BROOKE COUNTY PUBLIC SERVICE DISTRICT
SEWER SYSTEM REVENUE BONDS,
SERIES 1997 A, SERIES 1997 B
AND SERIES 1997 C

Closing: December 9, 1997

BROOKE COUNTY PUBLIC SERVICE DISTRICT
SEWER SYSTEM REVENUE BONDS, SERIES 1997 A, SERIES 1997 B
AND SERIES 1997 C

Closing: December 9, 1997

TRANSCRIPT OF PROCEEDINGS

I. Authorizing Documents

INDEX

1.1	Certified copies of Chapter 16, Article 13A, Chapter 22C, Article 2 and Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended.	1
1.2	Copies of the Resolutions and Orders creating and modifying the boundaries of the Brooke County Public Service District (the "District").	2
1.3	Rules of Order and Procedure.	3
1.4	Orders of appointment of members to the Public Service Board (the "Board") of the District, including approval of prosecuting attorney of appointment of one of the Board members.	4
1.5	Official oaths of office of the Board members.	5
1.6	Minutes of the Board's annual meeting electing officers of the Board.	6
1.7	Bond Resolution adopted by the Board on November 12, 1997.	7
1.8	Supplemental Resolution adopted by the Board on November 12, 1997, authorizing the sale of the above-referenced Bonds.	8
1.9	Excerpts of Minutes of November 12, 1997 Board meeting.	9
1.10	(A) Loan Agreement, dated November 6, 1997, between the District, the West Virginia Water Development Authority (the "Authority") and the West Virginia Division of Environmental Protection ("DEP") for the Series 1997 A Bonds.	

2.7	Acceptance of Duties of Depository Bank.	21
2.8	Request and Authorization as to Authentication and Delivery of the Bonds.	22
2.9	Certificate of Registration of Bonds.	23
2.10	Receipt for Bonds.	24
2.11	Receipt for Bond Proceeds.	25
2.12	NPDES Permit (cover page).	26
2.13	Municipal Bond Commission New Issue Forms for each series of Bonds.	27

III. Opinions

3.1	(A) Opinion of Jackson & Kelly, Bond Counsel, regarding the Series 1997 A Bonds dated December 9, 1997. (B) Opinion of Jackson & Kelly, Bond Counsel, regarding the Series 1997 B Bonds dated December 9, 1997. (C) Opinion of Jackson & Kelly, Bond Counsel, regarding the Series 1997 C Bonds dated December 9, 1997.	28
3.2	Opinion of Counsel to the District dated December 9, 1997.	29
3.3	Certificate of Project Site Acquisitions dated December 8, 1997.	30

The closing of the sale of the Brooke County Public Service District Sewer System Revenue Bonds, Series 1997 A, Series 1997 B and Series 1997 C (the "Bonds"), will take place at the office of West Virginia Water Development Authority at 10:00 a.m. prevailing time on December 9, 1997. No transaction shall be deemed to have been completed and no documents shall be deemed to have been delivered unless or until all transactions are complete and all documents delivered.

State of West Virginia

Certificate

I, Ken Hechler, Secretary of State of the State of West Virginia, hereby certify that

THIS IS A TRUE COPY OF CHAPTER 16, ARTICLE 13A OF THE WEST VIRGINIA CODE AND CHAPTER 16, ARTICLE 13A OF THE 1997 CUMULATIVE SUPPLEMENT TO THE WEST VIRGINIA CODE AS INDICATED BY THE RECORDS OF THIS OFFICE.

Given under my hand and the Great Seal of the State of West Virginia on this

Ninth *day of*

December *19* 97

Secretary of State

§ 16-13-24. Article to be construed liberally.

This article being necessary for the public health, safety and welfare, it shall be liberally construed to effectuate the purpose thereof. (1933, Ex. Sess., c. 25, § 24.)

Quoted in West Virginia Water Serv. Co. v. Cunningham, 143 W. Va. 1, 98 S.E.2d 891 (1957).

ARTICLE 13A.

PUBLIC SERVICE DISTRICTS FOR WATER, SEWERAGE AND GAS SERVICES.

Sec.
16-13A-1. Legislative findings.
16-13A-1a. Jurisdiction of the public service commission.
16-13A-1b. County commissions to develop plan to create, consolidate, merge, expand or dissolve public service districts.
16-13A-1c. General purpose of districts.
16-13A-2. Creation of districts by county commission; enlarging, reducing or dissolving district; consolidation; agreements, etc.; infringing upon powers of county commission; filing list of members and districts with the secretary of state.
16-13A-3. District to be a public corporation and political subdivision; powers thereof; public service boards.
16-13A-3a. Removal of members of public service board.
16-13A-4. Board chairman; members' compensation; procedure; district name.
16-13A-5. General manager of board.
16-13A-6. Employees of board.
16-13A-7. Acquisition and operation of district properties.
16-13A-8. Acquisition and purchase of public service properties; right of eminent domain; extraterritorial powers.
16-13A-9. Rules; service rates and charges; discontinuance of service; required water and sewer connections; lien for delinquent fees.
16-13A-9a. Limitations with respect to foreclosure.
16-13A-10. Budget.
16-13A-11. Accounts; audit.
16-13A-12. Disbursement of district funds.
16-13A-13. Revenue bonds.
16-13A-14. Items included in cost of properties.
16-13A-15. Bonds may be secured by trust indenture.
16-13A-16. Sinking fund for revenue bonds.
16-13A-17. Collection, etc., of revenues and enforcement of covenants; default; suit, etc., by bondholder or trustee to compel performance of duties; appointment and powers of receiver.
16-13A-18. Operating contracts.
16-13A-18a. Sale, lease or rental of water, sewer or gas system by district; distribution of proceeds.
16-13A-19. Statutory mortgage lien created; foreclosure thereof.
16-13A-20. Refunding revenue bonds.
16-13A-21. Complete authority of article; liberal construction; district to be public instrumentality; tax exemption.
16-13A-22. Validation of prior acts and proceedings of county courts for creation of districts, inclusion of additional territory, and appointment of members of district boards.
16-13A-23. Validation of acts and proceedings of public service boards.
16-13A-24. Acceptance of loans, grants or temporary advances.
16-13A-25. Borrowing and bond issuance; procedure.

Editor's notes. — For redesignation of department of health as division of health, within the department of health and human resources, see § 5F-2-1.

Textbooks. — Instructions for Virginia and West Virginia (3rd ed.), § 24-128.10.

Constitutionality of article. — The act from which this article was derived, authorizing the creation of public service districts by the county courts of this State, defining the powers and duties of the governing boards of such districts in the acquisition, construction, maintenance, operation, improvement and extension of property supplying water and sewerage services, and authorizing the issuance of bonds of such districts payable solely from revenue to be derived from the operation of such properties, does not violate any provision of the Constitution of this State or the Fourteenth Amendment to the Constitution of the United States. State ex rel. McMillion v. Stahl, 141 W. Va. 233, 89 S.E.2d 693 (1955).

The title to Acts 1953, c. 147, is sufficient to give a fair and reasonable index to all of the purposes of the act. State ex rel. McMillion v. Stahl, 141 W. Va. 233, 89 S.E.2d 693 (1955).

And purpose. — The purpose of this article is to provide water and sewerage facilities in unincorporated districts. State ex rel. McMillion v. Stahl, 141 W. Va. 233, 89 S.E.2d 693 (1955).

Public service districts are "public utilities." 50 Op. Att'y Gen. 447 (1963).

Hence, they are required to pay a special license fee pursuant to § 24-3-6 for support of the public service commission. 50 Op. Att'y Gen. 447 (1963).

Cited in Berkeley County Pub. Serv. Dist. v. Vitro Corp. of Am., 152 W. Va. 252, 162 S.E.2d 189 (1968); State v. Neary, 365 S.E.2d 395 (W. Va. 1987).

---

§ 16-13A-1. Legislative findings.

The Legislature of the state of West Virginia hereby determines and finds that the present system of public service districts within the state has provided a valuable service at a reasonable cost to persons who would otherwise have been unable to obtain public utility services. To further this effort, and to ensure that all areas of the state are benefiting from the availability of public service district utility services and to further correct areas with health hazards, the Legislature concludes that it is in the best interest of the public to implement better management of public service district resources by expanding the ability and the authority of the public service commission to assist public service districts by offering advice and assistance in operational, financial and regulatory affairs.

In addition to the expanded powers which shall be given to the public service commission, the Legislature also concludes that it is in the best interest of the public for each county commission to review current technology available and consider consolidating existing public service districts where it is feasible and will not result in the interference with existing bond instruments. Further, if such consolidation is not feasible, the Legislature finds that it is in the best interest of the public for each county commission to review current technology available and consider consolidating or centralizing the management of public service districts within its county or multi-county area to achieve efficiency of operations. The Legislature also finds that additional guidelines should be imposed on the creation of new public service districts and that county commissions shall dissolve inactive public service districts as hereinafter provided. The Legislature also finds that the public service commission shall promulgate rules and regulations to effectuate the expanded powers given to the commission relating to public service districts. (1953, c. 147; 1980, c. 60; 1986, c. 81.)

Purpose found in order creating district and in hearings. — The purpose for the creation of a public service district may be ascertained by a review of the order establishing the district and the history behind the creation of the district (the notice of hearing and hearings held prior to the creation of the district). Op. Att'y Gen., July 8, 1976.

The county courts (now county commissions) may not supersede the authority delegated by them to public service districts created in accordance with the provisions of this article. Op. Att'y Gen., June 27, 1973.

A public service district, which was created only for the purposes of furnishing water services, has no power to condemn real estate for sewerage facilities. Canyon Pub. Serv. Dist. v. Tasa Coal Co., 156 W. Va. 606, 195 S.E.2d 647 (1973).

Cited in State ex rel. APCO v. Gainer, 149 W. Va. 740, 143 S.E.2d 351 (1965); Shobe v. Latimer, 162 W. Va. 779, 253 S.E.2d 54 (1979).

16-13A-1a. Jurisdiction of the public service commission.

The jurisdiction of the public service commission relating to public service districts shall be expanded to include the following powers, and such powers shall be in addition to all other powers of the public service commission set forth in this code:

(a) To study, modify, approve, deny or amend the plans created under section one-b [§ 16-13A-1b] of this article for consolidation or merger of public service districts and their facilities, personnel or administration;

(b) To petition the appropriate circuit court for the removal of a public service district board member or members; and

(c) To create by general order a separate division within the public service commission to provide assistance to public service districts in technological, operational, financial and regulatory matters. (1986, c. 81.)

16-13A-1b. County commissions to develop plan to create, consolidate, merge, expand or dissolve public service districts.

Each county commission shall conduct a study of all public service districts which have their principal offices within its county and shall develop a plan relating to the creation, consolidation, merger, expansion or dissolution of such districts or the consolidation or merger of management and administrative services and personnel and shall present such plan to the public service commission for approval, disapproval, or modification: Provided, That within ninety days of the effective date of this section each county commission in this state shall elect either to perform its own study or request that the public service commission perform such study. Each county commission electing to perform its own study has one year from the date of election to present such plan to the public service commission. For each county wherein the county commission elects not to perform its own study, the public service commission shall conduct a study of such county. The public service commission shall establish a schedule for such studies upon a priority basis, with those counties received to have the greatest need of creation or consolidation of public service districts receiving the highest priority. In establishing the priority schedule, and in the performance of each study, the bureau of public health and

the division of environmental protection shall offer their assistance and cooperation to the public service commission. Upon completion by the public service commission of each study, it shall be submitted to the appropriate county commission for review and comment. Each county commission has six months in which to review the study conducted by the public service commission, suggest changes or modifications thereof, and present such plan to the public service commission. All county plans, whether conducted by the county commission itself or submitted as a result of a public service commission study, shall, by order, be approved, disapproved or modified by the public service commission in accordance with rules promulgated by the public service commission and such order shall be implemented by the county commission. (1986, c. 81; 1994, c. 61.)

Effect of amendment of 1994. — The amendment substituted "bureau of public health" for "department of health"; substituted "division of environmental protection" for "department of natural resources"; deleted "and regulations" following "rules" in the last sentence; and made stylistic changes.

§ 16-13A-1c. General purpose of districts.

Any territory constituting the whole or any part of one or more counties in the state so situated that the construction or acquisition by purchase or otherwise and the maintenance, operation, improvement and extension of, properties supplying water or sewerage services or gas distribution services or all of these within such territory, will be conducive to the preservation of the public health, comfort and convenience of such area, may be constituted a public service district under and in the manner provided by this article. The words "public service properties," when used in this article, shall mean and include any facility used or to be used for or in connection with (1) the diversion, development, pumping, impounding, treatment, storage, distribution or furnishing of water to or for the public for industrial, public, private or other uses (herein sometimes referred to as "water facilities"), (2) the collection, treatment, purification or disposal of liquid or solid wastes, sewage or industrial wastes (herein sometimes referred to as "sewer facilities" or "landfills") or (3) the distribution or the furnishing of natural gas to the public for industrial, public, private or other uses (herein sometimes referred to as "gas utilities or gas system"). (1986, c. 81.)

§ 16-13A-2. Creation of districts by county commission; enlarging, reducing or dissolving district; consolidation; agreements, etc.; infringing upon powers of county commission; filing list of members and districts with the secretary of state.

The county commission of any county may, on its own motion by order duly adopted or upon the recommendation of the public service commission, propose the creation of such public service district within such county, setting forth in

such order a description, including metes and bounds, sufficient to identify the territory to be embraced therein and the name of such proposed district, or twenty-five percent of the registered voters who reside within the limits of such proposed public service district within one or more counties may petition for the creation thereof, which petition shall contain a description, including metes and bounds, sufficient to identify the territory to be embraced therein and the name of such proposed district: Provided, That after the effective date of this section [June 6, 1986], no new public service district shall be created under this section without the written consent and approval of the public service commission, which approval and consent shall be in accordance with rules and regulations promulgated by the public service commission and may only be requested after consent is given by the appropriate county commission or commissions pursuant to this section. Any territory may be included regardless of whether or not such territory includes one or more cities, incorporated towns or other municipal corporations which own and operate any public service properties and regardless of whether or not it includes one or more cities, incorporated towns or other municipal corporations being served by privately owned public service properties: Provided, however, That the same territory shall not be included within the boundaries of more than one public service district except where such territory or part thereof is included within the boundaries of a separate public service district organized to supply water, sewerage services or gas facilities not being furnished within such territory or part thereof: Provided further, That no city, incorporated town or other municipal corporation shall be included within the boundaries of such proposed district except upon the adoption of a resolution of the governing body of such city, incorporated town or other municipal corporation consenting.

Such petition shall be filed in the office of the clerk of the county commission of the county in which the territory to constitute the proposed district is situated, and if such territory is situated in more than one county, then such petition shall be filed in the office of the clerk of the county commission of the county in which the major portion of such territory extends, and a copy thereof (omitting signatures) shall be filed with each of the clerks of the county commission of the other county or counties into which the territory extends. The clerk of the county commission receiving such petition shall present it to the county commission of such county at the first regular meeting after such filing or at a special meeting called for the consideration thereof.

When the county commission of any county enters an order on its own motion proposing the creation of a public service district, as aforesaid, or when a petition for such creation is presented, as aforesaid, the county commission shall at the same session fix a date of hearing in such county on the creation of the proposed public service district, which date so fixed shall be not more than forty days nor less than twenty days from the date of such action. If the territory proposed to be included is situated in more than one county, the county commission, when fixing a date of hearing, shall provide for notifying the county commission and clerk thereof of each of the other counties into which the territory extends of the date so fixed. The clerk of the county commission of each county in which any territory in the proposed public service

district is located shall cause notice of such hearing and the time and place thereof, and setting forth a description of all of the territory proposed to be included therein to be given by publication as a Class I legal advertisement in compliance with the provisions of article three [§ 59-3-1 et seq.], chapter fifty-nine of this code, and the publication area for such publication shall be by publication in each city, incorporated town or municipal corporation if available in each county in which any territory in the proposed public service district is located. The publication shall be at least ten days prior to such hearing. In all cases where proceedings for the creation of such public service districts are initiated by petition as aforesaid, the person filing the petition shall advance or satisfactorily indemnify the payment of the cost and expenses of publishing the hearing notice, and otherwise the costs and expenses of such notice shall be paid in the first instance by the county commission out of contingent funds or any other funds available or made available for that purpose. In addition to the notice required herein to be published, there shall also be posted in at least five conspicuous places in the proposed public service district, a notice containing the same information as is contained in the published notice. The posted notices shall be posted not less than ten days before the hearing.

