

## SUPPLEMENTAL PARAMETERS RESOLUTION

SUPPLEMENTAL RESOLUTION AUTHORIZING AND APPROVING CERTAIN PARAMETERS AS TO DATES, AMOUNTS, MATURITIES, INTEREST RATES, REDEMPTION PROVISIONS, PURCHASE PRICE AND OTHER DETAILS AS TO THE COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2018 B (BANK QUALIFIED) OF THE CITY OF CHARLES TOWN, AUTHORIZING AND APPROVING THE SALE AND DELIVERY OF SUCH BONDS TO THE ORIGINAL PURCHASER, AUTHORIZING AND APPROVING A TAX COMPLIANCE POLICY, A BOND PURCHASE AGREEMENT, A CONTINUING DISCLOSURE CERTIFICATE, A REGISTRAR AGREEMENT, A PRELIMINARY OFFICIAL STATEMENT, AN OFFICIAL STATEMENT, A CERTIFICATE OF DETERMINATIONS AND OTHER INSTRUMENTS RELATING TO THE BONDS, AUTHORIZING THE PURCHASE OF A MUNICIPAL BOND INSURANCE POLICY AND/OR MUNICIPAL BOND DEBT SERVICE RESERVE INSURANCE POLICY AND AMENDMENT AND/OR MODIFICATION OF THE ORDINANCE TO COMPLY THEREWITH, APPOINTING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK FOR SUCH BONDS, AND MAKING OTHER PROVISIONS AS TO THE BONDS.

**WHEREAS**, the City Council (the "Governing Body") of the City of Charles Town (the "Issuer" or "Governmental Agency") has duly and officially adopted and enacted a bond ordinance, effective September 17, 2018 (the "Bond Ordinance"), entitled:

AN ORDINANCE AUTHORIZING THE ACQUISITION OF CERTAIN ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE SEWERAGE PORTION OF THE EXISTING COMBINED WATERWORKS AND SEWERAGE SYSTEM OF THE CITY OF CHARLES TOWN AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$4,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2018 B (BANK QUALIFIED); PROVIDING FOR THE RIGHTS AND REMEDIES OF, AND THE SECURITY FOR, THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT, A CONTINUING DISCLOSURE CERTIFICATE AND OTHER DOCUMENTS RELATING TO THE BONDS; AND ENACTING OTHER PROVISIONS WITH RESPECT TO SUCH BONDS.

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

**WHEREAS**, the Bond Ordinance provided for the issuance by the Issuer of its Combined Waterworks and Sewerage System Revenue Bonds, Series 2018 B (Bank Qualified), in the aggregate principal amount of not more than \$4,000,000, for the purposes of paying in full or defeasing the District 2010 A Bonds, District 2013 A Bonds and District 2015 Bonds, capitalizing interest on the Series 2018 B Bonds, funding a reserve account for the Series 2018 B Bonds, paying costs of bond insurance, and paying costs of issuance thereof, all in accordance with Chapter 8, Article 20 of the West Virginia Code of 1931, as amended (the “Act”);

**WHEREAS**, the Bond Ordinance further provided that the exact dates, amounts, maturities, interest rates, redemption provisions, purchase price and other terms of the Series 2018 B Bonds should be established by a Certificate of Determinations, that a Registrar, Paying Agent and Depository Bank be designated, that a Bond Purchase Agreement, a Continuing Disclosure Certificate, a Registrar Agreement and an Official Statement be approved and that other matters pertaining to the Bonds be provided for pursuant to a Certificate of Determinations (defined herein), that additional covenants and provisions relating to the Series 2018 B Bonds be provided therein, and as may be required by any Bond Insurer as a condition to insuring such Series 2018 B Bonds and/or providing a debt service reserve insurance policy for such Series 2018 B Bonds and that other matters pertaining to the Series 2018 B Bonds be provided for by a supplemental resolution of this Governing Body or by Certificate of Determinations;

**WHEREAS**, the Series 2018 B Bonds are proposed to be purchased by Crews & Associates, Inc. (the “Original Purchaser”), pursuant to a Bond Purchase Agreement between the Original Purchaser and the Issuer, to be dated the date of execution thereof (the “Bond Purchase Agreement”);

