with the construction, acquisition and installation of the Project, the
2 operation and maintenance of the System and the administration of the Loan or of any State
3 and federal grants or other sources of financing for the Project.
4

5 2.6 The Local Government agrees that it will permit the Authority and
6 DEP and their respective agents to have access to the records of the Local Government
7 pertaining to the operation and maintenance of the System at any reasonable time following
8 completion of construction of the Project and commencement of operation thereof or if the
9 Project is an improvement to an existing system at any reasonable time following
10 commencement of construction.
11

12 2.7 The Local Government shall require that each construction
13 contractor furnish a performance bond and a payment bond, each in an amount at least equal
14 to one hundred percent (100%) of the contract price of the portion of the Project covered by
15 the particular contract as security for the faithful performance of such contract and shall
16 verify or have verified such bonds prior to commencement of construction.
17

18 2.8 The Local Government shall require that each of its contractors and
19 all subcontractors maintain, during the life of the construction contract, workers'
20 compensation coverage, public liability insurance, property damage insurance and vehicle
21 liability insurance in amounts and on terms satisfactory to the Authority and DEP and shall
22 verify or have verified such insurance prior to commencement of construction. Until the
23 Project facilities are completed and accepted by the Local Government, the Local
24 Government or (at the option of the Local Government) the contractor shall maintain
25 builder's risk insurance (fire and extended coverage) on a one hundred percent (100%) basis
26 (completed value form) on the insurable portion of the Project, such insurance to be made
27 payable to the order of the Authority, the Local Government, the prime contractor and all
28 subcontractors, as their interests may appear. If facilities of the System which are
29 detrimentally affected by flooding are or will be located in designated special flood or
30 mudslide-prone areas and if flood insurance is available at a reasonable cost, a flood
31 insurance policy must be obtained by the Local Government on or before the Date of Loan
32 Closing, as hereinafter defined, and maintained so long as any of the Local Bonds are
33 outstanding. Prior to commencing operation of the Project, the Local Government must also
34 obtain, and maintain so long as any of the Local Bonds are outstanding, business interruption
35 insurance if available at a reasonable cost.
36

37 2.9 The Local Government shall provide and maintain competent and
38 adequate engineering services satisfactory to the Authority and DEP covering the supervision
39 and inspection of the development and construction of the Project and bearing the
40 responsibility of assuring that construction conforms to the plans, specifications and designs
41 prepared by the Consulting Engineers, which have been approved by all necessary
42 governmental bodies. Such engineer shall certify to the Authority, DEP and the Local
43 Government at the completion of construction that construction is in accordance with the
44 approved plans, specifications and designs, or amendments thereto, approved by all
45 necessary governmental bodies. The Local Government shall require the Consulting

1 Engineers to submit Recipient As-Built Plans, as defined in the SRF Regulations, to it within
2 60 days of the completion of the Project. The Local Government shall notify DEP in writing
3 of such receipt. The Local Government shall submit a Performance Certificate, the form of
4 which is attached hereto as Exhibit A, and being incorporated herein by reference, to DEP
5 within 60 days of the end of the first year after the Project is completed.

6
7 2.10 The Local Government shall require the Consulting Engineers to
8 submit the final Operation and Maintenance Manual, as defined in the SRF Regulations, to
9 DEP when the Project is 90% completed. The Local Government shall at all times provide
10 operation and maintenance of the System in compliance with any and all State and federal
11 standards. The Local Government shall employ qualified operating personnel properly
12 certified by the State before the Project is 50% complete and shall retain such a certified
13 operator(s) to operate the System during the entire term of this Loan Agreement. The Local
14 Government shall notify DEP in writing of the certified operator employed at the 50%
15 completion stage.

16
17 2.11 The Local Government hereby covenants and agrees to comply with
18 all applicable laws, rules and regulations issued by the Authority, DEP or other State, federal
19 or local bodies in regard to the construction of the Project and operation, maintenance and
20 use of the System.

21
22 2.12 The Local Government, commencing on the date contracts are
23 executed for the acquisition or construction of the Project and for two years following the
24 completion of acquisition or construction of the Project, shall each month complete a
25 Monthly Financial Report, the form of which is attached hereto as Exhibit B and
26 incorporated herein by reference, and forward a copy by the 10th of each month to DEP and
27 the Authority.

28
29 2.13 The Local Government, during construction of the Project, shall
30 complete Payment Requisition Forms, the form of which is attached hereto as Exhibit C and
31 incorporated herein by reference, and forward such forms to DEP in compliance with the
32 Local Government's construction schedule.

33 34 ARTICLE III

35 36 Conditions to Loan; 37 Issuance of Local Bonds

38
39 3.1 The agreement of the Authority and DEP to make the Loan is subject
40 to the Local Government's fulfillment, to the satisfaction of the Authority and DEP, of each
41 and all of those certain conditions precedent on or before the delivery date for the Local
42 Bonds, which shall be the date established pursuant to Section 3.4 hereof. Said conditions
43 precedent are as follows:
44

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

5
6 (b) The Local Government shall have performed and satisfied all
7 of the terms and conditions to be performed and satisfied by it in this Loan Agreement;

8
9 (c) The Local Government shall have authorized the issuance of
10 and delivery to the Authority of the Local Bonds described in this Article III and in Article
11 IV hereof;

12
13 (d) The Local Government shall either have received bids or
14 entered into contracts for the construction of the Project, which are in an amount and
15 otherwise compatible with the plan of financing described in the Application; provided that,
16 if the Loan will refund an interim construction financing, the Local Government must either
17 be constructing or have constructed its Project for a cost and as otherwise compatible with
18 the plan of financing described in the Application; and, in either case, the Authority and DEP
19 shall have received a certificate of the Consulting Engineers to such effect, the form of which
20 certificate is attached hereto as Exhibit D;

21
22 (e) The Local Government shall have obtained all permits required
23 by the laws of the State and the federal government necessary for the construction of the
24 Project, and the Authority and DEP shall have received a certificate of the Consulting
25 Engineers to such effect;

26
27 (f) The Local Government shall have obtained all requisite orders
28 of and approvals from the Public Service Commission of West Virginia (the "PSC") and the
29 West Virginia Infrastructure and Jobs Development Council necessary for the construction
30 of the Project and operation of the System, with all requisite appeal periods having expired
31 without successful appeal and the Authority and DEP shall have received an opinion of
32 counsel to the Local Government, which may be local counsel to the Local Government,
33 bond counsel or special PSC counsel but must be satisfactory to the Authority and DEP, to
34 such effect;

35
36 (g) The Local Government shall have obtained any and all
37 approvals for the issuance of the Local Bonds required by State law, and the Authority and
38 DEP shall have received an opinion of counsel to the Local Government, which may be local
39 counsel to the Local Government, bond counsel or special PSC counsel but must be
40 satisfactory to the Authority and DEP, to such effect;

41
42 (h) The Local Government shall have obtained any and all
43 approvals of rates and charges required by State law and shall have taken any other action
44 required to establish and impose such rates and charges (imposition of such rates and charges
45 is not, however, required to be effective until completion of construction of the Project), with

1 all requisite appeal periods having expired without successful appeal, and the Authority and
2 DEP shall have received an opinion of counsel to the Local Government, which may be local
3 counsel to the Local Government, bond counsel or special PSC counsel but must be
4 satisfactory to the Authority and DEP, to such effect;

5
6 (i) Such rates and charges for the System shall be sufficient to
7 comply with the provisions of Subsections 4.1(a) and 4.1(b)(ii) hereof, and the Authority and
8 DEP shall have received a certificate of the accountant for the Local Government, or such
9 other person or firm experienced in the finances of local governments and satisfactory to the
10 Authority and DEP, to such effect; and

11
12 (j) The net proceeds of the Local Bonds, together with all moneys
13 on deposit or to be simultaneously deposited (or, with respect to proceeds of grant
14 anticipation notes or other indebtedness for which a binding purchase contract has been
15 entered, to be deposited on a date certain) and irrevocably pledged thereto and the proceeds
16 of grants irrevocably committed therefor, shall be sufficient to pay the costs of construction
17 and acquisition of the Project as set forth in the Application, and the Authority and DEP shall
18 have received a certificate of the Consulting Engineers, or such other person or firm
19 experienced in the financing of wastewater treatment projects and satisfactory to the
20 Authority and DEP, to such effect, such certificate to be in form and substance satisfactory
21 to the Authority and DEP, and evidence satisfactory to the Authority and DEP of such
22 irrevocably committed grants.

23
24 3.2 Subject to the terms and provisions of this Loan Agreement, the
25 rules and regulations promulgated by the Authority and DEP, including the SRF Regulations,
26 or any other appropriate State agency and any applicable rules, regulations and procedures
27 promulgated from time to time by the federal government, it is hereby agreed that the
28 Authority shall make the Loan to the Local Government and the Local Government shall
29 accept the Loan from the Authority, and in furtherance thereof it is agreed that the Local
30 Government shall sell to the Authority and the Authority shall make the Loan by purchasing
31 the Local Bonds in the principal amount and at the price set forth in Schedule X hereto. The
32 Local Bonds shall have such further terms and provisions as described in Article IV hereof.

33
34 3.3 The Loan shall be secured and shall be repaid in the manner
35 hereinafter provided in this Loan Agreement.

36
37 3.4 The Local Bonds shall be delivered to the Authority, at the offices
38 of the Authority, on a date designated by the Local Government by written notice to the
39 Authority, which written notice shall be given not less than ten (10) business days prior to
40 the date designated; provided, however, that if the Authority is unable to accept delivery on
41 the date designated, the Local Bonds shall be delivered to the Authority on a date as close
42 as possible to the designated date and mutually agreeable to the Authority, DEP and the
43 Local Government. The date of delivery so designated or agreed upon is hereinafter referred
44 to as the "Date of Loan Closing." Notwithstanding the foregoing, the Date of Loan Closing

1 shall in no event occur more than ninety (90) days after the date of execution of this Loan
2 Agreement by the Authority or such later date as is agreed to in writing by DEP.
3

4 3.5 The Local Government understands and acknowledges that it is one
5 of several local governments which have applied to the Authority and DEP for loans from
6 the Fund to finance wastewater treatment projects and that the obligation of the Authority
7 to make any such loan is subject to the Local Government's fulfilling all of the terms and
8 conditions of this Loan Agreement on or prior to the Date of Loan Closing and to the
9 requirements of the Program. The Local Government specifically recognizes that the
10 Authority will not purchase the Local Bonds unless and until sufficient funds are available
11 in the Fund to purchase all the Local Bonds and that, prior to such purchase, the Authority
12 may purchase the bonds of other local governments set out in the State Project Priority List,
13 as defined in the SRF Regulations. The Local Government further specifically recognizes
14 that all loans will be originated in conjunction with the SRF Regulations and with the prior
15 approval of DEP.
16

17 3.6 The Local Government shall provide DEP with the appropriate
18 documentation to comply with the special conditions regarding the public release and audit
19 requirements established by federal and State regulations as set forth in Exhibit E attached
20 hereto at such times as are set forth therein.
21

22 ARTICLE IV

23 Local Bonds; Security for Loan; 24 Repayment of Loan; Interest on Loan; 25 Fees and Charges 26

27 4.1 The Local Government shall, as one of the conditions of the
28 Authority and DEP to make the Loan, authorize the issuance of and issue the Local Bonds
29 pursuant to an official action of the Local Government in accordance with the Local Statute,
30 which shall, as adopted or enacted, contain provisions and covenants in substantially the
31 form as follows:
32

33 (a) That the gross revenues of the System shall always be used for
34 purposes of the System. Such gross revenues will be used monthly, in the order of priority
35 listed below:
36

37 (i) to pay Operating Expenses of the System;
38

39 (ii) to the extent not otherwise limited by any outstanding
40 loan resolution, indenture or other act or document and beginning on the date set forth in
41 Schedule X, to provide Debt service on the Local Bonds by depositing in a sinking fund
42 one-third (1/3) of the interest payment next coming due on the Local Bonds and one-third
43 (1/3) of the principal payment next coming due on the Local Bonds and, beginning three (3)
44 months prior to the first date of payment of principal of the Local Bonds, if the reserve
45

1 account for the Local Bonds (the "Reserve Account") was not funded from proceeds of the
2 Local Bonds or otherwise concurrently with the issuance thereof in an amount equal to the
3 maximum amount of principal and interest which will come due on the Local Bonds in the
4 then current or any succeeding year (the "Reserve Requirement"), by depositing in the
5 Reserve Account an amount not less than one-twelfth (1/12) of one-tenth (1/10) of the
6 Reserve Requirement or, if the Reserve Account has been so funded (whether by Local Bond
7 proceeds, monthly deposits or otherwise), any amount necessary to maintain the Reserve
8 Account at the Reserve Requirement;

9
10 (iii) to create a renewal and replacement, or similar, fund in
11 an amount equal to two and one-half percent (2-1/2%) of the gross revenues from the
12 System, exclusive of any payments into the Reserve Account, for the purpose of improving
13 or making emergency repairs or replacements to the System or eliminating any deficiencies
14 in the Reserve Account; and

15
16 (iv) for other legal purposes of the System, including
17 payment of Debt service on other obligations junior, subordinate and inferior to the Local
18 Bonds.

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

22
23 (b) Covenants substantially as follows:

24
25 (i) That the Local Bonds shall be secured by a pledge of
26 either the net or gross revenues of the System as provided in the Local Act;

27
28 (ii) That the schedule of rates or charges for the services of
29 the System shall be sufficient to provide funds which, along with other revenues of the
30 System, will pay all Operating Expenses and leave a balance each year equal to at least one
31 hundred fifteen percent (115%) of the maximum amount required in any year for Debt
32 service on the Local Bonds and all other obligations secured by a lien on or payable from the
33 revenues of the System prior to or on a parity with the Local Bonds or, if the Reserve
34 Account is funded (whether by Local Bond proceeds, monthly deposits or otherwise) at an
35 amount equal to the Reserve Requirement and any reserve account for any such prior or
36 parity obligations is funded at least at the requirement therefor, equal to at least one hundred
37 ten percent (110%) of the maximum amount required in any year for Debt service on the
38 Local Bonds and any such prior or parity obligations;

39
40 (iii) That the Local Government shall complete the Project
41 and operate and maintain the System in good condition;

42
43 (iv) That, except as otherwise required by State law or the
44 Regulations, the System may not be sold, mortgaged, leased or otherwise disposed of, except
45 as a whole, or substantially as a whole, provided that the net proceeds to be realized from

1 such sale, mortgage, lease or other disposition shall be sufficient to fully pay all of the Local
2 Bonds outstanding and further provided that portions of the System when no longer required
3 for the ongoing operation of such System as evidenced by certificates from the Consulting
4 Engineer, may be disposed of with such restrictions as are normally contained in such
5 covenants;

6
7 (v) That the Local Government shall not issue any other
8 obligations payable from the revenues of the System which rank prior to, or equally, as to
9 lien and security with the Local Bonds, except parity bonds which shall only be issued if net
10 revenues of the System prior to issuance of such parity bonds, plus reasonably projected
11 revenues from rate increases and the improvements to be financed by such parity bonds, shall
12 not be less than one hundred fifteen percent (115%) of the maximum Debt service in any
13 succeeding year on all Local Bonds and parity bonds theretofore and then being issued and
14 on any obligations secured by a lien on or payable from the revenues of the System prior to
15 the Local Bonds and with the prior written consent of the Authority and DEP; provided,
16 however, that additional parity bonds may be issued to complete the Project, as described in
17 the Application as of the date hereof, without regard to the foregoing;

18
19 (vi) That the Local Government will carry such insurance as
20 is customarily carried with respect to works and properties similar to the System, including
21 those specified by Section 2.8 hereof;

22
23 (vii) That the Local Government will not render any free
24 services of the System;

25
26 (viii) That the Authority may, by proper legal action, compel
27 the performance of the duties of the Local Government under the Local Act, including the
28 making and collection of sufficient rates or charges for services rendered by the System, and
29 shall also have, in the event of a default in payment of principal of or interest on the Local
30 Bonds, the right to obtain the appointment of a receiver to administer the System or
31 construction of the Project, or both, as provided by law and all rights as set forth in Section
32 5 of the Act;

33
34 (ix) That, to the extent authorized by the laws of the State and
35 the rules and regulations of the PSC, all delinquent rates and charges, if not paid when due,
36 shall become a lien on the premises served by the System;

37
38 (x) That, to the extent legally allowable, the Local
39 Government will not grant any franchise to provide any services which would compete with
40 the System;

41
42 (xi) That the Local Government shall annually cause the
43 records of the System to be audited by an independent certified public accountant or
44 independent public accountant and shall submit the report of said audit to the Authority and
45 DEP, which report shall include a statement that the Local Government is in compliance with

