AGENDA FOR THE REGULAR MEETING OF PARKERSBURG
CITY COUNCIL FOR TUESDAY, OCTOBER 9, 2012, 7:30 PM
SECOND FLOOR, COUNCIL CHAMBERS, MUNICIPAL BUILDING

I. CALL TO ORDER – Council President, Tom Joyce

II. PRAYER

III. PLEDGE OF ALLEGIANCE

IV. ROLL CALL

V. MINUTES – Regular council meeting held September 25, 2012

VI. REPORTS FROM STANDING OR SPECIAL COMMITTEES

VII. MESSAGE FROM THE EXECUTIVE

A. Communication from Mayor Robert Newell appointing Mr. Jason Wyers, 529a Market Street, to the Downtown Façade Committee through October 9, 2015. (requires Council's confirmation)

B. Communication from Mayor Robert Newell re-appointing the following members to the Mid Ohio Valley Transit Authority: (requires Council's confirmation)

1. Belinda Fetty, 824 Lakeview Drive, through November 13, 2015;
2. Sam Baldwin, 4313 12th Avenue, through October 9, 2015;
3. Ron Jalbert, 61 Canterbury Drive, through October 9, 2014;
4. Joe Roedersheimer, 2916 Brookside Circle, through July 15, 2015

VIII. PUBLIC FORUM

IX. RESOLUTION

1. Resolution authorizing the City to enter into the WV Homeless Shelters Program for $19,000.00 obligated from the State to the City. (Sponsored by Councilmen Lynch, Reed, Wilcox, Tallman, and Sandy)

X. ORDINANCE, FIRST READING

2. An ordinance authorizing the lease/purchase financing of a motor grader for the Street Department, $111,224.00, 1.53%, for 36 months. (Sponsored by Councilmen Reed, Joyce, and Rockhold)

(next page)

3. An ordinance amending Section (e) of Article 135, Purchasing Procedures, to include a provision for use of local labor. (Sponsored by Councilmen Joyce, Reed, Rockhold, Sandy and Wilcox, and pending approval of the Finance Committee.)

4. An ordinance amending and re-enacting subsection (f) of Section 779.13, Exemptions, of Article 779, Business and Occupation Tax, concerning credits and exemptions for business which at its commencement create five or more jobs and maintains said jobs for four years. (Sponsored by Councilmen Joyce, Reed, Rockhold, Sandy, and Wilcox, and pending approval of the Finance Committee)

XI. ADJOURNMENT

JOURNAL OF THE CITY COUNCIL, NO. 53

PARKERSBURG, W. VA., September 25, 2012

The Council of the City of Parkersburg met in regular session Tuesday, September 25, 2012, at 7:30 PM in the Council Chambers on the second floor of the Municipal Building at One Government Square, Parkersburg, WV 26101.

The meeting was called to order by Council Vice President, Nancy Wilcox, who presided over the meeting. Councilman Mike Reynolds led the Lord's Prayer and Pledge of Allegiance.

The Clerk noted the attendance as follows: Members attending included Councilmen Nancy Wilcox, Sharon Lynch (by phone), Brad Kimes, John Sandy, Sharyn Tallman, Mike Reynolds, John Rockhold, and Jim Reed. Council President Tom Joyce was absent.

MINUTES – Mr. Sandy moved, seconded by Mr. Kimes, to approve the minutes from the meeting held September 11, 2012, and the motion was adopted by unanimous vote.

REPORTS FROM STANDING OR SPECIAL COMMITTEES – Councilman John Rockhold reported that he and Councilman Reynolds attended a Downtown Task Force meeting last week. The group will be leading into a program concerning displays, and will encourage rental properties, and properties for sale.

MESSAGE FROM THE EXECUTIVE – Mayor Robert Newell told City Council that there are businesses that want to move into our area, but have questions about our B & O taxes. He is proposing that we change the ordinance and have a step program whereby they would pay 20%, the first year, then 40%, 60%, 80%, then 100% the [illegible] year, and he is asking for their sponsorship for the ordinance, which he distributed.

Mayor Newell also stated that 99% of work that we do goes to local companies, but recent competition is causing businesses outside of our area to be able to bid lower. We are obligated to take the lowest bid, but he would like to add that if any company provides 50% local labor from Wood County or adjoining counties, they would have consideration, and he is asking for sponsorship for that ordinance.

Also, the Mayor reported that we have $120,000.00 available for additional paving after final tabulations from Kelly Paving, and we received some credit for milling that was not done. We will be doing more paving that we originally thought, he said.

PUBLIC FORUM – no one appeared.

ORDINANCE, FINAL READING:

AN ORDINANCE AMENDING AND RE-ENACTING
SUB-SECTION E (6) EXTENDED MEDICAL LEAVE,
OF SECTION IX, BENEFITS, OF THE CITY OF PARKERSBURG
PERSONNEL POLICIES AND PROCEDURES

THE COUNCIL OF THE CITY OF PARKERSBURG HEREBY ORDAINS that Sub-Section E (6), Extended Medical leave, of Section IX, Benefits, of the City of Parkersburg Personnel Policies and Procedures be hereby amended and re-enacted as follows:

PERSONNEL POLICIES & PROCEDURES

OBJECTIVE:

The City has established a Leave Donation Program to assist employees faced with a medical emergency. The Leave Donation Program allows employees to voluntarily transfer accrued vacation ~~hours~~ leave and holiday leave to another qualified employee who has exhausted all of his or her paid leave.

I. DEFINITIONS:

Vacation Leave: An earned employee benefit of paid time off from work.

Holiday Leave: A benefit for civil service employees of equal time off from work in lieu of holiday pay on holidays.

Dollar Value of Vacation Leave: The hourly rate of an employee multiplied by the number of hours of vacation leave.

Donor: An employee who voluntarily donates accrued vacation leave or holiday leave to a recipient.

Hourly Rate: ~~The total annual base salary for a full-time employee divided by 2,080 hours (civilian, police civil service, and fire [40-hour shift] civil service employees) and 2,808 hours (fire [54-hour shift] civil service employees).~~ Employee's hourly pay rate. For exempt personnel, it is their annual base salary divided by 2,080 hours.

Immediate Family: The immediate family consists of the spouse, child, or parent as defined by the Family and Medical Leave Act.

Medical Emergency: A medical condition of an employee or a member of the employee's immediate family that is likely to require the prolonged absence of the employee from work and which will result in a substantial loss of income to the employee because of the unavailability of paid leave.

Recipient: An employee who receives vacation leave donations from other employees.

Substantial Loss of Income: An amount greater than or equal to one-half month of an employee's base pay.