**WHEREAS**, the Governing Body wishes to delegate to the Mayor the authority to approve, within the parameters set forth herein and in the Bond Ordinance, the final terms of the Bonds and all provisions of all documents relating to the Series 2018 B Bonds and execute a Certificate of Determinations, without the requirement of further official action by this Governing Body; and

**WHEREAS**, the Governing Body deems it essential and desirable that this supplemental parameters resolution (the “Series 2018 B Supplemental Parameters Resolution”) be adopted, that the Bond Purchase Agreement, the Continuing Disclosure Certificate, the Tax Certificate, and the Registrar Agreement hereinafter provided for be entered into by the Issuer, that the Preliminary Official Statement and Official Statement relating to the Series 2018 B Bonds, hereinafter described, be approved, that the Mayor be authorized to execute the Certificate of Determinations and enter into the Bond Purchase Agreement, all within the parameters hereby approved by the Governing Body, and that other matters relating to the Series 2018 B Bonds be herein provided for, all in accordance with the Bond Ordinance.

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF CHARLES TOWN:**

Section 1. For the purposes of (i) paying in full or defeasing the District 2010 A Bonds, District 2013 A Bonds and District 2015 Bonds; (ii) funding a debt service reserve account for the Series 2018 B Bonds through the purchase of a Municipal Bond Debt Service Reserve Insurance Policy;

(iii) if determined to be financially advantageous to the Issuer, paying the premium for a Municipal Bond Insurance Policy; and (iv) paying costs of issuance of the Series 2018 B Bonds and related costs. The Governing Body of the Issuer hereby authorizes and orders the issuance of the Series 2018 B Bonds in an aggregate principal amount not to exceed \$4,000,000.

Section 2. Pursuant to the Bond Ordinance and the Act, this Series 2018 B Supplemental Parameters Resolution is adopted and there are hereby authorized and ordered to be issued the Series 2018 B Bonds. The Series 2018 B Bonds shall be issued in the aggregate principal amount not to exceed \$4,000,000, bear interest at a true interest rate not to exceed 6.0% payable semiannually, shall mature in not more than 30 years from the date of issue, shall be dated such date, upon original issuance, shall mature in such principal amounts on such dates, and shall be subject to such redemption provisions, all as shall subsequently be approved by the Mayor pursuant to the execution and delivery by the Mayor of a Certificate of Determinations with respect to the Series 2018 B Bonds, dated the date of the Bond Purchase Agreement, the form of such Certificate of Determinations is attached hereto as **EXHIBIT A** and approved hereby (the “Certificate of Determinations”), and shall be substantially in the form set forth in the Bond Ordinance; provided, however, that the specific terms of the Series 2018 B Bonds shall be as determined by the Mayor at the time of the execution of the Bond Purchase Agreement and as approved by the Mayor in the Certificate of Determinations.

Section 3. The Bond Purchase Agreement by and between the Original Purchaser and the Issuer, substantially in the form to be approved pursuant to the execution and delivery by the Mayor of the Certificate of Determinations, and the execution and delivery (in multiple counterparts) by the Mayor thereof shall be and the same are hereby authorized, approved, and directed. The Mayor shall execute the Bond Purchase Agreement on behalf of the Issuer with such changes, insertions and omissions as may be approved by the Mayor. The execution of the Bond Purchase Agreement by the Mayor shall be conclusive evidence of any approval required by this Section, and authorization of any action required by the Bond Purchase Agreement relating to the issuance and sale of the Series 2018 B Bonds, including the payment of all necessary fees and expenses in connection therewith.

Section 4. A. The Tax Certificate, to be dated the date of execution and delivery of the Bonds (the “Tax Certificate”), and executed and delivered by the Issuer, substantially in the form to be approved pursuant to the execution and delivery by the Mayor of the Certificate of Determinations, and the execution and delivery (in multiple counterparts) by the Mayor thereof shall be and the same are hereby authorized, approved and directed. The Mayor shall execute and deliver the Tax Certificate with such changes, insertions and omissions as may be approved by the Mayor. The execution of the Tax Certificate by the Mayor shall be conclusive evidence of any approval required by this Section.