All persons residing in or owning or having any interest in property in such proposed public service district shall have an opportunity to be heard for and against its creation. At such hearing the county commission before which the hearing is conducted shall consider and determine the feasibility of the creation of the proposed district. If the county commission determines that the construction or acquisition by purchase or otherwise and maintenance, operation, improvement and extension of public service properties by such public service district will be conducive to the preservation of public health, comfort and convenience of such area, the county commission shall by order create such public service district. If the county commission, after due consideration, determines that the proposed district will not be conducive to the preservation of public health, comfort or convenience of such area or that the creation of the proposed district as set forth and described in the petition or order is not feasible, it may refuse to enter an order creating the district or it may enter an order amending the description of the proposed district and create the district as amended. If the county commission determines that any other public service district or districts can adequately serve the area of the proposed public service district, whether by expansion, merger or other means, it shall refuse to enter an order creating the proposed district and shall enter an order expanding, merging or consolidating the area with an existing public service district, in accordance with rules and regulations adopted by the public service commission for such purpose: Provided, That no expansion of a public service district may occur if the present or proposed physical facilities of the public service district are determined by the appropriate county commission or the public service commission to be inadequate to provide such expanded service. The clerk of the county commission of each county into which any part of such district extends shall retain in his office an authentic copy of the order creating, expanding, merging or consolidating the district: Provided, however,

That within ten days after the entry of an order creating, expanding or merging or consolidating a district, such order must be filed for review and approval by the public service commission. The public service commission shall provide a hearing in the affected county on the matter and may approve, reject or modify the order of the county commission if it finds it is in the best interests of the public to do so. The public service commission shall adopt rules and regulations relating to such filings and the approval, disapproval or modification of county commission orders for creating, expanding, merging or consolidating districts.

The county commission may, if in its discretion it deems it necessary, feasible and proper, enlarge the district to include additional areas, reduce the area of the district, where facilities, equipment, service or materials have not been extended, or dissolve the district if inactive or establish or consolidate two or more such districts. If consolidation of districts is not feasible, the county commission may consolidate and centralize management and administration of districts within its county or multi-county area to achieve efficiency of operations: Provided, That where the county commission determines on its own motion by order entered of record, or there is a petition to enlarge the district, merge and consolidate districts, or the management and administration thereof, reduce the area of the district or dissolve the district if inactive, all of the applicable provisions of this article providing for hearing, notice of hearing and approval by the public service commission shall apply with like effect as if a district were being created. The commission shall at all times attempt to bring about the expansion or merger of existing public service districts in order to provide increased services and to eliminate the need for creation of new public service districts in those areas which are not currently serviced by a public service district: Provided, however, That where two or more public service districts are consolidated pursuant to this section, any rate differentials may continue for the period of bonded indebtedness incurred prior to consolidation. The districts may not enter into any agreement, contract or covenant that infringes upon, impairs, abridges or usurps the duties, rights or powers of the county commission, as set forth in this article, or conflicts with any provision of this article. A list of all districts and their current board members shall be filed by the county commission with the secretary of state and the public service commission by the first day of July of each year. (1953, c. 147; 1965, c. 134; 1967, c. 105; 1975, c. 140; 1980, c. 60; 1981, c. 124; 1986, c. 81.)

Textbooks. — Instructions for Virginia and West Virginia (3rd ed.), § 24-128.10.

There is no unlawful delegation of legislative power to the county courts (now county commissions) of this State under this section in violation of W. Va. Const., art. V, § 1, and art. VI, § 1. State ex rel. McMillion v. Stahl, 141 W. Va. 233, 89 S.E.2d 693 (1955).

And there is no unconstitutional delegation of judicial functions to the county court (now county commission) made by this section. State ex rel. McMillion v. Stahl, 141 W. Va. 233, 89 S.E.2d 693 (1955).

District need not be created by general law. — A public service district is a public corporation and does not come within the constitutional inhibition requiring all corporations to be created by general law. State ex rel. McMillion v. Stahl, 141 W. Va. 233, 89 S.E.2d 693 (1955).

Voters may not force referendum as to continuing or abolishing district. — There is no authority for voters, by written protest or otherwise, to force a referendum upon the issue of whether or not a created public service district should be continued or abolished. 52 Op. Att'y Gen. 33 (1966).

Certain provisions mandatory, but provisions for setting time of hearing and giving notice directory. — The provisions of this section relating to the filing of the petition or motion of the county court (now county commission), the description of the territory to be embraced and like provisions are mandatory, but the use of the word "shall," in relation to the requirements for the posting and publication of notice and the time of setting the hearing are directory and require only substantial compliance. Canyon Pub. Serv. Dist. v. Tasa Coal Co., 156 W. Va. 606, 195 S.E.2d 647 (1973).

A county court (now county commission) has authority to add sewerage services to the facilities of a public service district which was created for the purpose of furnishing water services, under appropriate proceedings. Canyon Pub. Serv. Dist. v. Tasa Coal Co., 156 W. Va. 606, 195 S.E.2d 647 (1973).

Relative powers of commission and voters in area. — (1) Only the county commission has the affirmative authority to create, enlarge or reduce a public service district; (2) in the absence of any action by a county commission, the requisite number of qualified voters in the affected geographic area may petition a county commission to create, enlarge or reduce a public service district, and, that upon the filing of such petition, a hearing shall be held thereon; (3) the county commission may, in its discretion, refuse to act in an affirmative manner upon such formal petition for creation, enlargement or reduction of such public service district, which action is not subject to protest or public referendum; (4) the county commission may, on its own motion or on the basis of such proper petition, enter an order creating, enlarging or reducing a public service district, which such action and order are subject to a hearing requiring proper notice, and a formal protest and public referendum depending upon the number of qualified voters who protest such action. Op. Att'y Gen., Nov. 13, 1975.

"Shall apply with like effect," etc. — Because a protest against creation triggers a referendum, the language "shall apply with like effect as if a district were being created" can mean only that a protest against enlargement or reduction likewise triggers a referendum. Op. Att'y Gen., Nov. 13, 1975.

Overlapping districts. — Where there is no bond indebtedness outstanding to be paid by a public service district, the county commission creating a public service district may undertake to enlarge or reduce the areas of various overlapping districts or may even consolidate the overlapping districts into one district. Op. Att'y Gen., July 8, 1976.

Merger or consolidation of districts. — This section authorizes either merger or consolidation of public service districts. Op. Att'y Gen., June 12, 1985, No. 9.

A merger or consolidation results in one corporation which, in the case of merger, will be the corporation designated by the commissioners as the surviving corporation, and with respect to a consolidation, will be a new corporate entity. Op. Att'y Gen., June 12, 1985, No. 9.

Cited in State v. Neary, 365 S.E.2d 395 (W. Va. 1987).

§ 16-13A-3. District to be a public corporation and political subdivision; powers thereof; public service boards.

From and after the date of the adoption of the order creating any public service district, it is a public corporation and political subdivision of the state, but without any power to levy or collect ad valorem taxes. Each district may acquire, own and hold property, both real and personal, in its corporate name, and may sue, may be sued, may adopt an official seal and may enter into contracts necessary or incidental to its purposes, including contracts with any city, incorporated town or other municipal corporation located within or without its boundaries for furnishing wholesale supply of water for the distribution system of the city, town or other municipal corporation, and contract for the operation, maintenance, servicing, repair and extension of any properties owned by it or for the operation and improvement or extension by the district of all or any part of the existing municipally owned public service properties of any city, incorporated town or other municipal corporation included within the district: Provided, That no contract shall extend beyond a

maximum of forty years, but provisions may be included therein for a renewal or successive renewals thereof and shall conform to and comply with the rights of the holders of any outstanding bonds issued by the municipalities for the public service properties.

The powers of each public service district shall be vested in and exercised by a public service board consisting of not less than three members, who shall be persons residing within the district who possess certain educational, business or work experience which will be conducive to operating a public service district. Each board member shall, within six months of taking office, successfully complete the training program to be established and administered by the public service commission in conjunction with the division of environmental protection and the bureau of public health. Board members shall not be or become pecuniarily interested, directly or indirectly, in the proceeds of any contract or service, or in furnishing any supplies or materials to the district, nor shall a former board member be hired by the district in any capacity within a minimum of twelve months after such board member's term has expired or such board member has resigned from the district board. The members shall be appointed in the following manner:

Each city, incorporated town or other municipal corporation having a population of more than three thousand but less than eighteen thousand is entitled to appoint one member of the board, and each such city, incorporated town or other municipal corporation having a population in excess of eighteen thousand shall be entitled to appoint one additional member of the board for each additional eighteen thousand population. The members of the board representing such cities, incorporated towns or other municipal corporations shall be residents thereof and shall be appointed by a resolution of the governing bodies thereof and upon the filing of a certified copy or copies of the resolution or resolutions in the office of the clerk of the county commission which entered the order creating the district, the persons so appointed become members of the board without any further act or proceedings. If the number of members of the board so appointed by the governing bodies of cities, incorporated towns or other municipal corporations included in the district equals or exceeds three, then no further members shall be appointed to the board and the members so appointed are the board of the district.

If no city, incorporated town or other municipal corporation having a population of more than three thousand is included within the district, then the county commission which entered the order creating the district shall appoint three members of the board, who are persons residing within the district, which three members become members of the board of the district without any further act or proceedings.

If the number of members of the board appointed by the governing bodies of cities, incorporated towns or other municipal corporations included within the district is less than three, then the county commission which entered the order creating the district shall appoint such additional member or members of the board, who are persons residing within the district, as is necessary to make the number of members of the board equal three; and the member or members appointed by the governing bodies of the cities, incorporated towns or other

municipal corporations included within the district and the additional member or members appointed by the county commission as aforesaid, are the board of the district. A person may serve as a member of the board in one or more public service districts.

The population of any city, incorporated town or other municipal corporation, for the purpose of determining the number of members of the board, if any, to be appointed by the governing body or bodies thereof, is the population stated for such city, incorporated town or other municipal corporation in the last official federal census.

Notwithstanding any provision of this code to the contrary, whenever a district is consolidated or merged pursuant to section two [§ 16-13A-2] of this article, the terms of office of the existing board members shall end on the effective date of the merger or consolidation. The county commission shall appoint a new board according to rules promulgated by the public service commission.

The respective terms of office of the members of the first board shall be fixed by the county commission and shall be as equally divided as may be, that is approximately one third of the members for a term of two years, a like number for a term of four, and the term of the remaining member or members for six years, from the first day of the month during which the appointments are made. The first members of the board appointed as aforesaid shall meet at the office of the clerk of the county commission which entered the order creating the district as soon as practicable after the appointments and shall qualify by taking an oath of office: Provided, That any member or members of the board may be removed from their respective office as provided in section three-a [§ 16-13A-3a] of this article.

Any vacancy shall be filled for the unexpired term within thirty days, otherwise successor members of the board shall be appointed for terms of six years and the terms of office shall continue until successors have been appointed and qualified. All successor members shall be appointed in the same manner as the member succeeded was appointed.

The board shall organize within thirty days following the first appointments and annually thereafter at its first meeting after the first day of January of each year by selecting one of its members to serve as chair and by appointing a secretary and a treasurer who need not be members of the board. The secretary shall keep a record of all proceedings of the board which shall be available for inspection as other public records. Duplicate records shall be filed with the county commission and shall include the minutes of all board meetings. The treasurer is lawful custodian of all funds of the public service district and shall pay same out on orders authorized or approved by the board. The secretary and treasurer shall perform other duties appertaining to the affairs of the district and shall receive salaries as shall be prescribed by the board. The treasurer shall furnish bond in an amount to be fixed by the board for the use and benefit of the district.

The members of the board, and the chair, secretary and treasurer thereof, shall make available to the county commission, at all times, all of its books and records pertaining to the district's operation, finances and affairs, for inspec-

tion and audit. The board shall meet at least monthly. (1953, c. 147; 1965, c. 134; 1971, c. 72; 1981, c. 124; 1983, c. 166; 1986, c. 81; 1994, c. 61.)

Effect of amendment of 1994. — The amendment, in the second paragraph, substituted "bureau of public health" for "department of health," and substituted "division of environmental protection" for "department of natural resources"; in the third paragraph, deleted "not" prior to "less than eighteen thousand," deleted "shall thereby" prior to "become members," and substituted "so appointed are" for "shall be and constitute"; deleted "and constitute" prior to "the board of the district" in the fourth paragraph; deleted "additional" prior to member or members" in the fifth paragraph; deleted "and regulations" following "rules" in the seventh paragraph; deleted "the" prior to same out on orders" in the penultimate paragraph; and made stylistic changes.

Textbooks. — Instructions for Virginia and West Virginia (3rd ed.), § 24-128.10.

Exemptions. — Public service districts of West Virginia are political subdivisions of the State, and as such, they are specifically, by express statute, exempted from the duty of paying registration fees (provided by § 17A-10-), the privilege tax (imposed by § 17A-3-4), and the certificate of title charge (required by § 17A-3-4). 49 Op. Att'y Gen. 131 (1961).

Furnishing water to municipal corporation in another state. — A public service district may furnish water wholesale in bulk quantities to a municipal corporation in another state. 51 Op. Att'y Gen. 739 (1966).

Authority of districts. — Public service districts are agents of the county commission by which they were created, having no authority other than that expressly set out in this article. Op. Att'y Gen., July 8, 1976.

Furnishing water to border residents in neighboring state. — See Op. Att'y Gen., June 26, 1975.

Compensation of board members for performing additional duties prohibited. — Board members of a public service district could not be compensated for performing the duties of treasurer and/or secretary, or for reading meters for the public service district. Op. Att'y Gen., July 14, 1988, No. 2.

Cited in State v. Neary, 365 S.E.2d 395 (W. Va. 1987).

§ 16-13A-3a. Removal of members of public service board.

The county commission or the public service commission or any other appointive body creating or establishing a public service district under the provisions of this article, or any group of five percent or more of the customers of a public service district, may petition the circuit court of the county in which the district maintains its principal office for the removal of any member of the governing board thereof for consistent violations of any provisions of this article, for reasonable cause which includes, but is not limited to, a continued failure to attend meetings of the board, failure to diligently pursue the objectives for which the district was created, or failure to perform any other duty either prescribed by law or required by a final order of the public service commission or for any malfeasance in public office. Any board member charged with a violation under this section who offers a successful defense against such charges shall be reimbursed for the reasonable costs of such defense from district revenues. Such costs shall be considered as costs associated with rate determination by the public service district and the public service commission. If the circuit court judge hearing the petition for removal finds that the charges are frivolous in nature, the judge may assess all or part of the court costs, plus the reasonable costs associated with the board member's defense, against the party or parties who petitioned the court for the board member's removal. (1963, c. 75; 1971, c. 72; 1981, c. 124; 1986, c. 81.)

Textbooks. — Instructions for Virginia and West Virginia (3rd ed.), § 24-128.10.

Quoted in State v. Neary, 365 S.E.2d 395 (W. Va. 1987).

§ 16-13A-4. Board chairman; members' compensation; procedure; district name.