CASTO & HARRIS, INC., SPENCER, WV RE-ORDER NO. 1635-08

II. ELIGIBILITY:

A. Recipient Eligibility: In order to be eligible to receive donations of vacation leave or holiday leave, an employee must meet the following conditions:

1. Apply and be approved for leave under The Family and Medical Leave Act as provided in Section IV.N, ~~Subsection N~~ of this manual or be approved for an Extended Medical Leave as provided in Section IX.E.6 of this manual.

2. The employee must have a medical emergency involving a medical condition of the employee or a member of the employee's immediate family.

3. The employee must have exhausted all sick leave and all vacation leave, as well as any other accrued paid leave to which the employee is entitled.

4. The medical condition of the employee or the member of the employee's immediate family must be verified in writing by a physician or medical practitioner as requiring the absence of the employee from work for at least one-half a month continuously after the exhaustion of available leave as specified above.

5. The employee must apply to receive donated leave. If, because of the nature of an employee's medical condition, the employee is unable to apply to receive donated leave, the application may be made by a member of the employee's immediate family or by the employee's Department Head.

6. The employee must not be receiving or be eligible to receive compensation for his or her absence from work from the Workers' Compensation Fund, nor may the employee be receiving Social Security Disability benefits for his or her absence from work.

B. Donor Eligibility: In order to be eligible to make donations of vacation leave or holiday leave, an employee must meet the following conditions:

1. The employee must have a remaining balance of 80 hours of accrued sick and/or vacation/holiday leave after making the vacation/holiday leave donation.

III. RECIPIENT STATUS:

Employees who are recipients of donated leave are considered on leave in accordance with The Family and Medical Leave Act or on an approved Extended Medical Leave. All paid leave benefits and leave donation benefits run concurrently with leave under The Family and Medical Leave Act.

IV. RESTRICTIONS:

A. Recipient Eligibility: In order to be eligible to receive donations of vacation leave or holiday leave, an employee must meet the following conditions:

1. Recipients do not accrue annual or sick leave, nor do they earn years of service credit for leave accrual purposes, while in this status.

2. Recipients are not eligible for paid holidays or holiday equal pay while in this status.

3. Recipients do not earn service credit for purposes of order of separation on lay-off while in this status.

4. Recipients do not earn service credit for purposes of an annual increment while in this status.

5. Recipients do not earn service credit for any retirement system offered by the City of Parkersburg or administered by the State of West Virginia while in this status.

6. Paid medical insurance will be provided to the recipient for a period equal to the period of such leave under The Family and Medical Leave Act and/or the Extended Medical Leave period. The City will continue to deduct the employee's portion of the premium from their paid donation leave.

V. METHOD OF DONATIONS AND USE OF DONATED LEAVE:

All donations of vacation or holiday leave and the use of donated leave is governed by the following criteria:

A. Method of Donations:

1. Donations shall be in the form of whole hours of vacation or holiday leave ~~only~~.

2. Donors shall specifically designate the recipient(s) of the leave donation.

3. The City shall deduct the total donation from the vacation / holiday leave balance of the donor upon receipt of the donation form.

B. Use of Donated Leave:

1. Donated leave shall be used at its present dollar value.

C. End of Use of Donated Leave:

A recipient's use of donated leave shall cease:

1. If the recipient, for any reason, ceases employment with the City of Parkersburg.

2. If the recipient voluntarily requests termination of the use of donated leave.

3. If the recipient fails to provide the required physician's verification(s) as requested or otherwise fails or ceases to meet

4. Upon the exhaustion of the total dollar value of all leave donated to the recipient.

5. Upon expiration of the leave provided under The Family and Medical Leave Act or the end of the Extended Medical Leave.

6. At the end of one (1) year from the first day of the start of the medical leave.

7. Upon the recipient's return to work.

D. Unused Donation Leave:

Any unused leave donation shall be returned to the donors and re-credited to his or her vacation / holiday leave balance on a pro-rated basis.

MOTION – Mr. Sandy, seconded by Mr. Kimes, to adopt the ordinance on final reading, and the motion was adopted by unanimous.

ORDINANCE, FINAL READING

AN ORDINANCE AMENDING AND RE-ENACTING
SUB-SECTION I, LEAVE DONATION PROGRAM,
OF SECTION IX, BENEFITS, OF THE CITY OF PARKERSBURG
PERSONNEL POLICIES AND PROCEDURES

EXTENDED MEDICAL LEAVE

Extended medical leave may be granted to an employee who has exhausted the leave provisions under The Family and Medical Leave Act, but has balances remaining in his/her paid leave benefits (sick leave, vacation leave, compensatory leave and holiday equal time off leave) or under the Leave Donation Program. Requests for extended medical leave must be submitted to the Personnel Director in writing, along with medical evidence in the form of a physician's statement. The physician's statement must include a diagnosis, prognosis, and expected date when the illness or disability will no longer exist or no longer hamper the employee from performing his/her regular duties. Requests for extended medical leave must be approved by the Mayor, Department Head and Personnel Director. If the employee is unable to return to work after the exhaustion of all paid leave benefits, said individual's employment with the City will be concluded, unless a Special Leave of Absence without Pay has been approved.

MOTION – Mr. Sandy moved, seconded by Mr. Kimes, to adopt the ordinance on final reading, and the motion was adopted by unanimous vote.

The meeting adjourned at 7:40 PM.

[signature]
City Clerk

Council President

City of Parkersburg
One Government Square
P.O. Box 1627
Parkersburg, WV 26102

Robert D. Newell

Office of the Mayor
Phone (304) 424-8420
Fax (304) 424-8405

October 1, 2012

Parkersburg City Council
Parkersburg, WV 26101

Dear Council members:

There is a vacancy on the Downtown Façade Committee due to a resignation.

Mr. Jason Wyers, 529A Market Street, is a downtown businessman interested in downtown matters, and has expressed a desire to serve on this committee.

I am appointing Mr. Wyers to the Downtown Façade Committee to serve a three-year term to expire October 9, 2015, and would appreciate your confirmation during our October 9th Council meeting.

Sincerely,

Robert D. Newell
Mayor

A

Mayor Robert D. Newell

CITY OF PARKERSBURG
ONE GOVERNMENT SQUARE
P.O. BOX 1627
PARKERSBURG, WV 26102

October 2, 2012

Parkersburg City Council
Parkersburg WV

Dear Council Members:

The following terms have expired, or will very soon expire, on the Mid Ohio Valley Transit Authority, and I re-appoint and request your confirmation, as follows:

Belinda Fetty, 824 Lakeview Drive, through November 13, 2015;
Sam Baldwin, 4313 12th Avenue, through October 9, 2015;
Mr. Ron Jalbert, 61 Canterbury Drive, through October 9, 2014;
Mr. Joe Roedersheimer, 2916 Brookside Circle, through July 15, 2015.