B. The Issuer hereby ratifies the Tax Compliance Policy attached hereto as **EXHIBIT B**.

Section 5. A. The Continuing Disclosure Certificate, to be dated the date of execution and delivery of the Series 2018 B Bonds, by and between the Issuer, substantially in the form to be approved pursuant to the execution and delivery by the Mayor of the Certificate of Determinations, and the execution and delivery (in multiple counterparts) by the Mayor thereof shall be and the same are hereby authorized, approved and directed. The Mayor shall execute and deliver the Continuing Disclosure Certificate with such changes, insertions and omissions as may be approved by the Mayor.

The execution of the Continuing Disclosure Certificate by the Mayor shall be conclusive evidence of any approval required by this Section.

B. The Issuer hereby ratifies the Continuing Disclosure Policy attached hereto as **EXHIBIT C.**

Section 6. The distribution by the Original Purchaser of a Preliminary Official Statement (which is a "deemed final" official statement in accordance with SEC Rule 15c2-12), substantially in the form submitted to this meeting is hereby ratified and approved. The certificate of the Issuer relating to compliance with SEC Rule 15c2-12 and the execution and delivery thereof by the Mayor is hereby approved. The Official Statement to be substantially in the form of the Preliminary Official Statement, (with such changes, insertions and omissions as may be necessary or advisable in the opinion of the Mayor) and the distribution of counterparts or copies thereof by the Original Purchaser are hereby approved. The Mayor shall execute and deliver the Official Statement with such changes, insertions and omissions as may be approved. The execution of the Official Statement by the Mayor shall be conclusive evidence of any approval required by this Section.

Section 7. The Registrar Agreement by and between the Issuer and the Registrar designated herein, substantially in the form to be approved pursuant to the execution and delivery by the Mayor of the Certificate of Determinations, and the execution and delivery (in multiple counterparts) by the Mayor thereof shall be and the same are hereby authorized, approved and directed. The Mayor shall execute and deliver the Registrar Agreement with such changes, insertions and omissions as may be approved by the Mayor. The execution of the Registrar Agreement by the Mayor shall be conclusive evidence of any approval required by this Section.

Section 8. The firm of Steptoe & Johnson PLLC, Charleston, West Virginia, is hereby appointed bond counsel to the Issuer in connection with the issuance of the Series 2018 B Bonds.

Section 9. The Issuer does hereby appoint and designate United Bank, Charleston, West Virginia for the purpose of serving in the capacity of Registrar.

Section 10. The Issuer does hereby appoint and designate the West Virginia Municipal Bond Commission for the purpose of serving in the capacity of Paying Agent.

Section 11. The notice addresses for the Registrar, Paying Agent and Original Purchaser shall be as follows:

REGISTRAR  
United Bank  
500 Virginia Street East  
Charleston, West Virginia 25301  
Attention: Trust Department

PAYING AGENT  
West Virginia Municipal Bond Commission  
900 Pennsylvania Avenue, Suite 117  
Charleston, West Virginia 25302

Attention: Executive Director

ORIGINAL PURCHASER

Crews & Associates, Inc.  
300 Summers Street  
Charleston, West Virginia 25301

Section 12. The Issuer may, in the Mayor's sole discretion, if determined to be financially advantageous, acquire a Municipal Bond Insurance Policy to secure the payment of the principal of, and interest on, the Series 2018 B Bonds. In the event a Municipal Bond Insurance Policy is obtained, additional covenants and provisions of the Issuer may be required by the Bond Insurer as a condition to insuring the Series 2018 B Bonds. These additional covenants and provisions shall be set forth in the Certificate of Determinations, shall apply to the Series 2018 B Bonds, and shall be supplemental to, and amendatory of, the Bond Ordinance and this Series 2018 B Supplemental Parameters Resolution, and shall be controlling in the event any other provisions of the Bond Ordinance and this Series 2018 B Supplemental Parameters Resolution may be in conflict therewith.