The chairman shall preside at all meetings of the board and may vote as any other members of the board but if he should be absent from any meeting, the remaining members may select a temporary chairman and if the member selected as chairman resigns as such or ceases for any reason to be a member of the board, the board shall select one of its members as chairman to serve until the next annual organization meeting. Salaries of each of its board members shall be as follows: For districts with fewer than six hundred customers, each board member shall receive fifty dollars per attendance at regular monthly meetings and thirty dollars per attendance at additional special meetings, total salary not to exceed nine hundred dollars per annum; for districts with six hundred customers or more but fewer than two thousand customers, each board member shall receive one hundred dollars per attendance at regular monthly meetings and fifty dollars per attendance at additional special meetings, total salary not to exceed eighteen hundred dollars per annum; and for districts with two thousand customers or more, each board member shall receive one hundred dollars per attendance at regular monthly meetings and fifty dollars per attendance at additional special meetings, total salary not to exceed three thousand dollars per annum. The public service district shall certify the number of customers served to the public service commission beginning on the first day of July, one thousand nine hundred eighty-six, and continue each fiscal year thereafter. Board members may be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their duties as provided for by the rules and regulations of the board. The board shall by resolution determine its own rules of procedure, fix the time and place of its meetings and the manner in which special meetings may be called. Public notice of meetings shall be given in accordance with section three [§ 6-9A-3], article nine-a, chapter six of this code. Emergency meetings may be called as provided by section three [§ 6-9A-3], article nine-a, chapter six of this code. A majority of the members constituting the board also constitute a quorum to do business. The members of the board are not personally liable or responsible for any obligations of the district or the board but are answerable only for willful misconduct in the performance of their duties. At any time prior to the issuance of bonds as hereinafter provided, the board may by resolution change the official or corporate name of the public service district and such change shall be effective from and after filing an authenticated copy of such resolution with the clerk of the county commission of each county in which the territory embraced within such district or any part thereof is located. The official name of any district created under the provisions of this article may contain the name or names of any city, incorporated town or other municipal corporation included therein or the name of any county or counties in which it is located. (1953, c. 147; 1981, c. 124; 1986, c. 81.)

Compensation of board members for performing additional duties prohibited. — Board members of a public service district could not be compensated for performing the duties of treasurer and/or or secretary, or for reading meters for the public service district. Op. Att'y Gen., July 14, 1988, No. 2.

§ 16-13A-5. General manager of board.

The board may employ a general manager to serve a term of not more than five years and until his successor is employed, and his compensation shall be fixed by resolution of the board. Such general manager shall devote all or the required portion of his time to the affairs of the district and may employ, discharge and fix the compensation of all employees of the district, except as in this article otherwise provided, and he shall perform and exercise such other powers and duties as may be conferred upon him by the board.

Such general manager shall be chosen without regard to his political affiliations and upon the sole basis of his administrative and technical qualifications to manage public service properties and affairs of the district and he may be discharged only upon the affirmative vote of two thirds of the board. Such general manager need not be a resident of the district at the time he is chosen. Such general manager may not be a member of the board but shall be an employee of the board.

The board of any public service district which purchases water or sewer service from a municipal water of sewer system or another public service district may, as an alternative to hiring its own general manager, elect to permit the general manager of the municipal water or sewer system or public service district from which such water or sewer service is purchased provide professional management to the district, if the appropriate municipality or public service board agrees to provide such assistance. The general manager shall receive reasonable compensation for such service. (1953, c. 147; 1981, c. 124; 1986, c. 81.)

§ 16-13A-6. Employees of board.

The board may in its discretion from time to time by resolution passed by a majority vote provide for the employment of an attorney, fiscal agent, one or more engineers and such other employees as the board may determine necessary and expedient. The board shall in and by such resolution fix the term of employment and compensation and prescribe the duties to be performed by such employees. (1953, c. 147; 1981, c. 124.)

§ 16-13A-7. Acquisition and operation of district properties.

The board of such districts shall have the supervision and control of all public service properties acquired or constructed by the district, and shall have the power, and it shall be its duty, to maintain, operate, extend and improve the same. All contracts involving the expenditure by the district of more than five thousand dollars for construction work or for the purchase of equipment and improvements, extensions or replacements, shall be entered into only after

notice inviting bids shall have been published as a Class I legal advertisement in compliance with the provisions of article three [§ 59-3-1 et seq.], chapter fifty-nine of this code, and the publication area for such publication shall be as specified in section two [§ 16-13A-2] of this article in the county or counties in which the district is located. The publication shall not be less than ten days prior to the making of any such contract. To the extent allowed by law, in-state contractors shall be given first priority in awarding public service district contracts. It shall be the duty of the board to ensure that local in-state labor shall be utilized to the greatest extent possible when hiring laborers for public service district construction or maintenance repair jobs. It shall further be the duty of the board to encourage contractors to use American-made products in their construction to the extent possible. Any obligations incurred of any kind or character shall not in any event constitute or be deemed an indebtedness within the meaning of any of the provisions or limitations of the constitution, but all such obligations shall be payable solely and only out of revenues derived from the operation of the public service properties of the district or from proceeds of bonds issued as hereinafter provided. No continuing contract for the purchase of materials or supplies or for furnishing the district with electrical energy or power shall be entered into for a longer period than fifteen years. (1953, c. 147; 1967, c. 105; 1981, c. 124; 1982, c. 24; 1986, c. 81.)

§ 16-13A-8. Acquisition and purchase of public service properties; right of eminent domain; extraterritorial powers.

The board may acquire any publicly or privately owned public service properties located within the boundaries of the district regardless of whether or not all or any part of such properties are located within the corporate limits of any city, incorporated town or other municipal corporation included within the district and may purchase and acquire all rights and franchises and any and all property within or outside the district necessary or incidental to the purpose of the district.

The board may construct any public service properties within or outside the district necessary or incidental to its purposes and each such district may acquire, construct, maintain and operate any such public service properties within the corporate limits of any city, incorporated town or other municipal corporation included within the district or in any unincorporated territory within ten miles of the territorial boundaries of the district: Provided, That if any incorporated city, town or other municipal corporation included within the district owns and operates either water facilities, sewer facilities or gas facilities or all of these, then the district may not acquire, construct, establish, improve or extend any public service properties of the same kind within such city, incorporated towns or other municipal corporations or the adjacent unincorporated territory served by such cities, incorporated towns or other municipal corporations, except upon the approval of the public service commission, the consent of such cities, incorporated towns or other municipal corporations and in conformity and compliance with the rights of the holders

any revenue bonds or obligations theretofore issued by such cities, incorporated towns or other municipal corporations then outstanding and in accordance with the ordinance, resolution or other proceedings which authorize the suance of such revenue bonds or obligations.

Whenever such district has constructed, acquired or established water cilities, sewer facilities or gas facilities for water, sewer or gas services within ıy city, incorporated town or other municipal corporation included within a strict, then such city, incorporated town or other municipal corporation may ıt thereafter construct, acquire or establish any facilities of the same kind ithin such city, incorporated town or other municipal corporation without the nsent of such district.

For the purpose of acquiring any public service properties or lands, rights or ısements deemed necessary or incidental for the purposes of the district, each ıch district has the right of eminent domain to the same extent and to be ercised in the same manner as now or hereafter provided by law for such ght of eminent domain by cities, incorporated towns and other municipal rporations: Provided, That such board may not acquire all or any substantial ırt of a privately owned waterworks system unless and until authorized so to by the public service commission of West Virginia, and that this section ıall not be construed to authorize any district to acquire through condemnaon proceedings either in whole or substantial part an existing privately vned waterworks plant or system or gas facilities located in or furnishing ater or gas service within such district or extensions made or to be made by in territory contiguous to such existing plant or system, nor may any such ard construct or extend its public service properties to supply its services to areas served by or in competition with existing waterworks or gas cilities or extensions made or to be made in territory contiguous to such isting plant or system by the owner thereof. (1953, c. 147; 1980, c. 60; 1981, 124.)

District may exercise control over sewe where ownership is unknown unincorated areas. 45 Op. Att'y Gen. 506 (1953).

Valid grant of power of eminent domain. The grant of power of eminent domain to blic service districts by this section is valid. ite ex rel. McMillion v. Stahl, 141 W. Va. 233, S.E.2d 693 (1955).

Nuisance is element of just compensan. — If a facility creates a nuisance this m is simply an element of just compensation an eminent domain proceeding. Sexton v. blic Serv. Comm'n, 188 W. Va. 305, 423 .2d 914 (1992).

Procedure for affixing compensable interests. — Public service commission, in the absence of specific statutory authority, is not empowered to determine whether particular property interests acquired or to be acquired by a utility are compensable in an eminent domain action, or to render any type of monetary judgment for such property interests. Affixing the value of the property taken is the function of the trier of fact in an eminent domain proceeding. Sexton v. Public Serv. Comm'n, 188 W. Va. 305, 423 S.E.2d 914 (1992).

16-13A-9. Rules; service rates and charges; discontinuance of service; required water and sewer connections; lien for delinquent fees.

The board may make, enact and enforce all needful rules and regulations in nnection with the acquisition, construction, improvement, extension, management, maintenance, operation, care, protection and the use of any public service properties owned or controlled by the district, and the board shall establish rates and charges for the services and facilities it furnishes, which shall be sufficient at all times, notwithstanding the provisions of any other law or laws, to pay the cost of maintenance, operation and depreciation of such public service properties and principal of and interest on all bonds issued, other obligations incurred under the provisions of this article and all reserve or other payments provided for in the proceedings which authorized the issuance of any bonds hereunder. The schedule of such rates and charges may be based upon either (a) the consumption of water or gas on premises connected with such facilities, taking into consideration domestic, commercial, industrial and public use of water and gas; or (b) the number and kind of fixtures connected with such facilities located on the various premises; or (c) the number of persons served by such facilities; or (d) any combination thereof; or (e) may be determined on any other basis or classification which the board may determine to be fair and reasonable, taking into consideration the location of the premises served and the nature and extent of the services and facilities furnished. Where water, sewer and gas services are all furnished to any premises, the schedule of charges may be billed as a single amount for the aggregate thereof. The board shall require all users of services and facilities furnished by the district to designate on every application for service whether the applicant is a tenant or an owner of the premises to be served. If the applicant is a tenant, he or she shall state the name and address of the owner or owners of the premises to be served by the district. All new applicants for service shall deposit a minimum of fifty dollars with the district to secure the payment of service rates and charges in the event they become delinquent as provided in this section. In any case where a deposit is forfeited to pay service rates and charges which were delinquent at the time of disconnection or termination of service, no reconnection or reinstatement of service may be made by the district until another minimum deposit of fifty dollars has been remitted to the district. Whenever any rates, rentals or charges for services or facilities furnished remain unpaid for a period of thirty days after the same become due and payable, the property and the owner thereof, as well as the user of the services and facilities provided are delinquent and the owner, user and property are liable at law until such time as all such rates and charges are fully paid: Provided, That the property owner shall be given notice of any said delinquency by certified mail, return receipt requested. The board may, under reasonable rules promulgated by the public service commission, shut off and discontinue water or gas services to all delinquent users of either water or gas facilities, or both: Provided, however, That upon written request of the owner or owners of the premises, the board shall shut off and discontinue water and gas services where any rates, rentals, or charges for services or facilities remain unpaid by the user of the premises for a period of sixty days after the same became due and payable.

In the event that any publicly or privately owned utility, city, incorporated town, other municipal corporation or other public service district included within the district owns and operates separately either water facilities or

sewer facilities, and the district owns and operates the other kind of facilities, either water or sewer, as the case may be, then the district and such publicly or privately owned utility, city, incorporated town or other municipal corporation or other public service district shall covenant and contract with each other to shut off and discontinue the supplying of water service for the nonpayment of sewer service fees and charges: Provided, That any contracts entered into by a public service district pursuant to this section shall be submitted to the public service commission for approval. Any public service district providing water and sewer service to its customers has the right to terminate water service for delinquency in payment of either water or sewer bills. Where one public service district is providing sewer service and another public service district or a municipality included within the boundaries of the sewer district is providing water service, and the district providing sewer service experiences a delinquency in payment, the district or the municipality included within the boundaries of the sewer district that is providing water service, upon the request of the district providing sewer service to the delinquent account, shall terminate its water service to the customer having the delinquent sewer account: Provided, however, That any termination of water service must comply with all rules and orders of the public service commission.

Any district furnishing sewer facilities within the district may require, or may by petition to the circuit court of the county in which the property is located, compel or may require the bureau of public health to compel all owners, tenants or occupants of any houses, dwellings and buildings located near any such sewer facilities, where sewage will flow by gravity or be transported by such other methods approved by the bureau of public health including, but not limited to, vacuum and pressure systems, approved under the provisions of section nine [§ 16-1-9], article one, chapter sixteen of this code, from such houses, dwellings or buildings into such sewer facilities, to connect with and use such sewer facilities, and to cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from such houses, dwellings and buildings where there is such gravity flow or transportation by such other methods approved by the bureau of public health including, but not limited to, vacuum and pressure systems, approved under the provisions of section nine, article one, chapter sixteen of this code, and such houses, dwellings and buildings can be adequately served by the sewer facilities of the district, and it is hereby found, determined and declared that the mandatory use of such sewer facilities provided for in this paragraph is necessary and essential for the health and welfare of the inhabitants and residents of such districts and of the state: Provided, That if the public service district determines that the property owner must connect with the sewer facilities even when sewage from such dwellings may not flow to the main line by gravity and the property owner must incur costs for any changes in the existing dwellings' exterior plumbing in order to connect to the main sewer line, the public service district board shall authorize the district to pay all reasonable costs for such changes in the exterior plumbing, including, but not limited to, installation, operation, maintenance and purchase of a pump, or any other method approved by the bureau of public health; maintenance and

operation costs for such extra installation should be reflected in the users charge for approval of the public service commission. The circuit court shall adjudicate the merits of such petition by summary hearing to be held not later than thirty days after service of petition to the appropriate owners, tenants or occupants.

Whenever any district has made available sewer facilities to any owner, tenant or occupant of any house, dwelling or building located near such sewer facility, and the engineer for the district has certified that such sewer facilities are available to and are adequate to serve such owner, tenant or occupant, and sewage will flow by gravity or be transported by such other methods approved by the bureau of public health from such house, dwelling or building into such sewer facilities, the district may charge, and such owner, tenant or occupant shall pay the rates and charges for services established under this article only after thirty-day notice of the availability of the facilities has been received by the owner.

All delinquent fees, rates and charges of the district for either water facilities, sewer facilities or gas facilities are liens on the premises served of equal dignity, rank and priority with the lien on such premises of state, county, school and municipal taxes. In addition to the other remedies provided in this section, public service districts are hereby granted a deferral of filing fees or other fees and costs incidental to the bringing and maintenance of an action in magistrate court for the collection of delinquent water, sewer or gas bills. If the district collects the delinquent account, plus reasonable costs, from its customer or other responsible party, the district shall pay to the magistrate the normal filing fee and reasonable costs which were previously deferred. In addition, each public service district may exchange with other public service districts a list of delinquent accounts.

Anything in this section to the contrary notwithstanding, any establishment, as defined in section three [§ 22-11-3], article eleven, chapter twenty-two, now or hereafter operating its own sewage disposal system pursuant to a permit issued by the division of environmental protection, as prescribed by section eleven [§ 22-11-11], article eleven, chapter twenty-two of this code, is exempt from the provisions of this section. (1953, c. 147; 1965, c. 134; 1980, c. 60; 1981, c. 124; 1986, c. 81; 1989, c. 174; 1994, c. 61.)

Effect of amendment of 1994. — The amendment substituted "bureau of public health" for "department of health" throughout the section; deleted "and regulations" following "reasonable rules" in the first paragraph and following "all rules" in the second paragraph; and made stylistic changes.

Lien not a deprivation of property without due process. — The provision that delinquent fixed rates and charges for services rendered by a public service district shall be a lien on the premises served of equal dignity, rank and priority with the lien on such premises of state, county, school and municipal taxes, does not deprive the owners of their property without due process of law. State ex rel. McMillion v. Stahl, 141 W. Va. 233, 89 S.E.2d 693 (1955).

Requiring connections with sewer facilities. — The boards of public service districts have no authority to require potential users who live outside the boundaries of the districts, but within the 10-mile limit, to hook onto the district's sewer facilities. Op. Att'y Gen., July 8, 1976.

Abandonment of private systems. — Where a public service district requires a property owner, tenant, or occupant to connect onto its sewer system and to abandon a private sewer system located on the property, such person cannot recover from the public service district the value of the private system on the ground that such abandonment constitutes a taking of private property without just compensation within the meaning of W. Va. Const., art.

III, § 9. Kingmill Valley Pub. Serv. Dist. v. Riverview Estates Mobile Home Park, 182 W. Va. 116, 386 S.E.2d 483 (1989).

When duty arises. — Owners, tenants, or occupants have a duty under this section to pay rates and charges for the district sewer facilities from and after the date of receipt of notice (now 30 days after receipt) that such facilities are available. Rhodes v. Malden Pub. Serv. Dist., 301 S.E.2d 601 (W. Va. 1983) (construing this section prior to 1980 and 1981 amendments).