1 the terms and provisions of the Local Act and this Loan Agreement and that the Local
2 Government's revenues are adequate to meet its Operating Expenses and Debt service and
3 reserve requirements;

4
5 (xii) That the Local Government shall annually adopt a
6 detailed, balanced budget of the estimated revenues and expenditures for operation and
7 maintenance of the System during the succeeding fiscal year and shall submit a copy of such
8 budget to the Authority and DEP within 30 days of adoption thereof;

9
10 (xiii) That, to the extent authorized by the laws of the State and
11 the rules and regulations of the PSC, prospective users of the System shall be required to
12 connect thereto;

13
14 (xiv) That the proceeds of the Local Bonds, advanced from
15 time to time, except for accrued interest and capitalized interest, if any, must (a) be deposited
16 in a construction fund, which, except as otherwise agreed to in writing by the Authority, shall
17 be held separate and apart from all other funds of the Local Government and on which the
18 owners of the Local Bonds shall have a lien until such proceeds are applied to the
19 construction of the Project (including the repayment of any incidental interim financing)
20 and/or (b) be used to pay (or redeem) bond anticipation notes or other interim financing of
21 such Local Government, the proceeds of which were used to finance the construction of the
22 Project; provided that, with the prior written consent of the Authority and DEP, the proceeds
23 of the Local Bonds may be used to fund all or a portion of the Reserve Account, on which
24 the owner of the Local Bonds shall have a lien as provided herein;

25
26 (xv) That, as long as the Authority is the owner of any of the
27 Local Bonds, the Local Government may authorize redemption of the Local Bonds with 30
28 days written notice to the Authority;

29
30 (xvi) That the West Virginia Municipal Bond Commission (the
31 "Commission") shall serve as paying agent for all Local Bonds;

32
33 (xvii) That the Local Government shall on the first day
34 of each month (if the first day is not a business day, then the first business day of each
35 month) deposit with the Commission the required interest, principal and reserve account
36 payment. The Local Government shall complete the Monthly Payment Form, attached
37 hereto as Exhibit F and incorporated herein by reference, and submit a copy of said form
38 along with a copy of the check or electronic transfer to the Authority by the 5th day of such
39 calendar month;

40
41 (xviii) That, unless it qualifies for an exception to the
42 provisions of Section 148 of the Internal Revenue Code of 1986, as amended, which
43 exception shall be set forth in an opinion of bond counsel, the Local Government will furnish
44 to the Authority, annually, at such time as it is required to perform its rebate calculations

1 under the Internal Revenue Code of 1986, as amended, a certificate with respect to its rebate
2 calculations and, at any time, any additional information requested by the Authority;
3

4 (xix) That the Local Government shall have obtained the
5 certificate of the Consulting Engineers to the effect that the Project has been or will be
6 constructed in accordance with the approved plans, specifications and design as submitted
7 to the Authority and DEP, the Project is adequate for the purposes for which it was designed,
8 the funding plan as submitted to the Authority and DEP is sufficient to pay the costs of
9 acquisition and construction of the Project and all permits required by federal and State laws
10 for construction of the Project have been obtained;
11

12 (xx) That the Local Government shall, to the full extent
13 permitted by applicable law and the rules and regulations of the PSC, terminate the services
14 of any water facility owned by it to any customer of the System who is delinquent in
15 payment of charges for services provided by the System and will not restore the services of
16 the water facility until all delinquent charges for the services of the System have been fully
17 paid or, if the water facility is not owned by the Local Government, then the Local
18 Government shall enter into a termination agreement with the water provider; and
19

20 (xxi) That the Local Government shall submit all proposed
21 change orders to the DEP for written approval. The Local Government shall obtain the
22 written approval of the DEP before expending any proceeds of the Local Bonds held in
23 "contingency" as set forth in the final Schedule A attached to the certificate of the Consulting
24 Engineer. The Local Government shall obtain the written approval of the DEP before
25 expending any proceeds of the Local Bonds available due to bid/construction/project
26 underruns.
27

28 The Local Government hereby represents and warrants that the Local Act
29 has been or shall be duly adopted or enacted in compliance with all necessary corporate and
30 other action and in accordance with applicable provisions of law. All legal matters incident
31 to the authorization, issuance, validity, sale and delivery of the Local Bonds shall be
32 approved without qualification by nationally recognized bond counsel acceptable to the
33 Authority in substantially the form of legal opinion attached hereto as Exhibit G.
34

35 4.2 The Loan shall be secured by the pledge and assignment by the
36 Local Government, as effected by the Local Act, of the fees, charges and other revenues of
37 the Local Government from the System.
38

39 4.3 At least five percent (5%) of the proceeds of the Local Bonds will
40 be advanced on the Date of Loan Closing. The remaining proceeds of the Local Bonds shall
41 be advanced by the DEP monthly as required by the Local Government to pay Costs of the
42 Project, provided, however, if the proceeds of the Local Bonds will be used to repay an
43 interim financing, the proceeds will be advanced on a schedule mutually agreeable to the
44 Local Government, the DEP and the Authority. The Local Bonds shall not bear interest
45 during the construction period but interest shall commence accruing on the completion date

1 as defined in the SRF Regulations, provided that the annual repayment of principal and
2 payment of interest shall begin not later than one (1) year after the completion date. The
3 repayment of principal and interest on the Local Bonds shall be as set forth on Schedule Y
4 hereto. In no event shall the interest rate on or the net interest cost of the Local Bonds
5 exceed any statutory limitation with regard thereto.

6
7 4.4 The Local Bonds shall be delivered to the Authority in fully
8 registered form, transferable and exchangeable as provided in the Local Act at the expense
9 of the Local Government. Anything to the contrary herein notwithstanding, the Local Bonds
10 may be issued in one or more series.

11
12 4.5 As provided by the SRF Regulations, the Local Government agrees
13 to pay from time to time, if required by the Authority and DEP, the Local Government's
14 allocable share of the reasonable administrative expenses of the Authority relating to the
15 Program. Such administrative expenses shall be determined by the Authority and shall
16 include, without limitation, Program expenses, legal fees paid by the Authority and fees paid
17 to the trustee and paying agents for any bonds or notes to be issued by the Authority for
18 contribution to the Fund and the fees and expenses of any corporate trustee for the Fund.

19
20 4.6 The obligation of the Authority to make any loans shall be
21 conditioned upon the availability of moneys in the Fund in such amount and on such terms
22 and conditions as, in the sole judgment of the Authority, will enable it to make the Loan.

23 24 25 ARTICLE V

26 27 Certain Covenants of the Local Government; 28 Imposition and Collection of User Charges; 29 Payments To Be Made by 30 Local Government to the Authority

31
32 5.1 The Local Government hereby irrevocably covenants and agrees
33 to comply with all of the terms, conditions and requirements of this Loan Agreement and the
34 Local Act. The Local Government hereby further irrevocably covenants and agrees that, as
35 one of the conditions of the Authority to make the Loan, it has fixed and collected, or will
36 fix and collect, the rates, fees and other charges for the use of the System and will take all
37 such actions necessary to provide funds sufficient to produce the required sums set forth in
38 the Local Act and in compliance with the provisions of Subsections 4.1(a) and 4.1(b)(ii)
39 hereof.

40
41 5.2 In the event, for any reason, the schedule of rates, fees and
42 charges initially established for the System in connection with the Local Bonds shall prove
43 to be insufficient to produce the required sums set forth in the Local Act and this Loan
44 Agreement, the Local Government hereby covenants and agrees that it will, to the extent or
45 in the manner authorized by law, immediately adjust and increase such schedule of rates, fees

1 and charges (or where applicable, immediately file with the PSC for a rate increase) and take
2 all such actions necessary to provide funds sufficient to produce the required sums set forth
3 in the Local Act and this Loan Agreement.
4

5 5.3 In the event the Local Government defaults in any payment due
6 to the Authority pursuant to this Loan Agreement, the amount of such default shall bear
7 interest at the interest rate of the installment of the Loan next due, from the date of the
8 default until the date of the payment thereof.
9

10 5.4 The Local Government hereby irrevocably covenants and agrees
11 with the Authority that, in the event of any default hereunder by the Local Government, the
12 Authority may exercise any or all of the rights and powers granted under Section 5 of the
13 Act, including, without limitation, the right to impose, enforce and collect charges of the
14 System.
15

16 ARTICLE VI

17 Other Agreements of the 18 Local Government 19

20 6.1 The Local Government hereby acknowledges to the Authority
21 and DEP its understanding of the provisions of the Act, vesting in the Authority and DEP
22 certain powers, rights and privileges with respect to wastewater treatment projects in the
23 event of default by the Local Government in the terms and covenants of this Loan
24 Agreement, and the Local Government hereby covenants and agrees that, if the Authority
25 should hereafter have recourse to said rights and powers, the Local Government shall take
26 no action of any nature whatsoever calculated to inhibit, nullify, void, delay or render
27 nugatory such actions of the Authority in the due and prompt implementation of this Loan
28 Agreement.
29

30 6.2 The Local Government hereby warrants and represents that all
31 information provided to the Authority and DEP in this Loan Agreement, in the Application
32 or in any other application or documentation with respect to financing the Project was at the
33 time, and now is, true, correct and complete, and such information does not omit any
34 material fact necessary to make the statements therein, in light of the circumstances under
35 which they were made, not misleading. Prior to the Authority's making the Loan and
36 receiving the Local Bonds, the Authority and DEP shall have the right to cancel all or any
37 of their obligations under this Loan Agreement if (a) any representation made to the
38 Authority and DEP by the Local Government in connection with the Loan shall be incorrect
39 or incomplete in any material respect or (b) the Local Government has violated any
40 commitment made by it in its Application or in any supporting documentation or has violated
41 any of the terms of the Act, the SRF Regulations or this Loan Agreement.
42

43 6.3 The Local Government hereby agrees to repay on or prior to the
44 Date of Loan Closing any moneys due and owing by it to the Authority or any other lender.
45

1 for the planning or design of the Project, provided that such repayment shall not be made
2 from the proceeds of the Loan.

3
4 6.4 The Local Government hereby covenants that it will rebate any
5 amounts required by Section 148 of the Internal Revenue Code of 1986, as amended, and
6 will take all steps necessary to make any such rebates. In the event the Local Government
7 fails to make any such rebates as required, then the Local Government shall pay any and all
8 penalties, obtain a waiver from the Internal Revenue Service and take any other actions
9 necessary or desirable to preserve the exclusion from gross income for federal income tax
10 purposes of interest on the Local Bonds.

11
12 6.5 Notwithstanding Section 6.4, the Authority and DEP may at any
13 time, in their sole discretion, cause the rebate calculations prepared by or on behalf of the
14 Local Government to be monitored or cause the rebate calculations for the Local
15 Government to be prepared, in either case at the expense of the Local Government.

16
17 6.6 The Local Government hereby agrees to give the Authority and
18 DEP prior written notice of the issuance by it of any other obligations to be used for the
19 System, payable from the revenues of the System or from any grants for the Project or
20 otherwise related to the Project or the System.

21
22 6.7 The Local Government hereby agrees to file with the Authority
23 and DEP upon completion of acquisition and construction of the Project a schedule in
24 substantially the form of Amended Schedule A to the Application, setting forth the actual
25 costs of the Project and sources of funds therefor.

26 27 28 29 ARTICLE VII

30 31 Miscellaneous

32
33 7.1 Schedules X and Y shall be attached to this Loan Agreement by
34 the Authority as soon as practicable after the Date of Loan Closing is established and shall
35 be approved by an official action of the Local Government supplementing the Local Act, a
36 certified copy of which official action shall be submitted to the Authority.

37
38 7.2 If any provision of this Loan Agreement shall for any reason be
39 held to be invalid or unenforceable, the invalidity or unenforceability of such provision shall
40 not affect any of the remaining provisions of this Loan Agreement, and this Loan Agreement
41 shall be construed and enforced as if such invalid or unenforceable provision had not been
42 contained herein.

43
44 7.3 This Loan Agreement may be executed in one or more
45 counterparts, any of which shall be regarded for all purposes as an original and all of which

1 constitute but one and the same instrument. Each party agrees that it will execute any and
2 all documents or other instruments and take such other actions as may be necessary to give
3 effect to the terms of this Loan Agreement.
4

5 7.4 No waiver by any party of any term or condition of this Loan
6 Agreement shall be deemed or construed as a waiver of any other terms or conditions, nor
7 shall a waiver of any breach be deemed to constitute a waiver of any subsequent breach,
8 whether of the same or of a different section, subsection, paragraph, clause, phrase or other
9 provision of this Loan Agreement.
10

11 7.5 This Loan Agreement supersedes all prior negotiations,
12 representations and agreements between the parties hereto relating to the Loan and
13 constitutes the entire agreement between the parties hereto in respect thereof.
14

15 7.6 By execution and delivery of this Loan Agreement,
16 notwithstanding the date hereof, the Local Government specifically recognizes that it is
17 hereby agreeing to sell its Local Bonds to the Authority and that such obligation may be
18 specifically enforced or subject to a similar equitable remedy by the Authority.
19

20 7.7 This Loan Agreement shall terminate upon the earlier of:

21 (i) written notice of termination to the Local Government from
22 either the Authority or DEP;
23

24 (ii) the end of ninety (90) days after the date of execution hereof by
25 the Authority or such later date as is agreed to in writing by DEP if the Local Government
26 has failed to deliver the Local Bonds to the Authority;
27

28 (iii) termination by the Authority and DEP pursuant to Section 6.2
29 hereof; or
30

31 (iv) payment in full of the principal of and interest on the Loan and
32 of any fees and charges owed by the Local Government to the Authority or DEP; provided
33 that the amount of the Loan made under this Loan Agreement in any succeeding fiscal year
34 is contingent upon funds being appropriated by the State legislature or otherwise being
35 available to make the Loan. In the event funds are not appropriated or otherwise available
36 to make all of the Loan, the responsibility of the Authority and DEP to make all the Loan is
37 terminated; provided further that the obligation of the Local Government to repay the
38 outstanding amount of the Loan made by the Authority and DEP is not terminated due to
39 such non-funding on any balance of the Loan. The DEP agrees to use its best efforts to have
40 the amount contemplated under this Loan Agreement included in its budget.
41 Non-appropriation or non-funding of the Loan shall not be considered an event of default
42 under this Loan Agreement.
43
44

1 IN WITNESS WHEREOF, the parties hereto have caused this Loan
2 Agreement to be executed by their respective duly authorized officers as of the date executed
3 below by the Authority.
4
5
6

7 _____
8 [Name of Local Government]

9 (SEAL)

By: _____

Its: _____

11 Attest:

Date: _____

14 _____
15 Its: _____
16

17 WEST VIRGINIA DEPARTMENT OF
18 ENVIRONMENTAL PROTECTION,
19 DIVISION OF WATER AND WASTE
20 MANAGEMENT
21

22
23 By: _____

24 Its: Director

25 Date: _____
26

27
28 WEST VIRGINIA WATER DEVELOPMENT
29 AUTHORITY
30

31
32 (SEAL)

By: _____

33 Its: Director

34 Attest:

Date: _____
35

36 _____
37 Its: Secretary-Treasurer
38
39

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EXHIBIT A

FORM OF PERFORMANCE CERTIFICATE

[To Be Provided By DEP]

EXHIBIT B

MONTHLY FINANCIAL REPORT

Name of Local Government _____
 Name of Bond Issue(s) _____
 Type of Project _____ Water _____ Wastewater _____
 Fiscal Year _____ Report Month _____

				Budget Year To Date Minus Total Year To Date
Item	Current Month	Total Year To Date	Budget Year To Date	
1. Gross Revenues	_____	_____	_____	_____
2. Operating Expenses	_____	_____	_____	_____
3. Bond Payments:				
Type of Issue				
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 Government 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 Government 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 Government.

The Local Government must complete the Monthly Financial Report and forward it to the Water Development Authority by the 10th 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 C

PAYMENT REQUISITION FORM

(All Copies to Be Provided by DEP for Each Project)

EXHIBIT D

FORM OF CERTIFICATE OF CONSULTING ENGINEER

(Issuer)

(Name of Bonds)

I, _____, Registered Professional Engineer, West Virginia License
No. _____, of _____, Consulting Engineers,
_____, hereby certify 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 meaning set forth in the bond
_____ adopted or enacted by the Issuer on _____, and the Loan
Agreement by and among the Issuer, the West Virginia Water Development Authority (the
"Authority"), and the West Virginia Department of Environmental Protection (the "DEP"),
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 the DEP and any change
orders approved by the Issuer, the DEP 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 A attached hereto as Exhibit A, and my firm¹ has ascertained that all
successful bidders have made required provisions for all insurance and payment and

¹If 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 _____,
Esq.] and delete "my firm has ascertained that".