Section 13. The Issuer may, in the Mayor's sole discretion, if determined to be financially advantageous, acquire a Municipal Bond Debt Service Reserve Insurance Policy to fund the Series 2018 B Bonds Reserve Account for the Series 2018 B Bonds. In the event a Municipal Bond Debt Service Reserve Insurance Policy is obtained, additional covenants and provisions of the Issuer may be required by the Bond Insurer as a condition to providing the Municipal Bond Debt Service Reserve Insurance Policy for the Series 2018 B Bonds Reserve Account. These additional covenants and provisions shall be set forth in the Certificate of Determinations, shall apply to the Series 2018 B Bonds, and shall be supplemental to, and amendatory of, the Bond Ordinance and this Series 2018 B Supplemental Parameters Resolution, and shall be controlling in the event any other provisions of the Bond Ordinance and this Series 2018 B Supplemental Parameters Resolution may be in conflict therewith.

Section 14. The Issuer does hereby determine that the Municipal Bond Insurance Policy offered by Build America Mutual ("BAM") to secure the payment of principal of, and interest on, the Series 2018 B Bonds will result in an interest cost savings for the Issuer in excess of the premium to be paid by the Issuer for such Insurance Policy, and accordingly accepts the Municipal Bond Insurance Commitment (the "Series 2018 B Insurance Commitment"). The Mayor is hereby authorized to execute the Insurance Commitment and deliver the same to BAM.

Section 15. Pursuant to the Series 2018 B Insurance Commitment, the covenants and provisions which are required By BAM as a condition precedent to issuance of its Municipal Bond Insurance Policy for the Series 2018 B Bonds are attached hereto as Exhibit A to the Certificate of Determinations and incorporated herein by reference as part hereof, such covenants and provisions to be supplemental and amendatory of, and controlling with respect to the Bond Ordinance and applicable to the Series 2018 B Bonds.

Section 16. The Issuer does hereby determine that the Municipal Bond Debt Service Reserve Insurance Policy offered by Build America Mutual ("BAM") to fund the Series 2018 B Bonds Reserve Account will result in a cost savings for the Issuer in excess of the premium to be paid by the Issuer for such Municipal Bond Debt Service Reserve Insurance Policy, and accordingly accepts the

Municipal Bond Debt Service Reserve Insurance Commitment (the “Series 2018 B Reserve Commitment”). The Mayor is hereby authorized to execute the Series 2018 B Reserve Commitment and deliver the same to BAM.

Section 17. Pursuant to the Series 2018 B Reserve Commitment, and the covenants and provisions which are required by BAM as a condition precedent to issuance of its Municipal Bond Debt Service Reserve Insurance Policy to fund the Series 2018 B Bonds Reserve Account are attached hereto as Exhibit B to the Certificate of Determinations and incorporated herein by reference as part hereof, such covenants and provisions to be supplemental and amendatory of, and controlling with respect to the Bond Ordinance and applicable to the Series 2018 B Bonds.

Section 18. 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 Series 2018 B Bonds issue to the end that the Series 2018 B Bonds may be delivered as provided in the Bond Purchase Agreement.

Section 19. The financing of the Project with proceeds of the Series 2018 B Bonds is in the public interest, serves a public purpose of the Issuer and will promote the health, welfare and safety of the residents of the Issuer.

Section 20. The Mayor and City Clerk, and all other appropriate officers and employees of the Issuer are hereby authorized, empowered and directed to do any and all things proper and necessary to cause the Series 2018 B Bonds to be duly and properly issued by the Issuer and delivered to the Original Purchaser as herein authorized and to otherwise facilitate the transaction contemplated by this Series 2018 B Supplemental Parameters Resolution, and no further authority shall be necessary to authorize any such officers or employees to give such further assurance and do such further acts as may be legally required.

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Section 21. This Supplemental Parameters Resolution shall be effective immediately following adoption hereof.

Adopted this 3rd day of December, 2018.

CITY OF CHARLES TOWN

[SEAL]

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

Attest:

\_\_\_\_\_  
City Clerk

CERTIFICATION

Certified a true, correct and complete copy of a Supplemental Resolution duly adopted by the Council of the CITY OF CHARLES TOWN on the 3rd day of December, 2018.

