

**CITY OF CHARLES TOWN, WEST VIRGINIA  
COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2018 B  
(BANK QUALIFIED)**

**BOND ORDINANCE**

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**CITY OF CHARLES TOWN, WEST VIRGINIA**

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**, the City of Charles Town (the “Issuer” or the “City”) presently owns and operates a public combined waterworks and sewerage system (the “System”) and has heretofore financed the design, acquisition, construction and equipping of the System and certain additions, betterments and improvements thereto through the issuance of several series of bonds or refunding bonds, of which there are presently outstanding the Prior Bonds, as hereinafter defined.

**WHEREAS**, all of the Prior Bonds were issued pursuant to ordinances of the Issuer previously enacted (such ordinances, as so amended and supplemented, collectively herein called the “Prior Ordinances”);

**WHEREAS**, the City has entered into an Asset Purchase Agreement (the “Agreement”) with Jefferson County Public Service District (the “District”) whereby the City has agreed to acquire the assets of the sanitary sewerage collection and treatment system of the District (collectively, the “District Sewer System”) and the assets of the potable water distribution and storage system of the District (collectively, the “District Water System” and, in combination with the District Sewer System, the “District Assets”).

**WHEREAS**, pursuant to the terms of the Agreement, as part of the consideration for acquiring the District Assets, the City has agreed to assume certain water revenue bonds of the District which are secured by the Net Revenues of the District Water System, specifically, the:

- (i) Water Revenue Bonds, Series 2014 A (West Virginia DWTRF Program), dated April 17, 2014, issued in the original aggregate principal amount of \$985,350 (the “District 2014 A Bonds” or the “District Water Bonds”).

**WHEREAS**, pursuant to the terms of the Agreement, as part of the consideration for acquiring the District Assets, the City has agreed to assume certain sewer revenue bonds of the District which are secured by the Net Revenues of the District Sewer System, specifically:

- (i) Sewer Revenue Bonds, Series 1988 B, dated May 5, 1988, issued in the original aggregate principal amount of \$425,767 (the “District 1988 B Bonds”);
- (ii) Sewer Revenue Bonds, Series 1998 B (West Virginia SRF Program), dated June 25, 1998, issued in the original aggregate principal amount of \$599,089 (the “District 1998 B Bonds”);
- (iii) Sewer Revenue Bonds, Series 1998 C (West Virginia Infrastructure Fund), dated June 25, 1998, issued in the original aggregate principal amount of \$662,039 (the “District 1998 C Bonds”);
- (iv) Sewer Revenue Bonds, Series 1999 A (West Virginia SRF Program), dated December 8, 1999, issued in the original aggregate principal amount of \$378,363 (the “District 1999 A Bonds”);
- (v) Sewer Revenue Bonds, Series 2000 A (West Virginia SRF Program), dated June 22, 2000, issued in the original aggregate principal amount of \$1,154,889 (the “District 2000 A Bonds”); and
- (vi) Sewer Revenue Bonds, Series 2008 A (West Virginia SRF Program), dated June 18, 2008, issued in the original aggregate principal amount of \$2,005,000 (the “District 2008 A Bonds”).

Collectively, the District 1988 B Bonds, District 1998 B Bonds, District 1998 C Bonds, District 1999 A Bonds, District 2000 A Bonds and District 2008 A Bonds are referred to as the “District Sewer Bonds.”

**WHEREAS**, pursuant to the terms of the Agreement, as part of the consideration for acquiring the District Assets, the City has agreed to (i) pay the entire outstanding principal amount of and interest due on (hereinafter “Pay in Full” or “Payment in Full”), or (ii) deposit with the Paying Agent monies sufficient to pay the outstanding principal amount of and interest due on the earliest call date (hereinafter, “Defeasance” or “Defeasance”), certain obligations of the District which are either secured by first or junior lien on the Net Revenues of the District Sewer System, specifically:

- (i) Sewer Refunding Revenue Bonds, 2010 Series A, dated June 24, 2010, issued in the original principal amount of \$1,895,000 and outstanding in the aggregate principal amount of \$\_\_\_\_\_ as of June 30, 2018 (the “District 2010 A Bonds”);
- (ii) Sewer Revenue Bonds, 2013 Series A, dated June 14, 2013, issued in the original aggregate principal amount of \$1,660,000 and outstanding in the aggregate principal amount of \$\_\_\_\_\_ as of June 30, 2018 (the “District 2013 A Bonds”); and

- (iii) Sewer Revenue Bond (Sewer Project Development), Series 2015, dated November 3, 2015, issued in the original principal amount of \$660,000 and outstanding in the aggregate principal amount of \$\_\_\_\_\_ as of June 30, 2018 (the “District 2015 Bonds”).

**WHEREAS**, contemporaneously with the enactment of this Ordinance, the Common Council of the City is considering the enactment of an Ordinance (“Series 2018 A Ordinance”) through which the District Sewer Revenue Bonds and District Water Bonds, upon the transfer of the District Assets to the City and the Payment in Full or Defeasance of the District 2010 A Bonds, the District 2013 A Bonds and the District 2015 Bonds, will be (i) assumed by the City, (ii) amended and re-stated to provide security to the bondholder in the Gross Revenues of the System on a parity with the Prior Bonds (as hereinafter defined) and the Series 2018 B Bonds authorized herein; and (iii) be re-designated as follows:

- (i) “City of Charles Town Combined Waterworks and Sewerage System Revenue Bonds, Series 2018 A-1 (West Virginia Water Development Authority)” (the “Series 2018 A-1 Bonds”);
- (ii) “City of Charles Town Combined Waterworks and Sewerage System Revenue Bonds, Series 2018 A-2 (West Virginia SRF Program)” (the “Series 2018 A-2 Bonds”);
- (iii) “City of Charles Town Combined Waterworks and Sewerage System Revenue Bonds, Series 2018 A-3 (West Virginia Infrastructure Fund)” (the “Series 2018 A-3 Bonds”);
- (iv) “City of Charles Town Combined Waterworks and Sewerage System Revenue Bonds, Series 2018 A-4 (West Virginia SRF Program)” (the “Series 2018 A-4 Bonds”);
- (v) “City of Charles Town Combined Waterworks and Sewerage System Revenue Bonds, Series 2018 A-5 (West Virginia SRF Program)” (the “Series 2018 A-5 Bonds”);
- (vi) “City of Charles Town Combined Waterworks and Sewerage System Revenue Bonds, Series 2018 A-6 (West Virginia SRF Program)” (the “Series 2018 A-6 Bonds”); and
- (vii) “City of Charles Town Combined Waterworks and Sewerage System Revenue Bonds, Series 2018 A-7 (West Virginia DWTRF Program), (the “Series 2018 A-7 Bonds”).

Collectively, the Series 2018 A-1 Bonds, the Series 2018 A-2 Bonds, the Series 2018 A-3 Bonds, the Series 2018 A-4 Bonds, the Series 2018 A-5 Bonds, the Series 2018 A-6 Bonds and the Series 2018 A-7 Bonds are collectively referred to herein as the “Series 2018 A Bonds”.

**WHEREAS**, under the provisions of Chapter 8, Article 20 of the West Virginia Code of 1931, as amended (the “Act”), the Issuer is authorized and empowered to acquire, construct and operate extensions, additions, betterments and improvements for the System, specifically including but not

limited to, the acquisition of the District Sewer System, the payment of consideration to the District in an amount equal to the monies necessary to Pay in Full or Defeasance the District 2010 A Bonds, the District 2013 A Bonds and the District 2015 Bonds and the payment of engineering, accounting, legal and other professional fees and other costs related to the acquisition of the District Assets (collectively, the "Project") (the existing public combined waterworks and sewerage system of the Issuer, the District Assets, including the Project, when acquired by the City, and any further extensions, additions, betterments and improvements thereto are herein called the "System");

**WHEREAS**, the Issuer has determined, and does hereby affirm, that the acquisition of the District Assets and the Payment in Full or Defeasance of the District 2010 A Bonds, the District 2013 A Bonds and the District 2015 Bonds, is necessary, appropriate, useful and desirable for the health, safety, and welfare of the inhabitants of the City and surrounding areas;

**WHEREAS**, the Issuer has determined that the acquisition of the District Sewer System, the Payment in Full or Defeasance of the District 2010 A Bonds, the District 2013 A Bonds and the District 2015 Bonds and the payment of engineering, accounting, legal and other professional fees and other costs related to the acquisition of the District Assets should be financed, as provided under the Act, in whole or in part, from the proceeds of revenue bonds to be issued by the Issuer, to pay all or any portion of the costs thereof, and to enact this Ordinance and issue its Combined Waterworks and Sewerage System Revenue Bonds, Series 2018 B (Bank Qualified) (the "Series 2018 B Bonds"), such Series 2018 B Bonds to be secured by and payable from the Gross Revenues of the System, and containing such other terms and provisions as are hereinafter provided, all in the manner set forth herein; and

**WHEREAS**, the Issuer has determined and hereby determines that it is in the best interest of the residents of the City that its Series 2018 B Bonds be sold to the Original Purchaser (as hereinafter defined) thereof pursuant to the terms and provisions of a bond purchase agreement, (the "Bond Purchase Agreement") between the Issuer and the Original Purchaser.

**NOW, THEREFORE, THE COUNCIL OF THE CITY OF CHARLES TOWN HEREBY ORDAINS:**

## **ARTICLE I**

### **DEFINITIONS, STATUTORY AUTHORITY AND FINDINGS**

Section 1.01. Definitions. All capitalized terms used in this Ordinance and not otherwise defined in the recitals hereto shall have the meanings specified below, unless the context expressly requires otherwise:

"Act" means Chapter 8, Article 20 of the West Virginia Code of 1931, as amended and in effect on the Closing Date for the Series 2018 B Bonds.

"Authorized Newspaper" means a financial journal or newspaper of general circulation in the City of New York, New York, printed in the English language and customarily published on each business day of the Registrar, whether or not published on Saturdays, Sundays or legal holidays, and so long as so published, shall include The Bond Buyer.

“Authorized Officer” means the Mayor or City Manager of the Issuer or any other officer of the Issuer specifically designated by resolution of the Council of the Issuer.

“Bond Commission” means the West Virginia Municipal Bond Commission or any other agency of the State of West Virginia which succeeds to the functions of the Bond Commission.

“Bond Counsel” means any law firm having a national reputation in the field of municipal law whose opinions are generally accepted by purchasers of municipal bonds, appointed by the Issuer, and shall initially mean Steptoe & Johnson PLLC, Charleston, West Virginia.

“Bondholder,” “Holder,” “Holder of the Bonds,” “Owner of the Bonds,” “Registered Owner,” or any similar term means any person who shall be the registered owner of any outstanding Bond.

“Bond Insurer” means any entity which shall insure all or any portion of the payment of principal of and interest on the Bonds, and with respect to the Series 2018 B Bonds shall initially mean the bond insurer or bond insurers, if any, named in the Supplemental Resolution.

“Bond Purchase Agreement” means the Bond Purchase Agreement between the Issuer and the Original Purchaser relating to the sale and purchase of the Series 2018 B Bonds.

“Bond Register” means the books of the Issuer maintained by the Registrar for the registration and transfer of the Series 2018 B Bonds.

“Bond Year” means with respect to each series of the Series 2018 B Bonds 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.

“Bonds” means, collectively, the Series 2018 B Bonds, the Prior Bonds, the Series 2018 A Bonds and any Additional Parity Bonds hereafter issued within the terms, restrictions and conditions contained herein.

“Business Day” means any day other than a Saturday, Sunday or a day on which national banking associations, West Virginia banking corporations or the New York Stock Exchange are authorized by law to remain closed.

“Certificate of Authentication and Registration” means the Certificate of Authentication and Registration on the Series 2018 B Bonds in substantially the form set forth in EXHIBIT A – FORM OF SERIES 2018 B BONDS attached hereto.

“City” or “Issuer” means the City of Charles Town, a municipal corporation and political subdivision of the State of West Virginia, in Jefferson County thereof, and, where appropriate, the Council, and any successor thereto.

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

"City Manager" means the City Manager of the Issuer.



“Clerk” or “City Clerk” means the City Clerk of the Issuer.

“Closing Date” means the date upon which there is an exchange of the Bonds for the proceeds representing the original purchase price thereof.

“Code” shall mean the Internal Revenue Code of 1986, as amended and supplemented from time to time, and Regulations thereunder and such guidance with respect thereto as may be issued by the Internal Revenue Service or Department of the Treasury from time to time.

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

“Consulting Engineers” means any independent qualified engineer or engineers or firm or firms of engineers that shall currently, or any time hereafter, be retained by the Issuer or the Board as Consulting Engineers for the System, or portion thereof.

“Continuing Disclosure Certificate” means the agreement delivered by the Issuer to disseminate annual financial information and material event disclosures as required by Rule 15c2-12.

“Costs” or similar terms means all those costs now or hereafter permitted by the Act to be financed with bonds issued pursuant hereto, including, without limitation those costs set forth in Section 1.02C.

“Debt Service” with reference to a specified period, means the amount of principal, including any sinking fund payments, and interest payable with respect to the Bonds during such period.

“Depository Bank” means the bank or banks to be designated as such in the Supplemental Resolution, and any other bank or national banking association located in the State of West Virginia, eligible under the laws of the State of West Virginia to receive deposits of state and municipal funds and insured by the FDIC that may hereafter be appointed by the Issuer as Depository Bank.

“District Bonds” means collectively the District Sewer Bonds and the District Water Bonds.

“District Sewer Bonds” means the Jefferson County Public Service District's: (i) Sewer Revenue Bonds, Series 1988 B (West Virginia Water Development Authority), dated May 5, 1998, issued in the original aggregate principal amount of \$425,767; (ii) Sewer Revenue Bonds, Series 1998 B (West Virginia SRF Program), dated June 25, 1998, issued in the original aggregate principal amount of \$599,089; (iii) Sewer Revenue Bonds, Series 1998 C (West Virginia Infrastructure Fund), dated June 25, 1998, issued in the original aggregate principal amount of \$662,039; (iv) Sewer Revenue Bonds, Series 1999 A (West Virginia SRF Program), dated December 8, 1999, issued in the original aggregate principal amount of \$378,363; (v) Sewer Revenue Bonds, Series 2000 A (West Virginia SRF Program), dated June 22, 2000, issued in the aggregate principal amount of \$1,154,889; and (vi) Sewer Revenue Bonds, Series 2008 A (West Virginia SRF Program), dated June 18, 2008, issued in the aggregate principal amount of \$2,005,000.

"District Water Bonds" means the Jefferson County Public Service District's Water Revenue Bonds, Series 2014 A (West Virginia DWTRF Program), dated April 17, 2014, issued in the aggregate principal amount of \$985,350.

"District 1988 B Bonds" means the Jefferson County Public Service District Sewer Revenue Bonds, Series 1988 B (West Virginia Water Development Authority), dated May 5, 1998, issued in the original aggregate principal amount of \$425,767.

"District 1998 B Bonds" means the Jefferson County Public Service District Sewer Revenue Bonds, Series 1998 B (West Virginia SRF Program), dated June 25, 1998, issued in the original aggregate principal amount of \$599,089.

"District 1998 C Bonds" means the Jefferson County Public Service District Sewer Revenue Bonds, Series 1998 C (West Virginia Infrastructure Fund), dated June 25, 1998, issued in the original aggregate principal amount of \$662,039.

"District 1999 A Bonds" means the Jefferson County Public Service District Sewer Revenue Bonds, Series 1999 A (West Virginia SRF Program), dated December 8, 1999, issued in the original aggregate principal amount of \$378,363.

"District 2000 A Bonds" means the Jefferson County Public Service District Sewer Revenue Bonds, Series 2000 A (West Virginia SRF Program), dated June 22, 2000, issued in the aggregate principal amount of \$1,154,889.

"District 2008 A Bonds" means the Jefferson County Public Service District Sewer Revenue Bonds, Series 2008 A (West Virginia SRF Program), dated June 18, 2008, issued in the aggregate principal amount of \$2,005,000.

"District 2014 A Bonds" Jefferson County Public Service District's Water Revenue Bonds, Series 2014 A (West Virginia DWTRF Program), dated April 17, 2014, issued in the aggregate principal amount of \$985,350.

"DTC" means The Depository Trust Company, New York, New York, or its successor thereof.

"DTC-eligible" means, with respect to the Series 2018 B Bonds, meeting the qualifications prescribed by DTC.

"Event of Default" means any occurrence or event specified in Section 7.01 hereof.

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

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

"Governing Body" means the City Council of the Issuer or any other governing body of the Issuer that succeeds to the functions of the City Council, as it may now or hereafter be constituted.

“Government Obligations” shall have the meaning set forth in the Supplemental Resolution.

“Gross Revenues” means the aggregate gross operating and non-operating revenues of the System and includes investment income, connection fees, disconnections fees, System use charges and fees, and all other items of income which have been established as reasonably anticipated annual income of the System, determined in accordance with generally accepted accounting principles, after deduction of prompt payment discounts, if any, and reasonable provision for uncollectible accounts, and includes any proceeds from the sale or other disposition of capital assets, but does not include any increase in the value of capital assets (including Qualified Investments).

“Independent Certified Public Accountant” means the West Virginia State Tax Department or any certified public accountant or firm of certified public accountants that shall at any time hereafter be retained by the Issuer or the Board to prepare an independent annual or special audit of the accounts of the System or for any purpose except keeping the accounts of said System in the normal operations of its business and affairs.

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

“Maximum Annual Debt Service” means, at the time of computation, the greatest amount of Debt Service required to be paid on the Bonds for the then current or any succeeding Fiscal Year.

“Mayor” means the Mayor of the Issuer.

“Municipal Bond Insurance Policy” means the municipal bond insurance policy, if any, issued by the Bond Insurer simultaneously with the delivery of the Series 2018 B Bonds insuring the timely payment of the principal of and interest on all or any of the Series 2018 B Bonds in accordance with the terms thereof.

“Municipal Advisor” means any registered and licensed municipal advisor or firm of municipal advisors that shall at any time be retained by the Issuer or the Board to provide financial advice related to the Series 2018 B Bonds, the Prior Bonds, the Series 2018 A Bonds or hereinafter issued Additional Parity Bonds, and shall initially mean Compass Municipal Advisors, LLC.

“Net Proceeds” means the face amount of the Series 2018 B Bonds, plus accrued interest and premium, if any, less original issue discount, if any, on such issue, and less proceeds deposited in the Series 2018 B Bonds Reserve Account. For purposes of the Private Business Use limitations set forth herein, the term Net Proceeds shall include any amounts resulting from the investment of proceeds of the Series 2018 B Bonds, without regard to whether or not such investment is made in tax-exempt obligations.

“Net Revenues” means Gross Revenues less Operating Expenses.

“Nonpurpose Investment” means any Investment Property which is acquired with the gross proceeds of the Series 2018 B Bonds and is not acquired in order to carry out the governmental purpose of the Series 2018 B Bonds.

“Official Statement” means a document or set of documents prepared by an issuer of municipal securities or its representatives setting forth, among other matters, information concerning the Issuer of such municipal securities and the proposed issue of securities that is complete as of the date of delivery of the document or set of documents to the Original Purchaser.

“Operating Expenses” unless qualified, means the current expenses, paid or accrued, of repair, operation and maintenance of the System, and includes, without limiting the generality of the foregoing, administrative, engineering, legal, auditing and insurance expenses (other than those capitalized as part of the costs of any project relating to the acquisition or construction of additions, betterments or improvements for the System), supplies, labor, wages, the cost of materials and supplies used for current operations, fees and expenses of fiscal agents and of the Depository Bank, Registrar and Paying Agent or Paying Agents, payments to pension or retirement funds, taxes and such other reasonable operating costs and expenses as should normally and regularly be included under generally accepted accounting principles.

“Ordinance” or “Bond Ordinance” regardless of whether preceded by the article “the” or “this,” means this Ordinance, as it may hereafter from time to time be amended or supplemented, by ordinance or by resolution.

“Original Purchaser” means the investment banking firm or firms, bank or banks or such other entity or entities as shall purchase the Series 2018 B Bonds directly from the Issuer, as determined by the Supplemental Resolution.