Sewage lagoons buffer-zone requirements. — Public Service Commission did not err in finding that the proposed sewage lagoons site satisfied the buffer-zone requirements. Sexton v. Public Serv. Comm'n, 188 W. Va. 305, 423 S.E.2d 914 (1992).

§ 16-13A-9a. Limitations with respect to foreclosure.

No public service district shall foreclose upon the premises served by such district for delinquent fees, rates or charges for which a lien is authorized by sections nine or nineteen [§§ 16-13A-9 or 16-13A-19] of this article except through the bringing and maintenance of a civil action for such purpose brought in the circuit court of the county wherein the district lies. In every such action, the court shall be required to make a finding based upon the evidence and facts presented that the district prior to the bringing of such action had exhausted all other remedies for the collection of debts with respect to such delinquencies. In no event shall foreclosure procedures be instituted by any such district or on its behalf unless such delinquency had been in existence or continued for a period of two years from the date of the first such delinquency for which foreclosure is being sought. (1982, c. 74.)

§ 16-13A-10. Budget.

The board shall establish the beginning and ending of its fiscal year, which period shall constitute its budget year, and at least thirty days prior to the beginning of the first full fiscal year after the creation of the district and annually thereafter the general manager shall prepare and submit to the board a tentative budget which shall include all operation and maintenance expenses, payments to a capital replacement account and bond payment schedules for the ensuing fiscal year. Such tentative budget shall be considered by the board, and, subject to any revisions or amendments that may be determined by the board, shall be adopted as the budget for the ensuing fiscal year. Upon adoption of the budget, a copy of the budget shall be forwarded to the county commission. No expenditures for operation and maintenance expenses in excess of the budget shall be made during such fiscal year unless unanimously authorized and directed by the board. (1953, c. 147; 1981, c. 124.)

Textbooks. — Instructions for Virginia and West Virginia (3rd ed.), § 24-128.10.

§ 16-13A-11. Accounts; audit.

The general manager, under direction of the board, shall install and maintain a proper system of accounts, in accordance with all rules, regulations or orders pertaining thereto by the public service commission, showing receipts from operation and application of the same, and the board shall at least once a year cause such accounts to be properly audited: Provided, That such audit

may be any audit by an independent public accountant completed within one year of the time required for the submission of the report: Provided, however, That if the district is required to have its books, records and accounts audited annually by an independent certified public accountant as a result of any covenant in any board resolution or bond instrument, a copy of such audit may be submitted in satisfaction of the requirements of this section, and is hereby found, declared and determined to be sufficient to satisfy the requirements of article nine [§ 6-9-1 et seq.], chapter six of this code pertaining to the annual audit report by the state tax commission. A copy of the audit shall be forwarded within thirty days of submission to the county commission and to the public service commission.

The treasurer of each public service district shall keep and preserve all financial records of the public service district for ten years, and shall at all times have such records readily available for public inspection. At the end of his term of office, the treasurer of each public service district shall promptly deliver all financial records of the public service district to his successor in office. Any treasurer of a public service district who knowingly or willfully violates any provision of this section is guilty of a misdemeanor, and shall be fined not less than one hundred dollars nor more than five hundred dollars or imprisoned in the county jail not more than ten days, or both. (1953, c. 147; 1981, c. 124; 1986, c. 81.)

Textbooks. — Instructions for Virginia and West Virginia (3rd ed.), § 24-128.10.

§ 16-13A-12. Disbursement of district funds.

No money may be paid out by a district except upon an order signed by the chairman and secretary of such board, or such other person or persons authorized by the chairman or secretary, as the case may be, to sign such orders on their behalf. Each order for the payment of money shall specify the purposes for which the amount thereof is to be paid, with sufficient clearness to indicate the purpose for which the order is issued, and there shall be endorsed thereon the name of the particular fund out of which it is payable and it shall be payable from the fund constituted for such purpose, and no other. All such orders shall be reflected in the minutes of the next meeting of the board. (1953, c. 147; 1981, c. 124.)

§ 16-13A-13. Revenue bonds.

For constructing or acquiring any public service properties for the authorized purposes of the district, or necessary or incidental thereto, and for constructing improvements and extensions thereto, and also for reimbursing or paying the costs and expenses of creating the district, the board of any such district is hereby authorized to borrow money from time to time and in evidence thereof issue the bonds of such district, payable solely from the revenues derived from the operation of the public service properties under control of the district. Such bonds may be issued in one or more series, may bear such date or dates, may mature at such time or times not exceeding forty

years from their respective dates, may bear interest at such rate or rates not exceeding eighteen percent per annum payable at such times, may be in such form, may carry such registration privileges, may be executed in such manner, may be payable at such place or places, may be subject to such terms of redemption with or without premium, may be declared or become due before maturity date thereof, may be authenticated in any manner, and upon compliance with such conditions, and may contain such terms and covenants as may be provided by resolution or resolutions of the board. Notwithstanding the form or tenor thereof, and in the absence of any express recital on the face thereof, that the bond is nonnegotiable, all such bonds shall be, and shall be treated as, negotiable instruments for all purposes. Bonds bearing the signatures of officers in office on the date of the signing thereof shall be valid and binding for all purposes notwithstanding that before the delivery thereof any or all of the persons whose signatures appear thereon shall have ceased to be such officers. Notwithstanding the requirements or provisions of any other law, any such bonds may be negotiated or sold in such manner and at such time or times as is found by the board to be most advantageous, and all such bonds may be sold at such price that the interest cost of the proceeds therefrom does not exceed nineteen percent per annum, based on the average maturity of such bonds and computed according to standard tables of bond values. Any resolution or resolutions providing for the issuance of such bonds may contain such covenants and restrictions upon the issuance of additional bonds thereafter as may be deemed necessary or advisable for the assurance of the payment of the bonds thereby authorized. (1953, c. 147; 1970, cc. 11, 12; 1970, 1st Ex. Sess., c. 2; 1980, c. 33; 1981, 1st Ex. Sess., c. 2; 1989, c. 174.)

Cross references. — Procedure for borrowing and issuing bonds, § 16-13A-25.

§ 16-13A-14. Items included in cost of properties.

The cost of any public service properties acquired under the provisions of this article shall be deemed to include the cost of the acquisition or construction thereof, the cost of all property rights, easements and franchises deemed necessary or convenient therefor and for the improvements and extensions thereto; interest upon bonds prior to and during construction or acquisition and for six months after completion of construction or of acquisition of the improvements and extensions; engineering, fiscal agents and legal expenses; expenses for estimates of cost and of revenues, expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense, and such other expenses as may be necessary or incident to the financing herein authorized, and the construction or acquisition of the properties and the placing of same in operation, and the performance of the things herein required or permitted, in connection with any thereof. (1953, c. 147.)

§ 16-13A-15. Bonds may be secured by trust indenture.

In the discretion and at the option of the board such bonds may be secured by a trust indenture by and between the district and a corporate trustee, which may be a trust company or bank having powers of a trust company within or without the State of West Virginia, but no such trust indenture shall convey, mortgage or create any lien upon the public service properties or any part thereof. The resolution authorizing the bonds and fixing the details thereof may provide that such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of bondholders as may be reasonable and proper, not in violation of law, including covenants setting forth the duties of the district and the members of its board and officers in relation to the construction or acquisition of public service properties and the improvement, extension, operation, repair, maintenance and insurance thereof, and the custody, safeguarding and application of all moneys, and may provide that all or any part of the construction work shall be contracted for, constructed and paid for, under the supervision and approval of consulting engineers employed or designated by the board and satisfactory to the original bond purchasers, their successors, assignees or nominees, who may be given the right to require the security given by contractors and by any depository of the proceeds of bonds or revenues of the public service properties or other money pertaining thereto be satisfactory to such purchasers, their successors, assignees or nominees. Such indenture may set forth the rights and remedies of the bondholders and such trustee. (1953, c. 147.)

§ 16-13A-16. Sinking fund for revenue bonds.

At or before the time of the issuance of any bonds under this article the board shall by resolution or in the trust indenture provide for the creation of a sinking fund and for monthly payments into such fund from the revenues of the public service properties operated by the district such sums in excess of the cost of maintenance and operation of such properties as will be sufficient to pay the accruing interest and retire the bonds at or before the time each will respectively become due and to establish and maintain reserves therefor. All sums which are or should be, in accordance with such provisions, paid into such sinking fund shall be used solely for payment of interest and for the retirement of such bonds at or prior to maturity as may be provided or required by such resolutions. (1953, c. 147.)

§ 16-13A-17. Collection, etc., of revenues and enforcement of covenants; default; suit, etc., by bondholder or trustee to compel performance of duties; appointment and powers of receiver.

The board of any such district shall have power to insert enforceable provisions in any resolution authorizing the issuance of bonds relating to the collection, custody and application of revenues of the district from the

operation of the public service properties under its control and to the enforcement of the covenants and undertakings of the district. In the event there shall be default in the sinking fund provisions aforesaid or in the payment of the principal or interest on any of such bonds or, in the event the district or its board or any of its officers, agents or employees, shall fail or refuse to comply with the provisions of this article, or shall default in any covenant or agreement made with respect to the issuance of such bonds or offered as security therefor, then any holder or holders of such bonds and any such trustee under the trust indenture, if there be one, shall have the right by suit, action, mandamus or other proceeding instituted in the circuit court for the county or any of the counties wherein the district extends, or in any other court of competent jurisdiction, to enforce and compel performance of all duties required by this article or undertaken by the district in connection with the issuance of such bonds, and upon application of any such holder or holders, or such trustee, such court shall, upon proof of such defaults, appoint a receiver for the affairs of the district and its properties, which receiver so appointed shall forthwith directly, or by his agents and attorneys, enter into and upon and take possession of the affairs of the district and each and every part thereof, and hold, use, operate, manage and control the same, and in the name of the district exercise all of the rights and powers of such district as shall be deemed expedient, and such receiver shall have power and authority to collect and receive all revenues and apply same in such manner as the court shall direct. Whenever the default causing the appointment of such receiver shall have been cleared and fully discharged and all other defaults shall have been cured, the court may in its discretion and after such notice and hearing as it deems reasonable and proper direct the receiver to surrender possession of the affairs of the district to its board. Such receiver so appointed shall have no power to sell, assign, mortgage, or otherwise dispose of any assets of the district except as hereinbefore provided. (1953, c. 147.)

Rules of Civil Procedure. — As to abolition of the procedural distinctions between law and equity, see Rule 2.

As to receivers, see Rule 66.

As to application of rules to writ of mandamus, see Rule 81(a)(5).

As to effect of rules on jurisdiction and venue, see Rule 82.

Mandamus. — Mandamus is a proper remedy to be pursued by the holder of a municipal revenue bond to require a municipal corporation to comply with rate covenants in its revenue bonds. State ex rel. Allstate Ins. Co. v. Union Pub. Serv. Dist., 151 W. Va. 207, 151 S.E.2d 102 (1966).

Under this section, any holder of the bonds of the Union public service district shall have the right by mandamus to enforce and compel the performance of all the duties required by statute or undertaken by the district in connection with the issuance of bonds by such district. State ex rel. Allstate Ins. Co. v. Union Pub. Serv. Dist., 151 W. Va. 207, 151 S.E.2d 102 (1966).

§ 16-13A-18. Operating contracts.

The board may enter into contracts or agreements with any persons, firms or corporations for the operation and management of the public service properties within the district, or any part thereof, for such period of time and under such terms and conditions as shall be agreed upon between the board and such persons, firms or corporations. The board shall have power to provide in the

resolution authorizing the issuance of bonds, or in any trust indenture securing such bonds, that such contracts or agreements shall be valid and binding upon the district as long as any of said bonds, or interest thereon, are outstanding and unpaid. (1953, c. 147.)

§ 16-13A-18a. Sale, lease or rental of water, sewer or gas system by district; distribution of proceeds.

In any case where a public service district owns a water, sewer or gas system, and all the members of the public service board thereof deem it for the best interests of the district to sell, lease or rent such water, sewer or gas system to any municipality or privately owned water, sewer or gas system, or to any water, sewer or gas system owned by an adjacent public service district, the board may so sell, lease or rent such water, sewer or gas system upon such terms and conditions as said board, in its discretion, considers in the best interests of the district: Provided, That such sale, leasing or rental may be made only upon approval by the public service commission of West Virginia.

In the event of any such sale, the proceeds thereof, if any, remaining after payment of all outstanding bonds and other obligations of the district, shall be ratably distributed to any persons who have made contributions in aid of construction of such water, sewer or gas system, such distribution not to exceed the actual amount of any such contribution, without interest, and any balance of funds thereafter remaining shall be paid to the county commission of the county in which the major portion of such water, sewer or gas system is located to be placed in the general funds of such county commission. (1963, c. 75; 1981, c. 124; 1986, c. 81.)

§ 16-13A-19. Statutory mortgage lien created; foreclosure thereof.

There shall be and is hereby created a statutory mortgage lien upon such public service properties of the district, which shall exist in favor of the holders of bonds hereby authorized to be issued, and each of them, and the coupons attached to said bonds, and such public service properties shall remain subject to such statutory mortgage lien until payment in full of all principal of and interest on such bonds. Any holder of such bonds, of any coupons attached thereto, may, either at law or in equity, enforce said statutory mortgage lien conferred hereby and upon default in the payment of the principal of or interest on said bonds, may foreclose such statutory mortgage lien in the manner now provided by the laws of the State of West Virginia for the foreclosure of mortgages on real property. (1953, c. 147.)

Rules of Civil Procedure. — As to abolition of the procedural distinctions between law and equity, see Rule 2.

The provision granting to bondholders a statutory mortgage lien is valid. State ex rel. McMillion v. Stahl, 141 W. Va. 233, 89 S.E.2d 693 (1955).

§ 16-13A-20. Refunding revenue bonds.

The board of any district having issued bonds under the provisions of this article is hereby empowered thereafter by resolution to issue refunding bonds of such district for the purpose of retiring or refinancing such outstanding bonds, together with any unpaid interest thereon and redemption premium thereunto appertaining and all of the provisions of this article relating to the issuance, security and payment of bonds shall be applicable to such refunding bonds, subject, however, to the provisions of the proceedings which authorized the issuance of the bonds to be so refunded. (1953, c. 147.)

The only purpose for refunding bonds is the retirement or refinancing of outstanding bond issues of a particular district. Op. Att'y Gen., July 8, 1976.

Combination of two outstanding bond issues into one refunding bond issue may well be restricted by the use of the singular language in this section. Op. Att'y Gen., July 8, 1976.

Previous issuance of bonds required. — This section is clearly written in language which speaks only of refunding bonds issued by any district which has previously issued bonds. Op. Att'y Gen., July 8, 1976.

§ 16-13A-21. Complete authority of article; liberal construction; district to be public instrumentality; tax exemption.

This article is full and complete authority for the creation of public service districts and for carrying out the powers and duties of same as herein provided. The provisions of this article shall be liberally construed to accomplish its purpose and no procedure or proceedings, notices, consents or approvals, are required in connection therewith except as may be prescribed by this article: Provided, That all functions, powers and duties of the public service commission of West Virginia, the bureau of public health, the division of environmental protection and the environmental quality board remain unaffected by this article. Every district organized, consolidated, merged or expanded under this article is a public instrumentality created and functioning in the interest and for the benefit of the public, and its property and income and any bonds issued by it are exempt from taxation by the state of West Virginia, and the other taxing bodies of the state: Provided, however, That the board of any such district may use and apply any of its available revenues and income for the payment of what such board determines to be tax or license fee equivalents to any local taxing body and in any proceedings for the issuance of bonds of such district may reserve the right to annually pay a fixed or computable sum to such taxing bodies as such tax or license fee equivalent. (1953, c. 147; 1986, c. 81; 1994, c. 61.)

Effect of amendment of 1994. — The amendment substituted "bureau of public health, the division of environmental protection and the environmental quality board" for "state department of health and the state water resources board"; deleted "declared" preceding "a public instrumentality"; and made stylistic changes.

Tax exemption constitutional. — The tax exemption granted to the property, income, and bonds of the district does not violate W. Va. Const., art. X, § 1. State ex rel. McMillion v. Stahl, 141 W. Va. 233, 89 S.E.2d 693 (1955).