[SEAL]

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City Clerk



**EXHIBIT A**

**FORM OF CERTIFICATE OF DETERMINATIONS**

City of Charles Town  
Combined Waterworks and Sewerage System Revenue Bonds,  
Series 2018 B (Bank Qualified)

**CERTIFICATE OF DETERMINATIONS**

The undersigned, Scott Rogers, Mayor of the City of Charles Town (the "Issuer"), in accordance with the Series 2018 B Supplemental Parameters Resolution adopted by the Council of the Issuer on \_\_\_\_\_, 2018 (the "Series 2018 B Supplemental Parameters Resolution"), with respect to the Issuer's Combined Waterworks and Sewerage System Revenue Bonds, Series 2018 B (the "Series 2018 B Bonds"), hereby finds and determines this \_\_\_\_\_ day of \_\_\_\_\_, 2018 as follows:

1. The Series 2018 B Bonds shall be dated the date of closing thereon (estimated to be \_\_\_\_\_, 2018) and shall bear interest on \_\_\_\_\_ and \_\_\_\_\_ of each year commencing \_\_\_\_\_, 2018.
2. The Series 2018 B Bonds shall be issued in the aggregate principal amount of \$\_\_\_\_\_, at a true interest cost of \_\_\_\_%. Such interest cost does exceed \_\_\_\_\_%, being the maximum interest rate authorized by the Series 2018 B Supplemental Parameters Resolution.
3. The Series 2018 B Bonds shall mature in the amounts and on the dates and shall be subject to mandatory sinking fund redemption in the amounts and on the dates set forth on Schedule 1 attached hereto and incorporated herein.
4. The Series 2018 B Bonds shall bear interest at the rates and produce the yields set forth on Schedule 1 attached hereto and incorporated herein.
5. The Series 2018 B Bonds shall [not] be subject to [optional and/or mandatory] redemption [as set forth on Schedule 2 attached hereto and incorporated herein.]
6. The Series 2018 B Bonds shall be sold to Crews & Associates, Inc. (the "Underwriter"), pursuant to the terms of the Bond Purchase Agreement by and between the Underwriter and the Issuer, at an aggregate purchase price of \$\_\_\_\_\_ (representing par value less an Underwriter's discount of \$\_\_\_\_\_ and a net original issue discount of \$\_\_\_\_\_).
7. The forms of the Bond Purchase Agreement, the Tax Certificate, the Continuing Disclosure Certificate, the Registrar Agreement, the Rule 15c2-12 Certificate and Official Statement attached hereto are hereby approved.

8. The Issuer does hereby determine that the Municipal Bond Insurance Policy offered by \_\_\_\_\_ ("\_\_\_\_\_") to secure the payment of principal of, and interest on, the Series 2018 B Bonds will result in an interest cost savings for the Issuer in excess of the premium to be paid by the Issuer for such Insurance Policy, and accordingly accepts the Municipal Bond Insurance Commitment (the "Series 2018 B Insurance Commitment") dated \_\_\_\_\_, 2018. The Mayor is hereby authorized to execute the Insurance Commitment and deliver the same to \_\_\_\_\_.

9. Pursuant to the Series 2018 B Insurance Commitment, and, as permitted by Section 12 of the Series 2018 B Supplemental Parameters Resolution, the covenants and provisions which are required by \_\_\_\_\_ as a condition precedent to issuance of its Municipal Bond Insurance Policy for the Series 2018 B Bonds are attached hereto as Exhibit A and incorporated herein by reference as part hereof, such covenants and provisions to be supplemental and amendatory of, and controlling with respect to the Bond Ordinance and applicable to the Series 2018 B Bonds.

10. The Issuer does hereby determine that the Municipal Bond Debt Service Reserve Insurance Policy offered by \_\_\_\_\_ ("\_\_\_\_\_") to fund the Series 2018 B Bonds Reserve Account will result in a cost savings for the Issuer in excess of the premium to be paid by the Issuer for such Municipal Bond Debt Service Reserve Insurance Policy, and accordingly accepts the Municipal Bond Debt Service Reserve Insurance Commitment (the "Series 2018 B Reserve Commitment") dated \_\_\_\_\_, 2018. The Mayor is hereby authorized to execute the Reserve Commitment and deliver the same to \_\_\_\_\_.

11. Pursuant to the Series 2018 B Reserve Commitment, and, as permitted by Section 13 of the Series 2018 B Supplemental Parameters Resolution, the covenants and provisions which are required by \_\_\_\_\_ as a condition precedent to issuance of its Municipal Bond Debt Service Reserve Insurance Policy to fund the Series 2018 B Bonds Reserve Account are attached hereto as Exhibit B and incorporated herein by reference as part hereof, such covenants and provisions to be supplemental and amendatory of, and controlling with respect to the Bond Ordinance and applicable to the Series 2018 B Bonds.