“Outstanding” when used with reference to the Series 2018 B Bonds, the Series 2018 A Bonds or the Prior Bonds and as of any particular date, describes all Bonds theretofore and thereupon being issued and delivered except (a) any Bond canceled by the registrar for such Bond at or prior to said date; (b) any Bond for the payment of which monies, equal to its principal amount, with interest to the date of maturity, shall be held in trust under this Ordinance and set aside for such payment (whether upon or prior to maturity); (c) any Bond deemed to have been paid as provided by Section 9.01 hereof; and (d) with respect to determining the number or percentage of Bondholders or Bonds for the purpose of consents, notices and the like, any Bond registered to the Issuer. Notwithstanding the foregoing, in the event that a Bond Insurer has paid principal of and/or interest on any Bond, such Bond shall be deemed to be Outstanding until such time as such Bond Insurer has been reimbursed in full.

“Paying Agent” means, initially, the West Virginia Municipal Bond Commission and any other paying agent for the Series 2018 B Bonds which may be appointed by a resolution supplemental hereto, all in accordance with Section 8.12 hereof.

"Prior Bonds" means, collectively, the Series 1987 B Bonds, Series 1988 B-1 Bonds, Series 1988 B-2 Bonds, Series 1989 B Bonds, Series 1998 Bonds, Series 2000 A Bonds, Series 2002 A Bonds, Series 2002 B Bonds, Series 2010 A Bonds, Series 2010 B Bonds, Series 2010 C Bonds, Series 2010 D Bonds, Series 2011 A Bonds, Series 2013 A Bonds, Series 2013 B Bonds, Series 2014 A Bonds, Series 2014 C Bonds, Series 2014 D Bonds, Series 2014 E Bonds, Series 2015 A Bonds, Series 2015 B Bonds and Series 2016 A Bonds.

“Prior Ordinances” means, collectively, the respective ordinances of the Issuer authorizing the issuance of the Prior Bonds.

“Private Business Use” means use directly or indirectly in a trade or business carried on by a natural person or in any activity carried on by a person other than a natural person, excluding, however, use by a state or local governmental unit and use as a member of the general public.

“Project” means the acquisition and construction of certain additions, betterments and improvements to the System, specifically including but not limited to, the acquisition of the District Sewer System, the payment of consideration to the District in an amount equal to the monies necessary to Pay in Full or Defease the District 2010 A Bonds, the District 2013 A Bonds and the District 2015 Bonds and the payment of engineering, accounting, legal and other professional fees and other costs related to the acquisition of the District Assets

“Purchase Price” for the purpose of computation of the Yield of the Series 2018 B Bonds, has the same meaning as the term “issue price” in Sections 1273(b) and 1274 of the Code, and, in general, means the initial offering price of the Series 2018 B Bonds to the public (not including bond houses and brokers, or similar persons or organizations acting in the capacity of underwriters or wholesalers) at which price a substantial amount of the Series 2018 B Bonds of each maturity is sold or, if the Series 2018 B Bonds are privately placed, the price paid by the first buyer of the Series 2018 B Bonds or the acquisition cost of the first buyer. “Purchase Price,” for purposes of computing Yield of Nonpurpose Investments, means the fair market value of the Nonpurpose Investments on the date of use of Gross Proceeds of the Series 2018 B Bonds for acquisition thereof, or if later, on the date that Investment Property constituting a Nonpurpose Investment becomes a Nonpurpose Investment of the Series 2018 B Bonds.

“Qualified Investments” means and includes all investments permitted to be made by a municipality and political subdivision under the laws of the State, as enacted as of the date of enactment of this Bond Ordinance in West Virginia Code § 8-13-22a and 8-22-22a, and as may be amended or modified from time to time. In the event that the laws of the State would cease to provide guidance on permissible investments, the last applicable law of the State shall control such investments.

“Record Date” means the date or dates which shall be so stated in the Series 2018 B Bonds, regardless of whether such day is a Saturday, Sunday or legal holiday.

“Redemption Date” means the date fixed for redemption of Bonds subject to redemption in any notice of redemption published or mailed in accordance herewith.

“Redemption Price” means the price at which any of the Bonds may be called for redemption and includes the principal amount of the Bonds to be redeemed, plus the interest and the premium, if any, required to be paid to effect such redemption.

“Registrar” means the bank to be designated in the Supplemental Resolution as the Registrar for the Series 2018 B Bonds, and any successor thereto appointed in accordance with Section 8.08 hereof.

“Regulations” means temporary and permanent regulations promulgated under the Code, and includes applicable regulations promulgated under the Internal Revenue Code of 1986 as amended.

“Renewal and Replacement Fund” means the Renewal and Replacement Fund created by the Prior Ordinances and continued hereby.

“Revenue Fund” means the Revenue Fund created by the Prior Ordinances and continued hereby.

"Rule 15c2-12" means Securities and Exchange Commission Rule 15c2-12 under the Securities Exchange Act of 1934, as amended.

“Series 1987 B Bonds” means the Issuer’s Combined Waterworks and Sewerage System Revenue Bonds, Series 1987 B, dated November 18, 1987, issued in the original aggregate principal amount of \$413,629.

“Series 1988 B-1 Bonds” means the Issuer’s Combined Waterworks and Sewerage System Revenue Bonds, Series 1988 B-1, dated May 4, 1988, issued in the original aggregate principal amount of \$295,916.

“Series 1988 B-2 Bonds” means the Issuer’s Combined Waterworks and Sewerage System Revenue Bonds, Series 1988 B-2, dated May 20, 1988, issued in the original aggregate principal amount of \$558,000.

“Series 1989 B Bonds” means the Issuer’s Combined Waterworks and Sewerage System Revenue Bonds, Series 1989 B, dated April 13, 1989, issued in the original aggregate principal amount of \$117,480.

“Series 1998 Bonds” means the Issuer’s Combined Waterworks and Sewerage System Design Revenue Bonds, Series 1998 (West Virginia SRF Program), dated September 29, 1998, issued in the original aggregate principal amount of \$437,601.

“Series 2000 A Bonds” means the Issuer’s Combined Waterworks and Sewerage System Revenue Bonds, Series 2000 A (West Virginia SRF Program), dated June 22, 2000, issued in the original aggregate principal amount of \$3,163,781.

“Series 2002 A Bonds” means the Issuer’s Combined Waterworks and Sewerage System Revenue Bonds, Series 2002 A (West Virginia Water Development Authority), dated August 22, 2002, issued in the original aggregate principal amount of \$1,100,000.

“Series 2002 B Bonds” means the Issuer’s Combined Waterworks and Sewerage System Revenue Bonds, Series 2002 B (West Virginia Infrastructure Fund), dated August 22, 2002, issued in the original aggregate principal amount of \$3,600,000.

“Series 2010 A Bonds” means the Issuer’s Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 A (West Virginia DWTRF Program), dated January 13, 2010, issued in the original aggregate principal amount of \$912,458.

“Series 2010 B Bonds” means the Issuer’s Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 B (West Virginia DWTRF Program/ARRA), dated January 13, 2010, issued in the original aggregate principal amount of \$100,000.

“Series 2010 C Bonds” means the Issuer’s Combined Waterworks and Sewerage System Design Revenue Bonds, Series 2010 C (West Virginia SRF Program), dated December 2, 2010, issued in the original aggregate principal amount of \$1,250,000.

“Series 2010 D Bonds” means the Issuer’s Combined Waterworks and Sewerage System Design Revenue Bonds, Series 2010 D (West Virginia SRF Program), dated December 2, 2010, issued in the original aggregate principal amount of \$500,000.

“Series 2011 A Bonds” means the Issuer’s Combined Waterworks and Sewerage System Revenue Bonds, Series 2011 A (West Virginia SRF Program), dated July 22, 2011, issued in the original aggregate principal amount of \$13,147,192.

"Series 2013 A Bonds" means the Issuer's Combined Waterworks and Sewerage System Design Revenue Bonds, Series 2013 A (West Virginia SRF Program), dated June 27, 2013, issued in the original aggregate principal amount of \$591,977.

"Series 2013 B Bonds" means the Issuer's Combined Waterworks and Sewerage System Revenue Bonds, Series 2013 B (Tax-Exempt), dated October 1, 2013, issued in the original aggregate principal amount of \$2,970,000.

“Series 2014 A Bonds” means the Combined Waterworks and Sewerage System Revenue Bonds, Series 2014 A (West Virginia SRF Program), dated June 18, 2014, issued in the original aggregate principal amount of \$4,058,900.

“Series 2014 C Bonds” means the Combined Waterworks and Sewerage System Refunding Revenue Bonds, Series 2014 C (AMT), dated October 31, 2014, issued in the original aggregate principal amount of \$820,000.

“Series 2014 D Bonds” means the Combined Waterworks and Sewerage System Refunding Revenue Bonds, Series 2014 D (Taxable), dated October 31, 2014, issued in the original aggregate principal amount of \$1,445,000.

“Series 2014 E Bonds” means the Combined Waterworks and Sewerage System Refunding Revenue Bonds, Series 2014 E (Bank Qualified), dated October 31, 2014, issued in the original aggregate principal amount of \$1,425,000.

“Series 2015 A Bonds” means the Combined Waterworks and Sewerage System Refunding Revenue Bonds, Series 2015 A, dated November 19, 2015, issued in the aggregate principal amount of \$2,750,000.

“Series 2015 B Bonds” means the Combined Waterworks and Sewerage System Refunding Revenue Bonds, Series 2015 B, dated November 19, 2015, issued in the aggregate principal amount of \$4,355,000.

“Series 2016 A Bonds” means the Combined Waterworks and Sewerage System Revenue Bonds, Series 2016 A, dated March 8, 2018, issued in the aggregate principal amount of \$7,695,000.

“Series 2018 A Bonds” means, collectively, the Series 2018 A-1 Bonds, the Series 2018 A-2 Bonds, the Series 2018 A-3 Bonds, the Series 2018 A-4 Bonds, the Series 2018 A-5 Bonds, the Series 2018 A-6 Bonds and the Series 2018 A-7 Bonds.

“Series 2018 A-1 Bonds” means the Combined Waterworks and Sewerage System Revenue Bonds, Series 2018 A-1 (West Virginia Water Development Authority), originally the District 1988 B Bonds, and assumed by the Issuer contemporaneously with the issuance of the Series 2018 B Bonds.

“Series 2018 A-2 Bonds” means the Combined Waterworks and Sewerage System Revenue Bonds, Series 2018 A-2 (West Virginia SRF Program), originally the District 1998 B Bonds and assumed by the Issuer contemporaneously with the issuance of the Series 2018 B Bonds.

“Series 2018 A-3 Bonds” means the Combined Waterworks and Sewerage System Revenue Bonds, Series 2018 A-3 (West Virginia Infrastructure Fund), originally the District 1998 C Bonds, and assumed by the Issuer contemporaneously with the issuance of the Series 2018 B Bonds.

“Series 2018 A-4 Bonds” means the Combined Waterworks and Sewerage System Revenue Bonds, Series 2018 A-4 (West Virginia SRF Program), originally the District 1999 A Bonds, and assumed by the Issuer contemporaneously with the issuance of the Series 2018 B Bonds.

“Series 2018 A-5 Bonds” means the Combined Waterworks and Sewerage System Revenue Bonds, Series 2018 A-5 (West Virginia SRF Program), originally the District 2000 A Bonds, and assumed by the Issuer contemporaneously with the issuance of the Series 2018 B Bonds.

“Series 2018 A-6 Bonds” means the Combined Waterworks and Sewerage System Revenue Bonds, Series 2018 A-6 (West Virginia SRF Program) originally the District Series 2008 A Bonds, and assumed by the Issuer contemporaneously with the issuance of the Series 2018 B Bonds.

“Series 2018 A-7 Bonds” means the Combined Waterworks and Sewerage System Revenue Bonds, Series 2018 A-7 (West Virginia DWTRF Program), originally the District 2014 A Bonds and assumed by the Issuer contemporaneously with the issuance of the Series 2018 B Bonds.

“Series 2018 B Bonds” means the Combined Waterworks and Sewerage System Revenue Bonds, Series 2018 B (Bank Qualified), of the Issuer, authorized to be issued pursuant to this Ordinance and the Supplemental Resolution.

“Series 2018 B Bonds Costs of Issuance Fund” means the Series 2018 B Bonds Costs of Issuance Fund created by Section 4.01 hereof.

“Series 2018 B Bonds Redemption Account” means the Redemption Account created by Section 4.02 hereof.

“Series 2018 B Bonds Reserve Account” means the Series 2018 B Bonds Reserve Account created in the Series 2018 B Bonds Sinking Fund by Section 4.02 hereof.

“Series 2018 B Bonds Reserve Account Requirement” means an amount equal to the lesser of (i) 10% of the original principal amount of the Series 2018 B Bonds, (ii) Maximum Annual Debt



Service at the time of original issuance of the Series 2018 B Bonds, or (iii) 125% of average annual Debt Service at the time of original issuance of the Series 2018 B Bonds.

“Series 2018 B Bonds Sinking Fund” means the Series 2018 B Bonds Sinking Fund created by Section 4.02 hereof.

“Sinking Funds” means, collectively, the respective Sinking Funds established for the Series 2018 B Bonds and the Prior Bonds.

“State” means the State of West Virginia.

“Supplemental Resolution” means any ordinance or resolution amendatory hereof or supplemental hereto and, when preceded by the article “the,” refers specifically to the Supplemental Resolution or Resolutions to be adopted by the Issuer following enactment of this Ordinance, setting forth the final amounts, maturities, interest rates, redemption provisions, Original Purchaser, Bond Purchase Agreement, Bond Insurer provisions (if any) and other terms of the Series 2018 B Bonds and authorizing the sale of the Series 2018 B Bonds to the Original Purchaser; provided, that any provision intended to be included in the Supplemental Resolution and not so included may be contained in any other Supplemental Resolution.

"Surplus Revenues" means the Gross Revenues not required by the Ordinance to be set aside and held for the payment of or security for the Bonds or any other obligations of the Issuer, including, without limitation, the funds and accounts established for the Prior Bonds or the Series 2018 B Bonds.

“System” means the complete existing combined municipal waterworks and sewerage system of the Issuer, as presently existing in its entirety or any integral part thereof and shall include the District Assets upon acquisition thereof and shall include any additions, betterments and improvements thereto hereafter acquired or constructed for said waterworks or sewage systems from any sources whatsoever, both within and without the Issuer, specifically excluding, however, any additions, betterments or improvements thereto which are leased from the Charles Town Building Commission.

“Tax Certificate” means the Issuer’s Tax Certificate dated as of the date of issuance of the Series 2018 B Bonds, as the same may be amended or supplemented in accordance with the provisions thereof.

“Term Bonds” means Bonds subject to mandatory sinking fund redemption, as described by Section 3.06 hereof.

Words importing singular number shall include the plural number in each case and vice versa; words importing persons shall include firms and corporations and vice versa; and words importing the masculine gender shall include the feminine and neuter genders and vice versa.

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

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

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

Section 1.02. Authority for this Ordinance. This Ordinance is enacted pursuant to the provisions of the Act and other applicable provisions of law.

Section 1.03. Findings. The Council hereby finds and determines as follows:

A. The Issuer is a municipal corporation and political subdivision of the State of West Virginia in Jefferson County of said State.

B. The Issuer presently owns and operates a public combined waterworks and sewerage system. It is deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer, and for the improvement of the water environment of the Issuer, that there be acquired and constructed certain extensions, additions, betterments and improvements to the sewerage portion of the existing public combined waterworks and sewerage system of the Issuer, consisting of the Project, in accordance with the approvals from the Public Service Commission of West Virginia and the Common Council of the Issuer.

C. It is deemed necessary for the Issuer to issue its Combined Waterworks and Sewerage System Revenue Bonds, Series 2018 B (Bank Qualified), in one or more series in the aggregate principal amount of not more than \$4,000,000 to permanently finance the costs of the Project. Said costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor; interest, if any, upon the Series 2018 B Bonds prior to and during acquisition and for a period not exceeding 6 months after completion of acquisition of the Project; amounts which may be deposited in the Series 2018 B Bonds Reserve Account; underwriter's discount, engineering and legal expenses; expenses for estimates of costs and revenues; expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise; administrative expense; commitment fees; premiums for municipal bond insurance, debt service reserve insurance, or reserve account surety bonds; letter of credit fees; discount; initial fees for the services of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Series 2018 B Bonds and such other expenses as may be necessary or incidental to the financing herein authorized; the acquisition and construction of the Project and the placing of same in operation; and the performance of the things herein required or permitted, in connection with any thereof; provided, that reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Series 2018 B Bonds or the repayment of indebtedness incurred by the Issuer for such purposes shall be deemed Costs of the Project, as hereinafter defined.

D. The period of usefulness of the System after completion of the Project is not less than 30 years.

E. It is in the best interests of the Issuer that the Series 2018 B Bonds be sold to the Original Purchaser pursuant to the terms and provisions of a bond purchase agreement to be entered into by and between the Issuer and the Original Purchaser (the "Bond Purchase Agreement"), as shall be approved by the Supplemental Resolution of the Issuer.

F. The Issuer will have the following outstanding obligations which will rank on a parity with the Series 2018 B Bonds as to liens, pledge, source of and security for payment, being the Issuer's:

1. Combined Waterworks and Sewerage System Revenue Bonds, Series 1987 B, dated November 18, 1987, issued in the original aggregate principal amount of \$413,629 (the "Series 1987 B Bonds");
2. Combined Waterworks and Sewerage System Revenue Bonds, Series 1988 B-1, dated May 4, 1988, issued in the original aggregate principal amount of \$295,916 (the "Series 1988 B-1 Bonds");
3. Combined Waterworks and Sewerage System Revenue Bonds, Series 1988 B-2, dated May 20, 1988, issued in the original aggregate principal amount of \$558,000 (the "Series 1988 B-2 Bonds");
4. Combined Waterworks and Sewerage System Revenue Bonds, Series 1989 B, dated April 13, 1989, issued in the original aggregate principal amount of \$117,480 (the "Series 1989 B Bonds");
5. Combined Waterworks and Sewerage System Design Revenue Bonds, Series 1998 (West Virginia SRF Program), dated September 29, 1998, issued in the original aggregate principal amount of \$437,601 (the "Series 1998 Bonds");
6. Combined Waterworks and Sewerage System Revenue Bonds, Series 2000 A (West Virginia SRF Program), dated June 22, 2000, issued in the original aggregate principal amount of \$3,163,781 (the "Series 2000 A Bonds");
7. Combined Waterworks and Sewerage System Revenue Bonds, Series 2002 A (West Virginia Water Development Authority), dated August 22, 2002, issued in the original aggregate principal amount of \$1,100,000 (the "Series 2002 A Bonds");
8. Combined Waterworks and Sewerage System Revenue Bonds, Series 2002 B (West Virginia Infrastructure Fund), dated August 22, 2002, issued in the original aggregate principal amount of \$3,600,000 (the "Series 2002 B Bonds");
9. Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 A (West Virginia DWTRF Program), dated January 13, 2010, issued in the original aggregate principal amount of \$912,458 (the "Series 2010 A Bonds");
10. Combined Waterworks and Sewerage System Revenue Bonds, Series 2010 B (West Virginia DWTRF Program/ARRA), dated January 13, 2010, issued in the original aggregate principal amount of \$100,000 (the "Series 2010 B Bonds");
11. Combined Waterworks and Sewerage System Design Revenue Bonds, Series 2010 C (West Virginia SRF Program), dated December 2, 2010, issued in the original aggregate principal amount of \$1,250,000 (the "Series 2010 C Bonds");
12. Combined Waterworks and Sewerage System Design Revenue Bonds, Series 2010 D (West Virginia SRF Program), dated December 2, 2010, issued in the original aggregate principal amount of \$500,000 (the "Series 2010 D Bonds");

13. Combined Waterworks and Sewerage System Revenue Bonds, Series 2011 A (West Virginia SRF Program), dated July 22, 2011, issued in the original aggregate principal amount of \$13,147,192 (the "Series 2011 A Bonds");

14. Combined Waterworks and Sewerage System Design Revenue Bonds, Series 2013 A (West Virginia SRF Program), dated June 27, 2013, issued in the original aggregate principal amount of \$591,977 (the "Series 2013 A Bonds");