Applied in Rhodes v. Malden Pub. Serv. Dist., 301 S.E.2d 601 (W. Va. 1983).

§ 16-13A-22. Validation of prior acts and proceedings of county courts for creation of districts, inclusion of additional territory, and appointment of members of district boards.

All acts and proceedings taken by any county court of this State purporting to have been carried out under the provisions of this article which have been taken, prior to the date this section takes effect [January 29, 1960], for the purpose of creating public service districts or for the purpose of subsequent inclusion of additional territory to existing public service districts, after notice published by any such county court having territorial jurisdiction thereof of its intention to include such additional territory after hearing thereon, are hereby validated, ratified, approved and confirmed notwithstanding any other lack of power (other than constitutional) of any such county court to create such public service districts or to include additional territory to existing public service districts or irregularities (other than constitutional) in such proceedings, relating to the appointment and qualification of more than three members to the board of any such public service district or the subsequent appointment of successors of any or all of such members, notwithstanding that no city, incorporated town or other municipal corporation having a population in excess of three thousand is included within the district, and the appointment and qualification of such members, and further including any irregularities in the petition for the creation of any public service district, irregularities in the description of the area embraced by such district, and irregularities in the notice and publication of notice for the hearing creating such district, prior to the date this section takes effect, is hereby validated, ratified, approved and confirmed; and, further, in such cases where more than three members of the board of such districts have been so appointed prior to the date this section takes effect then such county court shall appoint, and they are hereby authorized and empowered to appoint, successors to such members in the manner as otherwise provided by this article. (1958, c. 14; 1960, c. 19.)

Editor's notes. — As to the designation of county courts as county commissions, see W. Va. Const., art. IX, § 9.

§ 16-13A-23. Validation of acts and proceedings of public service boards.

All acts and proceedings taken by any public service board the members of which were appointed, prior to the date this section takes effect [March 13, 1965], by any county court of this State having territorial jurisdiction thereof, are hereby validated, ratified, approved and confirmed, as to defects and irregularities which may otherwise exist on account of their appointment and qualification: Provided, however, That nothing herein contained shall be construed to excuse a criminal act. (1958, c. 14; 1960, c. 19; 1965, c. 134.)

Editor's notes. — As to the designation of county courts as county commissions, see W. Va. Const., art. IX, § 9.

§ 16-13A-24. Acceptance of loans, grants or temporary advances.

Any public service district created pursuant to the provisions of this article is authorized and empowered to accept loans or grants and procure loans or temporary advances evidenced by notes or other negotiable instruments issued in the manner, and subject to the privileges and limitations, set forth with respect to bonds authorized to be issued under the provisions of this article, for the purpose of paying part or all of the cost of construction or acquisition of water systems, sewage systems or gas facilities, or all of these, and the other purposes herein authorized, from any authorized agency or from the United States of America or any federal or public agency or department of the United States or any private agency, corporation or individual, which loans or temporary advances, including the interest thereon, may be repaid out of the proceeds of the bonds authorized to be issued under the provisions of this article, the revenues of the said water system, sewage system or gas facilities or grants to the public service district from any authorized agency or from the United States of America or any federal or public agency or department of the United States or from any private agency, corporation or individual or from any combination of such sources of payment, and to enter into the necessary contracts and agreements to carry out the purposes hereof with any authorized agency or the United States of America or any federal or public agency or department of the United States, or with any private agency, corporation or individual. Any other provisions of this article to the contrary notwithstanding, interest on any such loans or temporary advances may be paid from the proceeds thereof until the maturity of such notes or other negotiable instrument. (1958, c. 14; 1980, c. 60; 1981, c. 124; 1986, c. 118.)

Permissible borrowing by public service districts. — The borrowing by public service districts of money from counties and/or municipalities, as evidenced by a note, is permissible borrowing under this section. Op. Att'y Gen., May 6, 1988, No. 27.

16-13A-25. Borrowing and bond issuance; procedure.

Notwithstanding any other provisions of this article to the contrary, a public service district shall not borrow money, enter into contracts for the provision of engineering, design or feasibility studies, issue or contract to issue revenue bonds or exercise any of the powers conferred by the provisions of sections thirteen, twenty or twenty-four [§§ 16-13A-13, 16-13A-20 or 16-13A-24] of this article, without the prior consent and approval of the public service commission. Unless the properties to be constructed or acquired represent ordinary extensions or repairs of existing systems in the usual course of business, a public service district must first obtain a certificate of public convenience and necessity from the public service commission in accordance with the provisions

of chapter twenty-four [§ 24-1-1 et seq.] of this code, when a public service district is seeking to acquire or construct public service property.

Sixty days prior to making formal application for said certificate, the public service district shall prefile with the public service commission its plans and supporting information for said project and shall publish a Class II legal advertisement in a newspaper or newspapers of general circulation in each city, incorporated town or municipal corporation if available in the district, which legal advertisement shall state:

(a) The amount of money to be borrowed, or the amount of revenue bonds to be issued: Provided, That if the amount is an estimate, the notice may be stated in terms of an amount "not to exceed" a specific amount;

(b) The interest rate and terms of the loan or bonds: Provided, That if the interest rate is an estimate, the notice may be stated in terms of a rate "not to exceed" a specific rate;

(c) The public service properties to be acquired or constructed, and the cost of same;

(d) The anticipated rates which will be charged by the district: Provided, That if the rates are an estimate, the notice may be stated in terms of rates "not to exceed" a specific rate; and

(e) The date that the formal application for a certificate of public convenience and necessity is to be filed with the public service commission. The public service commission may grant its consent and approval for the certificate, or any other request for approval under this section, subject to such terms and conditions as may be necessary for the protection of the public interest, pursuant to the provisions of chapter twenty-four [§ 24-1-1 et seq.] of this code, or may withhold such consent and approval for the protection of the public interest.

In the event of disapproval, the reasons therefor shall be assigned in writing by the commission. (1969, 1st Ex. Sess., c. 6; 1981, c. 124; 1986, c. 81.)

Cross references. — Class II legal advertisement defined, § 59-3-2.

Certificate of necessity and convenience. — Under this section, a public service district must first obtain a certificate of public convenience and necessity before it can acquire or construct public service property. Sexton v. Public Serv. Comm'n, 188 W. Va. 305, 423 S.E.2d 914 (1992).

Eminent domain not subject to public service commission review. — Although construction of a new facility proposed by a utility will often require the taking of private property through eminent domain, in the absence of express statutory language, the public service commission has no duty to review and decide issues that are inherent in the eminent domain proceeding. Sexton v. Public Serv. Comm'n, 188 W. Va. 305, 423 S.E.2d 914 (1992).

ARTICLE 13B.

COMMUNITY IMPROVEMENT ACT.

Sec.
16-13B-1. Short title.
16-13B-2. Definitions.
16-13B-3. Power and authority of counties and municipalities relating to flood relief, wastewater and water projects.
16-13B-4. Determination of need and feasibility of creating an assessment district.
16-13B-5. Notice to property owners before creation of assessment district and construction of project;

WEST VIRGINIA CODE

ANNOTATED

VOLUME 5A

1995 Replacement

1997 Supplement

Including Acts passed during the 1997 Regular and First Extraordinary Sessions

Prepared by the Editorial Staff of the Publishers

Under the Supervision of

RICHARD W. WALTER, JR.
PETER R. ROANE
RUTH P. KNIGHT
LYNN P. SEUFFERT

Place in pocket of corresponding bound volume

MICHIE

§ 16-9A-1. Legislative intent.

Secondary smoke as battery, 46 ALR5th 813.

W. Va. Law Review. — Hall, "Secondhand Smoke as an Issue in Child Custody/Visitation Disputes," 97 W. Va. L. Rev. 115 (1994).

§ 16-9A-4. Use of tobacco or tobacco products in certain areas of certain public schools prohibited; penalty.

ALR references. — Secondary smoke as battery, 46 ALR5th 813.

W. Va. Law Review. — Hall, "Secondhand Smoke as an Issue in Child Custody/Visitation Disputes," 97 W. Va. L. Rev. 115 (1994).

ARTICLE 13.

SEWAGE WORKS OF MUNICIPAL CORPORATIONS AND SANITARY DISTRICTS.

§ 16-13-16. Rates for service; change or readjustment; hearing; lien and recovery; discontinuance of services.

Applicability. — Although the public service commission concluded that cities providing only sewer service are not covered by this section, which applies to municipalities that provide both water and sewer service, the district court implicitly rejected the commission's interpretation. City of Charleston v. Public Serv. Comm'n, 57 F.3d 385 (4th Cir.), cert. denied, — U.S. —, 116 S. Ct. 474, 133 L. Ed. 2d 404 (1995).

ARTICLE 13A.

PUBLIC SERVICE DISTRICTS FOR WATER, SEWERAGE AND GAS SERVICES.

Sec.
16-13A-2. Creation of districts by county commission; enlarging, reducing, merging, or dissolving district; consolidation; agreements, etc.; infringing upon powers of county commission; filing list of members and districts with the secretary of state.
16-13A-3. District to be a public corporation and political subdivision; powers thereof; public service boards.
16-13A-4. Board chairman; members' compensation; procedure; district name.
16-13A-7. Acquisition and operation of district properties.
16-13A-18a. Sale, lease or rental of water, sewer or gas system by district; distribution of proceeds.
16-13A-25. Borrowing and bond issuance; procedure.

§ 16-13A-1a. Jurisdiction of the public service commission.

Cited in State ex rel. Water Dev. Auth. v. Northern Wayne County Pub. Serv. Dist., 195 W. Va. 135, 464 S.E.2d 777 (1995).

§ 16-13A-2. Creation of districts by county commission; enlarging, reducing, merging, or dissolving district; consolidation; agreements, etc.; infringing upon powers of county commission; filing list of members and districts with the secretary of state.

(a) The county commission of any county may propose the creation, enlargement, reduction, merger, dissolution, or consolidation of a public service district by any of the following methods: (1) on its own motion by order duly adopted, (2) upon the recommendation of the public service commission, or (3) by petition of twenty-five percent of the registered voters who reside within the limits of the proposed public service district within one or more counties. The petition shall contain a description, including metes and bounds, sufficient to identify the territory to be embraced therein and the name of such proposed district: Provided, That after the effective date of this section, no new public service district shall be created, enlarged, reduced, merged, dissolved or consolidated under this section without the written consent and approval of the public service commission, which approval and consent shall be in accordance with rules promulgated by the public service commission and may only be requested after consent is given by the appropriate county commission or commissions pursuant to this section. Any territory may be included regardless of whether or not the territory includes one or more cities, incorporated towns or other municipal corporations which own and operate any public service properties and regardless of whether or not it includes one or more cities, incorporated towns or other municipal corporations being served by privately owned public service properties: Provided, however, That the same territory shall not be included within the boundaries of more than one public service district except where the territory or part thereof is included within the boundaries of a separate public service district organized to supply water, sewerage services or gas facilities not being furnished within such territory or part thereof: Provided further, That no city, incorporated town or other municipal corporation shall be included within the boundaries of the proposed district except upon the adoption of a resolution of the governing body of the city, incorporated town or other municipal corporation consenting.

(b) The petition shall be filed in the office of the clerk of the county commission of the county in which the territory to constitute the proposed district is situated, and if the territory is situated in more than one county, then the petition shall be filed in the office of the clerk of the county commission of the county in which the major portion of the territory extends,

and a copy thereof (omitting signatures) shall be filed with each of the clerks of the county commission of the other county or counties into which the territory extends. The clerk of the county commission receiving such petition shall present it to the county commission of the county at the first regular meeting after the filing or at a special meeting called for the consideration thereof.

(c) When the county commission of any county enters an order on its own motion proposing the creation, enlargement, reduction, merger, dissolution or consolidation of a public service district, as aforesaid, or when a petition for the creation is presented, as aforesaid, the county commission shall at the same session fix a date of hearing in the county on the creation, enlargement, reduction, merger, dissolution or consolidation of the proposed public service district, which date so fixed shall be not more than forty days nor less than twenty days from the date of the action. If the territory proposed to be included is situated in more than one county, the county commission, when fixing a date of hearing, shall provide for notifying the county commission and clerk thereof of each of the other counties into which the territory extends of the date so fixed. The clerk of the county commission of each county in which any territory in the proposed public service district is located shall cause notice of the hearing and the time and place thereof, and setting forth a description of all of the territory proposed to be included therein to be given by publication as a Class I legal advertisement in compliance with the provisions of article three [§ 59-3-1 et seq.], chapter fifty-nine of this code, and the publication area for the publication shall be by publication in each city, incorporated town or municipal corporation if available in each county in which any territory in the proposed public service district is located. The publication shall be at least ten days prior to the hearing.

(d) In all cases where proceedings for the creation, enlargement, reduction, merger, dissolution or consolidation of the public service districts are initiated by petition as aforesaid, the person filing the petition shall advance or satisfactorily indemnify the payment of the cost and expenses of publishing the hearing notice, and otherwise the costs and expenses of the notice shall be paid in the first instance by the county commission out of contingent funds or any other funds available or made available for that purpose. In addition to the notice required herein to be published, there shall also be posted in at least five conspicuous places in the proposed public service district, a notice containing the same information as is contained in the published notice. The posted notices shall be posted not less than ten days before the hearing.

(e) All persons residing in or owning or having any interest in property in the proposed public service district shall have an opportunity to be heard for and against its creation, enlargement, reduction, merger, dissolution or consolidation. At the hearing the county commission before which the hearing is conducted shall consider and determine the feasibility of the creation, enlargement, reduction, merger, dissolution or consolidation of the proposed district. If the county commission determines that the construction or acquisition by purchase or otherwise and maintenance, operation, improvement and extension of public service properties by the public service district will be

conducive to the preservation of public health, comfort and convenience of such area, the county commission shall by order create, enlarge, reduce, merge, dissolve or consolidate such public service district. If the county commission, after due consideration, determines that the proposed district will not be conducive to the preservation of public health, comfort or convenience of the area or that the creation, enlargement, reduction, merger, dissolution or consolidation of the proposed district as set forth and described in the petition or order is not feasible, it may refuse to enter an order creating the district or it may enter an order amending the description of the proposed district and create, enlarge, reduce, merge, dissolve or consolidate the district as amended.

(f) If the county commission determines that any other public service district or districts can adequately serve the area of the proposed public service district, whether by enlargement, reduction, merger, dissolution or consolidation, it shall refuse to enter the order, but shall enter an order creating, enlarging, reducing, merging, dissolving or consolidating the area with an existing public service district, in accordance with rules adopted by the public service commission for such purpose: Provided, That no enlargement of a public service district may occur if the present or proposed physical facilities of the public service district are determined by the appropriate county commission or the public service commission to be inadequate to provide such enlarged service. The clerk of the county commission of each county into which any part of such district extends shall retain in his office an authentic copy of the order creating, enlarging, reducing, merging, dissolving or consolidating the district: Provided, however, That within ten days after the entry of an order creating, enlarging, reducing, merging, dissolving or consolidating a district, such order must be filed for review and approval by the public service commission. The public service commission shall provide a hearing in the affected county on the matter and may approve, reject or modify the order of the county commission if it finds it is in the best interests of the public to do so. The public service commission shall adopt rules relating to such filings and the approval, disapproval or modification of county commission orders for creating, enlarging, merging, dissolving or consolidating districts. The provisions of this section shall not apply to the implementation by a county commission of an order issued by the public service commission pursuant to this section and section one-b [§ 16-13A-1b] of this article.

(g) The county commission may, if in its discretion it deems it necessary, feasible and proper, enlarge the district to include additional areas, reduce the area of the district, where facilities, equipment, service or materials have not been extended, or dissolve the district if inactive or create or consolidate two or more such districts. If consolidation of districts is not feasible, the county commission may consolidate and centralize management and administration of districts within its county or multi-county area to achieve efficiency of operations: Provided, That where the county commission determines on its own motion by order entered of record, or there is a petition to enlarge the district, merge and consolidate districts, or the management and administration thereof, reduce the area of the district or dissolve the district if inactive, all of the applicable provisions of this article providing for hearing, notice of

hearing and approval by the public service commission shall apply. The commission shall at all times attempt to bring about the enlargement or merger of existing public service districts in order to provide increased services and to eliminate the need for creation of new public service districts in those areas which are not currently serviced by a public service district: Provided, however, That where two or more public service districts are consolidated pursuant to this section, any rate differentials may continue for the period of bonded indebtedness incurred prior to consolidation. The districts may not enter into any agreement, contract or covenant that infringes upon, impairs, abridges or usurps the duties, rights or powers of the county commission, as set forth in this article, or conflicts with any provision of this article.

