§ 1226-g. Transfer of water facilities by the board of water supply or any municipality. 1. The board of water supply or any municipality may, by resolution approved by a majority of the entire voting strength of the applicable governing body of the board of water supply or municipality, as the case may be, enter into an agreement with the water board for the transfer, by deed, lease or other arrangement, to the water board, for use in the exercise of its corporate powers and purposes, of any property, real, personal or mixed or any interest therein, constituting a water facility or facilities or otherwise owned by it. Any such property offered to be transferred to the water board within the period commencing on the date the certificate described in paragraph (a) of subdivision five of section one thousand two hundred twenty-six-e of this title shall be filed by the county executive and terminating one hundred days thereafter shall be accepted by the water board in the physical condition in which it then exists. Any such agreement shall state the consideration, if any, for such transfer and shall provide that the authority shall assume the obligation to pay any or all outstanding indebtedness of the transferring body and/or pay all or part of any purchase or acquisition price in cash or in installments over such period of years, at such rate of interest, if any, and may be subject to such other terms and conditions as the water board, the authority, the board of water supply or municipality, as the case may be, shall agree to be fair, adequate and reasonable. Notwithstanding section six-l of the general municipal law or any other general, special or local law or charter provision to the contrary, the purchase or acquisition price, including cash proceeds and any installments to be paid by the authority to the board of water supply or to the city over a period of years, shall be paid to the city and deposited when received by the city in a trust fund hereby created and entitled "city of Utica capital improvement trust fund". Moneys in such trust fund shall be invested in the same manner as moneys of the city held in a capital reserve fund established pursuant to section six-c of the general municipal law may be invested. Not exceeding fifty per centum of the principal corpus plus interest earned or capital gain realized by the city in the immediately preceding fiscal year of the city from any such investment may be authorized to be and thereafter expended by a two-thirds vote of the council of the city for any city object or

purpose defined as a capital improvement in subdivision nine of section 2.00 of the local finance law or to pay principal of or interest on obligations of the city issued for any capital improvement, provided: (i) the mayor shall have theretofore submitted to the council and the council shall have approved a five year capital plan for the city, and (ii) the capital improvement or improvements for which such moneys will be expended is described and approved in such capital plan, and (iii) notwithstanding paragraphs (i) and (ii) of this subdivision, the expenditure of any amount of such moneys specifically allocated in the city budget to pay the principal of or interest on any existing obligations of the city may be authorized in the same manner and by the same voting strength as provided for in the adoption of the annual city budget. The capital plan may be revised, from time to time, by the mayor and the council and may be amended, from time to time, as the mayor and the council shall determine necessary and appropriate. Any amount of interest earned or capital gain realized from any such investment and not expended in any fiscal year of the city as herein provided shall, on the first day of the next succeeding fiscal year of the city, be added to and become a part of the principal corpus of said trust fund. The trust fund shall terminate when the balance of all moneys remaining therein shall amount to less than two hundred thousand dollars. At such time the remaining principal corpus may be transferred to and deposited in the general fund of the city by a majority vote of the council of the city. Notwithstanding any provision of any general or local law or charter provision, neither the principal corpus of such trust fund nor any interest or capital gain realized from the investment thereof shall be utilized, transferred or advanced for any purpose or to any fund. To the extent not inconsistent with this title, any such agreement may impose such limitations or conditions as may be agreed upon by and between the board of water supply or such municipality and the water board with respect to the power of the water board to sell or otherwise dispose of any property acquired by the water board pursuant to such agreement. Notwithstanding the provisions of any general, special or local law or charter to the contrary, any action taken by the board of water supply or any municipality pursuant to this subdivision shall not be subject to a permissive or mandatory referendum and any such property, real, personal or mixed or any interest therein, need not be

sold at public auction.

2. Any such agreement shall set forth the liabilities of the board of water supply or of any municipality which it is contemplated are to be paid by the authority or the water board from moneys available to it.

3. Any such agreement may provide for the payment by the board of water supply or any municipality to the water board of any funds, including the remaining proceeds of any bonds or notes issued for any water facility, to be transferred by the board of water supply or municipality to the water board as may be determined appropriate by such board of water supply or municipality and the water board.

4. The board of water supply, any municipality, the authority and the water board, or any combination thereof, are hereby authorized and empowered to make or enter into any contracts, agreements, deeds, leases, conveyances or other instruments as may be necessary or appropriate to effectuate the purposes of this title, and they shall have power and authority to do so and to authorize the doing of all things incidental, desirable or necessary to implement the provisions of this title.

5. Notwithstanding the foregoing provisions of this section, no agreement relating to the transfer of water facilities contemplated by this section shall become effective for any purpose unless and until the same shall have been approved in writing by resolution of the authority.

6. Any application filed or proceeding heretofore commenced in relating to any water facility transferred to the water board pending with the state departments of environmental conservation or health or any other state agency or with the United States environmental protection agency or any other federal agency or instrumentality shall inure to and for the benefit of the water board and be binding upon the water board to the same extent and in the same manner as if the water board had been a party to such application or proceeding from its inception, and the water board shall be deemed a party thereto to the extent not prohibited by any federal law. Any license, approval, permit

or decision heretofore or hereafter issued or granted pursuant to or as a result of any such application or proceeding shall inure to the benefit of and be binding upon the water board and shall be assigned and transferred by the board of water supply or applicable municipality to the water board unless such assignment and transfer is prohibited by federal law.

7. The rules and regulations of the water board may provide for the discontinuance or disconnection of the supply of water by the water board for non-payment of fees, rates or other charges therefor imposed by the water board, provided such discontinuance or disconnection of any supply of water shall not be carried out except in the manner and upon the notice as is required of a waterworks corporation pursuant to subdivisions three-a, three-b and three-c of section eighty-nine-b and section one hundred sixteen of the public service law.