15. Combined Waterworks and Sewerage System Revenue Bonds, Series 2013 B (Tax-Exempt), dated October 1, 2013, issued in the original aggregate principal amount of \$2,970,000 (the "Series 2013 B Bonds");

16. Combined Waterworks and Sewerage System Revenue Bonds, Series 2014 A (West Virginia SRF Program), dated June 18, 2014, issued in the original aggregate principal amount of \$4,058,900 (the "Series 2014 A Bonds");

17. Combined Waterworks and Sewerage System Refunding Revenue Bonds, Series 2014 C (AMT), dated October 31, 2014, issued in the original aggregate principal amount of \$820,000 (the "Series 2014 C Bonds");

18. Combined Waterworks and Sewerage System Refunding Revenue Bonds, Series 2014 D (Taxable), dated October 31, 2014, issued in the original aggregate principal amount of \$1,445,000 (the "Series 2014 D Bonds");

19. Combined Waterworks and Sewerage System Refunding Revenue Bonds, Series 2014 E (Bank Qualified), dated October 31, 2014, issued in the original aggregate principal amount of \$1,425,000 (the "Series 2014 E Bonds");

20. Combined Waterworks and Sewerage System Refunding Revenue Bonds, Series 2015 A, dated November 19, 2015, issued in the aggregate principal amount of \$2,750,000 (the "Series 2015 A Bonds");

21. Combined Waterworks and Sewerage System Refunding Revenue Bonds, Series 2015 B, dated November 19, 2015, issued in the aggregate principal amount of \$4,355,000 (the "Series 2015 B Bonds");

22. Combined Waterworks and Sewerage System Revenue Bonds, Series 2016 A, dated March 17, 2016, issued in the aggregate principal amount of \$7,695,000 (the "Series 2016 A Bonds");

23. Combined Waterworks and Sewerage System Revenue Bonds, Series 2018 A-1 (West Virginia Water Development Authority), originally the District 1988 B Bonds and assumed by the Issuer contemporaneously with the issuance of the Series 2018 B Bonds (the "Series 2018 A-1 Bonds");

24. Combined Waterworks and Sewerage System Revenue Bonds, Series 2018 A-2 (West Virginia SRF Program), originally the District 1998 B Bonds and assumed by the Issuer contemporaneously with the issuance of the Series 2018 B Bonds (the "Series 2018 A-2 Bonds");

25. Combined Waterworks and Sewerage System Revenue Bonds, Series 2018 A-3

(West Virginia Infrastructure Fund), originally the District 1998 C Bonds and assumed by the Issuer contemporaneously with the issuance of the Series 2018 B Bonds (the "Series 2018 A-3 Bonds");

26. Combined Waterworks and Sewerage System Revenue Bonds, Series 2018 A-4 (West Virginia SRF Program), originally the District 1999 A Bonds and assumed by the Issuer contemporaneously with the issuance of the Series 2018 B Bonds (the "Series 2018 A-4 Bonds");

27. Combined Waterworks and Sewerage System Revenue Bonds, Series 2018 A-5 (West Virginia SRF Program), originally the District 1999 A Bonds and assumed by the Issuer contemporaneously with the issuance of the Series 2018 B Bonds (the "Series 2018 A-5 Bonds");

28. Combined Waterworks and Sewerage System Revenue Bonds, Series 2018 A-6 (West Virginia SRF Program), originally the District 2008 A Bonds and assumed by the Issuer contemporaneously with the issuance of the Series 2018 B Bonds (the "Series A-6 Bonds"); and

29. Combined Waterworks and Sewerage System Revenue Bonds, Series 2018 A-7 (West Virginia DWTRF Program), originally the District 2014 A Bonds and assumed by the Issuer contemporaneously with the issuance of the Series 2018 B Bonds (the "Series A-7 Bonds").

The Series 1987 B Bonds, Series 1988 B-1 Bonds, Series 1988 B-2 Bonds, Series 1989 B Bonds, Series 1998 Bonds, Series 2000 A Bonds, Series 2002 A Bonds, Series 2002 B Bonds, Series 2010 A Bonds, Series 2010 B Bonds, Series 2010 C Bonds, Series 2010 D Bonds, Series 2011 A Bonds, Series 2013 A Bonds, Series 2013 B Bonds, Series 2014 A Bonds, Series 2014 C Bonds, Series 2014 D Bonds, Series 2014 E Bonds, Series 2015 A Bonds, Series 2015 B Bonds and Series 2016 A Bonds are hereinafter collectively called the "Prior Bonds." The Series 2018 A-1 Bonds, the Series 2018 A-2 Bonds, the Series 2018 A-3 Bonds, the Series 2018 A-4 Bonds, the Series 2018 A-5 Bonds, the Series 2018 A-6 Bonds and the Series 2018 A-7 Bonds are hereinafter collectively called the "Series 2018 A Bonds". The ordinances which authorized the issuance of the Prior Bonds are herein collectively referred to as the "Prior Ordinances". The ordinance of the Issuer enacted to authorize the assumption, modification and amendment and re-designation of the Series 2018 A Bonds, is here in referred to as the "Series 2018 A Bond Ordinance."

Prior to the issuance of the Series 2018 B Bonds, the Issuer will obtain (i) the certificate of an Independent Certified Public Accountant stating that the coverage and parity tests of the Prior Bonds and the Series 2018 A Bonds are met; and (ii) the written consent of the Registered Owners of the Prior Bonds, if required, and Series 2018 A Bonds to the issuance of the Series 2018 B Bonds on a parity with such Prior Bonds and Series 2018 A Bonds. The Series 2013 A Bonds, Series 2014 C Bonds, Series 2014 D Bonds, Series 2014 E Bonds, Series 2015 A Bonds, Series 2015 B Bonds, Series 2016 A Bonds and Series 2016 B Bonds do not require written consent.

Other than the Prior Bonds and the Series 2018 A Bonds, there are no other outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System.

G. The Issuer intends to issue the Series 2018 B Bonds and to pledge for payment thereof, the Gross Revenues of the System, on a parity with each other and on a parity with such pledge in favor of the Holders of the Prior Bonds and the Series 2018 A Bonds.

H. The estimated revenues to be derived in each year after the date hereof from the operation of the System will be sufficient, to provide for the repair, maintenance and operation of the

System, the payment of interest upon the Series 2018 B Bonds, and the Prior Bonds and Series 2018 A Bonds and to create sinking funds, as hereinafter provided, to pay the principal on the Series 2018 B Bonds and the Prior Bonds and Series 2018 A Bonds as and when it becomes due and reasonable reserves therefor, to provide an adequate renewal and replacement fund, as hereinafter provided, and to make all other payments provided for in this Ordinance, the Prior Ordinances and the Series 2018 A Bond Ordinance.

I. It is in the best interests of the Issuer, and the residents thereof, that the Issuer issue the Series 2018 B Bonds, and secure the Series 2018 B Bonds by a pledge and assignment of the Gross Revenues derived from the operation of the System, the monies in the Series 2018 B Bonds Reserve Account, unexpended proceeds of the Series 2018 B Bonds and as further set forth herein.

J. The Series 2018 B Bonds and the Certificate of Authentication and Registration to be endorsed thereon are to be in substantially the forms set forth in EXHIBIT A – FORM OF SERIES 2018 B BONDS attached hereto and incorporated herein by reference, with necessary and appropriate variations, omissions and insertions as permitted or required by this Ordinance or a Supplemental Resolution or as deemed necessary by the Registrar or the Issuer.

K. All things necessary to make the Series 2018 B Bonds, when authenticated by the Registrar and issued as in this Ordinance provided, the valid, binding and legal special obligations of the Issuer according to the import thereof, and to validly pledge and assign those funds pledged hereby to the payment of the principal of and interest on the Series 2018 B Bonds, will be timely done and duly performed.

L. The enactment of this Ordinance, the execution and issuance of the Series 2018 B Bonds, subject to the terms thereof, will not result in any breach of, or constitute a default under, any instrument to which the Issuer is a party or by which it may be bound or affected.

M. The Issuer has complied with all requirements of West Virginia law relating to authorization of the acquisition and operation of the Project and the System and issuance of the Series 2018 B Bonds, or will have so complied prior to issuance of any thereof.

Section 1.04. Ordinance Constitutes Contract. In consideration of the acceptance of the Series 2018 B Bonds by those who shall own or hold the same from time to time, this Ordinance shall be deemed to be and shall constitute a contract between the Issuer and such Bondholders, and the covenants and agreements herein set forth to be performed by the Issuer shall be for the equal benefit, protection and security of the legal Holders of any and all of such Bonds, all of which shall be of equal rank and without preference, priority or distinction between any one Bond and any other Bond, by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

## **ARTICLE II**

### **AUTHORIZATION OF THE PROJECT**

Section 2.01. Authorization of the Project. There is hereby authorized and ordered the acquisition of the Project, at an estimated cost of not more than \$4,000,000. The proceeds of the Series 2018 B Bonds hereby authorized shall be applied as provided herein. The Series 2018 B Bonds are

hereby authorized, to be issued in one or more series, in the aggregate principal amount of not more than \$4,000,000.

### **ARTICLE III**

#### **THE SERIES 2018 B BONDS**

Section 3.01. Form and Payment of Bonds. No Series 2018 B Bond shall be issued pursuant to this Ordinance except as provided in this Article III. Any Series 2018 B Bonds issued pursuant to this Ordinance may be issued only as fully registered Series 2018 B Bonds, in the denomination of \$5,000 or any integral multiple thereof for any year of maturity. All Series 2018 B Bonds shall be dated as of the date provided in a Supplemental Resolution applicable to such series. All Series 2018 B Bonds shall bear interest from the interest payment date next preceding the date of authentication or, if authenticated after the Record Date but prior to the applicable interest payment date or on such interest payment date, from such interest payment date or, if no interest on such Series 2018 B Bonds has been paid, from the date thereof; provided however, that, if, as shown by the records of the Registrar, interest on such Series 2018 B Bonds shall be in default, Bonds issued in exchange for Series 2018 B Bonds surrendered for transfer or exchange shall bear interest from the date to which interest has been paid in full on the initial Series 2018 B Bonds surrendered.

The principal of and the premium, if any, on the Series 2018 B Bonds shall be payable in any coin or currency which, on the respective date of such payment, is legal tender for the payment of public and private debts under the laws of the United States of America upon surrender at the principal office of the Paying Agent. Interest on the Series 2018 B Bonds shall be paid by check or draft made payable and mailed to the Holder thereof at his address as it appears in the Bond Register at the close of business on the Record Date, or, if requested, in the case of a Registered Owner of \$1,000,000 or more of the Series 2018 B Bonds, by wire transfer to a domestic bank account specified in writing at least 5 days prior to such interest payment date by such Registered Owner.

In the event any Series 2018 B Bonds are redeemed in part, such bond shall be surrendered to and canceled by the Registrar, and the Issuer shall execute, and the Registrar shall authenticate and deliver to the Holder thereof, another Series 2018 B Bond in the principal amount of said Series 2018 B Bond then Outstanding.

Section 3.02. Execution of Bonds. The Series 2018 B Bonds shall be executed in the name of the Issuer by the Mayor, by his manual or facsimile signature, and the seal of the Issuer shall be affixed thereto or imprinted thereon and attested by the City Clerk by his or her manual or facsimile signature; provided, that, all such signatures and the seal may be by facsimile. In case any one or more of the officers who shall have signed or sealed any of the Series 2018 B Bonds shall cease to be such officer of the Issuer before the Bonds so signed and sealed have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Series 2018 B Bonds shall be signed and sealed on behalf of the City by such person as at the actual time of the execution of such Bonds shall hold the proper office in the City, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

Section 3.03. Authentication and Registration. No Series 2018 B Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Ordinance unless and until the

Certificate of Authentication and Registration on such Series 2018 B Bond, substantially in the form set forth in EXHIBIT A – FORM OF SERIES 2018 B BONDS attached hereto and incorporated herein by reference with respect to the Series 2018 B Bonds, shall have been duly manually executed by the Registrar. Any such manually executed Certificate of Authentication and Registration upon any such Series 2018 B Bond shall be conclusive evidence that such Bond has been authenticated, registered and delivered under this Ordinance. The Certificate of Authentication and Registration on any Series 2018 B Bond shall be deemed to have been executed by the Registrar if signed by an authorized officer of the Registrar, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all of the Series 2018 B Bonds issued hereunder.

Section 3.04. Negotiability and Registration. Subject to the requirements for transfer set forth below, the Series 2018 B Bonds shall be, and have all of the qualities and incidents of, negotiable instruments under the Uniform Commercial Code of the State, and each successive Holder, in accepting any of said Bonds, shall be conclusively deemed to have agreed that such Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State, and each successive Holder shall further be conclusively deemed to have agreed that said Bonds shall be incontestable in the hands of a bona fide holder for value.

So long as any of the Series 2018 B Bonds remain Outstanding, the Registrar shall keep and maintain books for the registration and transfer of the Series 2018 B Bonds. The Series 2018 B Bonds shall be transferable only by transfer of registration upon the Bond Register by the registered owner thereof in person or by his attorney or legal representative duly authorized in writing, upon surrender thereof, together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered owner or such duly authorized attorney or legal representative. Upon transfer of a Series 2018 B Bond, there shall be issued at the option of the Holder or the transferee another Bond or Bonds of the aggregate principal amount equal to the unpaid amount of the transferred Bond and of the same series, interest rate and maturity of said transferred Bond.

Upon surrender thereof at the office of the Registrar with a written instrument of transfer satisfactory to the Registrar and duly executed by the registered owner or his attorney or legal representative duly authorized in writing, Series 2018 B Bonds may at the option of the Holder thereof be exchanged for an equal aggregate principal amount of Bonds of the same series, maturity and interest rate, in any authorized denominations.

In all cases in which the privilege of transferring or exchanging a Series 2018 B Bond is exercised, Bonds shall be delivered in accordance with the provisions of this Ordinance. All Series 2018 B Bonds surrendered in any such transfer or exchange shall forthwith be canceled by the Registrar. Transfers of Series 2018 B Bonds, the initial exchange of Bonds and exchanges of Bonds in the event of partial redemption of fully registered Bonds shall be made by the Registrar without charge to the Holder or the transferee thereof, except as provided below. For other exchanges of Series 2018 B Bonds, the Registrar may impose a service charge. For every such transfer or exchange of Series 2018 B Bonds, the Registrar may make a charge sufficient to reimburse its office for any tax or other governmental charge required to be paid with respect to such transfer or exchange, and such tax or governmental charge, and such service charge for exchange other than the initial exchange or in the event of partial redemption, shall be paid by the person requesting such transfer or exchange as a condition precedent to the exercise of the privilege of making such transfer or exchange. The Registrar shall not be obliged to make any such transfer or exchange of Series 2018 B Bonds that have been called for redemption.



Section 3.05. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Series 2018 B Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may execute, in its discretion, and the Registrar shall authenticate, register and deliver any new Bond of like series, maturity and principal amount as the Bond, so mutilated, destroyed, stolen or lost, in exchange and upon surrender and cancellation of, such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Holder's furnishing the Issuer and the Registrar proof of his ownership thereof and that said Bond has been destroyed, stolen or lost and satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer or the Registrar may prescribe and paying such expenses as the Issuer or the Registrar may incur. The name of the Bondholder listed in the Bond Register shall constitute proof of ownership. All Series 2018 B Bonds so surrendered shall be submitted to and canceled by the Registrar, and evidence of such cancellation shall be given to the Issuer. If such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the Issuer, by and through the Registrar, may pay the same, upon being indemnified as aforesaid, and, if such Bond be lost, stolen or destroyed, without surrender therefor.

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

Section 3.06. Term Bonds. In the event Term Bonds are issued as part of the Series 2018 B Bonds pursuant to this Ordinance, the following provisions shall apply:

1. The amounts to be deposited, apportioned and set apart by the Issuer from the Revenue Fund and into the Series 2018 B Bonds Redemption Account in accordance with Subsection 4.03(A)(1) shall include (after credit as provided below) on the first of each month, beginning on the first day of that month which is 12 months prior to the first mandatory redemption date of said Term Bonds, a sum equal to 1/12th of the amount (or, if the Series 2018 B Bonds mature semiannually rather than annually, that month which is 6 months prior to the first mandatory redemption date of said Term Bonds, a sum equal to 1/6th of the amount) required to redeem the principal amount of such Term Bonds which are to be redeemed as of the next ensuing mandatory Redemption Date, which amounts and dates, if any, with respect to a series of Bonds shall be set forth in the Supplemental Resolution relating thereto.

2. At its option, to be exercised on or before the 60th day next preceding any such mandatory Redemption Date, the Issuer may (a) deliver to the Registrar for cancellation such Term Bonds in any aggregate principal amount desired or (b) receive a credit in respect of its mandatory redemption obligation for any such Term Bonds which prior to said date have been redeemed (otherwise than pursuant to this section) and canceled by the Registrar and not theretofore applied as a credit against any such mandatory redemption obligation. Each Term Bond so delivered or previously redeemed shall be credited by the Registrar at 100% of the principal amount thereof against the obligation of the Issuer on such mandatory Redemption Date, and Term Bonds delivered in excess of such mandatory redemption obligation shall be credited against future mandatory redemption obligations in the order directed by the Issuer, and the principal amount of such Term Bonds to be redeemed pursuant to mandatory sinking fund redemption shall be accordingly reduced.

3. The Issuer shall on or before the 60th day next preceding each mandatory Redemption Date furnish the Registrar and the Bond Commission with its certificate indicating whether

and to what extent the provisions of (a) and (b) of the preceding paragraph are to be utilized with respect to such mandatory redemption payment and stating, in the case of the credit provided for in (b) of the preceding paragraph, that such credit has not theretofore been applied against any mandatory redemption obligation.

4. After said 60th day but prior to the date on which the Registrar selects the Term Bonds to be redeemed, the Bond Commission may use the monies in the Series 2018 B Bonds Redemption Account to purchase Term Bonds at a price less than the par value thereof and accrued interest thereon. The Bond Commission shall advise the Issuer and the Registrar of any Term Bonds so purchased, and they shall be credited by the Registrar at 100% of the principal amount thereof against the obligation of the Issuer on such mandatory Redemption Date, and any excess shall be credited against future mandatory redemption obligations in the order directed by the Issuer, and the principal amount of such Term Bonds to be redeemed pursuant to mandatory sinking fund redemption shall be accordingly reduced.

5. The Registrar shall call for redemption, in the manner provided herein, an aggregate principal amount of such Term Bonds, at the principal amount thereof plus interest accrued to the Redemption Date (interest to be paid from the Series 2018 B Bonds Sinking Fund), as will exhaust as nearly as practicable such Series 2018 B Bonds Redemption Account payment designated to be made in accordance with paragraph (A)(1) of this section. Such redemption shall be by random selection made on the 45th day preceding the mandatory Redemption Date, in such manner as may be determined by the Registrar. For purposes of this section, "Term Bonds" shall include any portion of a fully registered Term Bond, in integrals of \$5,000.

Section 3.07. Notice of Redemption. Unless waived by any Holder of the Series 2018 B Bonds to be redeemed, official notice of any redemption shall be given by the Registrar on behalf of the Issuer by mailing a copy of an official redemption notice by registered or certified mail or electronic transmission at least 30 days and not more than 60 days prior to the date fixed for redemption to the applicable Bond Insurer and the registered owner of the Series 2018 B Bond or Bonds to be redeemed at the address shown on the Bond Register or at such other address as is furnished in writing by such registered owner to the Bond Registrar.

So long as DTC (as CEDE & CO.) is the registered Owner of the Series 2018 B Bonds, the Registrar shall send all notices of redemption to DTC and shall verify that DTC has received notice.

All official notices of redemption shall be dated and shall state:

- (1) The Redemption Date,
- (2) The Redemption Price,
- (3) If less than all Outstanding Bonds are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the Bonds to be redeemed,
- (4) That on the Redemption Date the Redemption Price and interest accrued will become due and payable upon each such Bond or portion thereof called for redemption, and that interest thereon shall cease to accrue from and after said date,

(5) The place where such Bonds are to be surrendered for payment of the Redemption Price, which place of payment shall be the principal office of the Registrar, and

(6) Such other information, if any, as shall be required for DTC-Eligible Bonds.