The undersigned hereby certifies that the foregoing terms and conditions of the Series 2018 B Bonds are within the parameters prescribed by the Series 2018 B Supplemental Parameters Resolution, and the Series 2018 B Bonds may be issued with such terms and conditions as authorized by the Supplemental Parameters Resolution.

WITNESS our signatures the day and year first written above.

CITY OF CHARLES TOWN

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

Schedule 1

SERIES 2018 B BOND TERMS

Mandatory Sinking Fund Redemption and Maturity

<u>Bond No.</u>	Maturity Date or Sinking Fund (____ 1)	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>	<u>Price or</u> <u>Yield</u>	<u>CUSIP No.</u>
BR-1	_____1	\$_____	_____%	_____%	_____

Schedule 2

Redemption Provisions:

**Series 2018 B Bonds**

[to be inserted after pricing]

EXHIBIT A – CERTIFICATE OF DETERMINATIONS

PROVISIONS RELATING TO MUNICIPAL BOND INSURANCE

**Municipal Bond Insurance Commitment**

[insert]

EXHIBIT B – CERTIFICATE OF DETERMINATIONS

PROVISIONS RELATING TO MUNICIPAL BOND DEBT SERVICE RESERVE INSURANCE  
POLICY

**Municipal Bond Debt Service Reserve Insurance Commitment**

[insert]

## **EXHIBIT B**

### **TAX COMPLIANCE POLICY**

#### **CITY OF CHARLES TOWN (WEST VIRGINIA)**

#### **TAX COMPLIANCE POLICIES**

##### **Purpose**

Governmental issuers of tax-exempt and tax-credit bonds must comply with certain federal tax rules pertaining to expenditure of proceeds for qualified costs, rate of expenditure, use of bond financed property, investment of proceeds in compliance with arbitrage rules, and retention of records. The following policies are intended to establish compliance by the City of Charles Town, West Virginia (the “*Issuer*”), as the issuer, with these rules in connection with the issuance of the Issuer’s Combined Waterworks and Sewerage System Revenue Bonds, Series 2018 B (Bank Qualified) (the “*Tax-Exempt Bonds*”). It is understood and agreed by the Issuer, and the Issuer has covenanted to take all actions necessary to maintain the Tax-Exempt Bonds as tax-exempt state and local bonds.

##### **Tax Requirements Associated with Sale and Issuance of Bonds**

Review and retention of tax documents related to the sale and issuance of Bonds will be supervised by the City Manager or his designee (the “*Oversight Officer*”).

- Form 8038-G (tax exempt bonds) will be reviewed and filed not later than the 15<sup>th</sup> day of the 2<sup>nd</sup> calendar month following the quarter in which the bonds were issued. Filing of appropriate version or versions of Form 8038-G will be confirmed with bond counsel.

##### **Expenditure of Proceeds for Governmental Costs**

Expenditure of bond proceeds will be reviewed by the Oversight Officer.

- Bond proceeds will be disbursed pursuant to the Bond Ordinance, and will be a written order of an Authorized Officer, stating the date, amount and purpose of the disbursement.
- Requisitions must identify the financed property in conformity with the Tax and Non-Arbitrage Certificate executed by the Issuer at closing, including any

certifications as to the character and average economic life of the bond-financed property.

- Requisitions for costs that were paid prior to the issuance of the bonds are, in general, limited to costs paid subsequent to, or not more than 60 days prior to, the date a “declaration of intent” to reimburse the costs was adopted by the City. If proceeds are used for reimbursement, a copy of the declaration will be obtained and included in the records for the Tax-Exempt Bonds, if not already part of the bond transcript.
- Requisitions will be in accordance with expectations to spend or commit 5% of net sale proceeds within 6 months, to spend 85% of net sale proceeds within 3 years, and to proceed with due diligence to complete the project and fully spend the net sale proceeds. Expected expenditure schedules, project timelines, and plans and specifications will be maintained to support expectations. Reasons for failure to meet the expected schedule will be documented and retained in the records for the Tax-Exempt Bonds.
- If the 18-month spending exception to rebate applies, expenditure of gross proceeds will be monitored against the following schedule for the arbitrage rebate exception for the issue, if applicable:
  - 15% within 6 months
  - 60% within 12 months
  - 100% within 18 months
- If the 2-year spending exception to rebate applies, expenditure of “available construction proceeds” will be monitored against the following schedule for the arbitrage rebate exception for construction issues if applicable:
  - 10% within 6 months
  - 45% within 12 months
  - 75% within 18 months
  - 100% within 24 months