Thank you.

Sincerely,

Robert D. Newell
Mayor

RDN:css

B

RESOLUTION AUTHORIZING THE CITY TO ENTER INTO THE WEST VIRGINIA HOMELESS SHELTERS PROGRAM EMERGENCY SOLUTIONS GRANTS PROGRAM CONTRACT BETWEEN THE OFFICE OF ECONOMIC OPPORTUNITY AND THE CITY OF PARKERSBURG

WHEREAS, the State has elected to administer the Emergency Solutions Grants Program as authorized by Part B of the McKinney Vento Homeless Assistance Act, as amended, subject to the regulations of the Department of Housing and Urban Development, 24 CFR Part 576, as amended in conjunction with the Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act of 2009, the Certifications and Assurances contained in the Grantee application, and subject to the scope of the State's Emergency Solutions Grants Program Guidelines, receipt of which is hereby acknowledged by the Grantee.

WHEREAS, the Grantee has identified Its Emergency Solutions Grants Program objectives for homeless persons and the activities to be undertaken to meet such needs.

WHEREAS, the Grantee has requested assistance from the State and has offered assurances that priority has been given to activities that will accomplish the purpose of the Emergency Shelter Grants Program.

WHEREAS, the State has obligated $19,000 to the City of Parkersburg for the administration of the Emergency Solutions Grants Program for 2012.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PARKERSBURG that the City enter into the West Virginia Homeless Shelters Program Emergency Solutions Grants Program and that Mayor Robert D. Newell be and is hereby authorized to sign the grant contract between the WV Office of Economic Opportunity and the City of Parkersburg.

SPONSORED BY COUNCILMEN: Sharon Lynch, Jim Reed, Nancy Wilcox, Sharyn Tallman and John Sandy.

* A copy of the contract are attached hereto and made a part hereof.

ESG12-1131
CFDA 14.231

West Virginia

Emergency Solutions Grants Program

Grant agreement

Between

Office of Economic Opportunity

And

City of Parkersburg

THIS AGREEMENT, entered into this 1st day of July, 2012, by the West Virginia Office of Economic Opportunity, hereinafter called the "State" and the City of Parkersburg and its authorized officers, agents, and representatives, hereinafter called the "Grantee."

WITNESS THAT:

WHEREAS, the State has elected to administer the Emergency Solutions Grant Program as authorized by Part B of the McKinney Vento Homelessness Assistance Act, as amended, subject to the regulations of the Department of Housing and Urban Development, 24 CFR Part 576, as amended in conjunction with the Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act of 2009, the Certifications and Assurances contained in the Grantee application, and subject to the scope of the State's Emergency Solutions Grant Program Guidelines, receipt of which is hereby acknowledged by the Grantee;

WHEREAS, the Grantee has identified its Emergency Solutions Grant Program objectives for homeless persons and the activities to be undertaken to meet such needs;

WHEREAS, the Grantee has requested assistance from the State and has offered assurances that priority has been given to activities that will accomplish the purpose of the Emergency Solutions Grant Program;

NOW, THEREFORE, the parties hereto do mutually agree as follows:

1. Assistance to Grantee. The State shall obligate to the Grantee, from funds allocated to the State by Grant Agreement E-12-DC-54-0001, $19,000 to perform such tasks hereafter described in the Scope of Services. The availability of these funds is subject to any conditions prescribed by the State and Section 4, Part B of this Grant agreement.

2. Scope of Services.

A. The Grantee, or its designated agent, in accordance with the program guidelines to be used in the administration of the Emergency Solutions Grants Program, and in accordance with the approved Application and Budget of the Grantee, which is on file with the State, shall do, perform and carry out, in a satisfactory and proper manner all duties, tasks, and functions necessary to implement and complete the Emergency Solutions Grants Program project.

B. Grantee agrees to comply with program requirements regarding matching contribution, use of building as an emergency shelter, assistance to the homeless, and all other requirements of 24 CFR Part 576, as amended.

3. Changes.

The State and the Grantee, from time to time, may require changes in the Scope of the Services of the work to be performed hereunder. Such changes, including any increase or decrease in the amount of the Grantee's compensation and work to be performed, which are mutually agreed upon by and between the State and the Grantee, shall be incorporated in written amendments to the Grant agreement. The State reserves the right to make final determination on questions regarding changes in the Scope of Services.

4. Time of Performance.

A. The Grantee will commence its duties under this Grant agreement on July 1, 2012 and will obligate all of its grant amount within 180 days of this date, or by the end of any extension of this period granted by HUD; and such duties shall be undertaken and completed in such sequences as to assure their expeditious completion in light of the purpose of the Grant agreement. Before any expenses may be incurred or financial obligations made, all environmental and other grant conditions that may be applicable, must be satisfied and approved by the State. But, in any event, all of the services required hereunder shall be completed by June 30, 2013. Completion date of this Grant agreement may only be extended by mutual written agreement of both parties.

B. The State, however, reserves the right to withhold and to withdraw funds from Grantee for inadequate program progress, which includes failure to comply with any program requirements or prerequisites.

5. Administrative Requirements and Procedures.

A. Personnel. The Grantee represents that it has or will secure personnel with the necessary qualifications and experience required to perform the services under this Grant agreement. Such personnel shall not be employees of the State, consistent with procedures identified in the program regulations, this grant agreement, and applicable State law.

B. Applicable Law. The Grantee and its agents, shall comply with and ensure that any sub-recipient complies with all the restrictions, conditions, and requirements of the Emergency Solutions Grants Program in Part B of the McKinney Vento Homelessness Assistance Act, as amended, with all applicable State and Federal laws and regulations including 24 CFR Part 576, as amended, OMB circulars A-87, A-102, A-110, A-122, and A-133, as applicable, and HUD's new definition of Homeless as found in 24CFR Parts 91, 576, 582, and 583, in administering and distributing funds provided under this agreement including, but not limited to, the following:

(1) P.L. 88-352: Refers to Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et. seq.) which provides that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. Implementing regulations are found in 24 CFR Part 1.

(2) P.L. 90-284: Refers to Title VIII of the Civil Rights Act of 1968, as amended, (42 U.S.C. 3601 et. seq.) popularly known as the Fair Housing Act which provides for fair housing throughout the United States and prohibits any person from discriminating in the sale or rental of housing, the financing of housing, or the provision of brokerage services, including otherwise making unavailable or denying a dwelling to any person, because of race, color, religion, sex, national origin, handicapped or familial status. The Grantee further certifies that it will take all actions necessary to affirmatively further fair housing.