If funds sufficient to redeem all Series 2018 B Bonds called for optional redemption have not been deposited with the Paying Agent at the time of mailing any notice of optional redemption, such notice shall also state that such optional redemption is subject to the deposit of such monies with the Paying Agent on or before the Redemption Date. If such monies are not so deposited, the Registrar shall notify all holders of Series 2018 B Bonds called for redemption of such fact.

Official notice of redemption having been given as aforesaid, the Series 2018 B Bonds, or portions of Bonds so to be redeemed shall, on the Redemption Date, become due and payable at the Redemption Price therein specified, and from and after such date (unless the Issuer shall default in the payment of the Redemption Price) such Bonds or portions of Bonds shall cease to bear interest. Upon surrender of such Series 2018 B Bonds for redemption in accordance with said notice, such Bonds shall be paid by the Registrar at the Redemption Price. Installments of interest due on or prior to the Redemption Date shall be payable as herein provided for payment of interest. Upon surrender for any partial redemption of any Bond, there shall be prepared for the registered owner a new Bond or Bonds of the same maturity in the amount of the unpaid principal of such Bond. All Series 2018 B Bonds which have been redeemed shall be canceled and destroyed by the Bond Registrar and shall not be reissued.

Failure to receive such notice or any defect therein or in the mailing thereof shall not affect the validity of proceedings for the redemption of Series 2018 B Bonds, and failure to mail such notice shall not affect the validity of proceedings for the redemption of any portion of Bonds for which there was no such failure.

Section 3.08. Persons Treated as Owners. The Issuer, the Registrar and any agent of the Issuer or the Registrar may treat the person in whose name any Bond is registered as the owner of such Bond for the purpose of receiving payment of the principal of, and interest on, such Bond and (except as provided in Section 6.18) for all other purposes, whether or not such Bond is overdue.

Section 3.09. Temporary Bonds. Until Bonds of any series in definitive form are ready for delivery, the Issuer may execute and the Registrar shall authenticate, register, if applicable, and deliver, subject to the same provisions, limitations and conditions set forth in this Article III, one or more printed, lithographed or typewritten Bonds in temporary form, substantially in the form of the definitive Bonds of such series, with appropriate omissions, variations and insertions, and in authorized denominations. Until exchanged for Bonds in definitive form, such Bonds in temporary form shall be entitled to the lien and benefit created under this Ordinance. Upon the presentation and surrender of any Bond or Bonds in temporary form, the Issuer shall, without unreasonable delay, prepare, execute and deliver to the Registrar, and the Registrar shall authenticate, register, if applicable, and deliver, in exchange therefor, a Bond or Bonds in definitive form. Such exchange shall be made by the Registrar without making any charge therefor to the Holder of such Bond in temporary form.

Section 3.10. Series 2018 B Bonds. For the purposes of paying a portion of the costs of the Project, paying capitalized interest, if any, funding the Series 2018 B Bonds Reserve Account and paying costs in connection therewith, there shall be issued the Series 2018 B Bonds of the Issuer, in one or more series, in an aggregate principal amount of not more than \$4,000,000. Said Series 2018 B Bonds shall be designated "Combined Waterworks and Sewerage System Revenue Bonds, Series 2018 B (Bank

Qualified)” or such other designation as may be appropriate for the year and sequence of the issue, as may be set forth in a Supplemental Resolution, and shall be issued in fully registered form, in the denomination of \$5,000 or any integral multiple thereof for any period of maturity, not exceeding the aggregate principal amount of Series 2018 B Bonds maturing in the period of maturity for which the denomination is to be specified. The Series 2018 B Bonds shall be numbered from BR-1 consecutively upward. The Series 2018 B Bonds shall be dated; shall be in such aggregate principal amount (not to exceed \$4,000,000); shall bear interest at such rate or rates, not exceeding the then legally permissible rate (not to exceed 8%), payable semiannually on such dates; shall mature on such dates (which may be annual or semi-annual) (not to exceed 30 years) and in such amounts; shall be subject to such mandatory and optional redemption provisions; and shall have such other terms, all as the Issuer shall prescribe herein and in the Supplemental Resolution.

Section 3.11. Book Entry System for Series 2018 B Bonds. A. The Series 2018 B Bonds shall each initially be issued in the form of one fully-registered bond for the aggregate principal amount of the Series 2018 B Bonds of each maturity, registered in the name of CEDE & CO., as nominee of DTC. Except as provided in paragraph E below, all of the Series 2018 B Bonds shall be registered in the registration books kept by the Registrar in the name of CEDE & CO., as nominee of DTC; provided, that if DTC shall request that the Series 2018 B Bonds be registered in the name of a different nominee, the Registrar shall exchange all or any portion of the Series 2018 B Bonds registered in the name of such nominee or nominees. No person other than DTC or its nominee shall be entitled to receive from the Issuer or the Registrar either a Series 2018 B Bond or any other evidence of ownership of the Series 2018 B Bonds, or any right to receive any payment in respect thereof unless DTC or its nominee shall transfer record ownership of all or any portion of the Series 2018 B Bonds on the registration books maintained by the Registrar, in connection with discontinuing the book entry system as provided in paragraph E below.

B. At or prior to settlement for the Series 2018 B Bonds, the Issuer and the Registrar shall execute or signify their approval of a representation letter addressed to DTC in a form satisfactory to DTC (the “Representation Letter”). Any successor Registrar shall, in its written acceptance of its duties under this Ordinance, agree to take any actions necessary from time to time to comply with the requirements of the Representation Letter.

C. So long as the Series 2018 B Bonds or any portion thereof are registered in the name of DTC or any nominee thereof, all payments of the principal or Redemption Price of or interest on such Series 2018 B Bonds shall be made to DTC or its nominee at the addresses set forth in the Representation Letter in New York Clearing House or equivalent next day funds on the dates provided for such payments to be made to any Bondholder under this Ordinance. Each such payment to DTC or its nominee shall be valid and effective to fully discharge all liability of the Issuer and the Registrar with respect to the principal or Redemption Price of or interest on the Series 2018 B Bonds to the extent of the sum or sums so paid. In the event of the redemption of less than all of the Series 2018 B Bonds Outstanding of any maturity, the Registrar shall not require surrender by DTC of the Series 2018 B Bonds so redeemed, but DTC may retain such Series 2018 B Bonds and make an appropriate notation on the Series 2018 B Bonds certificate as to the amount of such partial redemption; provided, that DTC shall deliver to the Registrar, upon request, a written confirmation of such partial redemption. The records maintained by the Registrar shall be conclusive as to the amount of the Series 2018 B Bonds of such maturity which have been redeemed.

D. The Issuer, the Paying Agent and the Registrar may treat DTC as the sole and exclusive owner of the Series 2018 B Bonds registered in its name or the name of its nominee for the

purposes of payment of the principal or Redemption Price of or interest on the Series 2018 B Bonds, selecting the Series 2018 B Bonds or portions thereof to be redeemed, giving any notice permitted or required to be given to Bondholders under this Ordinance, registering the transfer of Series 2018 B Bonds, obtaining any consent or other action to be taken by Bondholders and for all other purposes whatsoever; and neither the Issuer nor the Registrar shall be affected by any notice to the contrary. Neither the Issuer nor the Registrar shall have any responsibility or obligation to any direct or indirect participant in DTC, any person claiming a beneficial ownership interest in the Series 2018 B Bonds under or through DTC or any such participant, or any other person which is not shown on the registration books of the Registrar as being a Bondholder with respect to (i) the Series 2018 B Bonds, (ii) the accuracy of any records maintained by DTC or any such participant, (iii) the payment by DTC or any such participant of any amount in respect of the principal or Redemption Price of or interest on the Series 2018 B Bonds, (iv) any notice which is permitted or required to be given to Bondholders under this Ordinance, (v) the selection by DTC or any such participant of any person to receive payment in the event of a partial redemption of the Series 2018 B Bonds, or (vi) any consent given or other action taken by DTC as Bondholder.

E. The book entry system for registration of the ownership of the Series 2018 B Bonds may be discontinued at any time if either: (i) DTC determines to resign as securities depository for the Series 2018 B Bonds; or (ii) the Issuer determines that continuation of the system of book entry transfers through DTC (or through a successor securities depository) is not in the best interest of the beneficial owners of the Series 2018 B Bonds. In either of such events (unless in the case described in clause (iii) above, the Issuer appoints a successor securities depository), the Series 2018 B Bonds shall be delivered in registered certificate form to such persons, and in such maturities and principal amounts, as may be designated by DTC, but without any liability on the part of the Issuer or the Registrar for the accuracy of such designation. Whenever DTC requests the Issuer and the Registrar to do so, the Issuer and the Registrar shall cooperate with DTC in taking appropriate action after reasonable notice to arrange for another securities depository to maintain custody of certificates evidencing the Series 2018 B Bonds.

Section 3.12. Delivery of Series 2018 B Bonds. The Issuer shall execute and deliver the Series 2018 B Bonds to the Registrar, and the Registrar shall authenticate, register and deliver the Series 2018 B Bonds to the Original Purchaser upon receipt of the documents set forth below:

(1) If not registered in the name of DTC or its nominee, a list of the names in which the Series 2018 B Bonds are to be registered upon original issuance, together with such taxpayer identification and other information as the Registrar may reasonably require;

(2) A request and authorization to the Registrar on behalf of the Issuer, signed by an Authorized Officer, to authenticate and deliver the Series 2018 B Bonds to DTC for the benefit of the Original Purchaser;

(3) Copies, certified by the City Clerk, of this Ordinance and the Supplemental Resolution;

(4) The unqualified approving opinion upon the Series 2018 B Bonds by Bond Counsel; and

(5) Such other opinions, certificates and documents as shall be reasonably requested by the Original Purchaser.

Section 3.13. Form of Series 2018 B Bonds. The definitive Series 2018 B Bonds shall be in substantially the form set forth in EXHIBIT A – FORM OF SERIES 2018 B BONDS attached hereto and incorporated herein by reference, with such necessary and appropriate omissions, insertions and variations as are approved by those officers executing such Series 2018 B Bonds on behalf of the Issuer and execution thereof by such officers shall constitute conclusive evidence of such approval, and the definitive Series 2018 B Bonds shall have the form of the opinion of Steptoe & Johnson PLLC, as Bond Counsel, attached thereto or printed on the reverse thereof.

Section 3.14. Disposition of Proceeds of Series 2018 B Bonds. Upon the issuance and delivery of the Series 2018 B Bonds, the Issuer shall forthwith deposit the proceeds thereof as follows:

1. All interest accrued, if any, on the Series 2018 B Bonds from the date thereof to the date of delivery thereof shall be deposited in the Series 2018 B Bonds Sinking Fund and applied to payment of interest on the Series 2018 B Bonds at the first interest payment date.

2. An amount of the proceeds of the Series 2018 B Bonds equal to the amount, if any, set forth in the Supplemental Resolution shall be remitted to the Bond Commission for deposit in the Series 2018 B Bonds Reserve Account; provided, that to the extent the Series 2018 B Bonds Reserve Requirement is satisfied in whole or in part from a reserve account letter of credit, surety bond or other credit facility, proceeds of the Series 2018 B Bonds shall be deposited in the Series 2018 B Bonds Reserve Account only to the extent needed to satisfy the balance of the Series 2018 B Bonds Reserve Requirement.

3. The amount of Series 2018 B Bond proceeds which, together with other monies or securities deposited therein shall be equal to the Costs of Issuance of the Series 2018 B Bonds shall be deposited with the Depository Bank in the Series 2018 B Bonds Costs of Issuance Fund and shall be drawn out, used and applied by the Issuer solely to pay costs of issuance of the Series 2018 B Bonds at the written direction of the Issuer. Monies not to be applied immediately to pay such costs of issuance may be invested in accordance with this Ordinance, subject however, to applicable yield restrictions as may be in effect under the Code. If for any reason such proceeds, or any part thereof, are not necessary for, or are not applied to such purpose within 120 days following the Closing Date for the Series 2018 B Bonds, such unapplied proceeds shall be transferred by the Issuer to the Series 2018 B Bonds Sinking Fund established in Section 4.01 hereof and applied to the next ensuing payment of interest on the Series 2018 B Bonds. All such proceeds shall constitute a trust fund for such purposes, and there hereby is created a lien upon such monies until so applied in favor of the Holders of the Series 2018 B Bonds from which such proceeds are derived.

4. The balance of Series 2018 B Bonds proceeds, if any, shall be deposited in the Series 2018 B Bonds Construction Fund and disbursed as provided in Section 3.15 hereof.

Section 3.15. Disbursements from the Series 2018 B Bonds Construction Fund. Disbursements from the Series 2018 B Bonds Construction Fund, except for payment of Costs of Issuance of the Series 2018 B Bonds in excess of the monies available in the Costs of Issuance Fund which shall be made upon request of the Issuer, shall be made only for acquisition of the Project. Pending such application, monies in the Series 2018 B Bonds Construction Fund, including any accounts therein, shall be invested and reinvested in Qualified Investments at the written direction of the Issuer.

## ARTICLE IV

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

Section 4.01. Establishment of Funds and Accounts with Depository Bank. Pursuant to this Article IV, the following special funds are created with (or continued if previously established by Prior Ordinances), and shall be held by, the Depository Bank, segregated from all other funds and accounts of the Depository Bank or the Issuer and from each other (except as set forth in this Section 4.01), and used solely for the purposes provided herein:

- (1) Revenue Fund (established by the Prior Ordinances);
- (2) Operation and Maintenance Fund (established by the Prior Ordinances);
- (3) Renewal and Replacement Fund (established by the Prior Ordinances);
- (4) Rebate Fund (established by Prior Ordinances); and
- (5) Series 2018 B Bonds Construction Fund.

Section 4.02. Establishment of Funds and Accounts with Bond Commission. The following special funds or accounts are hereby created (or continued if established by Prior Ordinances) with and shall be held by the Commission, separate and apart from all other funds or accounts of the Commission or the Issuer and from each other:

- (1) Series 1987 B Bonds Sinking Fund (established by Prior Ordinances);
- (2) Series 1987 B Bonds Reserve Account (established by Prior Ordinances);
- (3) Series 1988 B-1 Bonds Sinking Fund (established by Prior Ordinances);
- (4) Series 1988 B-1 Bonds Reserve Account (established by Prior Ordinances);
- (5) Series 1988 B-2 Bonds Sinking Fund (established by Prior Ordinances);
- (6) Series 1988 B-2 Bonds Reserve Account (established by Prior Ordinances);
- (7) Series 1989 B Bonds Sinking Fund (established by Prior Ordinances);
- (8) Series 1989 B Bonds Reserve Account (established by Prior Ordinances);
- (9) Series 1998 Bonds Sinking Fund (established by Prior Ordinances);
- (10) Series 1998 Bonds Reserve Account (established by Prior Ordinances);
- (11) Series 2000 A Bonds Sinking Fund (established by Prior Ordinances);
- (12) Series 2000 A Bonds Reserve Account (established by Prior Ordinances);
- (13) Series 2002 A Bonds Sinking Fund (established by Prior Ordinances);

- (14) Series 2002 A Bonds Reserve Account (established by Prior Ordinances);
- (15) Series 2002 B Bonds Sinking Fund (established by Prior Ordinances);
- (16) Series 2002 B Bonds Reserve Account (established by Prior Ordinances);
- (17) Series 2010 A Bonds Sinking Fund (established by Prior Ordinances);
- (18) Series 2010 A Bonds Reserve Account (established by Prior Ordinances);
- (19) Series 2010 B Bonds Sinking Fund (established by Prior Ordinances);
- (20) Series 2010 B Bonds Reserve Account (established by Prior Ordinances);
- (21) Series 2010 C Bonds Sinking Fund (established by Prior Ordinances);
- (22) Series 2010 C Bonds Reserve Account (established by Prior Ordinances);
- (23) Series 2010 D Bonds Sinking Fund (established by Prior Ordinances);
- (24) Series 2010 D Bonds Reserve Account (established by Prior Ordinances);
- (25) Series 2011 A Bonds Sinking Fund (established by Prior Ordinances);
- (26) Series 2011 A Bonds Reserve Account (established by Prior Ordinances);
- (27) Series 2013 A Bonds Sinking Fund (established by Prior Ordinances);
- (28) Series 2013 A Bonds Reserve Account (established by Prior Ordinances);
- (29) Series 2013 B Bonds Sinking Fund (established by Prior Ordinances);
- (30) Series 2013 B Bonds Reserve Account (established by Prior Ordinances);
- (31) Series 2014 A Bonds Sinking Fund (established by Prior Ordinances);
- (32) Series 2014 A Bonds Reserve Account (established by Prior Ordinances);
- (33) Series 2014 C Bonds Sinking Fund (established by Prior Ordinances);
- (34) Series 2014 C Bonds Reserve Account (established by Prior Ordinances);
- (35) Series 2014 D Bonds Sinking Fund (established by Prior Ordinances);
- (36) Series 2014 D Bonds Reserve Account (established by Prior Ordinances);
- (37) Series 2014 E Bonds Sinking Fund (established by Prior Ordinances);
- (38) Series 2014 E Bonds Reserve Account (established by Prior Ordinances);



- (39) Series 2015 A Bonds Sinking Fund (established by Prior Ordinances);
- (40) Series 2015 A Bonds Reserve Account (established by Prior Ordinances);
- (41) Series 2015 B Bonds Sinking Fund (established by Prior Ordinances);
- (42) Series 2015 B Bonds Reserve Account (established by Prior Ordinances);
- (43) Series 2016 A Bonds Sinking Fund (established by Prior Ordinances);
- (44) Series 2016 A Bonds Reserve Account (established by Prior Ordinances);
- (45) Series 2018 A-1 Bonds Sinking Fund (established by Series 2018 A Ordinance);
- (46) Series 2018 A-1 Bonds Reserve Account (established Series 2018 A Ordinance);
- (47) Series 2018 A-2 Bonds Sinking Fund (established by Series 2018 A Ordinance);
- (48) Series 2018 A-2 Bonds Reserve Account (established Series 2018 A Ordinance);
- (49) Series 2018 A-3 Bonds Sinking Fund (established by Series 2018 A Ordinance);
- (50) Series 2018 A-3 Bonds Reserve Account (established Series 2018 A Ordinance);
- (51) Series 2018 A-4 Bonds Sinking Fund (established by Series 2018 A Ordinance);
- (52) Series 2018 A-4 Bonds Reserve Account (established Series 2018 A Ordinance);
- (53) Series 2018 A-5 Bonds Sinking Fund (established by Series 2018 A Ordinance);
- (54) Series 2018 A-5 Bonds Reserve Account (established Series 2018 A Ordinance);
- (55) Series 2018 A-6 Bonds Sinking Fund (established by Series 2018 A Ordinance);
- (56) Series 2018 A-6 Bonds Reserve Account (established Series 2018 A Ordinance);
- (57) Series 2018 A-7 Bonds Sinking Fund (established by Series 2018 A Ordinance);
- (58) Series 2018 A-7 Bonds Reserve Account (established Series 2018 A Ordinance);
- (59) Series 2018 B Bonds Sinking Fund; and
- (60) Series 2018 B Bonds Reserve Account.