1 performance bonds and that such insurance policies or binders and such bonds have been
2 verified for accuracy; (iv) the successful bidders received any and all addenda to the original
3 bid documents; (v) the bid documents relating to the Project reflect the Project as approved
4 by the DEP and the bid forms provided to the bidders contain all critical operational
5 components of the Project; (vi) the successful bids include prices for every item on such bid
6 forms; (vii) the uniform bid procedures were followed; (viii) the Issuer has obtained all
7 permits required by the laws of the State of West Virginia and the United States necessary
8 for the acquisition and construction of the Project and operation of the System; (ix) as of the
9 effective date thereof², the rates and charges for the System as adopted by the Issuer will be
10 sufficient to comply with the provisions of the Loan Agreement; (x) the net proceeds of the
11 Bonds, together with all other moneys on deposit or to be simultaneously deposited and
12 irrevocably pledged thereto and the proceeds of grants, if any, irrevocably committed
13 therefor, are sufficient to pay the costs of acquisition and construction of the Project
14 approved by the DEP; and (xi) attached hereto as Exhibit A is the final amended "Schedule
15 A - Total Cost of Project; Sources of Funds and Cost of Financing" for the Project.

16
17 WITNESS my signature and seal on this ____ day of _____, ____.

18
19
20
21 _____
22
23 By _____

24
25 West Virginia License No. _____

26
27 [SEAL]
28
29

²If 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).

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EXHIBIT E

SPECIAL CONDITIONS

A. PUBLIC RELEASE REQUIREMENT - The Local Government 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)) - The Local Government that receives \$300,000 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 Government.

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EXHIBIT F

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 Local Government] on [Date].

Sinking Fund:

Interest \$_____

Principal \$_____

Total: \$_____

Reserve Account: \$_____

Witness my signature this ____ day of _____.

[Name of Local Government]

By: _____
Authorized Officer

Enclosure: copy of check(s)

EXHIBIT G

OPINION OF BOND COUNSEL FOR LOCAL GOVERNMENT

[To Be Dated as of Date of Loan Closing]

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

West Virginia Department of Environmental Protection
1560 Kanawha Boulevard, East
Charleston, WV 25311

Ladies and Gentlemen:

We are bond counsel to _____ (the "Local Government"), 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"), among the Local Government, the West Virginia Water Development Authority (the "Authority") and the West Virginia Department of Environmental Protection (the "DEP"), and (ii) the issue of a series of revenue bonds of the Local Government, 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 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 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 Local Government on _____, as supplemented by the supplemental resolution duly adopted by the Local Government 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.

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

3
4 1. The Loan Agreement has been duly authorized by and executed on behalf of
5 the Local Government and is a valid and binding special obligation of the Local
6 Government, enforceable in accordance with the terms thereof.

7
8 2. The Loan Agreement inures to the benefit of the Authority and the DEP and
9 cannot be amended so as to affect adversely the rights of the Authority or the DEP or
10 diminish the obligations of the Local Government without the consent of the Authority and
11 the DEP.

12
13 3. The Local Government is a duly organized and validly existing _____
14 _____, with full power and authority to acquire and construct the
15 Project, to operate and maintain the System, to adopt or enact the Local Act and to issue and
16 sell the Local Bonds, all under the Local Statute and other applicable provisions of law.

17
18 4. The Local Act and all other necessary orders and resolutions have been legally
19 and effectively adopted or enacted by the Local Government and constitute valid and binding
20 obligations of the Local Government, enforceable against the Local Government in
21 accordance with their terms. The Local Act contains provisions and covenants substantially
22 in the form of those set forth in Section 4.1 of the Loan Agreement.

23
24 5. The Local Bonds have been duly authorized, issued, executed and delivered
25 by the Local Government to the Authority and are valid, legally enforceable and binding
26 special obligations of the Local Government, payable from the net or gross revenues of the
27 System set forth in the Local Act and secured by a first lien on and pledge of the net or gross
28 revenues of the System, all in accordance with the terms of the Local Bonds and the Local
29 Act.

30
31 6. The Local Bonds are, by statute, exempt _____, and under
32 existing statutes and court decisions of the United States of America, as presently written and
33 applied, the interest on the Local Bonds is excludable from the gross income of the recipients
34 thereof for federal income tax purposes.

35
36 No opinion is given herein as to the effect upon enforceability of the Local Bonds of
37 bankruptcy, insolvency, reorganization, moratorium and other laws affecting creditors' rights
38 or in the exercise of judicial discretion in appropriate cases.

39
40 We have examined the executed and authenticated Local Bond numbered R-1, and
41 in our opinion the form of said bond and its execution and authentication are regular and
42 proper.

43
44 Very truly yours,
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SCHEDULE X

DESCRIPTION OF LOCAL BONDS

Principal Amount of Local Bonds \$ _____
Purchase Price of Local Bonds \$ _____

The Local Bonds shall bear no interest from the date of delivery to and including _____. Commencing _____, interest on the Local Bonds is payable quarterly, at a rate of ____% per annum. Commencing _____, principal of the Local Bonds is payable quarterly, with an administrative fee of ____%. 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 Government 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 Government shall commence the payment of the 1/120 of the maximum annual Debt service on the first day of the month it makes its first monthly payment to the Commission. The Local Government 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 net or gross revenues of the Local Government's system as provided in the Local Act.

The Local Government may prepay the Local Bonds in full at any time at the price of par upon 30 days' written notice to the Authority and DEP. The Local Government shall request approval from the Authority and DEP in writing of any proposed debt which will be issued by the Local Government on a parity with the 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 Local Government:

SCHEDULE Y
DEBT SERVICE SCHEDULE

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EXHIBIT D

THE CITY OF CHARLESTON, WEST VIRGINIA

NOTICE OF PUBLIC HEARING AND ABSTRACT OF BOND ORDINANCE

Notice is hereby given to any person interested that on _____, 2003, the Council of The City of Charleston, West Virginia (the "City") adopted an ordinance which, among other things:

1. Authorized the design, acquisition and construction of certain extensions, additions, betterments and improvements (the "Project") to the City's existing sewerage system (the "System"), the temporary financing of such costs thereof through the issuance of not more than \$2,000,000 in aggregate principal amount of Sewerage System Bond Anticipation Notes, Series 2003 A (the "Notes"), and the permanent financing of such costs thereof through the issuance of not more than \$12,000,000 in aggregate principal amount of Sewerage System Revenue Bonds, Series 2003 (the "Bonds").

2. Directed that the Bonds be issued in such principal amounts, bear interest at such rate or rates, not exceeding the then legal maximum rate, mature on such dates and in such amounts and redeemable, in whole or in part, as prescribed in a supplemental resolution or in the Loan Agreement by and among the City, the West Virginia Water Development Authority (the "Authority") and the West Virginia Department of Environmental Protection (the "Loan Agreement").

3. Authorized the execution and delivery of the Loan Agreement.

4. Directed the continuation of the Revenue Fund and the disposition of the System revenues; provided for the payment of operating expenses; provided for the monthly payment of principal and interest when due; provided for the creation of a Sinking Fund and a Reserve Account for the Bonds and continuation of the Renewal and Replacement Fund; and provided for the use of excess funds of the System.

5. Directed the creation of a Bond Construction Trust Fund and the disbursement of Bond proceeds.

6. Provided that the Bonds shall not be or constitute a corporate indebtedness of the City within the meaning of any constitutional or statutory provision or limitation, but shall be

1 payable solely from the Net Revenues of the System; pledged
2 the Net Revenues of the System to payment of the Bonds and
3 established the rights of the holders of the Bonds to the Net
4 Revenues of the System.

5
6 7. Provided certain conditions for the issuance of
7 additional bonds.

8
9 8. Provided for insurance coverage on the Project;
10 provided for the enforcement of collection of fees, rates or other
11 charges for the System and other covenants in favor of the
12 Bondholders.

13
14 9. Established the events of default and the remedies
15 of the Bondholders.

16
17 10. Directed that the Notes be issued in such principal
18 amounts and have such terms as set forth in a supplemental
19 resolution.

20
21 11. Provided that the Notes shall not be or constitute
22 a corporate indebtedness of the City within the meaning of
23 any constitutional or statutory provision or limitation, but shall
24 be payable solely from the proceeds of the Bonds.

25
26 12. Provided for the modification or amendment of
27 the Ordinance upon the terms and conditions set forth in the
28 Ordinance.

29
30 The City contemplates the issuance of the Bonds described in, and
31 under the conditions set forth in the Ordinance abstracted above. Any person
32 interested may appear before the Council of the City of Charleston at a
33 meeting on _____, 2003, at _____ p.m., in the Council
34 Chambers, City Hall, Charleston, West Virginia, and present protests and be
35 heard as to whether the above-described Ordinance shall be put into effect.

36
37
38 A certified copy of the Ordinance as adopted by the Council of City on
39 _____, 2003, is on file with the City Clerk for review by interested
40 persons at the City Hall during regular office hours, to-wit: 8:00 a.m. to 4:00
41 p.m., Monday through Friday.

42
43
44
45 /s/
46 City Clerk -- City of Charleston, West Virginia
47

1 CERTIFICATE OF TRUTH AND ACCURACY
2
3

4 I, the undersigned, as City Clerk of The City of Charleston,
5 Kanawha County, West Virginia, do hereby certify that the foregoing
6 document is a true and accurate copy of the official record of The City of
7 Charleston, such records being in the custody of the undersigned and
8 maintained at The City of Charleston, City Hall, Charleston, Kanawha County,
9 West Virginia, and that the action taken by the Council in the foregoing
10 document remains in full force and effect and has not been amended.
11

12 Dated this _____ day of _____, 2003.
13

14
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17 _____
18 City Clerk
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20 [SEAL]
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CITY OF CHARLESTON
P.O. Box 2749
CHARLESTON, WEST VIRGINIA 25330

I, the undersigned City Clerk of Charleston, do hereby certify that the foregoing is
a true, correct and complete copy of Resolution 508-04,
enacted by the City Council of the City of Charleston on March 15, 2004.

Witness the signature of the undersigned City Clerk of the City of Charleston,
West Virginia, and the seal of the City, this 17th day of March, 2004.


City Clerk

Seal

Resolution No. 508-04

Introduced in Council:

March 15, 2004

Adopted by Council:

March 15, 2004

Introduced by: Robert S. Reishman

A resolution supplementing Ordinance No. 6977, which supplemented Ordinance No. 4423 passed by the Council of The City of Charleston, West Virginia, on March 6, 1989, as supplemented by Ordinance No. 4506 passed by the Council on November 6, 1989, by Ordinance No. 4954 passed by the Council on May 3, 1993, by Ordinance No. 6276 passed by the Council on September 3, 1996, by Ordinance No. 6349 passed by the Council on June 2, 1997, by Ordinance No. 6532 passed by the Council on November 16, 1998, by Ordinance No. 6544 passed by the Council on February 1, 1999, by Ordinance No. 6670 passed by the Council on February 5, 2001, by Ordinance No. 6777 passed by the Council on March 19, 2001, and by Ordinance No. 6948 passed by the Council on November 4, 2002; authorizing the design, acquisition and construction of certain extensions, additions, betterments and improvements to the sewerage system of The City of Charleston; authorizing the issuance of \$9,835,120 in aggregate principal amount of Sewerage System Revenue Bonds, Series 2004 A, of The City of Charleston, the proceeds of which, shall be used, along with other funds and moneys of, or available to, The City of Charleston which may be lawfully expended for such purposes, to permanently finance the cost of such design, acquisition and construction, to a fund reserve account for such bonds and to pay other costs in connection therewith; providing for the rights and remedies of and security for the registered owners of such bonds; and adopting other provisions related thereto.

WHEREAS, the Council (the "Council") of The City of Charleston, West Virginia (the "City"), on May 19, 2003, adopted Ordinance No. 6977, which became effective following a public hearing on June 2, 2003, which Ordinance authorized the issuance of The City of Charleston Sewerage System Revenue Bonds, Series 2003, in an aggregate principal amount not to exceed \$12,000,000, to finance the cost of design, acquisition and construction of certain extensions, additions, betterments and improvements to the sewerage system of the City, and all as more fully set out therein (said Ordinance is hereinafter referred to as the "Ordinance");

WHEREAS, the Sewerage System Revenue Bonds, Series 2003, were not issued in 2003, but will be issued in 2004;

WHEREAS, the Council desires to redesignate the Sewerage System Revenue Bonds, Series 2003, as Sewerage System Revenue Bonds, Series 2004 A (the "Bonds");

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

WHEREAS, the Ordinance provides for the issuance of the Bonds, all in accordance with Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended (the "Act"), and the terms of the Loan Agreement dated February 25, 2004, including all schedules and exhibits attached thereto (the "Loan Agreement"), by and among the City, the West Virginia Water Development Authority (the "Authority") and the West Virginia Department of Environmental Protection (the "DEP") and further provides that the exact principal amount, date, maturity date, interest rate, payment schedule, sale price and other terms of and matters relating to, the Bonds should be established by a supplemental resolution; and

WHEREAS, the Council of the City deems it essential and desirable that this resolution (the "Supplemental Resolution") be adopted, that the Bonds be redesignated, that the Loan Agreement be ratified by the Issuer, that the exact principal amount, date, maturity date, interest rate, payment schedule, sale price and other terms 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 COUNCIL OF THE CITY OF CHARLESTON, WEST VIRGINIA, AS FOLLOWS:

Section 1. Pursuant to the Ordinance and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the redesignated Sewerage System Revenue Bonds, Series 2004 A, as follows:

(A) The Bonds shall be originally represented by a single bond, redesignated "Sewerage System Revenue Bonds, Series 2004 A", numbered AR-1, and shall be issued in the aggregate principal amount of \$9,835,120. The Bonds shall be dated the date of delivery thereof, shall finally mature on June 1, 2025, and shall bear interest at the rate of two percent (2%) per annum. The principal of and interest on the Bonds are payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2005, 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 DEP, and upon payment of the interest and 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 Bonds shall be subject to the SRF Administrative Fee equal to 1% of the principal amount of the Bonds as set forth in the Schedule Y attached to the Loan Agreement.

(B) The proceeds of the Bonds, along with other funds of the City, shall be deposited, as received from time to time, as follows:

(1) \$597,860 shall be deposited into the Series 2004 A Bonds Reserve Account; and

(2) The balance shall be deposited into the Series 2004 A Bonds Construction Trust Fund.

(C) The sale of the Bonds to the Authority is hereby approved. The Mayor is hereby authorized and directed to execute the Bonds by his manual signature and attested by the City Clerk by his manual signature and the seal of the City shall be impressed thereon.

Section 2. All other provisions relating to the Bonds and the text of the Bonds shall be as provided in the Ordinance, and the Bonds shall be in substantially the form provided in the Ordinance with such changes, insertions and omissions as may be approved by the Mayor. The execution of the Bonds by the Mayor shall be conclusive evidence of such approval.

Section 3. The City hereby ratifies, approves and accepts the Loan Agreement, including all schedules and exhibits attached thereto, and the execution and delivery of the Loan Agreement by the Mayor, and the performance of the obligations contained therein, on behalf of the City, are hereby ratified and approved. The City hereby affirms all covenants and representations made in the Loan Agreement and in the Application to the DEP and the Authority. The price of the Bonds shall be 100% of par value, there being no interest accrued thereon, provided that the proceeds of the Bonds shall be advanced from time to time as requisitioned by the City.

Section 4. The City hereby appoints and designates United Bank, Inc., Charleston, West Virginia, as the Registrar for the Bonds.

Section 5. The City hereby appoints and designates the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Commission"), as the Paying Agent for the Bonds.

Section 6. The City hereby appoints and designates Bank One, NA, with its principal office in Columbus, Ohio and its service office at 707 Virginia Street, East Charleston, West Virginia, as the Depository Bank under the Ordinance.

Section 7. The Mayor and City Clerk are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Bonds.

Section 8. The City hereby determines to invest all moneys in the funds and accounts established by the Ordinance held by the Depository Bank until expended, in money

market accounts secured by a pledge of Government Obligations, and therefore, the City hereby directs the Depository Bank to take such actions as may be necessary to cause such moneys to be invested in such money market accounts until further directed in writing by the City. Moneys in the Series 2004 A Bonds Sinking Fund and the Series 2004 A Bonds Reserve Account shall be invested by the Commission in the West Virginia Consolidated Fund.

Section 9. The design, acquisition and construction of the Project and the financing thereof with proceeds of the Bonds are in the public interest, serve a public purpose of the City and will promote the health, welfare and safety of the residents of the City.

Section 10. The City hereby approves and accepts all contracts relating to the financing, design, acquisition and construction of the Project.