(3) Executive Order 11063, as amended by Executive Order 12259, requires taking all actions necessary and appropriate to prevent discrimination because of race, color, religion (creed), sex, or national origin, in the sale, leasing, rental or other disposition of residential property and related facilities (including land to be developed for residential use), or in the use or occupancy thereof. Implementing regulations are contained in 24 CFR 107.

(4) Section 110 of P.L. 93-383 requires that no person in the United States shall, on the ground of race, color, national origin or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with community development funds.

Section 110 of the Act further provides that any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.) or with respect to an otherwise qualified handicapped person as provided in Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as amended, shall also apply.

(5) The Davis-Bacon Act (40 U.S.C. 276a-276a-5) applies to this project only if other federal funds that may be involved are covered by them. The Contract Work Hours and Safety Standards (40 U.S.C. 327 et. seq.), applies.

(6) Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701U) requiring that to the greatest extent feasible opportunities for employment and training be given to lower income persons residing within the unit of local government or metropolitan area or non-metropolitan county in which the project is located, and that contracts for work in connection with the project be awarded to eligible business concerns which are located in, or owned in substantial part by, persons residing in the same area. The Grantee shall adopt a Section 3 Plan to assure good faith efforts towards compliance with the statutory directive.

(7) Executive Order 11246, as amended by Executive Order 12066 shall apply and provides that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in all phases of employment during the performance of federal or federally assisted construction contracts.

(8) Executive Orders 11625, 12432, and 12138. Consistent with HUD's responsibilities under these orders, the Grantee must make efforts to encourage the use of minority and women's business enterprises in connection with activities funded under this grant agreement.

(9) The inspection and abatement of defective lead-based paint surfaces regulation at 24 CFR 576, as amended, applies. 576.403 Shelter and housing standards.(a) *Lead-based paint remediation and disclosure.* The Lead-Based Paint Poisoning Prevention Act (42 U.S.C.4821–4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42U.S.C. 4851–4856), and implementing regulations in 24 CFR part 35, subparts A, B, H, J, K, M, and R apply to all shelters assisted under ESG program and all housing occupied by program participants.

(10) (a) The unit of local government Grantee agrees to assume all of the responsibilities for environmental review, decision making, and action as specified and required in regulations issued by the Secretary of Housing and Urban Development pursuant to Section 104(g) of the Act and published in 24 CFR Part 58 and 24 CFR Part 576, as amended. In addition to assuming responsibility for National Environmental Policy Act (P.L. 91-190), the Grantee must take into account, where applicable, the criteria, standards, policies, and regulations of the following: (a) Historic Preservation Act of 1966; (b) Executive Order 11593; (c) The Reservoir Salvage Act of 1960; (d) Flood Disaster Protection Act of 1973; (d) Executive Order 11988, Floodplain Management; (f) Executive Order 11990, Protection of Wetlands; (g) Coastal Zone Management Act of 1972; (h) the Safe Drinking Water Act of 1974; (i) the Endangered Species Act of 1973; (j) the Wild and Scenic Rivers Act of 1968; (k) the Clean Air Act; (1) Environmental Criteria and Standards (44 FR 40860-40866, July 12, 1979); (m) 24 CFR Part 51, Subpart B, Noise Abatement and Control; (n) Subpart C - Citing of HUD Projects Near Hazardous Operations Handling Conventional Fuels or Chemicals of an Explosive or Flammable Nature; (o) and Subpart D - Citing of HUD Projects in Runway Clear Zones and Accident Potential Zones at Military Airfields. Before committing any funds (other than for exempt activities), the Grantee must certify to the State that it has complied with all requirements and obligations that are set forth by 24 CFR Part 58, and 24 CFR 576, as amended.

(b) The nonprofit Grantee and nonprofit sub-recipients agree to provide all data/documentation to the State or its designee necessary for conducting the environmental review and for compliance with the requirements in paragraph 11 (a) above.

(11) The Uniform Relocation Assistance and Real property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4601) and implementing regulations at 24 CFR Part 49 and 24 CFR 576.80 apply. The West Virginia Code, Chapter 54-3 also applies.

(12) Assistance under this agreement shall not be used directly or indirectly to employ, award contracts to, or otherwise engage the services of, or fund any contractor or sub-recipient during any period of debarment, suspension, or placement in ineligibility status under the provisions of 24 CFR Part 576.

(13) Funds provided under this agreement shall not be expended for acquisition or construction purposes in an area that has been identified by the Federal Emergency Management Agency (FEMA) as being in the 100 year floodplain that has special flood hazards unless all the requirements of 24 CFR Part 576 have been satisfied.

C. OMB Circular Applicability: Circulars A-87 and A-102 apply if Grantee is a unit of local government and A-110 and A-122 apply if Subgrantee is a nonprofit organization. Grantees will ensure that any nonprofit sub-recipient follows A-122 and A-110.

D. Accounting. The Grantee will establish a separate account for the proper recording of project costs in accordance with generally accepted cost accounting principles and procedures so as to reflect all receipts and allowable expenditures, including program income, in connection with the said project and the purpose thereof. The grantee agrees to report all program income received from this project to the State on a quarterly basis and on the State's Program Income Report and Financial Report forms. Program Income shall be any income defined as program income by the U.S. Department of Housing and Urban Development and the State. Program income may be retained and disposed of by the Grantee and shall be accounted for, recorded in a separate program income register, and kept in a separate interest-bearing account and limited to those uses described in the Scope of Services or expressly agreed to by the State. Program income earned and expended and found not to be in compliance with program income requirements shall be immediately surrendered to the State by the Grantee.

E. Audit. Pursuant to provisions of Chapter 6, Article 9, Section 7 of the West Virginia Code, Office of Economic Opportunity has adopted the policy of accepting annual financial audits contracted through or performed by the State Tax Department. The Grantee will include these funds to be audited with its yearly organization-wide audit. Audits shall be conducted in accordance with the provisions of the Office of Management and Budget (OMB) Circular A-133, and with standards established by the Comptroller General as specified in Standards for Audit of Government Organizations, Programs Activities, and Functions. Units of local government will make audit reports

available for public inspection within thirty (30) days after the completion of the audit. These audits must incorporate the audit of any unit of local government nonprofit sub-recipient. Nonprofit grantees must make their audit available for public inspection within 9 months after completion of the fiscal year.

F. Record Retention. Financial records, supporting documents, statistical records, and all other records pertinent to the grant shall be retained for a period of four years, with the following qualifications:

(1) If any litigation, claim or audit is started before the expiration of the four (4) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

(2) Records for nonexpendable property acquired with federal funds shall be retained for four years after its final disposition.

(3) Records for displacement shall be retained in accordance with the requirements of the ESGP program.

(4) The retention period starts from the date of the submission of the final expenditure report.