Section 4.03. System Revenues and Application Thereof. So long as any of the Series 2018 B Bonds shall be Outstanding and unpaid, the Issuer covenants as follows:

A. The entire Gross Revenues derived from the operation of the System and all parts thereof shall be deposited by the Issuer in the Revenue Fund. The Revenue Fund shall be kept separate and distinct from all other funds of the Issuer and the Depository Bank and used only for the purposes and in the manner herein provided. All Revenues at any time remaining on deposit in the Revenue Fund shall be disposed of only in the following manner and order of priority:

(1) The Issuer shall first, each month on or before the due date, transfer from the Revenue Fund and simultaneously remit to the Commission (i) the amounts required to be paid by Prior Ordinances and Series 2018 A Ordinance for the interest on the Series 1998 Bonds, Series 2000 A Bonds, Series 2002 A Bonds, Series 2010 A Bonds, Series 2010 B Bonds, Series 2014 A Bonds, Series 2014 C Bonds, Series 2014 D Bonds, Series 2014 E Bonds, Series 2015 A Bonds, Series 2015 B Bonds, Series 2016 A Bonds, Series 2016 B Bonds, Series 2018 A-3 Bonds and Series 2018 A-7; and (ii) beginning on the first day of that month which is 6 months prior to the first interest payment date on the Series 2018 B Bonds, apportion and set apart out of the Revenue Fund and deposit in the Series 2018 B Bonds Sinking Fund, a sum equal to 1/6th of the amount of interest which will become due on said Series 2018 B Bonds on the next ensuing semiannual interest payment date; provided, that in the event the period to elapse between the date of such initial deposit in the Series 2018 B Bonds Sinking Fund and the next ensuing semiannual interest payment date is less than or greater than 6 months, then such monthly payments shall be increased or decreased proportionately to provide, 1 month prior to the next ensuing semiannual interest payment date, the required amount of interest coming due on such date, and provided further, that the initial amount required to be transferred from the Revenue Fund and deposited in the Series 2018 B Bonds Sinking Fund shall be reduced by the amount of accrued interest, if any, on the Series 2018 B Bonds deposited therein and subsequent amounts required to be transferred from the Revenue Fund and deposited in the Series 2018 B Bonds Sinking Fund shall be reduced by the amount of any earnings credited to the Series 2018 B Bonds Sinking Fund;

(2) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and, simultaneously remit to the Commission (i) the amounts required by the Prior Ordinances and Series 2018 A Ordinance to pay principal on the Prior Bonds and Series 2018 A Bonds; and (ii) for deposit in the Series 2018 B Bonds Sinking Fund (and in the Series 2018 B Bonds Redemption Account therein in the case of Term Bonds which are to be redeemed) on the first day of each month, beginning on the first day of that month which is 12 months prior to the first principal payment or mandatory Redemption Date of the Series 2018 B Bonds, a sum equal to 1/12th of the amount (or 1/6th of the amount if the Series 2018 B Bonds mature semiannually rather than annually) of principal which will mature or be redeemed and become due on the Series 2018 B Bonds on the next ensuing principal payment or mandatory Redemption Date; provided, that in the event the period to elapse between the date of such initial deposit in the Series 2018 B Bonds Sinking Fund and the next ensuing principal payment or mandatory Redemption Date is less than or greater than 12 months (or 6 months if the Series 2018 B Bonds mature semiannually rather than annually), then such monthly payments shall be increased or decreased proportionately to provide, one month prior to the next ensuing principal payment date or mandatory Redemption Date, the required amount of principal coming due on such date, and provided further, that the amount of such deposits shall be reduced by the amount of any earnings credited to the Series 2018 B Bonds Sinking Fund and not previously credited pursuant to the preceding paragraph.

(3) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and, simultaneously remit to the Commission (i) the amounts required by the Prior Ordinances and Series 2018 A Bonds to be deposited in the respective Prior Bonds Reserve Accounts and Series 2018 A Bonds Reserve Accounts; and (ii) commencing 13 months prior to the first date of payment of principal of the Series 2018 B Bonds or upon completion of construction of the Project, whichever is earlier, if not

fully funded upon issuance of the Series 2018 B Bonds, for deposit in the Series 2018 B Bonds Reserve Account, an amount equal to 1/120th of the Series 2018 B Bonds Reserve Requirement; provided, that no further payments shall be made into the Series 2018 B Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 2018 B Bonds Reserve Requirement; provided further, that if the amounts in the Series 2018 B Bonds Reserve Account, as a result of a decrease in value of the Series 2018 B Bonds Reserve Account below the Series 2018 B Bonds Reserve Account Requirement or any withdrawal from the Series 2018 B Bonds Reserve Account, the Issuer shall apply such monies for deposit into the Series 2018 B Bonds Reserve Account, beginning with the first full calendar month following the date on which (a) the valuation of investments in the Series 2018 B Bonds Reserve Account results in a determination that the amount of monies and the value of the Qualified Investments deposited to the credit of the Series 2018 B Bonds Reserve Account is less than the Series 2018 B Bonds Reserve Account Requirement, or (b) any amount is withdrawn from the Series 2018 B Bonds Reserve Account for deposit into the Series 2018 B Bonds Sinking Fund. To the extent Gross Revenues and any other legally available funds are available therefor, the amount so deposited shall be used to restore the amount of monies on deposit in the Series 2018 B Bonds Reserve Account to an amount equal to the Series 2018 B Bonds Reserve Account Requirement to the full extent that such Gross Revenues are available; provided, however, that if the shortfall in the Series 2018 B Bonds Reserve Account is due to a decrease in the value of investments therein, such shortfall shall be replenished by not less than 4 equal monthly payments, and if such shortfall is due to a withdrawal from the Series 2018 B Bonds Reserve Account, such shortfall shall be replenished by not less than 12 equal monthly payments, and provided further, that no payments shall be required to be made into the Series 2018 B Bonds Reserve Account whenever and as long as the amount deposited therein shall be equal to the Series 2018 B Reserve Account Requirement.

Amounts in the Series 2018 B Bonds Reserve Account shall be used only for the purpose of making payments of principal of and interest on the Series 2018 B Bonds when due, when amounts in the Series 2018 B Bonds Sinking Fund are insufficient therefor and for no other purpose.

(4) The Issuer shall next, each month, transfer from the Revenue Fund and deposit in the Operation and Maintenance Fund, an amount sufficient to pay the current Operating Expenses of the System.

(5) The Issuer shall next, on the first day of each month, transfer from the monies remaining in the Revenue Fund and remit to the Depository Bank for deposit in the Renewal and Replacement Fund (as set forth in the Prior Ordinances and the Series 2018 A Ordinance and not in addition thereto), a sum equal to 2.5% of the Gross Revenues each month, exclusive of any payments for account of any Reserve Account. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in accordance with Article VIII hereof. Subject to the restrictions contained in the Prior Ordinances, so long as the Prior Bonds are outstanding, withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, emergency repairs, or improvements or extensions to the System; provided, that any deficiency in any Reserve Account, except to the extent such deficiency exists because the required payments into such account have not, as of the date of determination of a deficiency, funded such account to the maximum extent required hereof, shall be promptly eliminated with monies from the Renewal and Replacement Fund.

(6) Whenever all of the required and provided transfers and payments from the Revenue Fund into the several special funds, as hereinabove provided, are current and there remains in the Revenue Fund a balance in excess of the estimated amounts required to be so transferred and paid into

such funds during the following month or such other period as required by the Act, such excess shall be considered as surplus revenues (the "Surplus Revenues"). Surplus Revenues may be used for any lawful purpose of the System.

B. The Bond Commission is hereby designated as the fiscal agent for the administration of the Series 2018 B Bonds Sinking Fund created hereunder, and all amounts required for said Sinking Fund shall be remitted to the Bond Commission from said Revenue Fund and from the proceeds of the sale of the Series 2018 B Bonds, by the Issuer at the times and as otherwise provided herein. All remittances made by the Issuer to the Bond Commission shall clearly identify the fund or account into which each amount is to be deposited.

C. The monies on deposit in the Revenue Fund and the Renewal and Replacement Fund in excess of the sum insured by the FDIC shall at all times be secured, to the full extent thereof in excess of such insured sum, by Government Obligations or by other Qualified Investments as shall be eligible as security for deposits of municipal funds under the laws of the State.

D. Principal, interest or reserve payments, whether for a deficiency or otherwise, shall be made on a parity and pro rata, with respect to the Prior Bonds, the Series 2018 A Bonds and the Series 2018 B Bonds, all in accordance with the respective principal amounts then Outstanding.

## **ARTICLE V**

### **INVESTMENTS; NON-ARBITRAGE; REBATES AND CONTINUING DISCLOSURE**

Section 5.01. Investments. The Issuer shall invest and reinvest, and shall instruct the Bond Commission and the Depository Bank to invest and reinvest, any monies held as a part of the funds and accounts created by this Ordinance in Qualified Investments to the fullest extent possible under applicable laws, this Ordinance, the need for such monies for the purposes set forth herein and the specific restrictions and provisions set forth in this section.

Except as provided below, any investment shall be held in and at all times deemed a part of the fund or account in which such monies were originally held, and the interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. The Issuer shall sell and reduce to cash a sufficient amount of such investments whenever the cash balance in any fund or account is insufficient to make the payments required from such fund or account, regardless of the loss on such liquidation. The Issuer may make any and all investments permitted by this section through the bond department of the Depository Bank. The Depository Bank shall not be responsible for any losses from such investments, other than for its own negligence or willful misconduct.

The following specific provisions shall apply with respect to any investments made under this section (unless otherwise required by the Bond Insurer, if any, and as set forth in the Supplemental Resolution):

(A) Qualified Investments acquired for the Series 2018 B Bonds Reserve Account shall mature or be subject to retirement at the option of the holder within not more than 5 years from the date of such investment.

(B) The Issuer shall, or shall cause the Bond Commission to, annually transfer from the Series 2018 B Bonds Reserve Account to the Series 2018 B Bonds Sinking Fund any earnings on the monies deposited therein and any other funds in excess of the Series 2018 B Bonds Reserve Requirement; provided, however, that there shall at all times remain on deposit in the Series 2018 B Bonds Reserve Account an amount at least equal to the Series 2018 B Bonds Reserve Requirement.

(C) In computing the amount in any fund or account, Qualified Investments shall be valued at the lower of the cost or the market price, exclusive of accrued interest. Valuation of all funds and accounts shall occur annually, except in the event of a withdrawal from the Series 2018 B Bonds Reserve Account, whereupon it shall be valued immediately after such withdrawal. If amounts on deposit in the Series 2018 B Bonds Reserve Account shall, at any time, be less than the applicable Series 2018 B Bonds Reserve Requirement, the applicable Bond Insurer, if any, shall be notified immediately of such deficiency, and such deficiency shall be made up from the first available Gross Revenues after required deposits to the Sinking Fund and otherwise in accordance with Section 4.03.

(D) All amounts representing accrued and capitalized interest shall be held by the Bond Commission, pledged solely to the payment of interest on the Series 2018 B Bonds, as appropriate, and invested only in Government Obligations maturing at such times and in such amounts as are necessary to match the interest payments to which they are pledged.

(E) Notwithstanding the foregoing, all monies deposited in the Series 2018 B Bonds Sinking Fund may be invested by the Bond Commission in the West Virginia “consolidated fund” managed by the West Virginia Board of Treasury Investments pursuant to Chapter 12, Article 6C of the Code of West Virginia, 1931, as amended.

Section 5.02. Continuing Disclosure Certificate. The Issuer shall deliver a continuing disclosure certificate in form acceptable to the Original Purchaser, the form of which shall be approved by the Supplemental Resolution, sufficient to ensure compliance with Rule 15c2-12, as it may be amended from time to time, and the Issuer hereby instructs the Mayor, City Manager and Clerk to take all actions necessary for the Issuer to comply with the continuing disclosure certificate.

Section 5.03. Arbitrage and Tax Exemption. The Issuer covenants that (i) it shall not take, or permit or suffer to be taken, any action with respect to the gross or other proceeds of the Series 2018 B Bonds which would cause the Series 2018 B Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Code, and (ii) it will take all actions that may be required of it (including, without implied limitation, the timely filing of a federal information return with respect to the Series 2018 B Bonds) so that the interest on the Series 2018 B Bonds will be and remain excludable from gross income for federal income tax purposes, and will not take any actions which would adversely affect such exclusion.

Section 5.04. Tax Certificate, Rebates, and Rebate Fund. The Issuer shall deliver a certificate of arbitrage, a tax certificate or other similar certificate to be prepared by Bond Counsel relating to payment of arbitrage rebate and other tax matters as a condition to issuance of any series of Bonds. In addition, the Issuer covenants to comply with all Regulations from time to time in effect and applicable to the Series 2018 B Bonds as may be necessary in order to fully comply with Section 148(f) of the Code, and covenants to take such actions, and refrain from taking such actions, as may be necessary to fully comply with such Section 148(f) of the Code and such Regulations, regardless of whether such actions may be contrary to any of the provisions of this Ordinance.

The Issuer shall calculate, annually, the rebatable arbitrage, determined in accordance with Section 148(f) of the Code. Upon completion of each such annual calculation, the Issuer shall deposit, or cause to be deposited, in the Rebate Fund such sums as are necessary to cause the aggregate amount on deposit in the Rebate Fund to equal the sum determined to be subject to rebate to the United States, which, notwithstanding anything herein to the contrary, shall be paid from investment earnings on the underlying fund or account established hereunder and on which such rebatable arbitrage was earned or from other lawfully available sources. Notwithstanding anything herein to the contrary, the Rebate Fund shall be held free and clear of any lien or pledge hereunder and used only for payment of rebatable arbitrage to the United States. The Issuer shall pay, or cause to be paid, to the United States, from the Rebate Fund, the rebatable arbitrage in accordance with Section 148(f) of the Code and such Regulations. In the event that there are any amounts remaining in the Rebate Fund following all such payments required by the preceding sentence, the Depository Bank shall pay said amounts to the Issuer to be used for any lawful purpose of the System. The Issuer shall remit payments to the United States in the time and at the address prescribed by the Regulations as the same may be in time to time in effect with such reports and statements as may be prescribed by such Regulations. In the event that, for any reason, amounts in the Rebate Fund are insufficient to make the payments to the United States which are required, the Issuer shall assure that such payments are made by the Issuer to the United States, on a timely basis, from any funds lawfully available therefore. The Issuer at its expense, may provide for the employment of independent attorneys, accountants or consultants compensated on such reasonable basis as the Issuer may deem appropriate in order to assure compliance with this Section 5.03. The Issuer shall keep and retain, or cause to be kept and retained, records of the determinations made pursuant to this Section 5.03 in accordance with the requirements of Section 148(f) of the Code and such Regulations. In the event the Issuer fails to make such rebates as required, the Issuer shall pay any and all penalties and other amounts, from lawfully available sources, and obtain a waiver from the Internal Revenue Service, if necessary, in order to maintain the exclusion of interest on the Bonds from gross income for federal income tax purposes.

## ARTICLE VI

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

Section 6.01. Covenants Binding and Irrevocable. All the covenants, agreements and provisions of this Ordinance shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any Holder or Holders of the Series 2018 B Bonds, as prescribed by Article VII. In addition to the other covenants, agreements and provisions of this Ordinance, the Issuer hereby covenants and agrees with the Holders of the Series 2018 B Bonds, as hereinafter provided in this Article VI. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of the Series 2018 B Bonds or the interest thereon, are Outstanding and unpaid.

Section 6.02. Bonds not to be Indebtedness of the Issuer. The Series 2018 B Bonds shall not be or constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness but shall be payable solely from the Gross Revenues of the System, the monies in the Series 2018 B Bonds Sinking Fund and all accounts therein, the unexpended proceeds of the Series 2018 B Bonds or money in the Series 2018 B Bonds Construction Fund, if any, all as herein provided. No Holder or Holders of any Series 2018 B Bonds issued hereunder shall ever have the right to compel the exercise of the taxing power of the Issuer to pay said Series 2018 B Bonds or the interest thereon.

Section 6.03. Bonds Secured by Pledge of Gross Revenues and Monies in Sinking Fund.

The payment of the debt service of all of the Series 2018 B Bonds issued hereunder shall be secured forthwith equally and ratably by a first lien on the Gross Revenues derived from the operation of the System on a parity with the lien on the Gross Revenues in favor of the Holders of the Prior Bonds and the Series 2018 A Bonds and, in the instance of the Series 2018 B Bonds, all monies and securities in the Series 2018 B Bonds Sinking Fund, including the Series 2018 B Bonds Reserve Account therein to the extent necessary to make the payments required under Section 4.03. The Gross Revenues derived from the System, in an amount sufficient to pay the principal of and interest on the Prior Bonds and the Series 2018 B Bonds herein authorized, to make the payments into the Series 2018 B Bonds Sinking Fund, all monies and securities in the Series 2018 B Bonds Sinking Fund, the Series 2018 B Bonds Reserve Account and all other payments provided for in this Ordinance, are hereby irrevocably pledged in the manner provided in this Ordinance to the payment of the principal of and interest on the Prior Bonds, the Series 2018 A Bonds and the Series 2018 B Bonds herein authorized as the same become due and for the other purposes provided in this Ordinance.

Section 6.04. Rates. The Issuer has obtained any and all approvals of rates and charges required by State law and has taken any other action required to establish and impose such rates and charges, with all requisite appeal periods having expired without successful appeal and the Issuer shall supply an opinion of counsel to such effect. Such rates and charges shall be sufficient to comply with the requirements of the Bond Purchase Agreement and the Issuer shall supply a certificate of Certified Public Accountant to such effect. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth in the water rate ordinance of the Issuer enacted on August 6, 2018 and the sewer rate ordinance of the Issuer enacted August 6, 2018, which rates are incorporated herein by reference as a part hereof.

So long as the Series 2018 B Bonds are outstanding, the Issuer covenants and agrees to fix and collect rates, fees and other charges for the use of the System and to take all such actions necessary to provide funds sufficient to produce the required sums set forth in this Ordinance and in compliance with this Ordinance. In the event the schedule of rates and charges initially established for the System in connection with the Series 2018 B Bonds shall prove to be insufficient to produce the required sums set forth in this Ordinance, the Issuer hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates and charges and take all such actions necessary to provide funds sufficient to produce the required sums set forth in this Ordinance.

Prior to the issuance of the Series 2018 B Bonds, rates or charges for the use of the services and facilities of the System will be fixed and established, all in the manner and form required by law, and a copy of such rates and charges so fixed and established shall at all times be kept on file in the office of the City Clerk of the Issuer, which copy will be open to inspection by all interested parties. The schedule or schedules of rates and charges shall at all times be adequate to produce Gross Revenues from the System sufficient to pay Operating Expenses and to make the prescribed payments into the funds and accounts created hereunder. Such schedule or schedules of rates and charges shall be revised from time to time, whenever necessary, so that the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and continuous performance of this covenant with a margin for contingencies and temporary unanticipated reduction in income and revenues, the Issuer hereby covenants and agrees that (a) so long as the Prior Bonds or Series 2018 A Bonds are outstanding, the schedule or schedules of rates or charges from time to time in effect shall be sufficient, together with other revenues of the System, to provide a rate coverage equal to the highest rate coverage required by either (a) the Prior Ordinances or Series 2018 A Ordinance or (b) this Ordinance, as set forth below, and thereafter,

sufficient, together with other revenues of the System, to leave a balance each year equal to at least 115% of the maximum amount required in any year for payment of principal of and interest on the Series 2018 B Bonds, and all other obligations secured by a lien on or payable from such revenues on a parity with, or subordinate to, the Series 2018 B Bonds including the Prior Bonds and the Series 2018 A Bonds.

The Issuer hereby covenants to commence enactment of such ordinance or ordinances as shall be required to increase the rates and charges for the services and facilities of the System within 120 days following a determination of the Independent Certified Public Accountant that less than the above-required coverage exists or in the event that the annual audit report shows less than the above-required coverage, such increase to provide rates and charges sufficient to produce such required coverage.

Section 6.05. Completion of Project; Operation and Maintenance. The Issuer will complete the Project as promptly as possible. The Issuer will maintain the System in good condition and will operate the same as a revenue-producing enterprise in an efficient and economical manner, making such expenditures for equipment and for renewal, repair and replacement as may be proper for the economical operation and maintenance thereof from the revenues of said System in the manner provided in this Ordinance.

The Issuer will obtain all permits required by state and federal laws for the acquisition of the Project and the operation of the System.

Section 6.06. Sale of the System. So long as the Prior Bonds are Outstanding, the Issuer shall not sell, mortgage, lease or otherwise dispose of the System, except as provided by the Prior Ordinances and Series 2018 A Ordinance. Additionally, so long as the Series 2018 B Bonds are Outstanding, the System may be sold, mortgaged, leased or otherwise disposed of only as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to defease the pledge created by this Ordinance as provided by Section 9.01. The proceeds from such sale, mortgage, lease or other disposition of the System shall be immediately remitted to the Bond Commission for deposit in the Series 2018 B Bonds Sinking Fund, and otherwise as prescribed by Section 9.01. Any balance remaining after such defeasance shall be remitted to the Issuer by the Bond Commission unless necessary for the payment of other obligations of the Issuer payable out of the Gross Revenues of the System.