### **Expenditure of Proceeds**

In addition to the general review of expenditures described above, expenditure of proceeds of the Tax-Exempt Bonds will be reviewed by the Oversight Officer.

- Reserve funds cannot exceed the least of 10% of bond proceeds, maximum annual debt service, or 125% of average annual debt service. The initial funding of any reserve fund will be measured against this limit.



- Only a small portion (5%) of the proceeds of Tax-Exempt Bonds can be used for operating expenses or other “working capital” costs. Requisitions for costs of the Project will accordingly be monitored to confirm that they are for capital costs of the Project.
- Investment earnings on sale proceeds of the Tax-Exempt Bonds will be tracked and will be requisitioned only for appropriate expenditures.

### **Use of Bond-Financed Property**

Use of bond-financed property when completed and placed in service will be reviewed by the Oversight Officer.

- Average nonexempt use of bond-financed property over the life of the issue cannot exceed 10% of the proceeds.
- Agreements with business users or non-profit organizations for lease or management or services contracts, sponsored research, naming rights or any other potential nonexempt use of bond-financed property will be reviewed prior to execution of any contract to determine if property subject to the Bond Ordinance is bond-financed.
- Agreements with business users or other non-profit organizations for lease or management or services contracts or other private business use involving bond-financed property will be tracked and aggregated with other private business uses for compliance with the 10% limit, as set forth in the Tax and Non-Arbitrage Certificate.
- No item of bond-financed property will be sold or transferred to a nonexempt party without advance arrangement of a “remedial action” under the applicable Income Tax Regulations.

### **Investments and IRS Filings**

Investment of bond proceeds in compliance with the arbitrage bond rules and rebate of arbitrage will be supervised by the Oversight Officer.

- Guaranteed investment contracts (“GIC”) will be purchased only using the three-bid “safe harbor” of applicable Income Tax Regulations, in compliance with fee limitations on GIC brokers in the Income Tax Regulations.
- Other investments will be purchased only in market transactions.

- Calculations of rebate liability will be performed annually by outside consultants.
- Rebate payments will be made with Form 8038-T no later than 60 days after (a) each fifth anniversary of the date of issuance and (b) the final retirement of the issue. Compliance with rebate requirements will be reported to the bond trustee and the issuer.
- Identify date for first rebate payment at time of issuance. Enter in records for the issue.

#### Records

Management and retention of records related to tax-exempt bond issues will be supervised by the Oversight Officer.

- Records will be retained for the life of the bonds plus any refunding bonds plus three years. Records may be in the form of documents or electronic copies of documents, appropriately indexed to specific bond issues and compliance functions.
- Retainable records pertaining to the Tax-Exempt Bonds include transcript of documents executed in connection with the issuance of the bonds (including authorizing resolutions, Bond Ordinance, Form 8038-G, and Tax and Non-Arbitrage Certificate) and any amendments, and copies of rebate calculations and records of payments, including Forms 8038-T.
- Retainable records pertaining to expenditures of bond proceeds include requisitions, accounting statements and final allocation of proceeds.
- Retainable records pertaining to use of property include all agreements reviewed for nonexempt use and any reviewed documents relating to unrelated business activity.
- Retainable records pertaining to investments include GIC documents under the Income Tax Regulations, records of purchase and sale of other investments, and records of investment activity sufficient to permit calculation of arbitrage rebate or demonstration that no rebate is due.

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**Overall Responsibility**

Overall administration and coordination of this policy is the responsibility of the Oversight Officer.

**CITY OF CHARLES TOWN, WEST VIRGINIA**

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

Date: \_\_\_\_\_, 2018

**EXHIBIT C**  
Continuing Disclosure Policy