G. Access to Records. The Grantee shall, at any time during normal business hours, and as often as the State or its designated representatives deem necessary, make available for examination all records, books, accounts, reports, files, and other papers, things or property of the Grantee with respect to the matters covered by this Grant agreement. All negotiated contracts awarded by the Grantee shall include a provision that the Comptroller General or any duly authorized representative of the State shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to a specific grant program for the purpose of making audit, examination, excerpts, and transcriptions.

H. Repayment. The Grantee shall refund to the State or Federal government any expenditures determined to be made for an ineligible purpose for which federal funds were received.

I. Competitive Bid Procedures. All procurement transactions, including professional services, regardless of whether negotiated or advertised and without regard to dollar value, shall be conducted in a manner that provides maximum open and free competition consistent with Emergency Solutions Grants Program Guidelines and other applicable local, State, or federal requirements. The Grantee shall solicit sealed bids for all construction-related contracts of supplies related to this project, which have an estimated value of over $5,000. Any attempts by the Grantee to segregate the project into sections having an estimated value of less than $5,000 in order to circumvent competitive procurement may be cause for termination of an agreement under the provisions of paragraph 8.

These bids shall be obtained by public notice as a Class II legal advertisement in compliance with the provisions of Article Three, Chapter Fifty-Nine of the Code of West Virginia. This notice shall be published by the Grantee in the newspaper with the largest circulation serving the general area twice within fourteen days next preceding the final date of submitting bids. The Grantee shall also, where feasible, solicit sealed bids by listing the project in the F. W. Dodge Reports, sending requests by mail to prospective suppliers or contractors, sending notification to the State's Small Business Development Center Division, and by posting notice on a bulletin board in a public place. The Grantee shall have available, upon request for review by the State or its designated representative, bid documents and other evidence of compliance with these procedures. The resolution of bid and contract disputes is the responsibility of the Grantee.

J. Bonding and Insurance. Except as otherwise required by law, a grant that requires the contracting or subcontracting for construction of facility improvements under $100,000 shall provide for the Grantee to follow local or State requirements relating to bid guarantees, performance bonds, and payment bonds provided that the Grantee's and State's interest is adequately protected and that such contracts can be executed in a timely manner; otherwise, bonding requirements shall be the same as for contracts exceeding $100,000. If the contracts or subcontracts exceed $100,000, the minimum bonding and insurance requirements shall be as follows:

(1) A bid guarantee from each bidder equivalent to five percent of the bid price. This bid guarantee shall consist of a firm commitment such as bid bond, certified check, or other negotiable instrument accompanying a bid that the bidder will, upon acceptance of the bid, execute the contractual documents as may be required within the time specified.

(2) A performance bond on the part of the contractor for 100 percent of the contract price. This performance bond shall be executed by the successful contractor in connection with a contract to secure fulfillment of the contractor's obligations under such contract.

(3) A payment bond on the part of the contractor for 100 percent of the contract price. This payment bond shall be executed in connection with a contract to assure payment as required by law of all persons supplying labor or materials in the execution of the work provided for in the contract.

K. Facilities Operation. The Grantee shall operate and maintain all facilities to which the general public has right of access constructed under the auspices of this Grant agreement in accordance with minimum standards as may be required or prescribed by the applicable federal, State and local statute, law, ordinance, or regulation as to actual construction procedures, as well as maintenance and operation of such facilities upon completion. The Grantee may not change the use or planned use of any such facility (including the beneficiaries of such use) from the purpose initially approved unless the Grantee receives written approval from the State.

L. Conflict of Interest. No officer, consultant, agent, member, employee, elected or appointed official of the State, the Grantee, or any public agency or sub-recipient receiving Emergency Solutions Grant Program funds who exercises or has exercised any function or responsibilities with respect to activities assisted with Emergency Solutions Grant Program funds or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from such activity or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereby, either for themselves or those with whom they have family or business ties, during their tenure or for one (1) year thereafter. The conflict of interest provision of 24 CFR 576, as amended; and OMB Circular A-110 also apply as appropriate.

6. Recovery of Capital Costs. The Grantee will not attempt to recover any capital costs of public improvements assisted in whole or in part with funds from this program by assessing any amount against properties owned and occupied by persons of low and moderate income, including any fee charged or assessment made as a condition of obtaining access to such public improvements unless: (a) Funds received are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from other revenue sources; or (b) For purposes of assessing any amount against properties owned and occupied by persons of low and moderate income who are not persons of very low income, the Grantee certifies to the State of West Virginia that it lacks sufficient funds received under the program to comply with the requirements of clause (a).

7. Method of Payment. In order to receive any and all payments under the terms of this agreement, the Grantee shall submit the following: (a) A Letter of Transmittal containing a progress report and (b) A Request for Payment-Financial Report. Upon receipt of said documents, the State shall review the same for reasonableness, appropriateness and eligibility, and if approved, will cause a warrant to be made on that sum to the Grantee for authorized expenditures from the State's Letter of Credit with the Department of Housing and Urban Development.

8. Termination of Grant agreement for Cause. If, through any cause, the Grantee shall fail to fulfill in a necessary and proper manner the grantee's obligations under this Grant agreement, or if the Grantee shall violate any of the covenants, agreements, or stipulations of this Grant agreement, the State shall thereupon have the right to terminate this Grant agreement by giving written notice to the Grantee of such termination and specifying the effective date thereof, at least fifteen days before the effective date of such termination. The Grantee shall be entitled to receive just and equitable compensation for any satisfactory work completed on the described project.

The State's sanctions against the Grantee may include, but are not limited to, those stated in 24 CFR, 576, as amended.

Notwithstanding the above, the Grantee shall not be relieved of liability to the State for damages sustained by the State by virtue of any breach of the Grant agreement by the Grantee, and the State may withhold any payments to the Grantee for

the purpose of set-off until such time as the exact amount of damages due the State from the Grantee is determined.

9. Termination for Convenience of the State. The State may terminate this Grant agreement at any time by giving written notice to the Grantee of such termination and specifying the effective date of termination. If the Grant agreement is terminated by the State as provided herein, the Grantee will be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of the Grantee covered by this Grant agreement, less payments of compensation previously made.

10. Termination by the Grantee. The Grantee may unilaterally rescind this agreement at any time prior to the commencement of the project. After project commencement, this agreement may be rescinded, modified, or amended only by mutual agreement. A project shall be deemed commenced when the State makes any expenditure or incurs any obligation with respect to the project.

11. Reporting. **A Final Performance Report must be submitted to the State within sixty (60) days after the final request for payment for project costs, excluding audit.** Said Performance Reports shall be made on the forms provided by the State and meet the requirements of said reports that will be contained in Emergency Solutions Grant Program Guidelines and/or appropriate Technical Assistance Guides of the State of West Virginia. Other reports may be requested by the State during the grant period as the State deems necessary and directs.