The foregoing provision notwithstanding, the Issuer shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. Prior to any such sale, lease or other disposition of such property, if the amount to be received therefor is not in excess of \$500,000, the Issuer may provide for the sale of such property. If the amount to be received from such sale, lease or other disposition of said property shall be in excess of \$500,000 but not in excess of \$4,000,000 the Issuer shall first, in writing, determine that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof, and the Issuer may then, if it be so advised, by resolution duly adopted, approve and concur in such finding and authorize such sale, lease or other disposition of such property in accordance with the laws of the State. The proceeds derived from any such sale, lease or other disposition of such property not in excess of \$4,000,000, shall be deposited by the Issuer into the Renewal and Replacement Fund.

No sale, lease or other disposition of the properties of the System shall be made by the Issuer if the proceeds to be derived therefrom shall be in excess of \$4,000,000 and insufficient to defease the pledge created by this Ordinance, as provided by Section 9.01, without the prior approval and consent



in writing of any applicable Bond Insurer, if any, and the Holders, or their duly authorized representatives, of 51% in amount of Bonds then Outstanding. The Issuer shall prepare the form of such approval and consent for execution by the Bond Insurer, if any, and the then Holders of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 6.07. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. The Issuer shall not issue any other obligations whatsoever, except Additional Parity Bonds provided for in Section 6.08 hereof, payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from the Gross Revenues with the Series 2018 B Bonds; and all obligations hereafter issued by the Issuer payable from the revenues of the System, except such Additional Parity Bonds, shall contain an express statement that such obligations are junior and subordinate as to lien on and source of and security for payment from such revenues and in all other respects to the Series 2018 B Bonds.

The Issuer shall not create, or cause or permit to be created, any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or, except with respect to such Additional Parity Bonds, being on a parity with the lien of the Series 2018 B Bonds, and the interest thereon, upon any of the income and revenues of the System pledged for payment of the Series 2018 B Bonds and the interest thereon in this Ordinance or upon the System or any part thereof.

Section 6.08. Additional Parity Bonds. So long as the Prior Bonds and Series 2018 A Bonds are outstanding, the limitations on the issuance of parity obligations set forth in the Prior Ordinances and Series 2018 A Ordinance shall be applicable.

No such Additional Parity Bonds shall be issued except for the purposes of financing the costs of the design, acquisition and construction of extensions, additions, betterments or improvements to the System, refunding all or a portion of one or more series of Bonds issued pursuant hereto, or to pay claims which may exist against the revenues or facilities of the System or all of such purposes.

So long as the Series 2018 B Bonds are outstanding, no Additional Parity Bonds shall be issued at any time, however, unless and until there has been procured a written statement by Independent Certified Public Accountants, reciting the conclusion that the Net Revenues actually derived, subject to the adjustment hereinafter provided for, from the System during any 12 consecutive months, within the 18 months immediately preceding the date of the actual issuance of such Additional Parity Bonds, plus the estimated average increased annual Net Revenues to be received in each of the 3 succeeding years after the completion of the improvements to be financed by such Additional Parity Bonds, if any, shall be not less than 115%, of the largest aggregate amount that will mature and become due in any succeeding Fiscal Year for principal of and interest on the following:

- (1) The Bonds then Outstanding;
- (2) Any Additional Parity Bonds theretofore issued pursuant to the provisions contained in the Prior Ordinances, Series 2018 A Ordinance and this Ordinance then Outstanding; and
- (3) The Additional Parity Bonds then proposed to be issued.

The "estimated average increased annual Net Revenues to be received in each of the 3 succeeding years," as that term is used in the computation provided in the above paragraph, shall refer only to the increased Net Revenues estimated to be derived from the improvements to be financed by

such Additional Parity Bonds and any increase in rates enacted by the Issuer, the time for appeal of which shall have expired (without successful appeal) prior to the date of issuance of such Additional Parity Bonds, and shall not exceed the amount to be stated in a certificate of the Independent Certified Public Accountants.

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

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

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

No Additional Parity Bonds shall be issued any time, however, unless all the payments into the respective funds and accounts provided for in this Ordinance, the Prior Ordinances and Series 2018 A Ordinance with respect to the Bonds then Outstanding, and any other payments provided for in this Ordinance, the Prior Ordinances and Series 2018 A Ordinance, shall have been made in full as required to the date of issuance of such Additional Parity Bonds, and the Issuer shall then be in full compliance with all the covenants, agreements and terms of this Ordinance, the Prior Ordinances and Series 2018 A Ordinance.

Provided, however, that if the most recent audit by an independent certified public accountant for the Issuer states that the Issuer was not in compliance with the rate covenant in Section 6.04 of this Ordinance for the year being audited and the Issuer has, as required by Section 6.04, sought a rate increase sufficient to comply with Section 6.04, such statement in the most recent audit shall not be considered a violation of the covenants, agreements and terms of this Ordinance, so as to prevent the Issuer from issuing Additional Parity Bonds under this Section 6.08.

Section 6.09. Insurance and Bonds. The Issuer hereby covenants and agrees, that so long as the Series 2018 B Bonds remain Outstanding, the Issuer will, as an Operating Expense, procure, carry and maintain insurance and bonds and workers' compensation coverage with a reputable insurance carrier or carriers or bonding company or companies rated at least "A" by Standard & Poor's Corporation covering the following risks and in the following amounts:

A. FIRE, LIGHTNING, VANDALISM, MALICIOUS MISCHIEF AND EXTENDED COVERAGE INSURANCE, on all above-ground insurable portions of the System in an amount equal to the greater of the fair appraised value or the original cost thereof. In the event of any damage to or destruction of any portion of the System, the Issuer will promptly arrange for the application of the insurance proceeds for the repair or reconstruction of such damages or destroyed portion. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance to protect the interests of the Issuer during construction of the Project in the full insurable value thereof.

B. PUBLIC LIABILITY INSURANCE, with limits of not less than is customarily carried by municipalities of equivalent size with respect to works and properties similar to the System to protect the Issuer from claims for bodily injury and/or death and from claims for damage to property of others which may arise from the operation of the System, and insurance with the same limits to protect the Issuer from claims arising out of operation or ownership of motor vehicles of or for the System; provided, that the Issuer, with the review of an insurance consultant and the concurrence of the Issuer, may elect to self-insure, so long as the following requirements are met:

(i) The self-insurance program has been reviewed by an insurance consultant;

(ii) The self-insurance program includes an actuarially sound claims reserve fund out of which each self-insured claim shall be paid; the adequacy of such fund shall be evaluated on an annual basis by an insurance consultant; and any deficiencies in any self-insured claims reserve fund will be remedied in accordance with the recommendation of the insurance consultant;

(iii) The self-insured claims reserve fund shall be held in the United States of America in a separate trust fund by an independent corporate trustee; and

(iv) In the event the current funding of the self-insurance program shall be discontinued, the actuarial soundness of its claims reserve fund, as determined by an insurance consultant, shall be maintained.

If the Issuer determines in good faith that any required insurance is not commercially available at a reasonable cost with reasonable terms, it shall engage an insurance consultant to verify the determination and to make recommendations regarding the types, amounts and provisions of any such insurance that should be purchased or funded by the Issuer, taking into consideration the costs and practices of other municipal water and sewer systems of similar size and type in the State to the extent that such information is available. The Issuer may, upon resolution adopted in good faith and upon the recommendations of the insurance consultant, adopt alternate or supplemental risk management programs which the Issuer determines to be reasonable, including the right to self-insure and participate in captive insurance companies.

C. WORKERS' COMPENSATION COVERAGE FOR ALL EMPLOYEES OF OR FOR THE SYSTEM ELIGIBLE THEREFOR; AND PERFORMANCE AND PAYMENT OR

COMPLETION BONDS, such bonds to be in the amounts of not less than 100% of the amount of any construction contract and to be required of each contractor dealing directly with the Issuer and such payment bonds will be filed with the Clerk of the County Commission of Jefferson County prior to commencement of construction of any additions, extensions or improvements for the System in compliance with West Virginia Code, Section 38-2-39.

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

E. BUSINESS INTERRUPTION INSURANCE, to the extent available at reasonable cost to the Issuer.

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

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

The Issuer shall also require all contractors engaged in the construction of the Project to carry such workers' compensation coverage for all employees working on the Project and public liability insurance, vehicular liability insurance and property damage insurance in amounts adequate for such purposes and as is customarily carried with respect to works and properties similar to the Project.

Section 6.10. Services Rendered to the Issuer. The Issuer will not render or cause to be rendered any free services of any nature by its System; and, in the event the Issuer or any department, agency, instrumentality, officer or employee thereof shall avail himself of the facilities or services provided by the System or any part thereof, the same rates, fees or charges applicable to other customers receiving like services under similar circumstances shall be charged the Issuer and any such department, agency, instrumentality, officer or employee. Such charges shall be paid as they accrue, and the Issuer shall transfer from its general funds sufficient sums to pay such charges for service to any of its departments or properties. The revenues so received shall be deemed to be revenues derived from the operation of the System and shall be deposited and accounted for in the same manner as other revenues derived from such operation of the System.

Section 6.11. Enforcement of Collections. The Issuer will diligently enforce and collect all fees, rentals or other charges for the services and facilities of the System, and take all steps, actions and proceedings for the enforcement and collection of such fees, rentals or other charges which shall become delinquent to the full extent permitted or authorized by the Act, the rules and regulations of the Public Service Commission of West Virginia and other laws of the State of West Virginia.

Whenever any fees, rates, rentals or other charges for the services and facilities of the System shall remain unpaid for a period of 20 days after the same shall become due and payable, the user of the services and facilities shall be delinquent until such time as all such rates and charges are fully paid and to the extent authorized by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, all delinquent rates, rentals and other charges, if not paid, shall become a lien on the premises served by the System. The Issuer further covenants and agree that it will, to the full

extent permitted by law and the rules and regulations promulgated by the Public Service Commission of West Virginia, discontinue and shut off the services and facilities of the System to all delinquent users of services and facilities of the System and will not restore such services of the System until all billing for charges for the services and facilities of the System, including penalties and reconnect fees, have been fully paid, or a payment agreement in compliance with the West Virginia Public Service Commission regulations has been entered.

Section 6.12. No Competing Franchise. To the extent legally allowable, the Issuer will not grant or cause, consent to or allow the granting of any franchise or permit to any person, firm, corporation or body, or agency or instrumentality whatsoever for the providing of any services which would compete with services provided by the System.

Section 6.13. Books and Records. The Issuer will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Issuer, in which complete and correct entries shall be made of all transactions relating to the System, and any Holder of a Series 2018 B Bond, shall have the right at all reasonable times to inspect the System, and all parts thereof, and all records, accounts and data of the Issuer relating thereto.

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

The Issuer shall file with the Original Purchaser and any Bond Insurer, and shall mail to any Bondholder requesting the same, an annual report within 30 days following the date of receipt of the final audit containing a balance sheet, statement of revenues, expenses, and changes in retained earnings, and statement of cash flows, as prescribed by generally accepted accounting principles.

The Issuer shall also file with the Original Purchaser and any Bond Insurer, and mail to any Bondholder requesting the same, a monthly unaudited report within 30 days following the end of each month containing the following:

(A) A statement of Gross Revenues, Operating Expenses, and Net Revenues derived from the System; and

(B) A statement of account balances in the Sinking Fund accounts provided for in this Ordinance and status of said funds.

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be completely audited by an Independent Accountant, shall mail upon request, and make available generally, the report of said Independent Certified Public Accountant, or a summary thereof, to any Holder or Holders of Series 2018 B Bonds issued pursuant to this Ordinance and shall file said report with the Original Purchaser.

Section 6.14. Operating Budget. The Issuer shall annually, at least 45 days preceding the beginning of each Fiscal Year, or at such earlier date required by the charter of the Issuer, prepare and adopt by resolution a detailed, balanced budget of the estimated revenues and expenditures for operation and maintenance of the System during the succeeding Fiscal Year. The Issuer shall make available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to the Original Purchaser and to any Bondholder or anyone acting for and in behalf of such Bondholder who requests the same.

Section 6.15. Mandatory Connections. The mandatory use of the sewerage portion of the System is essential and necessary for the protection and preservation of the public health, comfort, safety, convenience and welfare of the inhabitants and residents of, and the economy of, the Issuer, and in order to assure the rendering harmless of sewage and waterborne waste matter produced or arising within the territory served by the sewerage portion of the System. Accordingly, every owner, tenant or occupant of any house, dwelling or building located near the System, to the extent permitted by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, shall connect with and use the sewerage portion of the System and shall cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from such house, dwelling or building and every such owner, tenant or occupant shall, after a 30 day notice of the availability of sewerage services of the System, pay the rates and charges established therefor.

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

Section 6.16. Statutory Mortgage Lien. For the further protection of the Holders of the Series 2018 B Bonds, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding, shall take effect immediately upon the issuance of the Series 2018 B Bonds and shall be on a parity with the statutory mortgage lien in favor of the Holders of the Prior Bonds and Series 2018 A Bonds.

Section 6.17. Covenants Regarding the Municipal Bond Insurance Policy. The Issuer may obtain a Municipal Bond Insurance Policy for the Series 2018 B Bonds. In the event such Municipal Bond Insurance Policy is obtained, certain additional covenants of the Issuer will be required by the Bond Insurer as a condition to insuring the Series 2018 B Bonds. These additional covenants shall be set forth in full in the Supplemental Resolution, shall apply to the Series 2018 B Bonds and any other Bonds which may be insured by such Bond Insurer, and shall be controlling in the event any other provisions of this Ordinance may be in conflict therewith.

Section 6.18. Tax Covenants. The Issuer hereby further covenants and agrees as follows:

A. **PRIVATE BUSINESS USE LIMITATION.** The Issuer shall assure that (i) not in excess of 10% of the Net Proceeds of the Series 2018 B Bonds are used for Private Business Use if, in addition, the payment of more than 10% of the principal or 10% of the interest due on the Series 2018 B Bonds during the term thereof is, under the terms of the Series 2018 B Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for a Private Business Use or in payments in respect of property used or to be used for a Private Business Use or is to

be derived from payments, whether or not to the Issuer, in respect of property or borrowed money used or to be used for a Private Business Use; and (ii) and that, in the event that both (A) in excess of 5% of the Net Proceeds of the Series 2018 B Bonds are used for a Private Business Use, and (B) an amount in excess of 5% of the principal or 5% of the interest due on the Series 2018 B Bonds during the term thereof is, under the terms of the Series 2018 B Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for said Private Business Use or in payments in respect of property used or to be used for said Private Business Use or is to be derived from payments, whether or not to the Issuer, in respect of property or borrowed money used or to be used for said Private Business Use, then said excess over said 5% of Net Proceeds of the Series 2018 B Bonds used for a Private Business Use shall be used for a Private Business Use related to the governmental use of the Project, or if the Series 2018 B Bonds are for the purpose of financing more than one project, a portion of the Project, and shall not exceed the proceeds used for the governmental use of that portion of the Project to which such Private Business Use is related, all of the foregoing to be determined in accordance with the Code.

B. PRIVATE LOAN LIMITATION. The Issuer shall assure that not in excess of the lesser of 5% of the Net Proceeds of the Series 2018 B Bonds or \$4,000,000 are used, directly or indirectly, to make or finance a loan to persons other than state or local government units

C. FEDERAL GUARANTEE PROHIBITION. The Issuer shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Series 2018 B Bonds to be “federally guaranteed” within the meaning of Section 149(b) of the Code.

D. INFORMATION RETURN. The Issuer will file all statements, instruments and returns necessary to assure the tax-exempt status of the Series 2018 B Bonds and the interest thereon, including without limitation, the information return required under Section 149(e) of the Code.

E. FURTHER ACTIONS. The Issuer will take all actions that may be required of it so that the interest on the Series 2018 B Bonds will be and remain excludable from gross income for federal income tax purposes, and will not take any actions which would adversely affect such exclusion. .

Section 6.19. Continuing Disclosures. In order to provide the written undertaking for the benefit of the owners of the Series 2018 B Bonds required by the Securities and Exchange Commission Rule 15c2-12, the Issuer shall enter into a Continuing Disclosure Certificate in such form as may be approved by the Supplemental Resolution, and the Mayor are authorized and directed to execute and deliver such Continuing Disclosure Certificate on behalf of the Issuer, with such changes as the Mayor shall approve, such approval to be conclusively evidenced by the execution of such Certificate by the Mayor.

Section 6.20 Preliminary Official Statement; Official Statement. The distribution of the Preliminary Official Statement with respect to the Series 2018 B Bonds shall be and the same is hereby approved. The form of the Preliminary Official Statement shall be in such form as may be approved by the Supplemental Resolution. The Mayor is hereby authorized and directed to execute and deliver a final official statement on behalf of the Issuer, which shall be in substantially the form of the Preliminary Official Statement with such changes, insertions and omissions as may be required to reflect the terms of the sale of the Series 2018 B Bonds and as the Mayor may approve (the “Official Statement”). The execution of the Official Statement by the Mayor shall be conclusive evidence of such approval. Copies of the Official Statement are hereby authorized to be prepared and furnished to the Original Purchaser for distribution.

## **ARTICLE VII**

### **DEFAULTS AND REMEDIES**

Section 7.01. Events of Default. Each of the following events shall constitute an “Event of Default” with respect to the Series 2018 B Bonds:

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

(B) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part in this Ordinance or any Supplemental Resolution or in the Series 2018 B Bonds contained, and such default shall have continued for a period of 30 days after written notice specifying such default and requiring the same to be remedied shall have been given to the Issuer by any Bondholder or any Insurer; or

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

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

Section 7.02. Enforcement. Upon the happening and continuance of any Event of Default, any Bondholder (with the prior written consent of the applicable Bond Insurer) or any Bond Insurer may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his rights and, in particular:

(A) Bring suit for any unpaid principal or interest then due;

(B) By mandamus or other appropriate proceeding enforce all rights of the Bondholders, including the right to require the Issuer to perform its duties under the Act and this Ordinance;

(C) Bring suit upon the Series 2018 B Bonds, as applicable;

(D) By action at law or bill in equity require the Issuer to account as if it were the trustee of an express trust for the Bondholders; and

(E) By action or bill in equity enjoin any acts in violation of this Ordinance or the rights of the Bondholders.

No remedy by the terms of this Ordinance conferred upon or reserved to the Bondholders is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Bondholders hereunder or now or hereafter existing at law or by statute.

No delay or omission to exercise any right or power accruing upon any default or Event of Default shall impair any such right or power or shall be construed to be a waiver of any such default or



Event of Default or acquiescence therein, and every such right and power may be exercised from time to time and as often as may be deemed expedient.

No waiver of any default or Event of Default hereunder by the Bondholders shall be made without the prior written consent of the applicable Bond Insurer or shall extend to or shall affect any subsequent default or Event of Default or shall impair any rights or remedies consequent thereto.

Section 7.03. Appointment of Receiver. If there be any Event of Default existing and continuing, any Bondholder or any Bond Insurer shall, in addition to all other remedies or rights, have the right by appropriate legal proceedings to obtain the appointment of a receiver to administer the System on behalf of the Issuer, with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of the principal of and interest on the Series 2018 B Bonds, and the Prior Bonds, the deposits into the funds and accounts hereby established as herein provided and the payment of Operating Expenses of the System and to apply such rates, rentals, fees, charges or other Revenues in conformity with the provisions of this Ordinance and the Act.

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

Whenever all that is due upon the Series 2018 B Bonds issued pursuant to this Ordinance and interest thereon and under any covenants of this Ordinance for reserve, sinking or other funds and accounts and upon any other obligations and interest thereon having a charge, lien or encumbrance upon the Revenues of the System shall have been paid and made good, and all defaults under the provisions of this Ordinance shall have been cured and made good, and all monies due hereunder or under any Supplemental Resolution have been paid in full, possession of the System shall be surrendered to the Issuer upon the entry of an order of the court to that effect. Upon any subsequent default, any Bondholder shall have the same right to secure the further appointment of a receiver upon any such subsequent default.