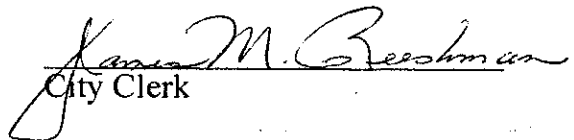
Section 11. The City shall not permit at any time or times any of the proceeds of the Bonds or any other funds of the City to be used directly or indirectly in a manner which would result in the exclusion of the Bonds from the treatment afforded by Section 103(a) of the Code, by reason of the classification of the Bonds as "private activity bonds" within the meaning of the Code. It will take all actions necessary to comply with the Code, including the Treasury Regulations promulgated thereunder.

Section 12. This Supplemental Resolution shall take effect immediately upon adoption hereof.

CERTIFICATE OF TRUTH AND ACCURACY

I, the undersigned, as City Clerk of The City of Charleston, Kanawha County, West Virginia, do hereby certify that the foregoing document is a true and accurate copy of an official record of The City of Charleston, such records being in the custody of the undersigned and maintained at The City of Charleston, City Hall, Charleston, Kanawha County, West Virginia, and that the action taken by the Council in the foregoing document remains in full force and effect and has not been amended or repealed.

Dated this 23rd day of March, 2004.


City Clerk

[SEAL]



SPECIMEN

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
COUNTY OF KANAWHA
THE CITY OF CHARLESTON
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2004 A

No. AR-1

\$9,835,120

KNOW ALL MEN BY THESE PRESENTS: That THE CITY OF CHARLESTON, a municipal corporation and political subdivision of the State of West Virginia, in Kanawha County of said State (the "City"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority"), or registered assigns, the sum of NINE MILLION EIGHT HUNDRED THIRTY FIVE THOUSAND ONE HUNDRED TWENTY DOLLARS (\$9,835,120), or such lesser amount as shall have been advanced to the City 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, 2005, as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference, with interest on each installment at the rate of two percent (2%) per annum as set forth on said EXHIBIT B. The interest and the SRF Administrative Fee (as defined in the hereinafter described Ordinance) on this Bond shall also be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2005, as set forth on EXHIBIT B attached hereto.

Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of principal, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the Paying Agent (as defined in the hereinafter described Ordinance). The interest on this Bond is payable by check or draft mailed to the registered owner hereof at the address as it appears on the books of the Registrar (as defined in the hereinafter described Ordinance) on the 15th day of the month preceding an interest payment date or by such other method as shall be mutually agreeable so long as the Authority is registered owner hereof.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia

Department of Environmental Protection (the "DEP") and as otherwise provided by the Loan Agreement dated February 25, 2004, among the Authority, the DEP and the City.

This Bond is issued (i) to pay the costs of design, acquisition and construction of certain extensions, additions, betterments and improvements to the existing sewerage system of the City (the "Project"); (ii) to fund a reserve account for this Bond; and (iii) to pay certain costs of issuance hereof and related costs. The existing sewerage system of the City, the Project and any further additions, betterments and improvements thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended (the "Act"), Ordinance No. 4423 passed by the City on March 6, 1989, as supplemented by Ordinance No. 4506 passed by the City on November 6, 1989, Ordinance No. 4954 passed by the City on May 3, 1993, Ordinance No. 6276 passed by the City on September 3, 1996, Ordinance No. 6349 passed by the City on June 2, 1997, Ordinance No. 6532 passed by the City on November 16, 1998, Ordinance No. 6544 passed by the City on February 1, 1999, Ordinance No. 6670 passed by the City on February 5, 2001, Ordinance No. 6777 passed by the City on March 19, 2001, Ordinance No. 6948 passed by the City on November 4, 2002, Ordinance No. 6977 passed by the City on May 19, 2003, and a Supplemental Resolution adopted by the City on March 15, 2004 (collectively, the "Ordinance"), and is subject to all the terms and conditions thereof. The Ordinance provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for this Bond under the Ordinance.

This Bond is issued on a parity with respect to liens, pledge and source of and security for payment with the First Lien Bonds and senior to the Second Lien Bonds, all as defined in the Ordinance.

This Bond is payable only from and secured by a pledge of a first lien on the Net Revenues as defined in the Ordinance, to be derived from the operation of the System, on a parity with the First Lien Bonds and senior to the Second Lien Bonds, moneys in the Reserve Account created under the Ordinance (the "Series 2004 A Bonds Reserve Account") and unexpended proceeds of this Bond. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the City within the meaning of any constitutional or statutory provisions or limitations, nor shall the City be obligated to pay the same or the interest hereon except from said special fund provided from the Net Revenues, the moneys in the Series 2004 A Bonds Reserve Account and unexpended proceeds of this Bond. Pursuant to the Ordinance, the City has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest on this Bond and all obligations secured by a lien on or payable from such revenues on a parity with this Bond, including the Prior Bonds; provided however,

that so long as there exists in the Series 2004 A Bonds Reserve Account an amount equal to the maximum amount of principal and interest which will become due on this Bond in the then current or any succeeding year and in the respective reserve accounts established for any obligations outstanding on a parity with this Bond, including the Prior Bonds, an amount equal to the requirement therefor, such percentage may be reduced to 110%. The City has entered into certain further covenants with the registered owners of this Bond for the terms of which reference is made to the Ordinance. Remedies provided the registered owners of this Bond are exclusively as provided in the Ordinance, to which reference is here made for a detailed description thereof.

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

This Bond, under the provision of the Act, is and has 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 Ordinance, shall be applied solely to the payment of the costs of the Project and costs of issuance hereof as described in the Ordinance, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the registered owner of this Bond.

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

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

AR-1

IN WITNESS WHEREOF, THE CITY OF CHARLESTON has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed or imprinted hereon and attested by its City Clerk, and has caused this Bond to be dated March 23, 2004.

[SEAL]

Mayor

SPECIMEN

ATTEST:

City Clerk

SPECIMEN

NUMBER
AR-1

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2004 A Bonds described in the within-mentioned Ordinance and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: March 23, 2004.

UNITED BANK, INC., as Registrar

By Kathy Smith
Its Authorized Officer
SPECIMEN

EXHIBIT ARECORD OF ADVANCES

<u>AMOUNT</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>DATE</u>
(1) \$617,860	3/23/04	(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**City of Charleston**

Loan of \$9,835,120

2.0% Interest Rate, 1.0% Administrative Fee, 20 Years

Closing Date: March 23, 2004

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Interest	Total P+I
6/01/2004	-	-	-	-
9/01/2004	-	-	-	-
12/01/2004	-	-	-	-
3/01/2005	-	-	-	-
6/01/2005	-	-	-	-
9/01/2005	100,289.07	2.000%	49,175.60	149,464.67
12/01/2005	100,790.52	2.000%	48,674.15	149,464.67
3/01/2006	101,294.47	2.000%	48,170.20	149,464.67
6/01/2006	101,800.94	2.000%	47,663.73	149,464.67
9/01/2006	102,309.95	2.000%	47,154.73	149,464.68
12/01/2006	102,821.50	2.000%	46,643.18	149,464.68
3/01/2007	103,335.60	2.000%	46,129.07	149,464.67
6/01/2007	103,852.28	2.000%	45,612.39	149,464.67
9/01/2007	104,371.54	2.000%	45,093.13	149,464.67
12/01/2007	104,893.40	2.000%	44,571.27	149,464.67
3/01/2008	105,417.87	2.000%	44,046.80	149,464.67
6/01/2008	105,944.96	2.000%	43,519.71	149,464.67
9/01/2008	106,474.68	2.000%	42,989.99	149,464.67
12/01/2008	107,007.06	2.000%	42,457.62	149,464.68
3/01/2009	107,542.09	2.000%	41,922.58	149,464.67
6/01/2009	108,079.80	2.000%	41,384.87	149,464.67
9/01/2009	108,620.20	2.000%	40,844.47	149,464.67
12/01/2009	109,163.30	2.000%	40,301.37	149,464.67
3/01/2010	109,709.12	2.000%	39,755.55	149,464.67
6/01/2010	110,257.66	2.000%	39,207.01	149,464.67
9/01/2010	110,808.95	2.000%	38,655.72	149,464.67
12/01/2010	111,363.00	2.000%	38,101.68	149,464.68
3/01/2011	111,919.81	2.000%	37,544.86	149,464.67
6/01/2011	112,479.41	2.000%	36,985.26	149,464.67
9/01/2011	113,041.81	2.000%	36,422.86	149,464.67
12/01/2011	113,607.02	2.000%	35,857.66	149,464.68
3/01/2012	114,175.05	2.000%	35,289.62	149,464.67
6/01/2012	114,745.93	2.000%	34,718.74	149,464.67
9/01/2012	115,319.66	2.000%	34,145.02	149,464.68
12/01/2012	115,896.26	2.000%	33,568.42	149,464.68
3/01/2013	116,475.74	2.000%	32,988.94	149,464.68
6/01/2013	117,058.12	2.000%	32,406.56	149,464.68
9/01/2013	117,643.41	2.000%	31,821.27	149,464.68
12/01/2013	118,231.62	2.000%	31,233.05	149,464.67
3/01/2014	118,822.78	2.000%	30,641.89	149,464.67
6/01/2014	119,416.89	2.000%	30,047.78	149,464.67
9/01/2014	120,013.98	2.000%	29,450.69	149,464.67
12/01/2014	120,614.05	2.000%	28,850.62	149,464.67
3/01/2015	121,217.12	2.000%	28,247.55	149,464.67
6/01/2015	121,823.20	2.000%	27,641.47	149,464.67
9/01/2015	122,432.32	2.000%	27,032.35	149,464.67
12/01/2015	123,044.48	2.000%	26,420.19	149,464.67

City of Charleston

Loan of \$9,835,120

2.0% Interest Rate, 1.0% Administrative Fee, 20 Years

Closing Date: March 23, 2004

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Interest	Total P+I
3/01/2016	123,659.71	2.000%	25,804.97	149,464.68
6/01/2016	124,278.00	2.000%	25,186.67	149,464.67
9/01/2016	124,899.39	2.000%	24,565.28	149,464.67
12/01/2016	125,523.89	2.000%	23,940.78	149,464.67
3/01/2017	126,151.51	2.000%	23,313.16	149,464.67
6/01/2017	126,782.27	2.000%	22,682.40	149,464.67
9/01/2017	127,416.18	2.000%	22,048.49	149,464.67
12/01/2017	128,053.26	2.000%	21,411.41	149,464.67
3/01/2018	128,693.53	2.000%	20,771.15	149,464.68
6/01/2018	129,336.99	2.000%	20,127.68	149,464.67
9/01/2018	129,983.68	2.000%	19,480.99	149,464.67
12/01/2018	130,633.60	2.000%	18,831.07	149,464.67
3/01/2019	131,286.77	2.000%	18,177.91	149,464.68
6/01/2019	131,943.20	2.000%	17,521.47	149,464.67
9/01/2019	132,602.91	2.000%	16,861.76	149,464.67
12/01/2019	133,265.93	2.000%	16,198.74	149,464.67
3/01/2020	133,932.26	2.000%	15,532.41	149,464.67
6/01/2020	134,601.92	2.000%	14,862.75	149,464.67
9/01/2020	135,274.93	2.000%	14,189.74	149,464.67
12/01/2020	135,951.30	2.000%	13,513.37	149,464.67
3/01/2021	136,631.06	2.000%	12,833.61	149,464.67
6/01/2021	137,314.22	2.000%	12,150.46	149,464.68
9/01/2021	138,000.79	2.000%	11,463.88	149,464.67
12/01/2021	138,690.79	2.000%	10,773.88	149,464.67
3/01/2022	139,384.25	2.000%	10,080.43	149,464.68
6/01/2022	140,081.17	2.000%	9,383.51	149,464.68
9/01/2022	140,781.57	2.000%	8,683.10	149,464.67
12/01/2022	141,485.48	2.000%	7,979.19	149,464.67
3/01/2023	142,192.91	2.000%	7,271.76	149,464.67
6/01/2023	142,903.87	2.000%	6,560.80	149,464.67
9/01/2023	143,618.39	2.000%	5,846.28	149,464.67
12/01/2023	144,336.48	2.000%	5,128.19	149,464.67
3/01/2024	145,058.17	2.000%	4,406.51	149,464.68
6/01/2024	145,783.46	2.000%	3,681.22	149,464.68
9/01/2024	146,512.37	2.000%	2,952.30	149,464.67
12/01/2024	147,244.94	2.000%	2,219.74	149,464.68
3/01/2025	147,981.16	2.000%	1,483.51	149,464.67
6/01/2025	148,721.07	2.000%	743.61	149,464.68
Total	9,835,120.00	-	2,122,053.80	11,957,173.80 *

*Plus \$13,262.85 one-percent administrative fee paid quarterly. Total fee paid over life of loan is \$1,061,028.

AR-1

Assignment

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

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

Dated: _____, ____.

In the presence of:

M0418779.1

BOND REGISTER

2.11

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
THE CITY OF CHARLESTON
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2004 A

<u>Bond Number</u>	<u>Principal Amount</u>	<u>Date of Bond</u>
No. AR-1	\$9,835,120	March 23, 2004

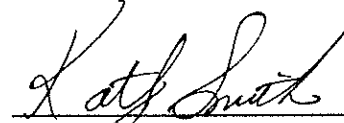
NO WRITING ON THIS BOND REGISTER EXCEPT BY THE REGISTRAR

Name of Registered Owner:

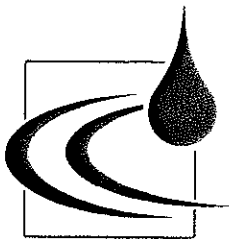
West Virginia Water Development Authority
180 Association Drive
Charleston, WV 25311

Signature of Registrar:

UNITED BANK, INC.



Authorized Representative



WEST VIRGINIA

Water Development Authority

Celebrating 30 Years of Service 1974 - 2004

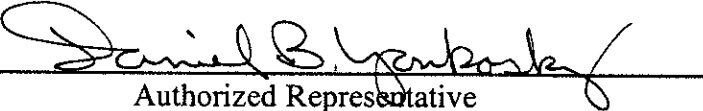
THE CITY OF CHARLESTON
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2004 A

CONSENT TO ISSUANCE OF PARITY BONDS

In reliance upon a certificate of Grigoraci, Trainer, Wright & Paterno, certified public accountants stating that the coverage and parity requirements have been met, the undersigned duly authorized representative of the West Virginia Water Development Authority, the registered owner of the Prior Bonds, hereinafter defined and described, hereby consents to the issuance of the Sewerage System Revenue Bonds, Series 2004 A (the "Bonds"), in the original principal amount of \$9,835,120, by The City of Charleston (the "Issuer"), under the terms of the Bond Ordinance authorizing the Bonds, on a parity with respect to liens, pledge and source of and security for payment with the Issuer's Sewer Revenue Bonds, Series 1989 A, Sewer Revenue Bonds, Series 1989 C, Sewerage System Revenue Bonds, 1993 Series A, Sewerage System Revenue Bonds, Series 1996 A, Sewerage System Revenue Bonds, Series 1996 B, Sewerage System Revenue Bonds, Series 1997 A, Sewerage System Revenue Bonds, Series 1997 B, Sewerage System Revenue Bonds, 1998 Series A, Sewerage System Revenue Bonds, 1999 Series A, Sewerage System Revenue Bonds, Series 2001 A, Sewerage System Revenue Bonds, 2001 Series B, Sewerage System Refunding Revenue Bonds, Series 2002 A and Sewerage System Refunding Revenue Bonds, Series 2002 B, and senior and prior with respect to liens, pledge and source of and security for payment to the Issuer's Supplemental Sewer Revenue Bonds, Series 1989 B, Supplemental Sewer Revenue Bonds, Series 1989 D, Sewerage System Revenue Bonds, 1999 Series B, and Sewerage System Revenue Bonds, 2001 Series C (collectively, the "Prior Bonds").

WITNESS my signature on this 23rd day of March, 2004.