12. Final Closeout. Shall be completed when the State: 1) Is in receipt of a Final Performance Report; 2) Has determined that all monitoring findings have been formally addressed and are resolved; and 3) Has received a completed, final project audit and has determined that any findings have been resolved.

13. Resolution of Disputes. Resolution of disputes between the State and the Grantee concerning administrative and programmatic matters during the terms of this agreement shall be initiated through consultation and discussion at the State's Administrative Offices with final decision on question of policy or fact being determined by the Director of the Office of Economic Opportunity or his designated representative. Nothing in this Agreement shall be construed as making the final decision on a question of law, or to limit in any manner any remedies or recourse available under applicable laws. Citizen complaints or disputes regarding Grantee performance or actions relative to the approved project are the responsibility of the Grantee.

14. Notice. The parties hereto agree that notice shall be served when mailed certified U.S. Mail to the following addresses:

State Address

Office of Economic Opportunity
700 Washington Street, East
4th Floor

Charleston, West Virginia 25301

Grantee Address

City of Parkersburg
P.O. Box 1627
Parkersburg, WV 26102

[WITNESSETH] that the parties hereto have entered their signatures hereafter with each representing to the other that the execution of this agreement is done with full authority and that attached hereto and made a part hereof as Attachment C, is a certified copy of the resolution, motion, or similar action of the governing body of the Grantee directing and authorizing its official representative to act in connection with this agreement.

City of Parkersburg

_____
Chief Elected Official

State of West Virginia
Office of Economic Opportunity

_____
Mary Pat Peck, Deputy Director

Attachment A

PROJECT SUMMARY AND BUDGET

Attachment B

Emergency Solutions Grant Program Certifications

In accordance with the applicable statutes and the regulations governing the consolidated plan regulation, the Grantee and/or Project Sponsor certifies that:

Affirmatively Further Fair Housing -- The Grantee and/or Project Sponsor will affirmatively further fair housing, which means it will conduct an analysis of impediments to fair housing choice within their community, region, or CoC area, take appropriate actions to overcome the effects of any impediments identified through that analysis, and maintain records reflecting that analysis and actions in this regard.

Anti-displacement and Relocation Plan -- It will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and implementing regulations at 49 CFR 24; and is following a residential anti-displacement and relocation assistance plan required under section 104(d) of the Housing and Community Development Act of 1974, as amended, in connection with any activity assisted with funding under the CDBG programs (which includes ESG).

Drug Free Workplace -- It will or will continue to provide a drug-free workplace by:

1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Grantee's and/or Project Sponsor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
2. Establishing an ongoing drug-free awareness program to inform employees about -
(a) The dangers of drug abuse in the workplace;
(b) The Grantee's and/or Project Sponsor's policy of maintaining a drug-free workplace;
(c) Any available drug counseling, rehabilitation, and employee assistance programs; and
(d) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
3. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph 1;
4. Notifying the employee in the statement required by paragraph 1 that, as a condition of employment under the grant, the employee will -
(a) Abide by the terms of the statement; and
(b) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
5. Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph 4(b) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

6. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph 4(b), with respect to any employee who is so convicted -
(a) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
(b) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs 1, 2, 3, 4, 5, and 6.

Anti-Lobbying -- To the best of the Grantee's and/or Project Sponsor's knowledge and belief:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal grant agreement, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant agreement, grant, loan, or cooperative agreement;

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant agreement, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and

3. It will require that the language of paragraphs 1 and 2 of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

Consistency with the State's Consolidated Plan -- The housing activities to be undertaken with ESG funds are consistent with the strategic plan.

Section 3 -- The Grantee and/or Project Sponsor will comply with section 3 of the Housing and Urban Development Act of 1968, and implementing regulations at 24 CFR Part 135.

Matching Funds – The Grantee and/or Project Sponsor will obtain any matching amounts required under 24 CFR 576.201.

Discharge Policy – The Grantee and/or Project Sponsor will implement and follow, to the maximum extent practicable and where appropriate, policies and protocols for the discharge of persons from publicly funded institutions or systems of care (such as health care facilities, mental health facilities, foster care or other youth facilities, or correction programs and institutions) in order to prevent this discharge from immediately resulting in homelessness for these persons.

Confidentiality – The Grantee and/or Project Sponsor will implement and follow procedures to ensure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services under any project assisted under the ESG program, including protection against the release of the address or location of any family violence shelter project, except with the written authorization of the person responsible for the operation of that shelter.

Grantees and/or Project Sponsors will comply with the following criteria:

Essential Services and Operating Costs – If ESG funds are used for shelter operations or essential services related to street outreach or emergency shelter, the Grantee and/or Project Sponsor will provide services or shelter to homeless individuals and families for the period during which the ESG assistance is provided, without regard to a particular site or structure, so long the applicant serves the same type of persons (e.g., families with children, unaccompanied youth, veterans, disabled individuals, or victims of domestic violence) or persons in the same geographic area.

Supportive Services – The Grantee and/or Project Sponsor will assist homeless individuals in obtaining permanent housing, appropriate supportive services (including medical and mental health treatment, counseling, supervision, and other services essential for achieving independent living), and other Federal State, local, and private assistance available for such individuals.

Homeless Persons Involvement – To the maximum extent practicable, the Grantee and/or Project Sponsor will involve, through employment, volunteer services, or otherwise, homeless individuals and families in constructing, renovating, maintaining, and operating facilities, in providing services assisted under the ESG program, and in providing services for occupants of facilities assisted with ESG.

Consolidated Plan – All activities the Grantee and/or Project Sponsor undertake with assistance under ESG are consistent with the State's current HUD-approved consolidated plan.

_____

By: Chief Elected Official

_____

Date

GRANTEE CERTIFICATION

A Certified Motion, Resolution of Official Action Authorizing Execution of this Grant agreement by the Grantee governing body must be submitted, as Attachment B, on Grantee letterhead and signed by the appropriate authorizing official(s).

15

AN ORDINANCE AUTHORIZING
THE LEASE PURCHASE FINANCING
OF A MOTOR GRADER FOR THE STREET DEPARTMENT

THE COUNCIL OF THE CITY OF PARKERSBURG HEREBY ORDAINS that the City enter into that certain Lease Purchase Agreement with United Bank for financing for the lease purchase of one (1) NorAm Motor Grader for the Street Department.