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

Any receiver appointed as provided herein shall hold and operate the System in the name of the Issuer and for the joint protection and benefit of the Issuer and the Holders of the Series 2018 B Bonds issued pursuant to this Ordinance. Such receiver shall have no power to sell, assign, mortgage or otherwise dispose of any assets of any kind or character belonging or pertaining to the System, but the authority of such receiver shall be limited to the possession, operation and maintenance of the System, for the sole purpose of the protection of both the Issuer and the Bondholders, and the curing and making good of any default under the provisions of this Ordinance, and the title to and ownership of said System shall remain in the Issuer, and no court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, mortgage or otherwise dispose of any assets of the System.

Notwithstanding any other provision of this Ordinance, in determining whether the rights of the Bondholders will be adversely affected by any action taken pursuant to the terms and provisions of this Ordinance, any trustee or Bondholder's committee shall consider the effect on the Bondholders as if no Municipal Bond Insurance Policy were then in effect.

Section 7.04. Restoration of Issuer and Bondholder. In case any Bondholder shall have proceeded to enforce any right under this Ordinance by the appointment of a receiver, by entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely, then and in every such case the Issuer and such Bondholder shall be restored to their former positions and rights hereunder, and all rights and remedies of such Bondholder shall continue as if no such proceedings had been taken.

## **ARTICLE VIII**

### **REGISTRAR AND PAYING AGENT**

Section 8.01. Appointment of Registrar. The Registrar for the Series 2018 B Bonds shall be appointed pursuant to the Supplemental Resolution. The Issuer is hereby authorized and directed to enter into an agreement with the Registrar, the substantial form of which agreement is to be approved by Supplemental Resolution.

Section 8.02. Responsibilities of Registrar. The recitals of fact in the Bonds shall be taken as statements of the Issuer, and the Registrar shall not be responsible for their accuracy. The Registrar shall not be deemed to make any representation as to, and shall not incur any liability on account of, the validity of the execution of any Series 2018 B Bonds by the Issuer. Notwithstanding the foregoing, the Registrar shall be responsible for any representation in its Certificate of Authentication on the Series 2018 B Bonds. The Registrar and any successor thereto shall agree to perform all the duties and responsibilities spelled out in this Ordinance and any other duties and responsibilities incident thereto, all as provided by said agreement described in Section 8.01.

Section 8.03. Evidence on Which Registrar May Act. Except as otherwise provided by Section 10.02, the Registrar shall be protected in acting upon any notice, resolution, request, consent, order, certificate, opinion or other document believed by it to be genuine and to have been signed or presented by the proper party or parties. Whenever the Registrar shall deem it necessary or desirable that a fact or matter be proved or established prior to taking or suffering any action, such fact or matter, unless other evidence is specifically prescribed, may be deemed to be conclusively proved and established by a certificate of an Authorized Officer of the Issuer, but in its discretion the Registrar may instead accept other evidence of such fact or matter.

Section 8.04. Compensation and Expenses. The Issuer shall pay to the Registrar from time to time reasonable compensation for all services, including the transfer of registration of Series 2018 B Bonds, the first exchange of Series 2018 B Bonds and the exchange of Series 2018 B Bonds in the event of partial redemption, incurred in the performance of its duties hereunder.

Section 8.05. Certain Permitted Acts. The Registrar may become the owner of or may deal in Series 2018 B Bonds as fully and with the same rights it would have if it were not Registrar. To the extent permitted by law, the Registrar may act as depository for, and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect

the rights of Bondholders or effect or aid in any reorganization growing out of the enforcement of the Series 2018 B Bonds, or this Ordinance, whether or not any such committee shall represent the Holders of a majority in principal amount of the Series 2018 B Bonds Outstanding.

Section 8.06. Resignation of Registrar. The Registrar may at any time resign and be discharged of its duties and obligations under this Ordinance by giving not less than 60 days' written notice to the Issuer and publishing in an Authorized Newspaper notice (or mailing such notice to each Bondholder in the event all Bonds are fully registered), specifying the date when such resignation shall take effect, within 20 days after the giving of such written notice. A copy of such notice shall also be mailed to each owner of a fully registered Bond or a coupon Bond registered as to principal (other than to bearer). Such resignation shall take effect upon the day specified in such notice unless a successor shall have been previously appointed by the Issuer or bondholders, in which event such resignation shall take effect immediately; provided, that in no event shall such resignation take effect until a successor has been appointed and has accepted its duties as Registrar.

Section 8.07. Removal. The Registrar may be removed at any time by the Issuer, the applicable Bond Insurer or by the Holders of a majority in principal amount of the Series 2018 B Bonds then Outstanding by an instrument or concurrent instruments in writing signed and duly acknowledged by the Issuer, the applicable Bond Insurer or by such Bondholders or their attorneys duly authorized in writing and delivered to the Issuer, as the case may be. Copies of each such instrument shall be delivered by the Issuer to the Registrar. Such removal shall take effect upon the date stated in such instrument; provided, that in no event shall such removal take effect until a successor has been appointed and has accepted its duties as Registrar.

Section 8.08. Appointment of Successor. In case at any time the Registrar shall resign or shall be removed or shall become incapable of acting, or shall be adjudged bankrupt or insolvent, or if a receiver, liquidator or conservator of the Registrar or of its property shall be appointed, or if any public officer or court shall take charge or control of the Registrar or of its property or affairs, a successor may be appointed by the Holders of a majority in principal amount of the Series 2018 B Bonds then Outstanding by an instrument or concurrent instruments in writing signed by such Bondholders or their attorneys duly authorized in writing and delivered to the Issuer and such successor Registrar, notification thereof being given to the predecessor Registrar. Pending such appointment, the Issuer shall forthwith appoint a Registrar to fill such vacancy until a successor Registrar shall be appointed by such Bondholders. The Issuer shall publish in an Authorized Newspaper (or mail to each Bondholder in the event all Bonds are fully registered) notice of any such appointment within 20 days after the effective date of such appointment. A copy of such notice shall also be mailed to each owner of a fully registered Bond or a coupon Bond registered as to principal (other than to bearer). Any successor Registrar appointed by the Issuer shall, immediately and without further act, be superseded by a Registrar appointed by such Bondholders. If in a proper case no appointment of a successor Registrar shall be made within 45 days after the Registrar shall have given to the Issuer written notice of resignation or after the occurrence of any other event requiring such appointment, the Registrar or any Bondholder may apply to any court of competent jurisdiction to appoint a successor. Any Registrar appointed under the provisions of this section shall be a bank, trust company or national banking association authorized to perform the duties imposed upon it by this Ordinance.

Section 8.09. Transfer of Rights and Property to Successor. Any predecessor Registrar or Paying Agent shall pay over, assign and deliver any monies, books and records held by it to its successor.

Section 8.10. Merger or Consolidation. Any company into which the Registrar may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party, or any company to which the Registrar or any public officer or court may sell or transfer all or substantially all of its corporate trust business, shall be the successor to such Registrar without the execution or filing of any paper or the performance of any further act; provided, however, that such company shall be a bank, trust company or national banking association meeting the requirements set forth in Section 8.08.

Section 8.11. Adoption of Authentication. In case any of the Series 2018 B Bonds shall have been authenticated but not delivered, any successor Registrar may adopt a Certificate of Authentication and Registration executed by any predecessor Registrar and deliver such Bonds so authenticated, and, in case any Bonds shall have been prepared but not authenticated, any successor Registrar may authenticate such Bonds in the name of the predecessor Registrar or in its own name.

Section 8.12. Paying Agent. The West Virginia Municipal Bond Commission shall initially serve as Paying Agent. Any alternate Paying Agent must be a bank, trust company or national banking association authorized to perform the duties imposed upon it by this Ordinance. Such alternate Paying Agent shall signify its acceptance of the duties and obligations imposed upon it pursuant hereto by executing and delivering to the Issuer a written acceptance thereof. Any successor Paying Agent shall take such actions as may be necessary to ensure that the Series 2018 B Bonds shall be and remain DTC-Eligible.

Each Paying Agent shall be entitled to payment and reimbursement for reasonable fees for its services rendered hereunder and all advances, counsel fees and other expenses reasonably and necessarily made or incurred by such Paying Agent in connection with such services solely from monies available therefor.

Any bank, trust company or national banking association with or into which any Paying Agent may be merged or consolidated, or to which the assets and business of such Paying Agent may be sold, shall be deemed the successor of such Paying Agent for the purposes of this Ordinance. If the position of Paying Agent shall become vacant for any reason, the Issuer shall, within 30 days thereafter, appoint a bank, trust company or national banking association located in the same city as such Paying Agent to fill such vacancy; provided, however, that, if the Issuer shall fail to appoint such Paying Agent within said period, the Bond Commission, a court of competent jurisdiction or a majority of the Bondholders may make such appointment.

The Paying Agents shall enjoy the same protective provisions in the performance of their duties hereunder as are specified in this Article VIII with respect to the Registrar, insofar as such provisions may be applicable.

Notice of the appointment of successor or additional Paying Agents or fiscal agents shall be given in the same manner as provided by Section 8.08 hereof with respect to the appointment of a successor Registrar.

All monies received by the Paying Agents shall, until used or applied as provided in this Ordinance, be held in trust for the purposes for which they were received.

## ARTICLE IX

## **DEFEASANCE; DISCHARGE OF PLEDGE OF ORDINANCE**

Section 9.01. Defeasance; Discharge of Pledge of Ordinance. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the respective Holders of all Series 2018 B Bonds the principal of and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Ordinance, and all other monies due hereunder have been paid, then this Ordinance and the pledges of the Gross Revenues and other monies and securities pledged hereunder, and all covenants, agreements and other obligations of the Issuer on behalf of the Holders of the Series 2018 B Bonds made hereunder, as applicable, shall thereupon cease, terminate and become void and be discharged and satisfied.

Bonds for the payment of which either monies in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide monies which, together with the monies, if any, deposited with the Paying Agent at the same or earlier time, shall be sufficient, to pay as and when due the respective principal of and interest on such Bonds shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section. All Series 2018 B Bonds shall, prior to the maturity thereof, be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section if there shall have been deposited with the Bond Commission or an escrow trustee either monies in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide monies which, together with the monies, if any, deposited with the Bond Commission or said escrow trustee at the same or earlier time shall be sufficient, to pay when due the principal of, any redemption premium on and interest due and to become due on said Bonds on and prior to the maturity date thereof, or if the Issuer irrevocably determines to redeem any of said Bonds prior to the maturity thereof, on and prior to said Redemption Date. Neither securities nor monies deposited with the Bond Commission or an escrow trustee pursuant to this section nor principal or interest payments on any such securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal of and interest on said Bonds; provided, that any cash received from such principal, redemption premium, if any, and interest payments on such securities deposited with the Bond Commission or said escrow trustee, if not then needed for such purpose, shall, to the extent practicable, be reinvested in securities maturing at times and in amounts sufficient to pay when due the principal of and redemption premium, if any, and interest to become due on said Bonds on and prior to such maturity or Redemption Dates thereof, and interest earned from such reinvestments shall be paid over to the Issuer as received by the Bond Commission or said escrow trustee, free and clear of any trust, lien or pledge.

## **ARTICLE X**

### **MISCELLANEOUS**

Section 10.01. Amendment of Ordinance. Prior to issuance of the Series 2018 B Bonds, this Ordinance may be amended, modified or supplemented in any way by the Supplemental Resolution. All provisions required by the Bond Insurer, if any, shall be set forth in the Supplemental Resolution and to the extent they constitute an amendment or modification of this Ordinance, shall be controlling. Following issuance of the Series 2018 B Bonds, this Ordinance and any Supplemental Resolution may, without the consent of any Bondholder or other person, be amended, modified or supplemented in any manner which, in the opinion of Bond Counsel, does not materially adversely affect the interests of the Bondholders or any Bond Insurer; provided, that in the event any of the Bonds are insured, no such amendment or modification which affects the rights of the applicable Bond Insurer for

such Bonds may be made without the written consent of such Bond Insurer. Otherwise, no materially adverse amendment or modification to this Ordinance, or of any Supplemental Resolution, may be made without the written consent of the Holders of 60% in aggregate principal amount of the Series 2018 B Bonds then Outstanding and affected thereby and the Bond Insurer, if any, which must be filed with the Clerk of the Issuer before any such modification or amendment may be made. No such modification or amendment shall extend the maturity of or reduce the interest rate on, or otherwise alter the terms of payment of the principal of or interest on, any Bond without the express written consent of the Holder of such Bond, nor reduce the percentage of Series 2018 B Bonds required for consent to any such modification or amendment.

Section 10.02. Evidence of Signatures of Bondholders and Ownership of Bonds. Any request, consent, revocation of consent or other instrument which this Ordinance may require or permit to be signed and executed by Bondholders may be in one or more instruments of similar tenor, and shall be signed or executed by such Bondholders in person or by their attorneys duly authorized in writing. Proof of the execution of any such instrument, or of an instrument appointing or authorizing any such attorney, shall be sufficient for any purpose of this Ordinance if made in the following manner, or in any other manner satisfactory to the Issuer or the Registrar, as the case may be, which may nevertheless in its discretion require further or other proof in cases where it deems the same desirable:

A. The fact and date of the execution by any Bondholder or his attorney of any such instrument may be proved (i) by the certificate of a notary public or other officer authorized to take acknowledgments of deeds to be recorded in the jurisdiction in which he purports to act that the person signing such instrument acknowledged to him the execution thereof, or by the affidavit of a witness of such execution, duly sworn to before such a notary public or other officer or (ii) by the certificate, which need not be acknowledged or verified, of an officer of a bank, a trust company or a financial firm or corporation satisfactory to the Issuer or the Registrar, as the case may be, that the person signing such instrument acknowledged to such bank, trust company, firm or corporation the execution thereof.

B. The authority of a person or persons to execute any such instrument on behalf of a corporate Bondholder may be established without further proof if such instrument is signed by a person purporting to be the president or treasurer or a vice-president or an assistant treasurer of such corporation with a corporate seal affixed, and is attested by a person purporting to be its secretary or assistant secretary.

C. The amount of fully registered Series 2018 B Bonds held by a person executing any instrument as a Bondholder, the date of his holding such Series 2018 B Bonds and the numbers and other identification thereof, shall be confirmed by the Bond Register.

Any request, consent or other instrument executed by the Holder of any Bond shall bind all future Holders and owners of such Bond in respect of anything done or suffered to be done hereunder by the Issuer or the Registrar in accordance therewith.

Section 10.03. Preservation and Inspection of Documents. To the extent allowable under law, all reports, certificates, statements and other documents received by the Registrar under the provisions of this Ordinance shall be retained in its possession and shall be available at all reasonable times for the inspection of the Issuer or any Bondholder, and their agents and their representatives, but any such reports, certificates, statements or other documents may, at the election of the Registrar, be destroyed or otherwise disposed of at any time after such date as the pledge created by this Ordinance shall be discharged as provided in Section 9.01.

Section 10.04. Cancellation of Bonds. All Series 2018 B Bonds purchased or paid shall, if surrendered to the Issuer, be canceled and delivered to the Registrar, or, if surrendered to the Registrar, be canceled by it. No such Bonds shall be deemed Outstanding under this Ordinance and no Series 2018 B Bonds shall be issued in lieu thereof. All such Bonds shall be canceled and upon order of the Issuer shall be destroyed, and a certificate evidencing such destruction shall be delivered to the Issuer.

Section 10.05. Failure to Present Bonds. Anything in this Ordinance to the contrary notwithstanding, any monies held by the Bond Commission or a Paying Agent in trust for the payment and discharge of any of the Series 2018 B Bonds which remain unclaimed for two years after the date on which such Bonds have become due and payable, whether by maturity or upon call for redemption, shall at the written request of the Issuer be paid by the Bond Commission or said Paying Agent to the Issuer as its absolute property and free from trust, and the Bond Commission or said Paying Agent shall thereupon be released and discharged with respect thereto, and the Holders of such Bonds shall look only to the Issuer for the payment of such Bonds; provided, however, that, before making any such payment to the Issuer, the Registrar, if so advised by the Bond Commission, or said Paying Agent shall send to the Holder, at the address listed on the Bond Register, by certified mail, a notice that such monies remain unclaimed and that, after a date named in said notice, which date shall be not less than 30 days after the date of such notice is mailed, the balance of such monies then unclaimed will be returned to the Issuer.

Section 10.06. Notices, Demands and Requests. Unless otherwise expressly provided, all notices, demands and requests to be given or made hereunder to or by the Issuer, the Registrar, the Depository Bank, the Original Purchaser or the Bond Insurer, if any, shall be in writing and shall be properly made if sent by United States mail, postage prepaid, and addressed as follows or if hand-delivered to the individual to whom such notice, demand or request is required to be directed as indicated below:

ISSUER  
City of Charles Town  
P.O. Box 14  
Charles Town, West Virginia 25414  
Attention: Mayor

REGISTRAR  
[Name(s) and address(s) to be set forth in Supplemental Resolution]

PAYING AGENT  
West Virginia Municipal Bond Commission  
900 Pennsylvania Avenue, Suite 1117  
Charleston, West Virginia 25302  
Attn: Executive Director

DEPOSITORY BANK  
[Name(s) and address(s) to be set forth in Supplemental Resolution]

ORIGINAL PURCHASER  
[Name(s) and address(s) to be set forth in Supplemental Resolution]

BOND INSURER  
[Name(s) and address(es) to be set forth in the Supplemental Resolution, if any]

Any party listed above may change such address listed for it at any time upon written notice of change sent by United States mail, postage prepaid, to the other parties.

Section 10.07. No Personal Liability. No member of the Council, the Issuer or officer or employee of the Issuer shall be individually or personally liable for the payment of the principal of or the interest on any Bond, but nothing herein contained shall relieve any such member, official or employee from the performance of any official duty provided by law or this Ordinance.

Section 10.08. Law Applicable. The laws of the State shall govern the construction of this Ordinance and of all Series 2018 B Bonds issued hereunder.

Section 10.09. Parties Interested Herein. Nothing in this Ordinance expressed or implied is intended or shall be construed to confer upon, or give to, any person or corporation, other than the Issuer, the Registrar, the Paying Agent, the Holders of the Series 2018 B Bonds, the applicable Bond Insurer, if any, and the Original Purchaser, any right, remedy or claim under or by reason of this Ordinance. All the covenants, stipulations, promises and agreements contained in this Ordinance by and on behalf of the Issuer shall be for the sole and exclusive benefit of the Issuer, the Registrar, the Paying Agent, the Holders of the Series 2018 B Bonds, the Bond Insurer, if any, and the Original Purchaser.

Section 10.10. Reserved

Section 10.11. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, such invalidity shall not affect any of the remaining provisions of this Ordinance.

Section 10.12. Table of Contents and Headlines. The Table of Contents and headings of the articles, sections and subsections hereof are for convenience only and shall neither control nor affect in any way the meaning or construction of any of the provisions hereof.

Section 10.13. Conflicting Provisions Repealed. All ordinances, orders, resolutions or parts thereof in conflict with the provisions of this Ordinance, are, to the extent of such conflict, hereby repealed.

Section 10.14. Procedure on Enactment of Ordinance; Public Hearing. Upon adoption hereof, an abstract of this Ordinance determined by the Governing Body to contain sufficient information as to give notice of the contents hereof shall be published once a week for 2 successive weeks within a period of fourteen consecutive days, with at least 6 full days intervening between each publication, in the *Spirit of Jefferson Advocate*, a newspaper of general circulation in the City of Charles Town, together with a notice stating that this Ordinance has been adopted and that the Issuer contemplates the issuance of the Series 2018 B Bonds, and that any person interested may appear before the Governing Body upon a date certain, not less than ten days subsequent to the date of the first publication of such abstract of this Ordinance and notice, and present protests, and that a certified copy of this Ordinance is on file with the Governing Body for review by interested persons during office hours of the Governing Body. At such hearing, all objections and suggestions shall be heard and the Governing Body shall take such action as it shall deem proper in the premises.



[Remainder of Page Intentionally Blank]

This Ordinance shall become effective following public hearing hereon in accordance with the Act.