(h) A list of all districts and their current board members shall be filed by the county commission with the secretary of state and the public service commission by the first day of July of each year. (1953, c. 147; 1965, c. 134; 1967, c. 105; 1975, c. 140; 1980, c. 60; 1981, c. 124; 1986, c. 81; 1995, c. 125.)

Effect of amendment of 1995. — The amendment added the subsection designations; in (a), rewrote the former first sentence as the present first two sentences; inserted "enlargement, reduction, merger, dissolution or consolidation" following "creation" throughout (c), (d), and (e); inserted "enlarge, reduce, merge, dissolve or consolidate" twice in (e); rewrote (f); in (g), substituted "create" for "establish" in the first sentence, deleted "with like effect as if a district were being created" from the end of the second sentence, and substituted "enlargement" for "expansion" in the third sentence; and made stylistic changes.

Editor's notes. — Concerning the reference in (a) to "the effective date of this section," this language was added by Acts 1986, c. 81, which passed March 8, 1986, and became effective ninety days from passage.

§ 16-13A-3. District to be a public corporation and political subdivision; powers thereof; public service boards.

From and after the date of the adoption of the order creating any public service district, it is a public corporation and political subdivision of the state, but without any power to levy or collect ad valorem taxes. Each district may acquire, own and hold property, both real and personal, in its corporate name, and may sue, may be sued, may adopt an official seal and may enter into contracts necessary or incidental to its purposes, including contracts with any city, incorporated town or other municipal corporation located within or without its boundaries for furnishing wholesale supply of water for the distribution system of the city, town or other municipal corporation, and contract for the operation, maintenance, servicing, repair and extension of any properties owned by it or for the operation and improvement or extension by the district of all or any part of the existing municipally owned public service properties of any city, incorporated town or other municipal corporation included within the district: Provided, That no contract shall extend beyond a maximum of forty years, but provisions may be included therein for a renewal or successive renewals thereof and shall conform to and comply with the rights of the holders of any outstanding bonds issued by the municipalities for the public service properties.

The powers of each public service district shall be vested in and exercised by a public service board consisting of not less than three members, who shall be persons residing within the district, who possess certain educational, business or work experience which will be conducive to operating a public service district. Each board member shall, within six months of taking office, successfully complete the training program to be established and administered by the public service commission in conjunction with the division of environmental protection and the bureau of public health. Board members shall not be or become pecuniarily interested, directly or indirectly, in the proceeds of any contract or service, or in furnishing any supplies or materials to the district nor shall a former board member be hired by the district in any capacity within a minimum of twelve months after board member's term has expired or such board member has resigned from the district board. The members shall be appointed in the following manner:

Each city, incorporated town or other municipal corporation having a population of more than three thousand but less than eighteen thousand is entitled to appoint one member of the board, and each city, incorporated town or other municipal corporation having a population in excess of eighteen thousand shall be entitled to appoint one additional member of the board for each additional eighteen thousand population. The members of the board representing such cities, incorporated towns or other municipal corporations shall be residents thereof and shall be appointed by a resolution of the governing bodies thereof and upon the filing of a certified copy or copies of the resolution or resolutions in the office of the clerk of the county commission which entered the order creating the district, the persons so appointed become members of the board without any further act or proceedings. If the number of members of the board so appointed by the governing bodies of cities, incorporated towns or other municipal corporations included in the district equals or exceeds three, then no further members shall be appointed to the board and the members so appointed are the board of the district except in cases of merger or consolidation where the number of board members may equal five.

If no city, incorporated town or other municipal corporation having a population of more than three thousand is included within the district, then the county commission which entered the order creating the district shall appoint three members of the board, who are persons residing within the district and residing within the state of West Virginia, which three members become members of the board of the district without any further act or proceedings except in cases of merger or consolidation where the number of board members may equal five.

If the number of members of the board appointed by the governing bodies of cities, incorporated towns or other municipal corporations included within the district is less than three, then the county commission which entered the order creating the district shall appoint such additional member or members of the board, who are persons residing within the district, as is necessary to make the number of members of the board equal three except in cases of merger or consolidation where the number of board members may equal five, and the member or members appointed by the governing bodies of the cities, incorpo-

rated towns or other municipal corporations included within the district and the additional member or members appointed by the county commission as aforesaid, are the board of the district. A person may serve as a member of the board in one or more public service districts.

The population of any city, incorporated town or other municipal corporation, for the purpose of determining the number of members of the board, if any, to be appointed by the governing body or bodies thereof, is the population stated for such city, incorporated town or other municipal corporation in the last official federal census.

Notwithstanding any provision of this code to the contrary, whenever a district is consolidated or merged pursuant to section two [§ 16-13A-2] of this article, the terms of office of the existing board members shall end on the effective date of the merger or consolidation. The county commission shall appoint a new board according to rules promulgated by the public service commission. Whenever districts are consolidated or merged no provision of this code prohibits the expansion of membership on the new board to five.

The respective terms of office of the members of the first board shall be fixed by the county commission and shall be as equally divided as may be, that is approximately one third of the members for a term of two years, a like number for a term of four years, the term of the remaining member or members for six years, from the first day of the month during which the appointments are made. The first members of the board appointed as aforesaid shall meet at the office of the clerk of the county commission which entered the order creating the district as soon as practicable after the appointments and shall qualify by taking an oath of office: Provided, That any member or members of the board may be removed from their respective office as provided in section three-a [§ 16-13A-3a] of this article.

Any vacancy shall be filled for the unexpired term within thirty days, otherwise successor members of the board shall be appointed for terms of six years and the terms of office shall continue until successors have been appointed and qualified. All successor members shall be appointed in the same manner as the member succeeded was appointed. The district shall provide to the public service commission, within thirty days of the appointment, the following information: The new board member's name, home address, home and office phone numbers, date of appointment, length of term, who the new member replaces and if the new appointee has previously served on the board. The public service commission shall notify each new board member of the legal obligation to attend training as prescribed in this section.

The board shall organize within thirty days following the first appointments and annually thereafter at its first meeting after the first day of January of each year by selecting one of its members to serve as chair and by appointing a secretary and a treasurer who need not be members of the board. The secretary shall keep a record of all proceedings of the board which shall be available for inspection as other public records. Duplicate records shall be filed with the county commission and shall include the minutes of all board meetings. The treasurer is lawful custodian of all funds of the public service district and shall pay same out on orders authorized or approved by the board.

The secretary and treasurer shall perform other duties appertaining to the affairs of the district and shall receive salaries as shall be prescribed by the board. The treasurer shall furnish bond in an amount to be fixed by the board for the use and benefit of the district.

The members of the board, and the chair, secretary and treasurer thereof, shall make available to the county commission, at all times, all of its books and records pertaining to the district's operation, finances and affairs, for inspection and audit. The board shall meet at least monthly. (1953, c. 147; 1965, c. 134; 1971, c. 72; 1981, c. 124; 1983, c. 166; 1986, c. 81; 1994, c. 61; 1997, c. 159.)

Effect of amendment of 1997. — The amendment, in the third and fourth paragraphs, added "except in cases of merger or consolidation where the number of board members may equal five" at the end; in the fourth paragraph, inserted "and residing within the state of West Virginia" following "who are persons residing within the district"; in the fifth paragraph, inserted "except in the cases of merger or consolidation where the number of board members may equal five" in the middle of the paragraph; in the seventh paragraph, added the third sentence; in the ninth paragraph, added the third and fourth sentences; and made stylistic changes.

W. Va. Law Review. — Fisher, "The Scope of Title Examination in West Virginia: Can Reasonable Minds Differ?," 98 W. Va. L. Rev. 449 (1996).

§ 16-13A-4. Board chairman; members' compensation; procedure; district name.

The chairman shall preside at all meetings of the board and may vote as any other members of the board but if he should be absent from any meeting, the remaining members may select a temporary chairman and if the member selected as chairman resigns as such or ceases for any reason to be a member of the board, the board shall select one of its members as chairman to serve until the next annual organization meeting. Salaries of each of its board members shall be as follows: For districts with fewer than six hundred customers, each board member may receive seventy-five dollars per attendance at regular monthly meetings and fifty dollars per attendance at additional special meetings, total salary not to exceed fifteen hundred dollars per annum; for districts with six hundred customers or more but fewer than two thousand customers, each board member may receive one hundred dollars per attendance at regular monthly meetings and seventy-five dollars per attendance at additional special meetings, total salary not to exceed two thousand five hundred fifty dollars per annum; for districts with two thousand customers or more, each board member may receive one hundred twenty-five dollars per attendance at regular monthly meetings and seventy-five dollars per attendance at additional special meetings, total salary not to exceed three thousand seven hundred fifty dollars per annum; and for districts with four thousand or more customers, each board member may receive one hundred fifty dollars per attendance at regular monthly meetings and one hundred dollars per attendance at additional special meetings, total salary not to exceed five thousand four hundred dollars per annum. The public service district shall certify the number of customers served to the public service commission beginning on the first day of July, one thousand nine hundred eighty-six, and continue each fiscal year thereafter. Board members may be reimbursed for all

reasonable and necessary expenses actually incurred in the performance of their duties as provided for by the rules of the board. The board shall by resolution determine its own rules of procedure, fix the time and place of its meetings and the manner in which special meetings may be called. Public notice of meetings shall be given in accordance with section three [§ 6-9A-3], article nine-a, chapter six of this code. Emergency meetings may be called as provided by said section. A majority of the members constituting the board also constitute a quorum to do business. The members of the board are not personally liable or responsible for any obligations of the district or the board but are answerable only for willful misconduct in the performance of their duties. At any time prior to the issuance of bonds as hereinafter provided, the board may by resolution change the official or corporate name of the public service district and such change shall be effective from and after filing an authenticated copy of such resolution with the clerk of the county commission of each county in which the territory embraced within such district or any part thereof is located and with the public service commission. The official name of any district created under the provisions of this article may contain the name or names of any city, incorporated town or other municipal corporation included therein or the name of any county or counties in which it is located. (1953, c. 147; 1981, c. 124; 1986, c. 81; 1997, c. 159.)

Effect of amendment of 1997. — The amendment rewrote the second sentence; in the fourth sentence, deleted "and regulations" following "as provided for by the rules"; in the seventh sentence, substituted "as provided by said section" for "as provided by section three, article nine-a, chapter six of this code"; added "and with the public service commission" at the end of the tenth sentence; and made stylistic changes.

§ 16-13A-7. Acquisition and operation of district properties.

The board of such districts shall have the supervision and control of all public service properties acquired or constructed by the district, and shall have the power, and it shall be its duty, to maintain, operate, extend and improve the same. All contracts involving the expenditure by the district of more than fifteen thousand dollars for construction work or for the purchase of equipment and improvements, extensions or replacements, shall be entered into only after notice inviting bids shall have been published as a Class I legal advertisement in compliance with the provision of article three [§ 59-3-1 et seq.], chapter fifty-nine of this code, and the publication area for such publication shall be as specified in section two [§ 16-13A-2] of this article in the county or counties in which the district is located. The publication shall not be less than ten days prior to the making of any such contract. To the extent allowed by law, in-state contractors shall be given first priority in awarding public service district contracts. It shall be the duty of the board to ensure that local in-state labor shall be utilized to the greatest extent possible when hiring laborers for public service district construction or maintenance repair jobs. It shall further be the duty of the board to encourage contractors to use American made products in their construction to the extent possible. Any obligations incurred of any kind or character shall not in any event constitute or be deemed an indebtedness

within the meaning of any of the provisions or limitations of the constitution, but all such obligations shall be payable solely and only out of revenues derived from the operation of the public service properties of the district or from proceeds of bonds issued as hereinafter provided. No continuing contract for the purchase of materials or supplies or for furnishing the district with electrical energy or power shall be entered into for a longer period than fifteen years. (1953, c. 147; 1967, c. 105; 1981, c. 124; 1982, c. 24; 1986, c. 81; 1997, c. 159.)

Effect of amendment of 1997. — The amendment, in the second sentence, substituted "more than fifteen thousand dollars" for "more than five thousand dollars"; and in the sixth sentence, made a stylistic change.

§ 16-13A-9. Rules; service rates and charges; discontinuance of service; required water and sewer connections; lien for delinquent fees.

W. Va. Law Review. — Fisher, "The Scope of Title Examination in West Virginia: Can Reasonable Minds Differ?," 98 W. Va. L. Rev. 449 (1996).

Quoted in State ex rel. Water Dev. Auth. v. Northern Wayne County Pub. Serv. Dist., 195 W. Va. 135, 464 S.E.2d 777 (1995).

§ 16-13A-18a. Sale, lease or rental of water, sewer or gas system by district; distribution of proceeds.

In any case where a public service district owns a water, sewer or gas system, and a majority of not less than sixty percent of the members of the public service board thereof deem it for the best interests of the district to sell, lease or rent such water, sewer or gas system to any municipality or privately-owned water, sewer or gas system, or to any water, sewer or gas system owned by an adjacent public service district, the board may so sell, lease or rent such water, sewer or gas system upon such terms and conditions as said board, in its discretion, considers in the best interests of the district: Provided, That such sale, leasing or rental may be made only upon: (1) The publication of notice of a hearing before the board of the public service district, as a Class I legal advertisement in compliance with the provisions of article three [§ 59-3-1 et seq.], chapter fifty-nine of this code, in a newspaper published and of general circulation in the county or counties wherein the district is located, such publication to be made not earlier than twenty days and not later than seven days prior to the hearing; (2) approval by the county commission or commissions of the county or counties in which the district operates; and (3) approval by the public service commission of West Virginia.

In the event of any such sale, the proceeds thereof, if any, remaining after payment of all outstanding bonds and other obligations of the district, shall be ratably distributed to any persons who have made contributions in aid of construction of such water, sewer or gas system, such distribution not to exceed the actual amount of any such contribution, without interest, and any balance of funds thereafter remaining shall be paid to the county commission of the county in which the major portion of such water, sewer or gas system is located

to be placed in the general funds of such county commission. (1963, c. 75; 1981, c. 124; 1986, c. 81; 1997, c. 160.)

Effect of amendment of 1997. — The amendment, in the first paragraph, substituted "a majority of not less than sixty percent of" for "all" preceding "the members of the public service board"; and rewrote the proviso.

§ 16-13A-25. Borrowing and bond issuance; procedure.

Notwithstanding any other provisions of this article to the contrary, a public service district shall not borrow money, enter into contracts for the provision of engineering, design or feasibility studies, issue or contract to issue revenue bonds or exercise any of the powers conferred by the provisions of section thirteen, twenty or twenty-four [§ 16-13A-13, § 16-13A-20 or § 16-13A-24] of this article, without the prior consent and approval of the public service commission. The public service commission may waive the provision of prior consent and approval for entering into contracts for engineering, design or feasibility studies pursuant to this section for good cause shown which is evidenced by the public service district filing a request for waiver of this section stated in a letter directed to the commission with a brief description of the project, evidence of compliance with chapter five-g [§ 5G-1-1 et seq.] of this code, and further explanation of ability to evaluate their own engineering contract, including, but not limited to: (1) Experience with the same engineering firm in the past two years requiring engineering services; or (2) completion of a construction project within the past two years requiring engineering services. The district shall also forward an executed copy of the engineering contract to the commission after receiving approval of the waiver. Unless the properties to be constructed or acquired represent ordinary extensions or repairs of existing systems in the usual course of business, a public service district must first obtain a certificate of public convenience and necessity from the public service commission in accordance with the provisions of chapter twenty-four [§ 24-1-1 et seq.] of this code, when a public service district is seeking to acquire or construct public service property.