The total amount financed is One Hundred Eleven Thousand Two Hundred Twenty Four Dollars and 00/100 ($111,224.00) at an interest rate of One Point Five Three Percent (1.53%) for thirty six (36) months at Three Thousand One Hundred Sixty Two Dollars and Ninety Seven Cents ($3,162.97) per month, for a total of One Hundred Thirteen Thousand Eight Hundred Sixty Six Dollars and Ninety Two Cents ($113,866.92).

BE IT FURTHER ORDAINED that Mayor Robert D. Newell, or his designee, is authorized to execute said Lease Agreement and any and all accompanying papers needed and necessary to effectuate said lease for and on behalf of the City.

Attached hereto and made a part hereof is a copy of the price quote page of the bid.

Sponsored by Councilmen Reed, Joyce, and Rockhold

WE (I), THE BELOW SIGNED HEREBY PROPOSE TO FURNISH THE FOLLOWING ARTICLES(S) AND/OR SERVICE(S) ST THE PRICES AND TERMS STATED SUBJECT TO ALL INSTRUCTIONS, CONDITIONS, SPECIFICATIONS, AND ALL ATTACHMENTS HERETO, (I) HAVE READ ALL ATTACHMENTS INCLUDING THE SPECIFICATIONS AND FULLY UNDERSTAND WHAT IS REQUIRED.

PRICES ARE TO BE QUOTED F.O.B.: PARKERSBURG, WEST VIRGINIA

AMOUNT FINANCED	INTEREST RATE	LENGTH OF TIME	MONTHLY PAYMENT		TOTAL DEBT SERVICE	
$111,224.00	1.53%	3 YEARS (36 MONTHS)	$3,162.97		$113,866.92	

I CLAIM THE 2% BID PREFERENCE FOR WEST VIRGINIA RESIDENT VENDORS:

X YES _____ NO

I IN ADDITION PAY B & O TAXES TO THE CITY OF PARKERSBURG AND THERE FORE ALSO CLAIM THIS BID PREFERENCE:

X YES _____ NO

IF YES, PLEASE GIVE ID# 55-0249860

DELIVERY: 90 Days CALENDAR DAYS AFTER RECEIPT OF ORDER

TERMS: _____

COMPANY NAME OR BIDDERS NAME: United Bank, Inc.

BUSINESS ADDRESS OF BIDDER: 514 Market Street PArkersburg, WV 26101

THE FULL NAME AND RESIDENCE OF ALL PERSONS AND PARTIES INTERESTED IN THE FOREGOING BID ARE:

(IF A CORPORATION, GIVE THE NAME AND ADDRESS OF THE PRESIDENT AND SECRETARY; IF FIRM OR PARTNERSHIP, THE NAMES AND ADDRESSES OF THE MEMBERS OR PARTNERS.)

NAME	ADDRESS
Chad Mildren	514 Market Street
Market President	Parkersburg, WV 26101

AUTHORIZED SIGNATURE: Charles A Roberts TITLE: Senior Vice President

SIGNATURE MUST BE IN WRITING — TITLE MUST BE GIVEN

ORDINANCE AMENDING SECTION (e) OF ARTICLE 135, PURCHASING PROCEDURES, TO INCLUDE A PROVISION FOR USE OF LOCAL LABOR

The Council of the City of Parkersburg Hereby Ordains that Section (e) of Article 135, Purchasing Procedures, of the codified ordinances of the City of Parkersburg be and it is hereby amended with the inclusion of the following:

(e) (11) Use of Local Labor

In any instance that a purchase of services is made upon competitive bids and such service shall entail the use of labor to construct, adapt, restore, remodel or demolish any building, road, bridge, park or other public works then at least fifty percent (50%) of such workers on such project shall be comprised of residents of Wood, Wirt, Pleasants, Ritchie and Jackson County, West Virginia and or Washington County, Ohio. An individual shall be deemed a resident of any such county if his or her primary residence is located within one of the said designated counties and such residence is recognized as their legal residence by their respective State Department of Motor Vehicles.

Sponsored by Councilmen: Joyce, Reed, Rockhold, Sandy and Wilcox

AN ORDINANCE AMENDING AND RE-ENACTING SUBSECTION (f) OF SECTION 779.13, EXEMPTIONS, OF ARTICLE 779, BUSINESS AND OCCUPATION TAX, OF THE CODIFIED ORDINANCES OF THE CITY OF PARKERSBURG

The Council of the City of Parkersburg Hereby Ordains that subsection (f) of Section 779.13, Exemptions, of Article 779, Business and Occupation Tax, of the Codified Ordinances of the City of Parkersburg be amended and re-enacted as follows:

(f) Notwithstanding any other provision of this article, any new business locating within the corporate limits of the City after the effective date of this section shall be granted a credit and exemption from the imposition of the business and occupation tax imposed by this article as follows:

I. Any such new business which at its commencement creates five (5) or more jobs (full time equivalent) and maintains said jobs for the four (4) year length of the program shall be granted such credit and exemptions as follows:

1. An eighty percent (80%) tax credit against the business and occupation tax liability for a period of one (1) year from the commencement of such business;

2. A sixty percent (60%) tax credit against the business and occupation tax liability for the second year;

3. A forty percent (40%) tax credit against the business and occupation tax liability for the third year; and

4. A twenty percent (20%) tax credit against the business and occupation tax liability for the fourth year.

II. Any other such new business shall be granted such credit and exemptions as follows:

1. A one-hundred percent (100%) credit against the business and occupation tax liability for a period of one (1) year from the commencement of such new business.

Provided, however, the claim for such exemption shall be made by such new business prior to the date the first payment of such tax would otherwise be due and such claim shall be made to the Director of Finance in writing upon forms prepared by the Director. The provisions of this exemption shall not relieve any taxpayer from the obligation to file business and occupation tax returns as required by this article. It is

further the legislative intent of this section that the credit granted herein is for the purpose of providing an incentive for new businesses to locate within the City.

Sponsored by Councilmen: Joyce, Reed, Rockhold, Sandy and Wilcox

Attached hereto is present subsection (f) of Section 779.13 and subsection (N) "New Business" as defined in Section 779.01 of the Ordinance.

779.13 EXEMPTIONS.

No annual exemption shall be allowable for any taxable periods ending on or after January 1, 2003.

The provisions of the article shall not apply to:

(a) Insurance companies which pay the State a tax upon premiums, provided that such exemption shall not extend to that part of the gross income of insurance companies which is received for the use of real property, other than property in which any such company maintains its office or offices, in this City, whether such income is in the form of rentals or royalties;

(b) Nonprofit cemetery companies organized and operated for the exclusive benefit of their members;

(c) Fraternal societies, organizations and associations organized and operated for the exclusive benefit of their members and not for profit, provided, however, that such exemption shall not extend to that part of the gross income arising from the sale of alcoholic liquor, food and related services, of such fraternal societies, organizations and associations which are licensed as private clubs under the provisions of West Virginia Code Article 60-7;

(d) Corporations, associations and societies organized and operated exclusively for religious or charitable purposes;

(e) Production credit associations, organized under the provisions of the federal "Farm Credit Act of 1933", provided, however, that the exemptions of this section shall not apply to corporations or cooperative associations organized under the provisions of West Virginia Code Article 19-4.