First Reading: \_\_\_\_\_, 2018

Second Reading: \_\_\_\_\_, 2018

Effective following  
Public Hearing held on: \_\_\_\_\_, 2018

CITY OF CHARLES TOWN

\_\_\_\_\_  
Mayor

SEAL

ATTEST:

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

CERTIFICATION

Certified a true, correct and complete copy of an Ordinance duly enacted by the City Council of the CITY OF CHARLES TOWN at a regular meeting of the City Council held on \_\_\_\_\_, 2018.

[SEAL]

---

City Clerk

**EXHIBIT A – FORM OF SERIES 2018 B BONDS**

**[DTC Legend]**

No. BR-\_\_\_\_\_

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

**UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
CITY OF CHARLES TOWN, WEST VIRGINIA  
COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS,  
SERIES 2018 B (BANK QUALIFIED)**

INTEREST RATE: \_\_\_\_\_ MATURITY DATE: \_\_\_\_\_ BOND DATE: \_\_\_\_\_ CUSIP: \_\_\_\_\_  
\_\_\_\_\_ % \_\_\_\_\_

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS: That the CITY OF CHARLES TOWN (West Virginia), a municipal corporation organized and existing under the laws of the State of West Virginia (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the Registered Owner specified above, or registered assigns (the "Registered Owner"), on the Maturity Date specified above, the Principal Amount specified above and solely from such special funds also to pay interest on said Principal Amount from the Interest Payment Date (as hereinafter defined) preceding the date of authentication hereof or, if authenticated after the Record Date (as hereinafter defined) but prior to the applicable Interest Payment Date or on said Interest Payment Date, from said Interest Payment Date or, if no interest has been paid, from the Bond Date specified above, or, if and to the extent that the Issuer shall default in the payment of interest on any Interest Payment Date, then this Bond shall bear interest from the most recent Interest Payment Date to which interest has been paid or duly provided for, and in which case any Bond surrendered for transfer or exchange shall be dated as of the Interest Payment Date to which interest has been paid in full, at the Interest Rate per annum specified above, semiannually, on \_\_\_\_\_ 1 and \_\_\_\_\_ 1, in each year, beginning \_\_\_\_\_ 1, 20\_\_ (each an "Interest Payment Date"), until maturity or until the date fixed for redemption if this Bond is called for prior redemption and payment on such date is provided for. Capitalized terms used and not defined herein shall have the meanings ascribed thereto in the hereinafter-described Ordinance.

Interest accruing on this Bond on and prior to the Maturity Date hereof shall be payable by check or draft mailed by the West Virginia Municipal Bond Commission, Charleston, West Virginia, as paying agent (in such capacity, the "Paying Agent"), to the Registered Owner hereof as of the applicable Record Date (each \_\_\_\_\_ 15 and \_\_\_\_\_ 15) or, in the event of a default in the payment of Bonds, that special record date to be fixed by the hereinafter named Registrar by notice given to the Registered Owners not less than 10 days prior to said special record date at the address of such Registered Owner as it appears on the registration books of the Issuer maintained by United Bank, Inc., Charleston, West Virginia, as registrar (in such capacity, the "Registrar"), or, at the option of any Registered Owner of at least \$1,000,000 in aggregate principal amount of Bonds, by wire transfer in immediately available funds to a domestic bank account specified in writing by the Registered Owner to the Paying Agent at least 5 days prior to such Record Date. Principal and premium, if any, shall be paid when due upon presentation and surrender of this Bond for payment at the office of the Paying Agent, in Charleston, West Virginia.

This Bond is one of an issue of a series of bonds, in the aggregate principal amount of \$\_\_\_\_\_ designated the "City of Charles Town Combined Waterworks and Sewerage System Revenue Bonds, Series 2018 B (Bank Qualified)" (the "Series 2018 B Bonds"), of like tenor and effect, except as to number, denomination, date of maturity and interest rate, dated \_\_\_\_\_, 2018, upon original issuance, the proceeds of which are to be used, together with other funds of the Issuer (i) to pay a portion of the Costs of design, acquisition, construction and equipping of the Project; (ii) [to pay the premium for a Municipal Bond Insurance Policy to secure the payment of the principal of, and interest on, the Series 2018 B Bonds;] (iii) [to fund a reserve account for the Series 2018 B Bonds/to pay the premium for a Municipal Bond Debt Service Reserve Insurance Policy for the Series 2018 B Bonds] in an amount equal to the Series 2018 B Bonds Reserve Requirement; and (iv) to pay certain costs of issuance of the Series 2018 B Bonds and related costs. The Series 2018 B Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly, Chapter 8, Article 20 of the West Virginia Code of 1931, as amended (the "Act"), and an ordinance duly enacted by the City Council of the Issuer on \_\_\_\_\_, 2018, and supplemented by a supplemental resolution adopted by said Council on \_\_\_\_\_, 2018 (hereinafter collectively referred to as the "Ordinance"), and is subject to all the terms and conditions of said Ordinance. The Ordinance provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Series 2018 B Bonds under the Ordinance. Reference is hereby made to the Ordinance, as the same may be amended and supplemented from time to time, for a description of the rights, limitations of rights, obligations, duties and immunities of the Issuer, the Registrar, the Paying Agent, the Registered Owners of the Series 2018 B Bonds and the Registered Owners of any subsequently issued additional bonds. Executed counterparts or certified copies of the Ordinance are on file at the office of the City Clerk in The City of Charles Town, West Virginia.

**[The Series 2018 B Bonds are additionally secured, but only to the extent described in the Statement of Insurance printed on the Bonds, by a policy of municipal bond insurance issued by [Bond Insurer] \_\_\_\_\_.]**

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S:

1. COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1987 B, DATED NOVEMBER 18, 1987, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$413,629 (THE "SERIES 1987 B BONDS");
2. COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1988 B-1, DATED MAY 4, 1988, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$295,916 (THE "SERIES 1988 B-1 BONDS");
3. COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1988 B-2, DATED MAY 20, 1988, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$558,000 (THE "SERIES 1988 B-2 BONDS");
4. COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1989 B, DATED APRIL 13, 1989, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$117,480 (THE "SERIES 1989 B BONDS");
5. COMBINED WATERWORKS AND SEWERAGE SYSTEM DESIGN REVENUE BONDS, SERIES 1998 (WEST VIRGINIA SRF PROGRAM), DATED SEPTEMBER 29, 1998, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$437,601 (THE "SERIES 1998 BONDS");
6. COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2000 A (WEST VIRGINIA SRF PROGRAM), DATED JUNE 22, 2000, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$3,163,781 (THE "SERIES 2000 A BONDS");
7. COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2002 A (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY), DATED AUGUST 22, 2002, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$1,100,000 (THE "SERIES 2002 A BONDS");
8. COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2002 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED AUGUST 22, 2002, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$3,600,000 (THE "SERIES 2002 B BONDS");
9. COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2010 A (WEST VIRGINIA DWTRF PROGRAM), DATED JANUARY 13, 2010, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$912,458 (THE "SERIES 2010 A BONDS");
10. COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2010 B (WEST VIRGINIA DWTRF PROGRAM/ARRA), DATED JANUARY 13, 2010, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$100,000 (THE "SERIES 2010 B BONDS");
11. COMBINED WATERWORKS AND SEWERAGE SYSTEM DESIGN REVENUE BONDS, SERIES 2010 C (WEST VIRGINIA SRF PROGRAM), DATED DECEMBER 2, 2010,

ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$1,250,000 (THE "SERIES 2010 C BONDS");

12. COMBINED WATERWORKS AND SEWERAGE SYSTEM DESIGN REVENUE BONDS, SERIES 2010 D (WEST VIRGINIA SRF PROGRAM), DATED DECEMBER 2, 2010, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$500,000 (THE "SERIES 2010 D BONDS");

13. COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2011 A (WEST VIRGINIA SRF PROGRAM), DATED JULY 22, 2011, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$13,147,192 (THE "SERIES 2011 A BONDS");

14. COMBINED WATERWORKS AND SEWERAGE SYSTEM DESIGN REVENUE BONDS, SERIES 2013 A (WEST VIRGINIA SRF PROGRAM), DATED JUNE 27, 2013, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$591,977 (THE "SERIES 2013 A BONDS");

15. COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2013 B (TAX-EXEMPT), DATED OCTOBER 1, 2013, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$2,970,000 (THE "SERIES 2013 B BONDS");

16. COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2014 A (WEST VIRGINIA SRF PROGRAM), DATED JUNE 18, 2014, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$4,058,900 (THE "SERIES 2014 A BONDS");

17. COMBINED WATERWORKS AND SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 2014 C (AMT), DATED OCTOBER 31, 2014, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$820,000 (THE "SERIES 2014 C BONDS");

18. COMBINED WATERWORKS AND SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 2014 D (TAXABLE), DATED OCTOBER 31, 2014, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$1,445,000 (THE "SERIES 2014 D BONDS");

19. COMBINED WATERWORKS AND SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 2014 E (BANK QUALIFIED), DATED OCTOBER 31, 2014, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$1,425,000 (THE "SERIES 2014 E BONDS");

20. COMBINED WATERWORKS AND SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 2015 A, DATED NOVEMBER 19, 2015, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$2,750,000 (THE "SERIES 2015 A BONDS");

21. COMBINED WATERWORKS AND SEWERAGE SYSTEM REFUNDING REVENUE BONDS, SERIES 2015 B, DATED NOVEMBER 19, 2015, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$4,355,000 (THE "SERIES 2015 B BONDS");

22. COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2016 A, DATED MARCH 8, 2016, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$7,695,000 (THE "SERIES 2016 A BONDS");

23. COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2018 A-1(WEST VIRGINIA WATER DEVELOPMENT AUTHORITY), ORIGINALLY THE DISTRICT 1988 B BONDS AND ASSUMED BY THE ISSUER CONTEMPORANEOUSLY WITH THE ISSUANCE OF THE SERIES 2018 B BONDS (THE “SERIES 2018 A-1 BONDS”);

24. COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2018 A-2 (WEST VIRGINIA SRF PROGRAM), ORIGINALLY THE DISTRICT 1998 B BONDS AND ASSUMED BY THE ISSUER CONTEMPORANEOUSLY WITH THE ISSUANCE OF THE SERIES 2018 B BONDS (THE “SERIES 2018 A-2 BONDS”);

25. COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2018 A-3 (WEST VIRGINIA INFRASTRUCTURE FUND), ORIGINALLY THE DISTRICT 1998 C BONDS AND ASSUMED BY THE ISSUER CONTEMPORANEOUSLY WITH THE ISSUANCE OF THE SERIES 2018 B BONDS (THE “SERIES 2018 A-3 BONDS”);

26. COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2018 A-4 (WEST VIRGINIA SRF PROGRAM), ORIGINALLY THE DISTRICT 1999 A BONDS AND ASSUMED BY THE ISSUER CONTEMPORANEOUSLY WITH THE ISSUANCE OF THE SERIES 2018 B BONDS (THE “SERIES 2018 A-4 BONDS”);

27. COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2018 A-5 (WEST VIRGINIA SRF PROGRAM), ORIGINALLY THE DISTRICT 1999 A BONDS AND ASSUMED BY THE ISSUER CONTEMPORANEOUSLY WITH THE ISSUANCE OF THE SERIES 2018 B BONDS (THE “SERIES 2018 A-5 BONDS”);

28. COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2018 A-6 (WEST VIRGINIA SRF PROGRAM), ORIGINALLY THE DISTRICT 2008 A BONDS AND ASSUMED BY THE ISSUER CONTEMPORANEOUSLY WITH THE ISSUANCE OF THE SERIES 2018 B BONDS (THE “SERIES A-6 BONDS”); AND

29. COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2018 A-7 (WEST VIRGINIA DWTRF PROGRAM), ORIGINALLY THE DISTRICT 2014 A BONDS AND ASSUMED BY THE ISSUER CONTEMPORANEOUSLY WITH THE ISSUANCE OF THE SERIES 2018 B BONDS (THE “SERIES A-7 BONDS”).

THE SERIES 1987 B BONDS, SERIES 1988 B-1 BONDS, SERIES 1988 B-2 BONDS, SERIES 1989 B BONDS, SERIES 1998 BONDS, SERIES 2000 A BONDS, SERIES 2002 A BONDS, SERIES 2002 B BONDS, SERIES 2010 A BONDS, SERIES 2010 B BONDS, SERIES 2010 C BONDS, SERIES 2010 D BONDS, SERIES 2011 A BONDS, SERIES 2013 A BONDS, SERIES 2013 B BONDS, SERIES 2014 A BONDS, SERIES 2014 C BONDS, SERIES 2014 D BONDS, SERIES 2014 E BONDS,



SERIES 2015 A BONDS, SERIES 2015 B BONDS AND SERIES 2016 A BONDS ARE HEREINAFTER COLLECTIVELY CALLED THE "PRIOR BONDS." THE SERIES 2018 A-1 BONDS, THE SERIES 2018 A-2 BONDS, THE SERIES 2018 A-3 BONDS, THE SERIES 2018 A-4 BONDS, THE SERIES 2018 A-5 BONDS, THE SERIES 2018 A-6 BONDS AND THE SERIES 2018 A-7 BONDS ARE HEREINAFTER COLLECTIVELY CALLED THE "SEIRES 2018 A BONDS".

The Series 2018 B Bonds are subject to redemption prior to their stated maturity dates, as provided in the Ordinance and as set forth in the following lettered paragraphs:

(A) Optional Redemption. The Bonds maturing on and after \_\_\_\_\_, 20\_\_\_\_, are subject to redemption prior to maturity at the option of the Issuer on or after \_\_\_\_\_, 20\_\_\_\_, in whole at any time and in part on any Interest Payment Date, as directed by the Issuer, in reverse order of maturity and by lot within a maturity, at the following Redemption Prices (expressed as percentages of the principal amount of Bonds to be redeemed), plus interest accrued thereon to the date fixed for redemption:

Period During Which Redeemed <u>(Dates Inclusive)</u>	Redemption <u>Price</u>
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(B) Mandatory Sinking Fund Redemption. The Bonds maturing on \_\_\_\_\_, 20\_\_\_\_ and 20\_\_\_\_ are subject to annual mandatory sinking fund redemption prior to maturity by random selection as may be determined by the Registrar, on \_\_\_\_\_ 1 of the years and in the principal amounts set forth below, at the Redemption Price of 100% of the principal amount of each Bond so called for redemption plus interest accrued to the date fixed for redemption:

Bonds Maturing \_\_\_\_\_ 1, 20

_____	<u>Year (</u> 1)	<u>Principal Amount</u>
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Bonds Maturing \_\_\_\_\_ 1, 20

_____	<u>Year (</u> 1)	<u>Principal Amount</u>
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\* Final Maturity

In the event of any redemption of less than all outstanding Series 2018 B Bonds, the maturities to be redeemed shall be selected by the Paying Agent at the direction of the Issuer and Series 2018 B Bonds to be redeemed shall be determined by lot within a maturity, or in such other manner deemed appropriate by the Paying Agent. If less than all the Series 2018 B Bonds are to be redeemed, the Series 2018 B Bonds to be redeemed shall be identified by reference to the Series designation, date of issue, CUSIP numbers and Maturity Dates.

Notice of any redemption of this Series 2018 B Bond, unless waived, shall be given by the Paying Agent on behalf of the Issuer by mailing an official redemption notice by registered or certified mail at least 30 days and not more than 60 days prior to the date fixed for redemption to the Registered Owner of the Series 2018 B Bond or Series 2018 B Bonds to be redeemed at the address shown on the Bond Register or at such other address as is furnished in writing by such Registered Owner to the Paying Agent. Such notice shall also be given by the Paying Agent to the Registrar. Notice of redemption having been given as aforesaid, the Series 2018 B Bonds or portions of Series 2018 B Bonds so to be redeemed shall, on the Redemption Date, become due and payable at the Redemption Price therein specified, and from and after such date (unless the Issuer shall default in the payment of the Redemption Price) such Series 2018 B Bonds or portions of Series 2018 B Bonds shall cease to bear interest.

Failure to receive such notice or any defect therein or in the mailing thereof shall not affect the validity of proceedings for the redemption of this Series 2018 B Bond.

The Series 2018 B Bonds and the interest thereon are payable only from and are secured by the Gross Revenues (as defined in the Ordinance) to be derived from the operation of the System, on a parity in all respects with the pledge of the Gross Revenues created in favor of the holders of the Prior Bonds, all monies in the Series 2018 B Bonds Sinking Fund, and the Series 2018 B Bonds Reserve Account therein, established under the Ordinance, and the unexpended proceeds of the Series 2018 B Bonds, and the Issuer hereby and in the Ordinance pledges such revenues and monies to such payment. Said Gross Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and shall be set aside as a special fund hereby pledged for such purpose and to make the other payments required by the Ordinance. This Series 2018 B Bond does not constitute an indebtedness of the Issuer within any constitutional or statutory provision or limitation, nor shall the Issuer be obligated to pay the same or the interest hereon except from said special fund provided from the Gross Revenues, the monies in the Series 2018 B Bonds Sinking Fund and the Series 2018 B Bonds Reserve Account and said unexpended Series 2018 B Bond proceeds. Pursuant to the Ordinance, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Series 2018 B Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2018 B Bonds, including the Prior Bonds. The Issuer has entered into certain further covenants with the registered owners of the Series 2018 B Bonds, for the terms of which reference is made to the Ordinance. Remedies provided the registered owners of

the Series 2018 B Bonds are exclusively as provided in the Ordinance, to which reference is here made for a detailed description thereof.

All monies received from the sale of the Bonds except for accrued interest thereon shall be applied solely to pay all costs of the Project, funding a reserve account for the Series 2018 B Bonds and pay costs of issuance of the Bonds, and there shall be, and hereby is, created and granted a lien upon such monies, until so applied, in favor of the registered owners of said Series 2018 B Bonds.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Series 2018 B Bond have existed, have happened and have been performed in due time, form and manner as required by law, and that the amount of this Series 2018 B Bond, together with all other obligations of said Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia, and that a sufficient amount of the revenues of the System has been pledged to and will be set aside into said special fund by said Issuer for the prompt payment of the principal of and interest on the Series 2018 B Bonds of which this Series 2018 B Bond is one.

This Series 2018 B Bond, under the provisions 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, but may be transferred only upon the surrender hereof at the office of the Registrar and otherwise as provided by the within-described Ordinance.

This Series 2018 B Bond and the income therefrom are, under the Act, exempt from all taxation by the State of West Virginia, or any county, municipality, political subdivision or agency thereof.

This Series 2018 B Bond shall not be entitled to any benefit under the Ordinance, or become valid or obligatory for any purpose, until the certificate of authentication and registration hereon shall have been signed by the Registrar.

All provisions of the Ordinance, and the statutes under which this Series 2018 B Bond is issued shall be deemed to be a part of the contract evidenced by this Series 2018 B Bond to the same extent as if written fully herein.

[Remainder of Page Intentionally Blank]

IN WITNESS WHEREOF, the CITY OF CHARLES TOWN (West Virginia) has caused this Bond to be signed by its Mayor and Clerk, and its corporate seal to be imprinted hereon and attested by its City Clerk, and has caused this Series 2018 B Bond to be dated as of the Series 2018 B Bond Date specified above.

[SEAL]

\_\_\_\_\_  
Mayor

ATTEST:

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

**CERTIFICATE OF AUTHENTICATION  
AND REGISTRATION**

This Series 2018 B Bond is one of the fully registered Series 2018 B Bonds described in the within-mentioned Ordinance and has been duly registered in the name of the Registered Owner on the date set forth below. Attached hereto is the complete text of the opinion of Steptoe & Johnson PLLC, bond counsel, signed originals of which are on file with the Registrar, delivered and dated on the date of the original delivery of and payment for the Series 2018 B Bonds.

Dated: \_\_\_\_\_, 2018.

[\_\_\_\_\_]
As Registrar

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

**(FORM OF)  
ASSIGNMENT**

Social Security or Other Identifying Number of Assignee

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

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

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SIGNATURE GUARANTEED:

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(Bank, Trust Company or Firm)

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(Authorized Officer)

NOTICE: The Assignor's signature to this Assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without alteration or any change whatever