Thirty days prior to making formal application for the certificate, the public service district shall prefile with the public service commission its plans and supporting information for the project and shall publish a Class II legal advertisement in a newspaper or newspapers of general circulation in each city, incorporated town or municipal corporation if available in the public service district, which legal advertisement shall state:

(a) The amount of money to be borrowed, or the amount of revenue bonds to be issued: Provided, That if the amount is an estimate, the notice may be stated in terms of an amount "not to exceed" a specific amount;

(b) The interest rate and terms of the loan or bonds: Provided, That if the interest rate is an estimate, the notice may be stated in terms of a rate "not to exceed" a specific rate;

(c) The public service properties to be acquired or constructed, and the cost of the public service properties;

(d) The anticipated rates which will be charged by the public service district: Provided, That if the rates are an estimate, the notice may be stated in terms of rates "not to exceed" a specific rate; and

(e) The date that the formal application for a certificate of public convenience and necessity is to be filed with the public service commission. The public service commission may grant its consent and approval for the certificate, or any other request for approval under this section, subject to such terms and conditions as may be necessary for the protection of the public interest, pursuant to the provisions of chapter twenty-four of this code, or may withhold such consent and approval for the protection of the public interest.

In the event of disapproval, the reasons for the disapproval shall be assigned in writing by the commission. (1969, 1st Ex. Sess., c. 6; 1981, c. 124; 1986, c. 81; 1996, c. 213; 1997, c. 159.)

Effect of amendment of 1996. — The amendment, in the second paragraph, substituted "Thirty days" for "Sixty days" and inserted "public service" preceding the second occurrence of "district"; inserted "public service" in (d); and made stylistic changes.

Effect of amendment of 1997. — The amendment inserted the second and third sentences of the first paragraph.

ARTICLE 13C.

DRINKING WATER TREATMENT REVOLVING FUND ACT.

Sec.

16-13C-1. Definitions.
16-13C-2. Designation of division of health as state instrumentality; rules; small systems; disadvantaged communities.
16-13C-3. Drinking water treatment revolving fund; duties of division of health and water development authority; set-aside accounts.
16-13C-4. Management of funds.
16-13C-5. Remedies to enforce payment.
16-13C-6. Construction of article.

Effective dates. — Acts 1997, c. 225, provided that the act take effect from passage (April 11, 1997).

---

§ 16-13C-1. Definitions.

Unless the context in which used clearly requires a different meaning, as used in this article:

(1) "Authority" means the water development authority provided for in section four [§ 22C-1-4], article one, chapter twenty-two-c of this code.

(2) "Capacity development" means the technical, managerial and financial capability of a public water system.

(3) "Cost" means the cost of all labor, materials, machinery, equipment, lands, property, rights and easements, plans and specifications and all other expenses necessary or incident to the acquisition, construction, improvement, expansion, extension, repair or rehabilitation of all or part of a project.

State of West Virginia

Certificate

I, Ken Hechler, Secretary of State of the State of West Virginia, hereby certify that

THIS IS A TRUE COPY OF CHAPTER 22C, ARTICLE 2 OF THE WEST VIRGINIA CODE AND CHAPTER 22C, ARTICLE 2 OF THE 1997 CUMULATIVE SUPPLEMENT TO THE WEST VIRGINIA CODE AS INDICATED BY THE RECORDS OF THIS OFFICE.

Given under my hand and the Great Seal of the State of West Virginia on this

Eighth *day of*

December *19* 97

Ken Hechler

Secretary of State

§ 22C-1-25. Meetings and records of authority to be kept public.

All meetings of the authority shall be open to the public and the records of the authority shall be open to public inspection at all reasonable times, except as otherwise provided in this section. All final actions of the authority shall be journalized and such journal shall also be open to the inspection of the public at all reasonable times. Any records or information relating to secret processes or secret methods of manufacture or production which may be obtained by the authority or other persons acting under authority of this article are confidential and shall not be disclosed. (1994, c. 61.)

§ 22C-1-26. Liberal construction of article.

The provisions of this article are hereby declared to be remedial and shall be liberally construed to effectuate its purposes and intents. (1994, c. 61.)

§ 22C-1-27. Authorized limit on borrowing.

The aggregate principal amount of bonds and notes issued by the authority shall not exceed two hundred million dollars outstanding at any one time: Provided, That in computing the total amount of bonds and notes which may at any one time be outstanding, the principal amount of any outstanding bonds or notes refunded or to be refunded either by application of the proceeds of the sale of any refunding bonds or notes of the authority or by exchange for any such refunding bonds or notes, shall be excluded. (1994, c. 61.)

ARTICLE 2.

WATER POLLUTION CONTROL REVOLVING FUND ACT.

Sec.

22C-2-1. Definitions.
22C-2-2. Designation of division of environmental protection as state instrumentality for purposes of capitalization agreements with the United States environmental protection agency.
22C-2-3. West Virginia water pollution control revolving fund; disbursement of fund moneys; administration of the fund.
22C-2-4. Annual audit.
22C-2-5. Collection of money due to the fund.
22C-2-6. State construction grants program established; special fund.
22C-2-7. Environmental review of funded projects.
22C-2-8. Conflicting provisions.

Editor's notes. — The Water Pollution Control Revolving Fund Act was formerly compiled in c. 20, art. 5I.

§ 22C-2-1. Definitions.

Unless the context in which used clearly requires a different meaning, as used in this article:

(a) "Authority" means the water development authority provided for in section four [§ 22C-1-4], article one of this chapter.

(b) "Cost" as applied to any project financed under the provisions of this article means the total of all costs incurred by a local government that are reasonable and necessary for carrying out all works and undertakings necessary or incident to the accomplishment of any project including:

(1) Developmental, planning and feasibility studies, surveys, plans and specifications;

(2) Architectural, engineering, financial, legal or other special services;

(3) Acquisition of land and any buildings and improvements thereon, including the discharge of any obligations of the sellers of such land, buildings or improvements;

(4) Site preparation and development, including demolition or removal of existing structures, construction and reconstruction, labor, materials, machinery and equipment;

(5) The reasonable costs of financing incurred by the local government in the course of the development of the project, carrying charges incurred before placing the project in service, interest on funds borrowed to finance the project to a date subsequent to the estimated date the project is to be placed in service, necessary expenses incurred in connection with placing the project in service, and the funding of accounts and reserves which the authority may require; and

(6) Other items that the division of environmental protection determines to be reasonable and necessary.

(c) "Fund" means the state water pollution control revolving fund provided for in this article as it may be expanded or modified from time to time pursuant to the clean water act, as amended, the federal safe drinking water act, as amended or by the executive order of the governor issued to comply with federal laws relating thereto.

(d) "Instrumentality" means the division of environmental protection or the agency designated by an order of the governor as having the primary responsibility for administering the fund pursuant to the federal clean water act, as amended, and the federal safe drinking water act, as amended, or other federal laws.

(e) "Local government" means any county, city, town, municipal corporation, authority, district, public service district, commission or political subdivision in West Virginia.

(f) "Project" means any public water or wastewater treatment facility located or to be located in or outside this state by a local government and includes:

(1) Sewage and wastewater collection, treatment and disposal facilities;

(2) Public water transportation, treatment and distribution facilities;

(3) Drainage facilities and projects;

(4) Administrative, maintenance, storage and laboratory facilities related to the facilities delineated in subdivisions (1), (2) and (3) of this subsection;

(5) Interests in land related to the facilities delineated in subdivisions (1), (2), (3) and (4) of this subsection; and

(6) Other projects allowable under federal law. (1994, c. 61.)

§ 22C-2-2. Designation of division of environmental protection as state instrumentality for purposes of capitalization agreements with the United States environmental protection agency.

The division of environmental protection shall act as the instrumentality that is empowered to enter into capitalization agreements with the United States environmental protection agency, to accept capitalization grant awards made under the federal clean water act, as amended, the safe drinking water act, as amended, and other federal laws and to otherwise manage the fund provided for in this article in accordance with the requirements of said federal laws. (1994, c. 61.)

§ 22C-2-3. West Virginia water pollution control revolving fund; disbursement of fund moneys; administration of the fund.

(a) Under the direction of the division of environmental protection, the water development authority shall establish, administer and manage a permanent and perpetual fund, to be known as the "West Virginia Water Pollution Control Revolving Fund." The fund shall be comprised of moneys appropriated to said fund by the Legislature, moneys allocated to the state by the federal government expressly for the purposes of establishing and maintaining a state water pollution control revolving fund, all receipts from loans made from the fund to local governments, all income from the investment of moneys held in the fund, and all other sums designated for deposits to the fund from any source, public or private. Moneys in the fund shall be used solely to make loans to local governments to finance or refinance the costs of a project: Provided, That moneys in the fund shall be utilized to defray the costs incurred by the authority and the division of environmental protection in administering the provisions of this article: Provided, however, That moneys in the fund shall be used to make grants for projects to the extent allowed or authorized by federal law.

(b) The director of the division of environmental protection, in consultation with the authority, shall promulgate rules in accordance with the provisions of chapter twenty-nine-a [§ 29A-1-1 et seq.] of this code, to:

(1) Govern the disbursement of moneys from the fund; and

(2) Establish a state water pollution control revolving fund program to direct the distribution of grants or loans from the fund to particular local governments and establish the interest rates and repayment terms of such loans.

(c) In order to carry out the administration and management of the fund, the authority is authorized to employ officers, employees, agents, advisers and

consultants, including attorneys, financial advisers, engineers, other technical advisers and public accountants and, notwithstanding any provisions of this code to the contrary, to determine their duties and compensation without the approval of any other agency or instrumentality.

(d) The authority shall promulgate rules in accordance with the provisions of chapter twenty-nine-a of this code to govern the pledge of loans to secure bonds of the authority.

(e) All moneys belonging to the fund shall be kept in appropriate depositories and secured in conformance with this code. Disbursements from the fund shall be authorized for payment by the director of the authority or the director's designee. Any depository or officer of such depository to which moneys of the fund are paid shall act as trustee of such moneys and shall hold and apply them solely for the purposes for which said moneys are provided under this article. Moneys in the fund shall not be commingled with other money of the authority. If not needed for immediate use or disbursement, moneys in the fund may be invested or reinvested by the authority in obligations or securities which are considered lawful investments for public funds under this code. (1994, c. 61.)

§ 22C-2-4. Annual audit.

The authority shall cause an audit of its books and accounts to be made at least once each fiscal year by certified public accountants, and the cost thereof may be defrayed as a part of the cost of construction of a project or as an administrative expense under the provisions of subsection (a), section three [§ 22C-2-3(a)] of this article. (1994, c. 61.)

§ 22C-2-5. Collection of money due to the fund.

In order to ensure the timely payment of all sums due and owing to the fund under a revolving fund loan agreement between the state and a local government, and notwithstanding any provisions of this code to the contrary, the authority has and may, at its option, exercise the following rights and remedies in the event of any default by a local government under such a loan agreement:

(a) The authority may directly impose, in its own name and for its own benefit, service charges upon all users of a project funded by a loan distributed to a local government pursuant to this article, and may proceed directly to enforce and collect such service charges, together with all necessary costs of such enforcement and collection.

(b) The authority may exercise, in its own name or in the name of and as the agent for a particular local government, all of the rights, powers and remedies of the local government with respect to the project or which may be conferred upon the local government by statute, rule, regulation or judicial decision, including all rights and remedies with respect to users of the project funded by the loan distributed to that local government pursuant to this article.

(c) The authority may, by civil action, mandamus or other judicial or administrative proceeding, compel performance by a local government of all of

the terms and conditions of the loan agreement between the state and that local government including:

(1) The adjustment of service charges as required to repay the loan or otherwise satisfy the terms of the loan agreement;

(2) The enforcement and collection of service charges; and

(3) The enforcement by the local government of all rights and remedies conferred by statute, rule, regulation or judicial decision.

The rights and remedies enumerated in this section are in addition to rights and remedies conferred upon the authority by law or pursuant to the loan agreement. (1994, c. 61.)

§ 22C-2-6. State construction grants program established; special fund.

(a) The director of the division of environmental protection shall promulgate rules in accordance with the provisions of chapter twenty-nine-a [§ 29A-1-1 et seq.] of this code to establish a state construction grants program that is designed to complement and supplement the state water pollution control revolving fund program established pursuant to subsection (b), section three [§ 22C-2-3(b)] of this article.

(b) The special fund designated "The West Virginia Construction Grants Fund" established in the state treasury is continued. The special fund shall be comprised of moneys appropriated to said fund by the Legislature, assessments on existing wastewater treatment facilities, and all other sums designated for deposit to the special fund from any source, public or private: Provided, That such assessments shall be made and collected in accordance with fee schedules to be established by legislative rules promulgated by the director of the division of environmental protection, in accordance with chapter twenty-nine-a of this code. Moneys in the special fund shall be used solely for the state construction grants program established under subsection (a) of this section: Provided, however, That moneys in the special fund may be utilized to defray the costs incurred by the division of environmental protection in administering the provisions of this section. (1994, c. 61.)

§ 22C-2-7. Environmental review of funded projects.

(a) The division of environmental protection shall conduct an environmental review on each project funded under this article. The director of the division of environmental protection shall promulgate rules in accordance with the provisions of chapter twenty-nine-a [§ 29A-1-1 et seq.] of this code to implement the environmental review of funded projects: Provided, That said rules shall be consistent with the rules and regulations promulgated by the United States environmental protection agency pursuant to the federal clean water act, as amended.

(b) The director of the division of environmental protection is authorized to direct a local government, or its agent, to implement all measures that, in the judgment of the director, are necessary in order to mitigate or prevent adverse

impacts to the public health, safety or welfare or to the environment that may result from a project funded under this article. The director is further authorized to require all projects to comply with all other appropriate federal laws and regulations that are required of such projects under the federal clean water act, as amended. (1994, c. 61.)

§ 22C-2-8. Conflicting provisions.

The provisions of this article shall be liberally construed to the end that its beneficial purposes may be effectuated. Insofar as the provisions of this article are inconsistent with the provisions of any other general, special or local law, the provisions of this article are controlling. (1994, c. 61.)

ARTICLE 3.

SOLID WASTE MANAGEMENT BOARD.

Sec.
22C-3-1. Short title.
22C-3-2. Legislative findings; declaration of policy and responsibility; purpose and intent of article.
22C-3-3. Definitions.
22C-3-4. Solid waste management board; organization of board; appointment and qualification of board members; their term of office, compensation and expenses; director of board.
22C-3-5. Board to designate and establish disposal sheds; construction, maintenance, etc., of disposal projects; loan agreements; compliance with federal and state law.
22C-3-6. Powers, duties and responsibilities of board generally.
22C-3-7. Development of state solid waste management plan.
22C-3-8. Power of board to collect service charges and exercise other powers of governmental agencies in event of default; power to require governmental agencies to enforce their rights.
22C-3-9. Development and designation of solid waste disposal sheds by board.
22C-3-10. Board empowered to issue solid waste disposal revenue bonds, renewal notes and refunding bonds; requirements and manner of such issuance.
22C-3-11. Establishment of reserve funds, replacement and improvement funds and sinking funds; fiscal agent; purposes for use of bond proceeds; application of surplus.
Sec.
22C-3-12. Legal remedies of bondholders.
22C-3-13. Bonds and notes not debt of state, county, municipality or of any political subdivision; expenses incurred pursuant to article.
22C-3-14. Use of funds, properties, etc., by board; restrictions thereon.
22C-3-15. Audit of funds disbursed by the board and recipients thereof.
22C-3-16. Rentals, fees, service charges and other revenues from solid waste disposal projects; contracts and leases of board; cooperation of other governmental agencies; bonds of such agencies.
22C-3-17. Maintenance, operation and repair of projects; repair of damaged property; reports by board to governor and Legislature.
22C-3-18. Solid waste disposal revenue bonds lawful investments.
22C-3-19. Exemption from taxation.
22C-3-20. Governmental agencies authorized to convey property.
22C-3-21. Financial interest in contracts, projects, etc., prohibited; gratuities prohibited; penalty.
22C-3-22. Conduct of proceedings of board.
22C-3-23. Regulation of solid waste collectors and haulers to continue under public service commission; bringing about their compliance with solid waste disposal shed plan and solid waste disposal projects; giving testimony at commission hearings.
22C-3-24. Cooperation of board and enforcement agencies in collecting and disposing of abandoned house-

WEST VIRGINIA CODE

ANNOTATED

VOLUME 8A

1994 Replacement

1997 Supplement

Including Acts passed during the 1997 Regular and First Extraordinary Sessions

Prepared by the Editorial Staff of the Publishers

Under the Supervision of

RICHARD W. WALTER, JR.
PETER R. ROANE
RUTH P. KNIGHT
LYNN P. SEUFFERT

Place in pocket of corresponding bound volume

MICHIE
CHARLOTTESVILLE, VIRGINIA
1997

(4) The agreement of the governmental agency to comply with all applicable laws, rules and regulations issued by the authority or other state, federal and local bodies in regard to the construction, operation, maintenance and use of the project. (1994, c. 61; 1995, c. 252.)