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY


Authorized Representative

THE CITY OF CHARLESTON
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2004 A

3.1

GENERAL CERTIFICATE ON:

1. TERMS
2. NO LITIGATION
3. GOVERNMENTAL APPROVALS AND BIDDING
4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS
5. SIGNATURES AND DELIVERY
6. RATES
7. INCUMBENCY AND OFFICIAL NAME
8. MEETINGS
9. INSURANCE
10. LOAN AGREEMENT
11. SPECIMEN BOND
12. BOND PROCEEDS
13. PUBLICATION AND PUBLIC HEARING ON BOND
ORDINANCE
14. LAND AND RIGHTS-OF-WAY
15. PUBLIC SERVICE COMMISSION ORDER
16. CONFLICTS OF INTEREST
17. PROCUREMENT OF ENGINEERING SERVICES
18. VERIFICATION OF SCHEDULE A
19. CLEAN WATER ACT
20. COUNTERPARTS

We, the undersigned MAYOR and the undersigned CITY CLERK of The City of Charleston in Kanawha County, West Virginia (the "Issuer"), and the undersigned CITY ATTORNEY for the Issuer, hereby certify in connection with The City of Charleston Sewerage System Revenue Bonds, Series 2004 A, numbered AR-1, dated the date hereof, in the principal amount of \$9,835,120 (the "Bonds"), as follows:

1. TERMS: All capitalized words and terms used in this General Certificate and not otherwise defined herein shall have the same meaning set forth in the Bond Ordinance duly passed by the Issuer on May 19, 2003, effective June 2, 2003, the Supplemental Resolution duly adopted by the Issuer on March 15, 2004 (collectively, the "Ordinance"), and the Loan Agreement by and among the Issuer, the West Virginia Water Development Authority (the "Authority"), and the West Virginia Department of Environmental Protection ("DEP"), dated February 25, 2004 (the "Loan Agreement").

2. **NO LITIGATION:** No controversy or litigation of any nature is now pending or, to the knowledge of any of the undersigned, threatened, restraining, enjoining or affecting in any manner the authorization, issuance, sale and delivery of the Bonds, the acquisition and construction of the Project, the operation of the System, the collection or use of the Gross Revenues, or the pledge and security of the Net Revenues for the Bonds; nor affecting the validity of the Bonds or any provisions made or authorized for the payment thereof; nor questioning the existence of the Issuer or the title of the members or officers of the Issuer, the Governing Body, or the Sanitary Board to their respective offices; nor questioning any proceedings of the Issuer taken with respect to the authorization, issuance, sale or delivery of the Bonds, the acquisition and construction of the Project, the operation of the System, the collection or use of the Gross Revenues, or the pledge and security of the Net Revenues for the Bonds.

3. **GOVERNMENTAL APPROVALS AND BIDDING:** All applicable and necessary 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 duly and timely 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 Code of West Virginia, 1931, as amended, which bids remain in full force and effect.

4. **NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS:** There has been no adverse change in the financial condition of the Issuer since the approval, execution and delivery by the Issuer of the Loan Agreement. The Issuer has met all conditions set forth in the Loan Agreement and will provide the financial, institutional, legal and managerial capabilities necessary to complete and operate the Project.

The Bonds are issued on a parity with the First Lien Bonds, and senior and prior to the Second Lien Bonds, with respect to liens, pledge and source of and security for payment and in all other respects. The Issuer has obtained (i) the certificate of an Independent Certified Public Accountant stating that the coverage and parity tests of the First Lien Bonds are met; and (ii) the written consent of the registered owners of the Prior Bonds (other than the Series 2002 A Bonds and the Series 2002 B Bonds) to the issuance of the Bonds on a parity with the First Lien Bonds, and senior and prior to the Second Lien Bonds. No written consent is required from the registered owners of the Series 2002 A Bonds and the Series 2002 B Bonds. Other than the Prior Bonds, there are no other outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System. The Issuer is in compliance with all the terms and provisions of the Prior Bonds and the Prior Ordinances.

5. **SIGNATURES AND DELIVERY:** The undersigned Mayor and City Clerk are the duly elected or appointed, qualified and acting officers of the Issuer as indicated by the

official titles opposite their signatures below, and are duly authorized to execute and seal the Bonds for the Issuer. The seal impressed upon the Bonds and this Certificate is the duly authorized, proper and only seal of the Issuer. On the date hereof, the undersigned Mayor did officially sign all of the Bonds, consisting upon original issuance of a single Bond, dated the date hereof, by his manual signature; the undersigned City Clerk did officially cause the seal of the Issuer to be affixed upon the Bonds and to be attested by his manual signature; and the Registrar did officially authenticate and deliver the Bonds to a representative of the Authority as the original purchaser of the Bonds under the Loan Agreement.

6. RATES: The Issuer has duly enacted a sewer rate ordinance on November 6, 2000, setting forth the rates and charges for the services of the System. The Issuer has complied with all requirements of the Act and the Public Service Commission of West Virginia (the "PSC") to make the rates valid and effective. The time for appeal of such rate ordinance has expired and there has been no appeal thereof and such rates are in full force and effect.

7. INCUMBENCY AND OFFICIAL NAME: The proper corporate title of the Issuer is "The City of Charleston." The Issuer is a municipal corporation of the State of West Virginia in Kanawha County of said State. The Governing Body of the Issuer is its Council, consisting of 27 Council members, the Mayor and the City Clerk, all duly elected or appointed, qualified and acting, whose names and dates of commencement and termination of their current terms of office are listed below:

<u>Office</u>	<u>Name</u>	<u>Date Of Commencement Of Office</u>	<u>Date Of Termination Of Office</u>
Mayor	Danny Jones	July 1, 2003	June 30, 2007
City Clerk	James M. Reishman	July 1, 2003	June 30, 2007
Council Member	Patrick Jones	July 1, 2003	June 30, 2007
Council Member	Will Hanna	July 1, 2003	June 30, 2007
Council Member	James "Moses" Lanham	July 1, 2003	June 30, 2007
Council Member	James Ealy	March 15, 2004	June 30, 2007
Council Member	Teresa Reed	July 1, 2003	June 30, 2007
Council Member	Edward Talkington	July 1, 2003	June 30, 2007
Council Member	Paul Monroe	July 1, 2003	June 30, 2007
Council Member	Bob White	July 1, 2003	June 30, 2007
Council Member	Betty Morton	July 1, 2003	June 30, 2007
Council Member	Archie Chestnut	July 1, 2003	June 30, 2007
Council Member	Marc R. Weintraub	July 1, 2003	June 30, 2007
Council Member	Jim Harris, Jr.	July 1, 2003	June 30, 2007

Council Member	Linda M. Nielsen	July 1, 2003	June 30, 2007
Council Member	Jack E. Harrison	July 1, 2003	June 30, 2007
Council Member	David Kent Higgins	July 1, 2003	June 30, 2007
Council Member	Brenda Robertson	July 1, 2003	June 30, 2007
Council Member	Bobby Reishman	July 1, 2003	June 30, 2007
Council Member	John H. Miller, Jr.	July 1, 2003	June 30, 2007
Council Member	Ditty L. Markham	July 1, 2003	June 30, 2007
Council Member	Cheryle M. Hall	July 1, 2003	June 30, 2007
Council Member	Mike Clowser	July 1, 2003	June 30, 2007
Council Member	Mary Jean Davis	July 1, 2003	June 30, 2007
Council Member	Tom Lane	July 1, 2003	June 30, 2007
Council Member	Charles W. Loeb, Jr.	July 1, 2003	June 30, 2007
Council Member	Harry Deitzler	July 1, 2003	June 30, 2007
Council Member	Jerry L. Ware	July 1, 2003	June 30, 2007
Council Member	Mark A. Sadd	July 1, 2003	June 30, 2007

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

Chairman:	Danny Jones, Mayor
Member:	John Tinney
Member:	Sam Bowling, P.E.

The duly appointed and acting City Attorney for the Issuer is Kimberly Weber, Esquire, Charleston, West Virginia. The duly appointed and acting special Public Service Commission counsel to the Issuer is Spilman, Thomas & Battle, PLLC.

8. **MEETINGS:** All actions, ordinances, resolutions, orders and agreements taken, adopted and entered into by or on behalf of the Issuer in any way connected with the issuance of the Bonds and the acquisition, construction, operation and financing of the Project or the System were authorized or adopted at meetings of the Governing Body duly and regularly or specifically called and held pursuant to the Rules of Procedure of the Governing Body and all applicable statutes including Chapter 6, Article 9A of the Code of West Virginia, 1931, as amended, and a quorum of duly elected or appointed, 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. **INSURANCE:** The Issuer will maintain or, as appropriate, will require all contractors to maintain worker's compensation, public liability and property damage insurance, standard hazard insurance, builder's risk insurance, flood insurance and business interruption insurance, where applicable, in accordance with the Ordinance and the Loan

Agreement. All insurance for the System required by the Ordinance and the Loan Agreement is in full force and effect.

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

11. SPECIMEN BOND: Attached hereto as Exhibit A is a specimen of the Bond which is identical in all respects with the Bond this day delivered to the Authority and being substantially in the form prescribed in the Ordinance.

12. BOND PROCEEDS: On the date hereof, the Issuer received \$617,860 from the Authority and the DEP, being a portion of the principal amount of the Bonds and more than a de minimus amount of the proceeds of the Bonds. The balance of the principal amount of the Bonds will be advanced to the Issuer from time to time as acquisition and construction of the Project progresses.

13. 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 two successive weeks, with not less than six full days between each publication, the first such publication occurring not less than ten days before the date stated below for the public hearing, in The Charleston Gazette and The Charleston Daily Mail, two qualified newspapers published and of general circulation in the Issuer, 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 the 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 June 2, 2003, at 7:00 p.m., prevailing time, in the council chambers of the City Hall in Charleston, West Virginia, and present protests, and stating that a certified copy of the Bond Ordinance was on file at the office of the City 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.

14. **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.

15. **PUBLIC SERVICE COMMISSION ORDER:** The Issuer has received the PSC orders entered on May 31, 2002, in Case No. 02-0370-S-PW, and October 10, 2003, in Case No. 03-0437-S-CN, among other things, either granting to the Issuer a certificate of public convenience and necessity for the Project or waiving the certificate, and approving the financing for the Project. The time for appeal of both PSC orders has expired without any appeal. Both orders remain in full force and effect.

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

17. **PROCUREMENT OF ENGINEERING SERVICES:** The Issuer has complied with all the requirements of Chapter 5G, Article 1 of the Code of West Virginia, 1931, as amended, in the procurement of the engineering services of the Consulting Engineer.

18. **VERIFICATION OF SCHEDULE A:** The final amended Schedule A attached to the Certificate of Consulting Engineer, with the signature of the Mayor and the 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.

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

20. **COUNTERPARTS:** This Certificate may be executed in counterparts and all counterparts shall be deemed to be the Certificate.

WITNESS our signatures and the official corporate seal of The City of Charleston, West Virginia, on this 23rd day of March, 2004.

[SEAL]

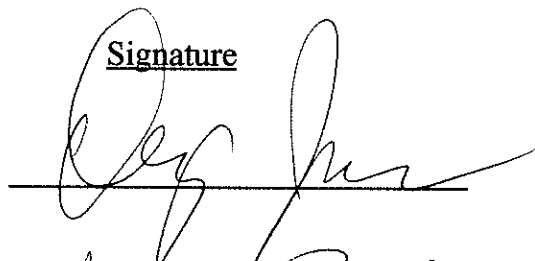
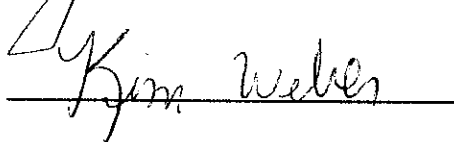
<u>Signature</u>	<u>Official Title</u>
 _____	Mayor
 _____	City Clerk
 _____	City Attorney

EXHIBIT A

See Specimen Bond (Tab No. 15)

THE CITY OF CHARLESTON
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2004 A

3.2

CERTIFICATE AS TO ARBITRAGE

The undersigned Mayor of The City of Charleston in Kanawha County, West Virginia (the "Issuer"), being the official of the Issuer duly charged with the responsibility for the issuance of \$9,835,120 aggregate principal amount of Sewerage System Revenue Bonds, Series 2004 A, of the Issuer, dated March 23, 2004 (the "Bonds"), hereby certifies as follows:

1. This certificate is being executed and delivered pursuant to Section 148 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"). 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 same meaning as set forth in the Bond Ordinance duly passed by the Issuer on May 19, 2003, effective June 2, 2003 as supplemented on March 15, 2004 (collectively, the "Bond Ordinance"), authorizing the Bonds.

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

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

4. This certificate is based upon facts, circumstances, estimates and expectations of the Issuer in existence on March 23, 2004, the date on which the Bonds are to be physically delivered in exchange for more than a de minimis amount of the principal of the Bonds, and to the best of my knowledge and belief, the expectations of the Issuer set forth herein are reasonable.

5. In the Bond Ordinance pursuant to which the Bonds are issued, the Issuer has covenanted that (i) it will restrict the use of the proceeds of the Bonds in such manner and to such extent as may be necessary, in view of the Issuer's reasonable expectations at the time of issuance of the Bonds, so that the Bonds will not constitute "arbitrage bonds" under Section 148 of the Code, and (ii) it will take all actions that may be required of it (including, without

implied limitation, the timely filing of a federal information return with respect to the Bonds) so that the interest on the Bonds will be and remain excluded from gross income for federal income tax purposes, and will not take any actions which would adversely affect such exclusion. The Issuer has, therefore, covenanted to not intentionally use any portion of the proceeds of the Bonds to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except as otherwise allowed under Sections 103 and 148 of the Code.

6. The Bonds were sold on March 23, 2004, to the West Virginia Water Development Authority (the "Authority"), pursuant to a loan agreement dated February 25, 2004, by and among the Issuer, the Authority, and the West Virginia Department of Environmental Protection (the "DEP"), for an aggregate purchase price of \$9,835,120 (100% of par value), at which time, the Issuer received \$617,860 from the Authority and the DEP, being more than a de minimus amount of the principal of the Bonds. No accrued interest has been or will be paid on the Bonds. The balance of the principal amount of the Bonds will be advanced to the Issuer as acquisition and construction of the Project progresses.

7. The Bonds are being delivered simultaneously with the delivery of this certificate and are issued for the purposes of (i) paying the costs of acquisition and construction of certain additions, betterments and improvements to the existing public sewerage system of the Issuer (the "Project"); (ii) funding a reserve account for the Bonds; and (iii) paying costs of issuance of the Bonds and related costs.

8. The Issuer shall, on the date hereof or immediately hereafter, enter into agreements which require the Issuer to expend at least 5% of the net sale proceeds of the Bonds for the acquisition and construction of the Project, constituting a substantial binding commitment, or has already done so. 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 proceed with due diligence to completion and, with the exception of proceeds deposited in the reserve account for the Bonds, 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 acquisition and construction of the Project on or before June, 2005. The acquisition and construction of the Project is expected to be completed by March, 2005.

9. The total cost of acquisition and construction of the Project (including all costs of issuance of the Bonds) is \$10,649,464. Sources and uses of funds for the Project are as follows:

SOURCES

Gross Proceeds of the Bonds	\$ 9,835,120
Issuer's Funds	\$ <u>814,344</u>
Total Sources	\$10,649,464

USES

Construction of Project	\$10,031,604
Capitalized Interest	0
Funded Reserve Account	597,860
Costs of Issuance	<u>20,000</u>
Total Uses	\$10,649,464

The total amount of the costs of acquisition and construction of the Project is estimated to be at least equal to the gross proceeds of the Bonds and funds of the Issuer stated above. Except for the proceeds of the Bonds and the funds of the Issuer stated above, no other funds of the Issuer will be available to meet costs of the Project, which would constitute "replacement proceeds" within the meaning of Treas. Reg. § 1.148-1 (c), inasmuch as (i) the Issuer does not reasonably expect that the term of the Bonds will be longer than is reasonably necessary for the governmental purposes of the Issuer, (ii) the weighted average maturity of the Bonds does not exceed 120% of the average reasonably expected economic life of the Project, and (iii) there are no amounts that have a sufficiently direct nexus to the Bonds or to the governmental purpose of the Bonds to conclude that the amounts would have been used for that governmental purpose if the proceeds of the Bonds were not used or to be used for that governmental purpose.

10. Pursuant to Article IV of the Bond Ordinance, the following special funds or accounts have been created (or continued pursuant to the Prior Ordinances):

- (1) Revenue Fund;
- (2) Renewal and Replacement Fund;
- (3) Series 2004 A Bonds Construction Trust Fund;
- (4) Series 2004 A Bonds Sinking Fund;
- (5) Series 2004 A Bonds Reserve Account; and
- (6) Rebate Fund.

11. Pursuant to Article IV of the Bond Ordinance, the proceeds of the Bonds will be deposited as follows:

(1) Bond proceeds in the amount of \$597,860 will be deposited in the Series 2004 A Bonds Reserve Account.

(2) The balance of the proceeds of the Bonds will be deposited in the Series 2004 A Bonds Construction Trust Fund as received from time to time and applied solely to payment of costs of acquisition and construction of the Project, including costs of issuance of the Bonds and related costs, and for no other purpose.