(f) Notwithstanding any other provision of this article, any new business located within the corporate limits of the City after the effective date of this section shall be granted a credit and exemption from the imposition of the business and occupation tax imposed by this article for a period of one year from the commencement of such new business; provided however, the claim for such exemption shall be made by such new business prior to the date the first payment of such tax would otherwise be due and such claim shall be made to the Director of Finance in writing upon forms prepared by the Director.

(g) Notwithstanding any other provisions of this article, any new business located within the enterprise zone of the City after the effective date hereof shall be granted a credit and exemption from the imposition of the business and occupation tax imposed by this article, for a period of two years from the commencement of such business. It is the legislative intent of this section that the credit is granted herein for the purposes of providing an incentive for new businesses and which is authorized by enabling legislation set forth in West Virginia Code 8-13-5(f). It is also the legislative intent of this section that the credit be granted only if the City is accepted as an enterprise zone by the U.S. Department of Housing and Urban Development.

(h) Notwithstanding any other provisions of this article, any existing business located in territory annexed by the City after the effective date of this section shall be granted a credit and exemption from the imposition of the business and occupation tax imposed by this article for a period of five years from the date of annexation of such existing business. Provided, however, the claim for such exemption shall be made by such existing business prior to the date the first payment of such tax would otherwise be due and such claim shall be made to the Director of Finance in writing upon forms prepared by the Director. The provisions of this exemption shall not relieve any taxpayer from the obligation to file business and occupation tax returns as required by this article. It is further the legislative intent of this section that the credit granted herein is for the purpose of providing an incentive for existing businesses annexed into the City.

(i) "Business" includes all activities engaged in or caused to be engaged in with the object of gain or economic benefit, either direct or indirect. "Business" does not include a casual sale by a person who is not engaged in the business of selling the type of property involved in such casual sale. "Business" includes the production of natural resources of manufactured products which are used or consumed by the producer or manufacturer and includes the activities of a banking business or financial organization.

(j) "Banking business" or "financial organization" means any bank, banking association, trust company, industrial loan company, small loan company or licensee, building and loan association, savings and loan association, finance company, investment company, investment broker or dealer, or any other similar business organization in which at least ninety percent (90%) of the assets consists of intangible personal property and at least ninety percent (90%) of the gross receipts consists of dividends, interest and other charges derived from the use of money or credit.

(k) "Service business or calling" includes all activities engaged in by a person for other persons for a consideration, which involve the rendering of a service as distinguished from the sale of tangible property, but does not include the services rendered by an employee to his employer. "Service business or calling" includes, but is not limited to:

(1) Persons engaged in manufacturing, compounding or preparing for sale, profit or commercial use, articles, substances or commodities which are owned by another or others;

(2) Persons engaged as independent contractors in producing natural resource products which are owned by another or others, as personal property, immediately after the same are severed, extracted, reduced to possession and produced;

(3) The repetitive carrying of accounts, in the regular course and conduct of business, and extension of credit in connection with the sale of any tangible personal property or service, except as to persons taxed pursuant to the provisions of Section 779.12.

(l) "Selling at wholesale" or "wholesale sales" means and includes:

(1) Sales of any tangible personal property for the purpose of resale in the form of tangible personal property;

(2) Sales of machinery, supplies or materials which are to be directly consumed by the purchaser in the conduct of any business or activity which is subject to the tax imposed by this article;

(3) Sales of any tangible personal property to the United States of America, its agencies and instrumentalities or to the State of West Virginia, its institutions or political subdivisions.

(m) "Contracting" includes the furnishing of work, or both materials and work, in the fulfillment of a contract for the construction, alteration, repair, decoration or improvement of a new or existing building or structure, or any part thereof or for the alteration, improvement or development of real property.

* (n) "New business" for the purpose of this article, means any business which has not maintained its principal place of business within the corporate limits of the City for one year next preceding its application for a tax exemption under this article. For the purposes of this article, the following shall not be deemed a "new business".

over

(1) Any business which has relocated from one location within the corporate limits of the City to another location within the same.

(2) Any business engaged in by a person who previously has engaged in all or in part of a business of substantially the same nature within the City.

(3) Any business with the same name or a substantially similar name to a previously existing business within the corporate limits and substantially of the same nature but engaged in by a different person or different combination of persons.

(4) Any business engaged in by the same person or any combination thereof and substantially of the same nature as a previously existing or existing business but having a different name.

(5) The purchase or lease of existing real property or the rental or lease thereof.

(6) Contracting as defined in subsection (m) hereof.

(Ord. 0-1248. Passed 11-28-06.)

(o) "Existing annexed business", for the purposes of this article, means any existing business located in territory annexed by the City on or after August 1, 1995, and which was in existence and operating as a business as of the date of such annexation.

(p) "New business in annexed territory", for the purposes of this article, means any new business locating in territory annexed by the City on or after August 1, 1995, but which was not in existence and operating as a business as of the date of such annexation. (Ord. 0-781. Passed 8-8-95.)

(q) "Newly annexed development area", for the purposes of this article, means a parcel or tract of land annexed into the City on or after January 1, 2001, and on which public infrastructure improvements not in existence prior to annexation are made.

(r) "Eligible infrastructure improvements", for the purposes of this article, means: roadways built to City specifications and dedicated to and accepted by the City as a public street; storm drainage directly associated with such street; water and sanitary sewer improvements located within the public right-of-way and to be maintained by the Parkersburg Utility Board; traffic signals as required by the City or State of West Virginia; sidewalks within public rights-of-way; and other improvements of a public nature as deemed appropriate by the City Engineer. Work on all such improvements must commence within five years of the effective date of annexation.

(s) "Ineligible infrastructure improvements", for the purposes of this article, means: parking lots; entranceways to private drives; private drives; roof drains; directional signs; advertising signs; traffic signals not required by the City or State of West Virginia; site preparation costs not associated with eligible infrastructure improvements; sidewalks not within public rights-of-way; and any other costs deemed inappropriate by the City Engineer.

(t) "Other ineligible improvements or costs", for the purposes of this article, means buildings (except as required for sewer lift stations or water pump stations); landscaping; fountains; interest costs associated with short-term and/or long-term financing of improvements, eligible or ineligible; and any other costs deemed inappropriate by the City Engineer or Finance Director.