The Issuer reasonably expects that (i) at least 85% of the net sale proceeds of the Bonds will be spent on the Project within 3 years from the date of issuance of the Bonds; (2) within 6 months of the date of issuance of the Bonds the Issuer will incur a substantial binding obligation to a third party to expend at least 5% of the net sale proceeds of the Bonds on the Project, and (iii) completion of the Project and allocation of the net sale proceeds of the Bonds to expenditures of the Project will proceed with due diligence. Accordingly, amounts in the Series 2004 A Bonds Construction Trust Fund, if invested, will be invested without yield limitation for a period necessary to complete the Project, not to exceed 3 years. All of such moneys are necessary for such purpose.

Except for "preliminary expenditures" as defined in Treas. Reg. § 1.150-2(f)(2), none of the proceeds of the Bonds will be used to reimburse the Issuer for costs of acquisition and construction of the Project previously incurred and paid by the Issuer with its own funds.

12. Moneys held in the Series 2004 A Bonds Sinking Fund will be used solely to pay principal of and interest on the Bonds and will not be available to meet costs of acquisition and construction of the Project. All investment earnings on moneys in the Series 2004 A Bonds Reserve Account (if equal to the Series 2004 A Bonds Reserve Requirement) will be withdrawn therefrom, not less than once each year, and, during acquisition and construction of the Project, deposited into the Series 2004 A Bonds Construction Trust Fund, and following completion of the Project, will be deposited in the Series 2004 A Bonds Sinking Fund, and such amounts will be applied as set forth in the Bond Ordinance.

13. Except for the Series 2004 A Bonds Sinking Fund and the Series 2004 A Bonds Reserve Account, there are no other funds or accounts established or held by the Issuer which are reasonably expected to be used to pay debt service on the Bonds, or which are pledged as collateral for the Bonds and for which there is a reasonable assurance that amounts therein will be available to pay debt service on the Bonds, if the Issuer encounters financial difficulties. The Issuer does not expect that moneys in the Renewal and Replacement Fund will be used or needed for payments upon the Bonds, and because such amounts may be

expended for other purposes, there is no reasonable assurance that such amounts would be available to meet debt service if the Issuer encounters financial difficulties; thus, such amounts may be invested without yield limitation. Except as provided herein, no funds which have been or will be used to acquire directly or indirectly securities, obligations, annuity contracts, investment-type property or any residential rental property for family units which is not located within the jurisdiction of the Issuer and which is not acquired to implement a court ordered or approved desegregation plan or other investment property producing a yield in excess of the yield on the Bonds, have been or will be pledged to payment of the Bonds. Less than 10% of the stated principal amount of the Bonds, if any, will be deposited in the Series 2004 A Bonds Reserve Account or any other reserve or replacement fund. The amounts deposited in the Series 2004 A Bonds Reserve Account from time to time by the Issuer will not exceed the maximum annual principal and interest on the Bonds and will not exceed 125% of average annual principal and interest on the Bonds. Amounts in the Series 2004 A Bonds Reserve Account, not to exceed 10% of the proceeds of the Bonds, if invested, will be invested without yield limitation. The establishment of the Series 2004 A Bonds Reserve Account is required by the Authority, is vital to its purchase of the Bonds and is reasonably required to assure payments of debt service on the Bonds.

14. Not later than simultaneously with the delivery of the Bonds, the Issuer shall enter into a contract for the acquisition and construction of the Project, and the amount to be expended pursuant to such contract exceeds 5% of the net sale proceeds of the Bonds.

15. 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.

16. The Issuer will comply with the provisions of the Code, for which the effective date precedes the date of delivery of the Bonds to the Authority.

17. With the exception of the amount deposited in the Series 2004 A Bonds Reserve Account, if any, all of the proceeds of the Bonds will be expended on the Project within 15 months from the date of issuance thereof.

18. The Series 2004 A Bonds Sinking Fund (other than the Series 2004 A Bonds Reserve Account therein) is intended primarily to achieve a proper matching of payments of debt service on the Bonds each year. The Series 2004 A Bonds Sinking Fund (other than the Series 2004 A Bonds Reserve Account therein) will be depleted at least once a year, except for a reasonable carryover amount not in excess of the greater of 1/12th of annual debt service on the Bonds or 1 year's interest earnings on the Series 2004 A Bonds Sinking Fund (other than the Series 2004 A Bonds Reserve Account therein). Except as otherwise allowed, any money deposited in the Series 2004 A Bonds Sinking Fund for payment

of the principal of or interest on the Bonds (other than the Series 2004 A Bonds Reserve Account therein) will be spent within a 13-month period beginning on the date of receipt and will be invested without yield limitation, and any moneys received from the investment of amounts held in the Series 2004 A Bonds Sinking Fund (other than in the Series 2004 A Bonds Reserve Account therein) will be spent within a 1-year period beginning on the date of receipt.

19. The amount designated as cost of issuance of the Bonds consists only of costs which are directly related to and necessary for the issuance of the Bonds.

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

21. No more than 10% of the proceeds of the Bonds will be used (directly or indirectly) in any trade or business carried on by, and less than 5% of the proceeds of the Bonds or \$5,000,000 have been or will be used to make or finance loans to, any person who is not a governmental unit.

22. The original proceeds of the Bonds will not exceed the amount necessary for the purposes of the issue.

23. The Issuer shall use the proceeds of the Bonds solely for the costs of acquisition and construction of the Project, and the Project will be operated solely for a public purpose as a local governmental activity of the Issuer.

24. The Issuer shall not permit at any time or times any of the proceeds of the Bonds or any other funds of the Issuer to be used directly or indirectly in a manner which would result in the exclusion of the Bonds from treatment afforded by Section 103(a) of the Code by reason of classification of the Bonds as "private activity bonds" within the meaning of the Code. The Issuer will take all actions necessary to comply with the Code and the Regulations promulgated or to be promulgated thereunder in order to assure that the interest on the Bonds is excluded from gross income for federal income tax purposes.

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

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

27. The Issuer has retained the right to amend the Bond Ordinance authorizing the issuance of the Bonds if such amendment is necessary to assure compliance with Section 148(f) of the Code or as may otherwise be necessary to assure the exclusion of interest on the Bonds from gross income for federal income tax purposes.

28. The Issuer shall comply with the yield restriction on the proceeds of the Bonds as set forth in the Code.

29. The Issuer has either (a) funded the Series 2004 A Bonds Reserve Account at the maximum amount of principal and interest which will mature and become due on the Bonds in the then current or any succeeding year with the proceeds of the Bonds, or (b) created the Series 2004 A Bonds Reserve Account which will be funded with equal payments made on a monthly basis over a 10-year period until the Series 2004 A Bonds Reserve Account holds an amount equal to the maximum amount of principal and interest which will mature and become due on the Bonds in the then current or any succeeding year. Moneys in the Series 2004 A Bonds Reserve Account and the Series 2004 A 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. The Issuer shall submit to the Authority within 15 days following the end of each bond year a certified copy of its rebate calculation and a certificate with respect thereto or, if the Issuer qualifies for the small governmental issuer exception to rebate, or any other exception thereto, then the Issuer shall submit to the Authority a certificate stating that it is exempt from the rebate provisions and that no event has occurred to its knowledge during the bond year which would make the Bonds subject to rebate.

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

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

33. The Issuer shall at all times take, and refrain from taking, and shall not fail to take, any and all actions necessary in order to assure the initial and continued tax-exempt

status of the Bonds and the interest thereon. Less than 10% of the proceeds of the Bonds will be used, directly or indirectly, for any private business use, and less than 10% of the payment of principal of, or the interest on, such issue, under the terms of such issue or any underlying arrangement, is, directly or indirectly, secured by any interest in property used or to be used for a private business use, or payments in respect of such property, or to be derived from payments (whether or not to the Issuer) in respect of property, or borrowed money, used or to be used for a private business use. None of the proceeds of the Bonds will be used, directly or indirectly, for any private business use which is not related to the governmental use of the proceeds of the Bonds, including the disproportionate related business use of the proceeds of the Bonds, and none of the payment of principal of, or the interest on, such issue, under the terms of any underlying arrangement, is, directly or indirectly, secured by any interest in property used, or to be used for a private business use, payments in respect of such property or to be derived from payments (whether or not to the Issuer) in respect of property, or borrowed money, used or to be used for a private business use with respect to such private business use, which is not related to any government use of such proceeds, including the disproportionate business use of the issue of the Bonds. None of the proceeds of the issue of the Bonds will be used, directly or indirectly, to make or finance loans to persons other than governmental units. For purposes of this paragraph, private business use means use, directly or indirectly, in a trade or business carried on by any person, including related persons, other than a governmental unit or other than use as a member of the general public. All of the foregoing shall be determined in accordance with and within the meaning of the Internal Revenue Code of 1986, as amended, including any successor provisions and rules and regulations thereunder (the "Code").

34. The Bonds are a fixed yield issue. No interest or other amount payable on the Bonds (other than in the event of an unanticipated contingency) is determined by reference to (or by reference to an index that reflects) market interest rates or stock or commodity prices after the date of issue.

35. None of the Bonds has a yield-to-maturity more than one-fourth of one percent higher than the yield on the Bonds determined by assuming the Bonds are retired on the date that when used in computing the yield on the Bonds produces the lowest yield.

36. No portion of the proceeds of the Bonds will be used, directly or indirectly, to replace funds which were used, directly or indirectly, to acquire higher yielding investments, all within the meaning of Section 148 of the Code.

37. 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 source of

funds or will have substantially the same claim to be paid out of substantially the same source of funds as the Bonds.

38. The transaction contemplated herein does not represent an exploitation of the difference between taxable and tax-exempt interest rates and the execution and delivery of the Bonds is not occurring sooner than otherwise necessary, nor are the Bonds in principal amounts greater than otherwise necessary or to be outstanding longer than otherwise necessary.

39. On the basis of the foregoing, it is not expected that the proceeds of the Bonds will be used in a manner that would cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code.

40. On the date hereof, the undersigned Mayor did officially execute a properly completed IRS Form 8038-G in connection with the Bonds and will cause such executed IRS Form 8038-G to be filed in a timely manner pursuant to Section 149(e) of the Code with the applicable Internal Revenue Service Center. The information contained in such executed Form 8038-G is true, correct and complete.

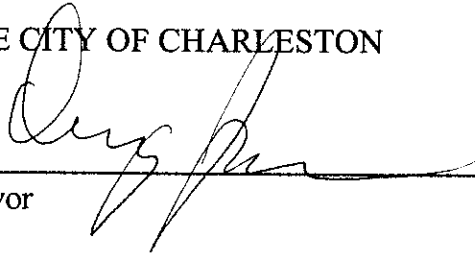
41. To the best of my knowledge, information and belief, there are no other facts, estimates and circumstances which would materially change the expectations herein expressed.

42. Jackson Kelly PLLC is entitled to rely upon the representations, expectations, covenants, certifications and statements contained herein in rendering its opinions regarding the tax-exempt status of interest on the Bonds.

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

WITNESS my signature on this 23rd day of March, 2004.

THE CITY OF CHARLESTON



Mayor

THE CITY OF CHARLESTON
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2004 A

3.3

CERTIFICATE OF CITY CLERK AS TO TRUTH
AND ACCURACY OF DOCUMENTS DELIVERED

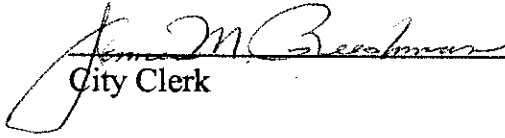
The undersigned duly elected City Clerk of The City of Charleston, West Virginia (the "Issuer"), hereby certifies that the copies of the following documents being delivered in connection with the closing of the sale of The City of Charleston Sewerage System Revenue Bonds, Series 2004 A (the "Bonds") are, as of the date hereof, true, complete and accurate copies of the originals of those documents maintained on file with the Issuer and delivered in the transcript of proceedings, that said documents have been duly adopted, enacted or entered by the Council of the Issuer, and that said documents are still in full force and effect as of the date hereof and have not been repealed, rescinded, superseded, amended or modified in any way unless the document effecting such repeal, rescission, supersedence, amendment or modification is also listed below:

1. Charter.
2. Oaths of Office of Mayor, City Clerk and Council Members.
3. Ordinance Creating Sanitary Board.
4. Oaths of Office of Sanitary Board Members.
5. Public Service Commission Order.
6. Infrastructure Council Approval Letter.
7. Loan Agreement.
8. Rate Ordinance.
9. Minutes of Council Meetings regarding All Readings and Public Hearing of the Rate Ordinance.
10. Affidavit of Publication of the Rate Ordinance and Notice of Public Hearing.

11. Petition of Sanitary Board.
12. Bond Ordinance.
13. Supplemental Resolution.
14. Minutes of Council Meetings regarding All Readings and Public Hearing of the Bond Ordinance and Adoption of the Supplemental Resolution.
15. Affidavit of Publication of the Notice of Public Hearing and Abstract of Bond Ordinance.
16. WDA Consent to Issuance of Parity Bonds.
17. NPDES Permit.
18. Evidence of Insurance.

[The rest of this page is intentionally left blank.]

WITNESS my signature and the official seal of The City of Charleston, West Virginia, on this 23rd day of March, 2004.


City Clerk

[SEAL]

THE CITY OF CHARLESTON
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2004 A

3.4

CERTIFICATE OF CONSULTING ENGINEER

I, Harvey A. McCallister, Jr., Registered Professional Engineer, West Virginia License No. 7201, of HNTB Corporation, Consulting Engineer, Scott Depot, West Virginia, hereby certify as follows:

1. My firm is the engineer for the planning, design, acquisition and construction of certain additions, betterments and improvements (the "Project") to the existing sewerage system (the "System") of The City of Charleston (the "Issuer"), to be constructed primarily in Kanawha County, West Virginia, which acquisition and construction are being permanently financed by the above-captioned bonds (the "Bonds") of the Issuer. All capitalized words used herein and not defined herein shall have the same meaning set forth in the Bond Ordinance passed by the Issuer on May 19, 2003, effective June 2, 2003, and the Loan Agreement by and among the Issuer, the West Virginia Water Development Authority (the "Authority") and the West Virginia Department of Environmental Protection ("DEP"), dated February 25, 2004 (the "Loan Agreement").

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

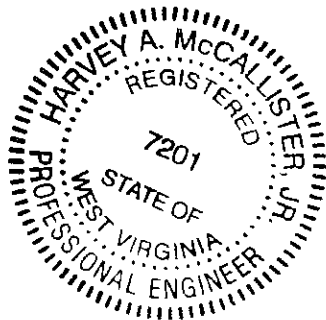
3. To the best of my knowledge, information and belief (i) within the limits and in accordance with the applicable and governing contractual requirements relating to the Project, the Project will be constructed in general accordance with the approved plans, specifications and designs prepared by my firm and approved by the DEP and any change orders approved by the Issuer, the DEP and all necessary governmental bodies; (ii) the Project, as designed, is adequate for its intended purpose and has a useful life of at least 25 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 A attached hereto as Exhibit A, all successful bidders have made required provisions for all insurance and payment and performance bonds and 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 and the bid forms provided to the

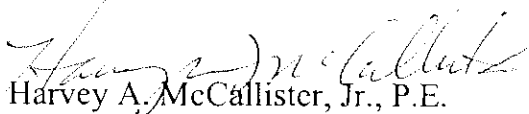
bidders contain all critical operational components of the Project; (vi) the successful bids include prices for every item on such bid forms; (vii) the uniform bid procedures were followed; (viii) the Issuer has obtained all permits required by the laws of the State of West Virginia and the United States necessary for the acquisition and construction of the Project and operation of the System; (ix) in reliance upon the certificate of Grigoraci, Trainer, Wright & Paterno, Certified Public Accountants, of even date herewith, as of the effective date thereof, the rates and charges for the System as enacted 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 approved by the DEP; and (xi) attached hereto as Exhibit A is the final amended "Schedule A - Total Cost of Project, Sources of Funds and Cost of Financing" for the Project.

WITNESS my signature and seal on this 23rd day of March, 2004.

HNTB CORPORATION

[SEAL]




Harvey A. McCallister, Jr., P.E.
West Virginia License No. 7201

SCHEDULE A

NAME OF GOVERNMENTAL AGENCY:

Charleston Sanitary Board

ESTIMATED TOTAL COST OF PROJECT, SOURCES OF FUNDS AND COST OF FINANCING

A. Cost of Project

1	Construction	\$8,499,147.00	
2	Technical Services	\$757,500.00	
3	Legal and Fiscal	\$0.00	
4	Administrative	\$0.00	
5	Site and Other Lands	\$350,000.00	
6	Fac. Plan/Design or Other		
	Loan Repayment (Specify Type: _____)	\$0.00	
7	Interim Financing Costs	\$0.00	
8	Contingency	\$424,957.00	
9	Miscellaneous	\$0.00	
10	Total of Lines 1 Through 9		\$10,031,604.00

B. Sources of Funds

11	Federal Grants:1 _____ (Specify Sources) _____	\$0.00	
12	State Grants: 1 _____ (Specify Sources) _____	\$0.00	
13	Other Grants: 1 _____ (Specify Sources) _____	\$0.00	
14	Any Other Source: 2 CSB Contribution	\$814,344.00	
15	Total of Lines 11 Through 14		\$814,344.00
16	Net Proceeds Required from Bond Issue (Line 10 minus Line 15)		\$9,217,260.00

C. Cost of Financing

17	Bond Counsel	\$20,000.00	
18	Funded Reserve Account3	\$597,860.00	
19	Total Cost of Financing (Line 17 plus Line 18)		\$617,860.00
20	Size of Bond Issue (Line 16 plus Line 19)		\$9,835,120.00

* not allowable for State Revolving Fund Assistance

** WDA loans associated with EPA grants are not allowable

Signature of Governmental Agency

Signature of Consulting Engineer

Date March 16, 2004

Date

SCHEDULE A

NAME OF GOVERNMENTAL AGENCY:

Charleston Sanitary Board

ESTIMATED TOTAL COST OF PROJECT, SOURCES OF FUNDS AND COST OF FINANCING

A. Cost of Project

1	Construction	\$8,499,147.00	
2	Technical Services	\$757,500.00	
3	Legal and Fiscal	\$0.00	
4	Administrative	\$0.00	
5	Site and Other Lands	\$350,000.00	
6	Fac. Plan/Design or Other		
	Loan Repayment (Specify Type: _____)	\$0.00	
7	Interim Financing Costs	\$0.00	
8	Contingency	\$424,957.00	
9	Miscellaneous	\$0.00	
10	Total of Lines 1 Through 9		\$10,031,604.00

B. Sources of Funds

11	Federal Grants: 1 _____ (Specify Sources) _____	\$0.00	
		\$0.00	
12	State Grants: 1 _____ (Specify Sources) _____	\$0.00	
		\$0.00	
13	Other Grants: 1 _____ (Specify Sources) _____	\$0.00	
		\$0.00	
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20	Size of Bond Issue (Line 16 plus Line 19)		\$9,835,120.00

* not allowable for State Revolving Fund Assistance
 ** WDA loans associated with EPA grants are not allowable

Signature of Governmental Agency

Signature of Consulting Engineer

Date

Date March 16 2004

March 23, 2004

THE CITY OF CHARLESTON
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2004 A

The City of Charleston
P.O. Box 2749
Charleston, WV 25330

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

West Virginia Department of Environmental Protection
1560 Kanawha Boulevard, East
Charleston, WV 25311

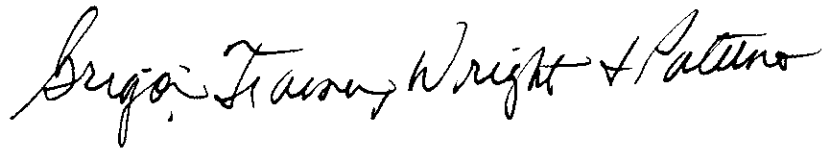
Ladies and Gentlemen:

We have reviewed the sewer service rates of The City of Charleston (the "Issuer"), enacted by the Issuer on November 6, 2000, and the projected operating expenses and anticipated customer usage provided by the Charleston Sanitary Board. It is our opinion that such rates are adequate (i) to provide for all operating expenses of the sewerage system of the Issuer (the "System"), and (ii) to leave a balance each year equal to at least 115% of the maximum amount required in any year for the payment of principal of and interest on the Issuer's Sewerage System Revenue Bonds, Series 2004 A (the "Series 2004 A Bonds") and all other obligations secured by or payable from revenues of the System on a parity with or junior to the Series 2004 A Bonds, including the Issuer's Sewer Revenue Bonds, Series 1989 A, Sewer Revenue Bonds, Series 1989 C, Sewerage System Revenue Bonds, 1993 Series A, Sewerage System Revenue Bonds, Series 1996 A, Sewerage System Revenue Bonds, Series 1996 B, Sewerage System Revenue Bonds, Series 1997 A, Sewerage System Revenue Bonds, Series 1997 B, Sewerage System Revenue Bonds, 1998 Series A, Sewerage System Revenue Bonds, 1999 Series A, Sewerage System Revenue Bonds, Series 2001 A, Sewerage System Revenue Bonds, 2001 Series B, Sewerage System Refunding Revenue Bonds, Series 2002 A, Sewerage System Refunding Revenue Bonds, Series 2002 B, Supplemental Sewer Revenue Bonds, Series 1989 B, Supplemental Sewer Revenue Bonds, Series 1989 D, Sewerage System Revenue Bonds, 1999 Series B and Sewerage System Revenue Bonds, 2001 Series C (collectively, the "Prior Bonds").

It is further our opinion that the Net Revenues actually derived from the System during any 12 consecutive months within the 18 months immediately preceding the date of the actual issuance of the Series 2004 A 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 the Series 2004 A Bonds, will not be less than 115% of the maximum annual amount which will mature and become due in any succeeding year for principal of and interest on the Prior Bonds and the Series 2004 A Bonds.

Capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Bond Ordinance authorizing the Series 2004 A Bonds.

Very truly yours,

A handwritten signature in cursive script that reads "Gregor T. Wright & Partners". The signature is written in black ink and is positioned below the "Very truly yours," text.

THE CITY OF CHARLESTON
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2004 A

3.6

RECEIPT FOR BONDS

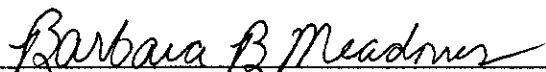
The undersigned authorized representative of the West Virginia Water Development Authority (the "Authority"), for and on behalf of the Authority, hereby certifies as follows:

1. On the 23rd day of March, 2004, in Charleston, West Virginia, the Authority received the entire original issue of \$9,835,120 in aggregate principal amount of the Sewerage System Revenue Bonds, Series 2004 A, of The City of Charleston (the "Issuer"), dated March 23, 2004, issued in the form of one bond, fully registered to the Authority, and numbered AR-1 (the "Bonds").

2. At the time of such receipt of the Bonds, they had been executed by the Mayor of the Issuer and attested by the City Clerk of the Issuer, by their respective manual signatures, and the official seal of the Issuer had been impressed upon the Bonds.

WITNESS my signature on this 23rd day of March, 2004.

WEST VIRGINIA WATER DEVELOPMENT
AUTHORITY


Authorized Representative

THE CITY OF CHARLESTON
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2004 A

3.7

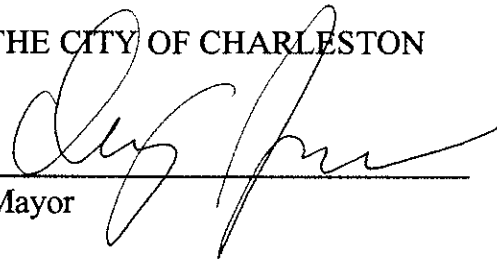
RECEIPT FOR BOND PROCEEDS

The undersigned Mayor of The City of Charleston (the "Issuer"), for and on behalf of the Issuer, hereby certifies as follows:

On the 23rd day of March, 2004, the Issuer received and hereby acknowledges receipt from the West Virginia Water Development Authority (the "Authority"), as the original purchaser of the \$9,835,120 The City of Charleston Sewerage System Revenue Bonds, Series 2004 A, dated March 23, 2004 (the "Bonds"), of \$617,860, being a portion of the principal amount of the Bonds. The Issuer understands that the remaining proceeds of the Bonds will be advanced to the Issuer from time to time as construction proceeds to completion.

WITNESS my signature on this 23rd day of March, 2004.

THE CITY OF CHARLESTON



Mayor

THE CITY OF CHARLESTON
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2004 A

3.8

REQUEST AND AUTHORIZATION TO
AUTHENTICATE AND DELIVER THE BONDS

United Bank, Inc., as Registrar
Charleston, West Virginia

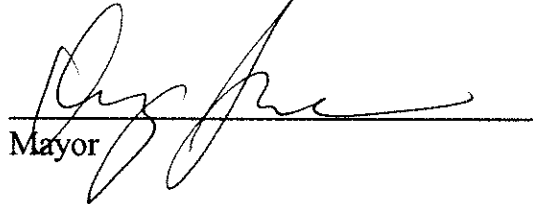
Ladies and Gentlemen:

We herewith hand to you, duly executed, the \$9,835,120 Sewerage System Revenue Bonds, Series 2004 A, in the form of one bond, numbered AR-1, dated March 23, 2004 (the "Bonds"), of The City of Charleston, West Virginia (the "Issuer"), authorized to be issued under and pursuant to a Bond Ordinance duly passed by the Issuer on May 19, 2003, effective June 2, 2003, and a Supplemental Resolution duly adopted by the Issuer on March 15, 2004.

You are hereby requested and authorized to register, authenticate and deliver the Bonds on behalf of the Issuer to the West Virginia Water Development Authority.

WITNESS my signature this 23rd day of March, 2004.

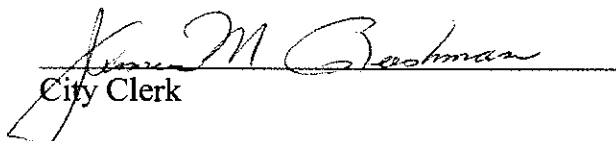
THE CITY OF CHARLESTON



Mayor

(SEAL)

Attest:



City Clerk

THE CITY OF CHARLESTON
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2004 A

3.9

REGISTRAR'S AGREEMENT

THIS REGISTRAR'S AGREEMENT, dated as of the 23rd day of March, 2004, by and between THE CITY OF CHARLESTON, WEST VIRGINIA, a municipal corporation (the "Issuer"), and UNITED BANK, INC., Charleston, West Virginia (the "Registrar").

WHEREAS, the Issuer has, contemporaneously with the execution hereof, issued and sold its \$9,835,120 Sewerage System Revenue Bonds, Series 2004 A (the "Bonds"), in the form of one bond, numbered AR-1, in fully registered form, pursuant to a Bond Ordinance duly passed by the Issuer on May 19, 2003, effective June 2, 2003, and a Supplemental Resolution duly adopted March 15, 2004 (collectively, the "Ordinance");

WHEREAS, capitalized words and terms used in this Registrar's Agreement and not otherwise defined herein shall have the respective meanings given them in the Ordinance, a copy of which is attached as Exhibit A hereto and incorporated herein by reference;

WHEREAS, the Ordinance provides for an appointment by the Issuer of a Registrar for the Bonds; and

WHEREAS, the Issuer desires to appoint, and by the Ordinance and this Registrar's Agreement does appoint, the Registrar to act as Registrar under the Ordinance and to take certain other actions hereinafter set forth;

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

1. Upon the execution of this Registrar's Agreement by the Issuer and the Registrar and during the term hereof, the Registrar does accept and shall have and carry out the powers and duties of Registrar for the Bonds, all as set forth in the Ordinance, such duties including, among other things, the duties to authenticate, register and deliver Bonds upon original issuance and when properly presented for exchange or transfer, and shall do so with the intention of maintaining the exclusion of interest, if any, on the Bonds from gross income for federal income tax purposes, in accordance with any rules and regulations promulgated by the United States Treasury Department or by the Municipal Securities Rulemaking Board or similar regulatory bodies as the Issuer advises it of and with generally accepted industry standards.

2. The Registrar agrees to furnish the Issuer with appropriate records of all transactions carried out by it as Registrar and to furnish the Issuer with the names and specimen signatures of the Registrar's authorized officers for the purposes of acting as the Registrar and with such other information and reports as the Issuer may from time to time reasonably require.

3. The Registrar shall have no responsibility or liability for any action taken by it at the specific direction of the Issuer.

4. As compensation for acting as Registrar pursuant to this Registrar's Agreement, the Issuer hereby agrees to pay to the Registrar 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 Ordinance with respect to the Registrar. In the event of any conflict between the terms of this Registrar's Agreement and the Ordinance, the terms of the Ordinance shall govern.

6. The Issuer and the Registrar each warrants and represents that it is duly authorized and empowered to execute and enter into this Registrar's Agreement and that neither such execution nor the performance of its duties hereunder or under the Ordinance will violate any order, decree or agreement to which it is a party or by which it is bound.

7. This Registrar's Agreement may be terminated by either party upon 60 days' written notice sent by registered or certified mail to the other party, at the following respective address:

ISSUER:

The City of Charleston
P.O. Box 2749
Charleston, WV 25330
Attention: Mayor

REGISTRAR:

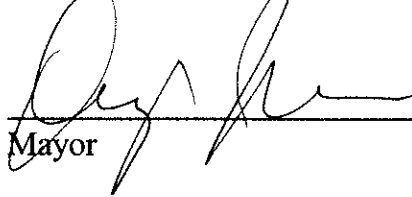
United Bank, Inc.
P.O. Box 393
Charleston, WV 25322
Attention: Corporate Trust Department

The Issuer and the Registrar shall notify the other in writing of any change of address.

8. The Registrar is hereby requested and authorized to authenticate and deliver the Bonds in accordance with the Ordinance.

IN WITNESS WHEREOF, the 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 above-written.

THE CITY OF CHARLESTON



Mayor

UNITED BANK, INC.

Authorized Officer

The Issuer and the Registrar shall notify the other in writing of any change of address.

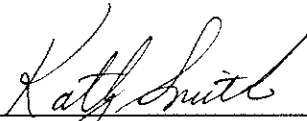
8. The Registrar is hereby requested and authorized to authenticate and deliver the Bonds in accordance with the Ordinance.

IN WITNESS WHEREOF, the 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 above-written.

THE CITY OF CHARLESTON

Mayor

UNITED BANK, INC.



Authorized Officer

EXHIBIT A

See Bond Ordinance (Tab No. 11)

See Supplemental Resolution (Tab No. 12)

THE CITY OF CHARLESTON
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2004 A

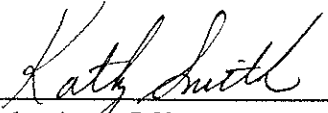
3.10

CERTIFICATE OF REGISTRATION OF BONDS

UNITED BANK, INC., Charleston, West Virginia, as Registrar (the "Registrar"), hereby certifies that on the date hereof, the single, fully registered Sewerage System Revenue Bonds, Series 2004 A, of The City of Charleston, West Virginia (the "Issuer"), dated March 23, 2004, in the principal amount of \$9,835,120, and numbered AR-1, was registered as to principal and interest 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 Registrar.

WITNESS my signature on this 23rd day of March, 2004.

UNITED BANK, INC., as Registrar



Authorized Officer

THE CITY OF CHARLESTON
SEWERAGE SYSTEM REVENUE BONDS, SERIES 2004 A

3.11

ACCEPTANCE OF APPOINTMENT AS DEPOSITORY BANK

BANK ONE, NA, Charleston, West Virginia, hereby accepts appointment as Depository Bank in connection with a Bond Ordinance of The City of Charleston, West Virginia (the "Issuer"), passed by the Issuer on May 19, 2003, effective June 2, 2003, and a Supplemental Resolution adopted by the Issuer on March 15, 2004 (collectively, the "Ordinance"), authorizing the issuance of The City of Charleston Sewerage System Revenue Bonds, Series 2004 A, in the aggregate principal amount of \$9,835,120, dated March 23, 2004, and agrees to serve as Depository Bank for the Revenue Fund all as set forth in the Ordinance.

WITNESS my signature on this 23rd day of March, 2004.

BANK ONE, NA



Authorized Officer

3.12

Suite 500

8 Capitol Street, Charleston, WV 25301

(304) 558-3971

NEW ISSUE REPORT FORM

Date of Report: March 23, 2004

ISSUE: The City of Charleston Sewerage System Revenue Bonds, Series 2004 A

ADDRESS: P.O. Box 2749, Charleston, WV 25330 COUNTY: Kanawha

PURPOSE OF ISSUE: New Money X
Refunding Refunds issue(s) dated:

ISSUE DATE: March 23, 2004 CLOSING DATE: March 23, 2004

ISSUE AMOUNT: \$9,835,120 RATE: 2%; Administrative Fee: 1%

1st DEBT SERVICE DUE: September 1, 2005 1st PRINCIPAL DUE: September 1, 2005

1st DEBT SERVICE AMOUNT: \$149,464.67 PAYING AGENT: Municipal Bond Commission

BOND COUNSEL: Jackson Kelly PLLC
 Contact Person: Samme L. Gee, Esquire
 Phone: (304) 340-1318

UNDERWRITERS COUNSEL: _____
 Contact Person: _____
 Phone: _____

CLOSING BANK: Bank One, NA
 Contact Person: John T. Copenhaver
 Phone: (304) 348-4413

ESCROW TRUSTEE: _____
 Contact Person: _____
 Phone: _____

KNOWLEDGEABLE ISSUER CONTACT: OTHER: WVDEP
 Contact Person: Bill Collison Contact Person: Rosalie Brodersen
 Position: Finance Manager Function: Program Manager
 Phone: (304) 348-1084 Phone: (304) 558-0637

DEPOSITS TO MBC AT CLOSE: _____		Accrued Interest: \$ _____
By _____ Wire _____ X _____		Capitalized Interest: \$ _____
X _____	Check _____	Reserve Account: \$597,860
		Other: \$ _____

REFUNDS & TRANSFERS BY MBC AT CLOSE:

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

NOTES: _____

FOR MUNICIPAL BOND COMMISSION USE ONLY:

Documents Required: _____
Transfers Required: _____



Division of Water Resources
1201 Greenbrier Street
Charleston, West Virginia 25311
Phone (304) 558-4086
Fax (304) 558-5903

West Virginia Department of Environmental Protection

Bob Wise
Governor

Michael O. Callaghan
Secretary

June 07, 2002

KATHY RUSHWORTH, GEN. MGR.
CHARLESTON CITY OF
SANITARY BOARD
PO BOX 1026
CHARLESTON, WV 25324

CERTIFIED RETURN RECEIPT REQUESTED

Dear Permittee:

Enclosed please find WV/NPDES Permit Number WV0023205 dated June 07, 2002.

In response to correspondence, dated February 5, 2002, from Spillman Thomas & Battle, presenting comments on behalf of the City, on the draft WV/NPDES Water Pollution Control Permit, the succeeding meeting, on March 21, 2002, and subsequent discussions relative to the materials, we present the following. This response has, been categorized, and comments have been addressed, with reference to presentation in the draft WV/NPDES Water Pollution Control Permit, and in numerical order of, the specific concern.

Comment No. 1 : Fact Sheet

As discussed in the meeting, on March 21, 2002, the Fact Sheet is a supporting document to the draft Permit preparation. The draft Permit may be revised to address concerns raised on Fact Sheet data, however, the Fact Sheet would not be subject to revision. Therefore, the comments presented in Section 1 will be addressed in the Permit revisions, accordingly.

Comment No. 2 : a. Plate Press to Supplement the Preliminary Treatment

The final Permit has been revised to incorporate the appropriate revision.

Comment No. 2 : b. Septage Receiving Station

The final Permit has been revised to incorporate the appropriate revision.

Comment No. 2 : c. Anaerobic Digester Data

The final Permit has been revised to incorporate the appropriate revision.

Comment No. 2 : d. CSO Outlet Nos. 012 and 027

The final Permit has been revised to incorporate the appropriate revision.

Comment No. 2 : e. CSO Outlet No. 037

March 23, 2004

The City of Charleston
P.O. Box 2749
Charleston, WV 25330

West Virginia Department of Environmental Protection
1560 Kanawha Boulevard, East
Charleston, WV 25311

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

Re: The City of Charleston
Sewerage System Revenue Bonds, Series 2004 A

Ladies and Gentlemen:

We have served as bond counsel to The City of Charleston (“the Issuer”), a municipal corporation, in connection with the issuance of its Sewerage System Revenue Bonds, Series 2004 A, dated the date hereof (the “Bonds”).

We have examined certified copies of proceedings and other papers relating to the authorization of (i) a loan agreement for the Bonds dated February 25, 2004, including all schedules and exhibits attached thereto (the “Loan Agreement”), by and among the Issuer, the West Virginia Water Development Authority (the “Authority”) and the West Virginia Department of Environmental Protection (the “DEP”), and (ii) the Bonds to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Bonds are issued in the principal amount of \$9,835,120, in the form of one bond, registered as to principal and interest to the Authority, with interest at the rate of 2% per annum, and with principal and interest payable quarterly on March 1, June 1, September 1, and December 1 of each year, commencing September 1, 2005, all as set forth in the Schedule Y attached to the Loan Agreement and incorporated in and made a part of the Bonds. The Bonds are subject to the SRF Administrative Fee equal to 1% of the principal amount of the Bonds as set forth in the Schedule Y attached to the Loan Agreement.

M0362800.1

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

We have also examined the applicable provisions of the Act and a Bond Ordinance duly passed by the Issuer on May 19, 2003, effective June 2, 2003, as supplemented by a Supplemental Resolution duly adopted by the Issuer on March 15, 2004 (collectively, the "Ordinance"), pursuant to and under which Act and Ordinance 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 Ordinance and the Loan Agreement. All capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Ordinance and in the Loan Agreement when used herein.

In connection with the issuance of the Bonds, the Issuer has executed a Certificate as to Arbitrage, dated as of the date hereof (the "Certificate as to Arbitrage"), which, among other things, sets forth restrictions on the investment and expenditure of the Bond proceeds and earnings thereon, to ensure that the arbitrage requirements of the Internal Revenue Code of 1986, as amended, and regulations thereunder (collectively, the "Code"), necessary to establish and maintain the excludability of interest on the Bonds from gross income for federal income tax purposes, are and will continue to be met.

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

1. The Issuer is a duly organized and presently existing municipal corporation and political subdivision of the State of West Virginia, with full power and authority to acquire and construct the Project, to operate and maintain the System, to enact the Ordinance 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 and is a valid and binding special obligation of the Issuer enforceable in accordance with the terms thereof.

3. The Loan Agreement inures to the benefit of the Authority and the DEP and cannot be amended so as to affect adversely the rights of the Authority or the DEP or diminish the obligations of the Issuer without the written consent of the Authority and the DEP.

4. The Issuer has legally and effectively enacted the Ordinance and adopted all other necessary resolutions in connection with the issuance and sale of the Bonds. The Ordinance constitutes a valid and binding obligation of the Issuer enforceable against the Issuer in accordance with its terms thereof and contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

5. The Bonds have been duly authorized, issued, executed and delivered by the Issuer to the Authority and are valid, legally enforceable and binding special obligations of the Issuer, payable from the Net Revenues of the System and secured by a first lien on and pledge of the Net Revenues of the System, on a parity with respect to liens, pledge and source of and security for payment with the Issuer's First Lien Bonds and senior to the Issuer's Second Lien Bonds, all in accordance with the terms of the Bonds and the Ordinance.

6. Under existing laws, regulations, rulings and judicial decisions of the United States of America, as presently written and applied, the interest on the Bonds (a) is excludable from gross income of the owners thereof for federal income tax purposes pursuant to the Code and (b) is not an item of tax preference for purposes of the federal alternative minimum tax imposed upon individuals and corporations under the Code. It should be noted, however, that interest on the Bonds is taken into account in determining adjusted current earnings for the purpose of computing the alternative minimum tax imposed on certain corporations. The opinions set forth above are subject to the condition that the Issuer comply, on a continuing basis, with all requirements of the Code that must be satisfied subsequent to issuance of the Bonds for interest thereon to be and continue to be excludable from gross income for federal income tax purposes and all certifications, covenants and representations which may affect the excludability from gross income of the interest on the Bonds set forth

The City of Charleston
West Virginia Department of Environmental Protection
West Virginia Water Development Authority
March 23, 2004
Page 4

in the Bond Legislation and the Certificate as to Arbitrage, and other certificates delivered in connection with the issuance of the Bonds. The Issuer has covenanted to comply with all such requirements. Failure to comply with certain of such Code requirements or such certifications, covenants and representations could cause the interest on the Bonds to be includable in gross income retroactive to the date of issuance of the Bonds.

7. Under the Act, the Bonds and any interest thereon are exempt from all taxation by the State of West Virginia, or any county, municipality, political subdivision or agency thereof.

No opinion is given herein as to the effect upon enforceability of the Bonds under any applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights or in the exercise of judicial discretion or principles of equity 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,

A handwritten signature in black ink, appearing to read "Jack Kelly" followed by a stylized flourish or set of initials.



CITY OF CHARLESTON
P.O. Box 2749
CHARLESTON, WEST VIRGINIA 25330

March 23, 2004

The City of Charleston
P.O. Box 2749
Charleston, WV 25330

West Virginia Department of Environmental Protection
1560 Kanawha Boulevard, East
Charleston, WV 25311

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

Jackson Kelly PLLC
P. O. Box 553
Charleston, WV 25322

Re: The City of Charleston
Sewerage System Revenue Bonds, Series 2004 A

Ladies and Gentlemen:

I am City Attorney for The City of Charleston in Kanawha County, West Virginia (the "Issuer"). As such City Attorney, I have examined copies of the approving opinion of Jackson Kelly PLLC, as bond counsel, relating to the above-captioned bonds of the Issuer (the "Bonds"), a loan agreement for the Bonds, dated February 25, 2004, including all schedules and exhibits attached thereto (the "Loan Agreement"), by and among the Issuer, the West Virginia Water Development Authority (the "Authority") and the West Virginia Department of Environmental Protection (the "DEP"), a Bond Ordinance duly passed by the Issuer on May 19, 2003, effective June 2, 2003, as supplemented by a Supplemental Resolution duly adopted by the Issuer on March 15, 2004 (collectively, the "Ordinance"), a Petition of the Sanitary Board duly adopted on April 24, 2003, and other documents relating to the Bonds. All capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Loan Agreement and the Ordinance when used herein.

I am of the opinion that:

1. The Issuer is a duly organized and presently existing municipal

The City of Charleston
West Virginia Department of Environmental Protection
West Virginia Water Development Authority
Jackson Kelly PLLC
March 23, 2004
Page 2

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 and to enact the Ordinance, all under the Act and other applicable provisions of law. The Sanitary Board has been duly created by the Issuer and is presently existing as a sanitary board under the Act.

2. The Loan Agreement has been duly authorized, executed and delivered by the Issuer and, assuming due authorization, execution and delivery by the DEP and the Authority, constitutes a valid and binding agreement of the Issuer, enforceable in accordance with its terms.

3. The Mayor, City Clerk and members of the Council and the Sanitary Board of the Issuer have been duly, lawfully and properly elected or appointed, as applicable, have taken the requisite oaths, and are authorized to act in their respective capacities on behalf of the Issuer.

4. The Ordinance has been duly adopted and enacted by the Issuer and is in full force and effect.

5. The execution and delivery of the Bonds and the Loan Agreement and the consummation of the transactions contemplated by the Bonds, the Loan Agreement and the Ordinance, 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 or default under any ordinance, resolution, order, agreement, document or instrument to which the Issuer is a party or by which the Issuer or its properties are bound or any existing law, regulation, rule, order or decree to which the Issuer is subject.

6. To the best of my knowledge, the Issuer has received all certificates and authorizations necessary for the creation and existence of the Issuer, the issuance of the Bonds, the acquisition and construction of the Project, the operation of the System and the imposition of rates and charges, including, without limitation, all requisite orders, consents, certificates and approvals from the DEP, the West Virginia Infrastructure and Jobs Development Council and the Public Service Commission of West Virginia (the "PSC"), and the Issuer has taken any other action required for the imposition of such rates and charges,

The City of Charleston
West Virginia Department of Environmental Protection
West Virginia Water Development Authority
Jackson Kelly PLLC
March 23, 2004
Page 3

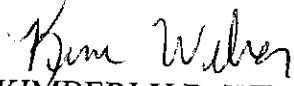
including, without limitation, the enactment of an ordinance prescribing such rates and charges.

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

8. All successful bidders will be made to comply with the required provisions for insurance and payment and performance bonds and such insurance policies or binders and such bonds will be verified for accuracy prior to commencement of construction. I will review the contracts, the surety bonds and the policies or other evidence of insurance coverage in connection with the Project, and verify that such surety bonds and policies: (1) are in compliance with the contracts; (2) are adequate in form, substance and amount to protect the various interest of the Issuer; (3) have been executed by duly authorized representatives of the proper parties; (4) meet the requirements of the Act, the Ordinance and the Loan Agreement; and (5) 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,


KIMBERLY B. WEBER,
CITY ATTORNEY



SPILMAN THOMAS & BATTLE, PLLC
ATTORNEYS AT LAW

March 23, 2004

The City of Charleston
P.O. Box 2749
Charleston, WV 25330

West Virginia Department of Environmental Protection
1560 Kanawha Boulevard, East
Charleston, WV 25311

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

Jackson Kelly PLLC
P. O. Box 553
Charleston, WV 25322

Re: The City of Charleston
Sewerage System Revenue Bonds, Series 2004 A

Ladies and Gentlemen:

We are special counsel to The City of Charleston (the "Issuer") in connection with certain matters before the Public Service Commission of West Virginia (the "Commission"). As such special counsel, we are of the opinion that:

The Issuer has received the Commission Order entered on May 31, 2002, in Case No. 02-0370-S-PW ruling that a certificate of convenience and necessity is not required for the telemetry portion of the Project, and has received the Commission's Recommended Decision issued October 10, 2003, in Case No. 03-0437-S-CN, which became a Final Order of the Commission on October 30, 2003, granting to the Issuer a certificate of public convenience and necessity for the Phase I treatment plant upgrade portion of the Project and approving the financing for the Project. The time for appeal of both Commission orders has expired without any appeal. Both orders remain in full force and effect.

Spilman Center 300 Kanawha Boulevard, East Post Office Box 273 Charleston, West Virginia 25321-0273
www.spilmanlaw.com 304.340.3800 304.340.3801 fax

Charleston

Morgantown

Parkersburg

Weirton



The City of Charleston
West Virginia Department of Environmental Protection
West Virginia Water Development Authority
Jackson Kelly PLLC
March 23, 2004
Page 2

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

Very truly yours,

Spilman Thomas & Battle, PLLC
SPILMAN THOMAS & BATTLE, PLLC



SPILMAN THOMAS & BATTLE, PLLC
ATTORNEYS AT LAW

David G. Hammond
304.340.3805
dhammond@spilmanlaw.com

March 23, 2004

City of Charleston
P. O. Box 2749
Charleston, West Virginia 25330

West Virginia Department of Environmental Protection
1560 Kanawha Boulevard, East
Charleston, West Virginia 25311

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

Jackson & Kelly PLLC
P. O. Box 553
Charleston, West Virginia 25322

Re: Final Title Opinion for the City of Charleston

Ladies and Gentlemen:

We are special counsel to The City of Charleston (the "Issuer") and its Sanitary Board ("Sanitary Board") in connection with a proposed project to construct certain extensions, additions, betterments and improvements to the existing sewerage system of the Issuer (the "Project"). We provide this final title opinion on behalf of the Issuer to satisfy the requirements of the West Virginia Department of Environmental Protection (the "DEP") for the Project. Please be advised of the following:

1. We are of the opinion that 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 DEP.

2. The Issuer has obtained all necessary permits and approvals for the construction of the Project. In rendering this opinion, we have relied solely upon the "Certificate of Consulting Engineer" with respect to the Project made by Harvey A. McCallister, Jr., P.E., of HNTB Corporation, the consulting engineer for the Project, dated March 23, 2004.

3. We have investigated and ascertained the location of, and are familiar with the legal description of, the necessary site required for the Project (the "Site") as set forth in the plans for the Project prepared by HNTB Corporation, the consulting engineer for the Project.

4. We have examined the records on file in the office of the Clerk of the County Commission of Kanawha County, West Virginia, the county in which the Site is located, and, in our opinion, the Issuer has acquired such estate or interest in the Site sufficient to assure undisturbed use and possession for the purpose of construction, operation and maintenance for the estimated life of the Project. The Issuer's title to the Site was obtained by a right of entry order entered by the Court on March 3, 2004, in that certain eminent domain proceeding pending in the Circuit Court of Kanawha County, West Virginia, as Civil Action No. 04-MISC.-77. The Issuer's title to the Site is defeasible in the event the Issuer does not satisfy any resulting judgment or award in the proceedings for acquisition of the Site, and our certification is subject to the pending litigation.

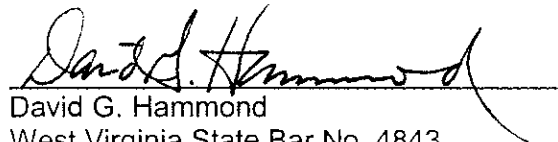
5. A certified copy of the right of entry order entered by the Court that is referred to in paragraph 4 above has been duly recorded in the office of the Clerk of the County Commission of Kanawha County, West Virginia, to protect the legal title to and interest of the Issuer in the Site.

Our opinions expressed herein are rendered exclusively for you and your counsel, and cannot be used or relied upon by any other party without our prior written consent.

Very truly yours,

SPILMAN THOMAS & BATTLE, PLLC

By:



David G. Hammond
West Virginia State Bar No. 4843
P. O. Box 273
Charleston, West Virginia 25321
304.340.3835