Effect of amendment of 1995. — The amendment, in the first sentence of the introductory paragraph, substituted "the financing" for "a loan" preceding "for a new water development project," inserted "regardless of the source of the financing for the new project" preceding the proviso, substituted "the aggregate amount of the refinancing of an existing project and the financing of a new project" for "the loan to the governmental agency"; and made stylistic changes throughout.

Quoted in State ex rel. Water Dev. Auth. v. Northern Wayne County Pub. Serv. Dist., 195 W. Va. 135, 464 S.E.2d 777 (1995).

§ 22C-1-7. Power of authority to collect service charges and exercise other powers of governmental agencies in event of default; power to require governmental agencies to enforce their rights.

Authority. — This section authorizes the water development authority to directly impose on a public service district "in its own name and for its own benefit service charges determined by it to be necessary" when the public service district defaults on a loan made by the water development authority to the public service district; however, the water development authority's power to impose such service charges upon the public service district which operates a public utility is subject to the regulatory review and approval of the public service commission pursuant to § 24-2-1. State ex rel. Water Dev. Auth. v. Northern Wayne County Pub. Serv. Dist., 195 W. Va. 135, 464 S.E.2d 777 (1995).

§ 22C-1-9. Authority empowered to issue water development revenue bonds, renewal notes and refunding bonds; requirements and manner of such issuance.

Cited in State ex rel. Water Dev. Auth. v. Northern Wayne County Pub. Serv. Dist., 195 W. Va. 135, 464 S.E.2d 777 (1995).

§ 22C-1-12. Legal remedies of bondholders and trustees.

Cited in State ex rel. Water Dev. Auth. v. Northern Wayne County Pub. Serv. Dist., 195 W. Va. 135, 464 S.E.2d 777 (1995).

§ 22C-1-18. Water development bonds lawful investments.

Editor's notes. — Former § 12-6-9, referred to in this section, concerned loans to the state, purpose for which moneys transferred could be disbursed and expended, terms and conditions for repayment, and the creation of a special account in the state treasury, and was repealed by Acts 1996, c. 258. For new law see § 44-6B-1 et seq.

§ 22C-1-27. Authorized limit on borrowing.

The aggregate principal amount of bonds and notes issued by the authority shall not exceed three hundred million dollars outstanding at any one time: Provided, That in computing the total amount of bonds and notes which may at any one time be outstanding, the principal amount of any outstanding bonds or notes refunded or to be refunded either by application of the proceeds of the sale of any refunding bonds or notes of the authority or by exchange for any refunding bonds or notes, shall be excluded. (1994, c. 61; 1995, c. 252.)

Effect of amendment of 1995. — The amendment substituted "three hundred million dollars" for "two hundred million dollars"; and deleted "such" preceding "refunding bonds."

ARTICLE 2.

WATER POLLUTION CONTROL REVOLVING FUND ACT.

Sec.
22C-2-1. Definitions.
22C-2-3. West Virginia water pollution control revolving fund; disbursement of fund moneys; administration of the fund.
22C-2-5. Collection of money due to the fund.
22C-2-7. Environmental review of funded projects.

§ 22C-2-1. Definitions.

Unless the context in which used clearly requires a different meaning, as used in this article:

(a) "Authority" means the water development authority provided for in section four [§ 22C-1-4], article one of this chapter.

(b) "Cost" as applied to any project financed under the provisions of this article means the total of all costs incurred by a local entity that are reasonable and necessary for carrying out all works and undertakings necessary or incident to the accomplishment of any project including:

(1) Developmental, planning and feasibility studies, surveys, plans and specifications;

(2) Architectural, engineering, financial, legal or other special services;

(3) Acquisition of land and any buildings and improvements on the land or buildings, including the discharge of any obligations of the sellers of the land, buildings or improvements;

(4) Site preparation and development, including demolition or removal of existing structures, construction and reconstruction, labor, materials, machinery and equipment;

(5) The reasonable costs of financing incurred by the local entity in the course of the development of the project, carrying charges incurred before placing the project in service, interest on funds borrowed to finance the project to a date subsequent to the estimated date the project is to be placed in service, necessary expenses incurred in connection with placing the project in service, and the funding of accounts and reserves which the authority may require; and

(6) Other items that the division of environmental protection determines to be reasonable and necessary.

(c) "Fund" means the state water pollution control revolving fund provided for in this article as it may be expanded or modified from time to time pursuant to the clean water act, as amended, the federal safe drinking water act, as amended or by the executive order of the governor issued to comply with federal laws relating to the acts.

(d) "Instrumentality" means the division of environmental protection or the agency designated by an order of the governor as having the primary responsibility for administering the fund pursuant to the federal clean water act, as amended, and the federal safe drinking water act, as amended, or other federal laws.

(e) "Local entity" means any county, city, town, municipal corporation, authority, district, public service district, commission, banking institution or political subdivision in West Virginia.

(f) "Project" means any public water or wastewater treatment facility located or to be located in or outside this state by a local entity and includes:

(1) Sewage and wastewater collection, treatment and disposal facilities;

(2) Public water transportation, treatment and distribution facilities;

(3) Drainage facilities and projects;

(4) Administrative, maintenance, storage and laboratory facilities related to the facilities delineated in subdivisions (1), (2) and (3) of this subsection;

(5) Interests in land related to the facilities delineated in subdivisions (1), (2), (3) and (4) of this subsection; and

(6) Other projects allowable under federal law. (1994, c. 61; 1996, c. 257.)

Effect of amendment of 1996. — The amendment substituted "entity" for "government" throughout the section; in (b)(3), substituted "on the land or buildings" for "thereon" and "the land" for "such land"; in (c), substituted "to the acts" for "thereto"; and, in (e), inserted "banking institution" following "commission."

§ 22C-2-3. West Virginia water pollution control revolving fund; disbursement of fund moneys; administration of the fund.

(a) Under the direction of the division of environmental protection, the water development authority shall establish, administer and manage a permanent and perpetual fund, to be known as the "West Virginia Water Pollution Control Revolving Fund." The fund shall be comprised of moneys appropriated to the fund by the Legislature, moneys allocated to the state by the federal government expressly for the purposes of establishing and maintaining a state water pollution control revolving fund, all receipts from loans made from the fund to local entities, all income from the investment of moneys held in the fund, and all other sums designated for deposits to the fund from any source, public or private. Moneys in the fund shall be used solely to make loans to local entities to finance or refinance the costs of a project: Provided, That moneys in the fund shall be utilized to defray the costs incurred by the authority and the division of environmental protection in administering the provisions of this

article: Provided, however, That moneys in the fund shall be used to make grants for projects to the extent allowed or authorized by federal law.

(b) The director of the division of environmental protection, in consultation with the authority, shall promulgate legislative rules in accordance with the provisions of article three [§ 29A-3-1 et seq.], chapter twenty-nine-a of this code, to:

(1) Govern the disbursement of moneys from the fund; and

(2) Establish a state water pollution control revolving fund program to direct the distribution of grants or loans from the fund to particular local entities and establish the interest rates and repayment terms of the loans.

(c) In order to carry out the administration and management of the fund, the authority is authorized to employ officers, employees, agents, advisers and consultants, including attorneys, financial advisers, engineers, other technical advisers and public accountants and, notwithstanding any provisions of this code to the contrary, to determine their duties and compensation without the approval of any other agency or instrumentality.

(d) The authority shall promulgate legislative rules in accordance with the provisions of article three [§ 29A-3-1 et seq.], chapter twenty-nine-a of this code to govern the pledge of loans to secure bonds of the authority.

(e) All moneys belonging to the fund shall be kept in appropriate depositories and secured in conformance with this code. Disbursements from the fund shall be authorized for payment by the director of the authority or the director's designee. Any depository or officer of the depository to which moneys of the fund are paid shall act as trustee of the moneys and shall hold and apply them solely for the purposes for which the moneys are provided under this article. Moneys in the fund shall not be commingled with other money of the authority. If not needed for immediate use or disbursement, moneys in the fund may be invested or reinvested by the authority in obligations or securities which are considered lawful investments for public funds under this code. (1994, c. 61; 1996, c. 257.)

Effect of amendment of 1996. — The amendment substituted "entities" for "governments" throughout the section; in (b) and (d), inserted "legislative" preceding "rules" and "article three" preceding "chapter twenty-nine-a"; and made stylistic changes.

§ 22C-2-5. Collection of money due to the fund.

In order to ensure the timely payment of all sums due and owing to the fund under a revolving fund loan agreement between the state and a local entity, and notwithstanding any provisions of this code to the contrary, the authority has and may, at its option, exercise the following rights and remedies in the event of any default by a local entity under a loan agreement:

(a) The authority may directly impose, in its own name and for its own benefit, service charges upon all users of a project funded by a loan distributed to a local entity pursuant to this article, and may proceed directly to enforce and collect the service charges, together with all necessary costs of the enforcement and collection.

(b) The authority may exercise, in its own name or in the name of and as the agent for a particular local entity, all of the rights, powers and remedies of the local entity with respect to the project or which may be conferred upon the local entity by statute, rule, regulation or judicial decision, including all rights and remedies with respect to users of the project funded by the loan distributed to that local entity pursuant to this article.

(c) The authority may, by civil action, mandamus or other judicial or administrative proceeding, compel performance by a local entity of all of the terms and conditions of the loan agreement between the state and that local entity including:

(1) The adjustment of service charges as required to repay the loan or otherwise satisfy the terms of the loan agreement;

(2) The enforcement and collection of service charges; and

(3) The enforcement by the local entity of all rights and remedies conferred by statute, rule, regulation or judicial decision.

The rights and remedies enumerated in this section are in addition to rights and remedies conferred upon the authority by law or pursuant to the loan agreement. (1994, c. 61; 1996, c. 257.)

Effect of amendment of 1996. — The amendment substituted "government" for "entity" throughout; and made minor stylistic changes.

§ 22C-2-7. Environmental review of funded projects.

(a) The division of environmental protection shall conduct an environmental review on each project funded under this article. The director of the division of environmental protection shall promulgate legislative rules in accordance with the provisions of article three [§ 29A-3-1 et seq.], chapter twenty-nine-a of this code to implement the environmental review of funded projects: Provided, That the rules shall be consistent with the regulations promulgated by the United States environmental protection agency pursuant to the federal clean water act, as amended.

(b) The director of the division of environmental protection is authorized to direct a local entity, or its agent, to implement all measures that, in the judgment of the director, are necessary in order to mitigate or prevent adverse impacts to the public health, safety or welfare or to the environment that may result from a project funded under this article. The director is further authorized to require all projects to comply with all other appropriate federal laws and regulations that are required of the projects under the federal clean water act, as amended. (1994, c. 61; 1996, c. 257.)

Effect of amendment of 1996. — The amendment, in (a), inserted "legislative" preceding "rules in accordance" and "article three" preceding "chapter twenty-nine-a," substituted "the rules" for "said rules," and deleted "rules and" preceding "regulations promulgated"; and, in (b), substituted "entity" for "government" and "the projects" for "such projects."

ARTICLE 3.

SOLID WASTE MANAGEMENT BOARD.

§ 22C-3-18. Solid waste disposal revenue bonds lawful investments.

Editor's notes. — Former § 12-6-9, referred to in this section, concerned loans to the state, purpose for which moneys transferred could be disbursed and expended, terms and conditions for repayment, and the creation of a special account in the state treasury, and was repealed by Acts 1996, c. 258. For new law see § 44-6B-1 et seq.

ARTICLE 4.

COUNTY AND REGIONAL SOLID WASTE AUTHORITIES.

§ 22C-4-3. Creation of county solid waste authority; appointment to board of directors; vacancies.

Cited in Wetzel County Solid Waste Auth. v. West Virginia Div. of Natural Resources, 195 W. Va. 1, 462 S.E.2d 349 (1995).

§ 22C-4-8. Authority to develop litter and solid waste control plan; approval by solid waste management board; development of plan by director; advisory rules.

Quoted in Wetzel County Solid Waste Auth. v. West Virginia Div. of Natural Resources, 195 W. Va. 1, 462 S.E.2d 349 (1995).

§ 22C-4-23. Powers, duties and responsibilities of authority generally.

Quoted in Wetzel County Solid Waste Auth. v. West Virginia Div. of Natural Resources, 195 W. Va. 1, 462 S.E.2d 349 (1995).

ARTICLE 7.

OIL AND GAS INSPECTORS' EXAMINING BOARD.

Sec.

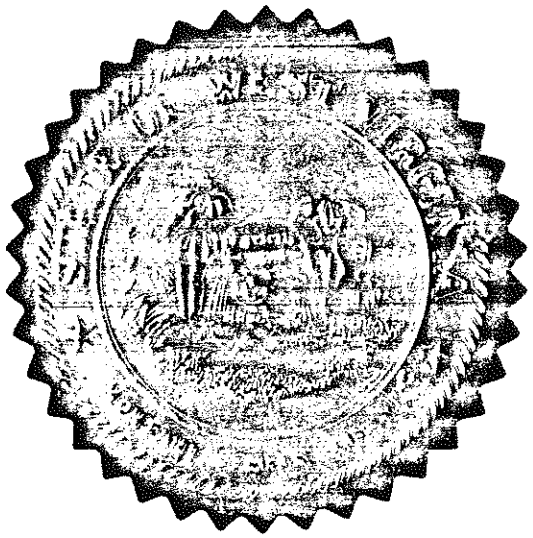
22C-7-3. Oil and gas inspectors' examining board created; composition; appointment, term and compensation of members; meetings; powers and duties generally; continuation following audit.

State of West Virginia

Certificate

I, Ken Hechler, Secretary of State of the State of West Virginia, hereby certify that

THIS IS A TRUE COPY OF CHAPTER 31, ARTICLE 15A OF THE WEST VIRGINIA CODE AND CHAPTER 31, ARTICLE 15A OF THE 1997 CUMULATIVE SUPPLEMENT TO THE WEST VIRGINIA CODE AS INDICATED BY THE RECORDS OF THIS OFFICE.



Given under my hand and the Great Seal of the State of West Virginia on this

Eighth *day of*

December *19* 97

Ken Hechler

Secretary of State

between the authority and such federal agency and that the authority shall continue to have and exercise all powers granted for carrying out the purposes of this article for so long as necessary. (1989, c. 54.)

§ 31-15-29. Audits.

As soon as possible after the close of each fiscal year, the authority shall make an annual report of its activities for the preceding fiscal year to the governor and the Legislature. Each such report shall set forth a complete operating and financial statement covering the authority's operations during the preceding fiscal year. The authority shall cause an audit of its books and accounts to be made at least once each fiscal year by certified public accountants and the cost thereof may be treated as a part of the cost of construction or of operations of its projects. (1989, c. 54.)

§ 31-15-30. Projects not to be considered public improvements.

No project, enterprise or business facility which conducts as its primary activity a manufacturing process or other nongovernmental or nonpublic activity may be deemed to be a "public improvement" within the meaning of the provisions of article five-a [§ 21-5A-1 et seq.], chapter twenty-one of this code. (1989, c. 54.)

§ 31-15-31. Foreign trade zones; authority approval.

Any public corporation located in the state is hereby authorized to apply for, develop, maintain and operate a foreign trade zone in the state pursuant to and in accordance with all applicable provisions of federal law: Provided, That any public corporation desiring to apply for or develop a foreign trade zone must first receive the approval of the authority. (1989, c. 54.)

§ 31-15-32. Severability.

If any section, subsection, subdivision, subparagraph, sentence or clause of this article is adjudged to be unconstitutional or invalid, such adjudication shall not affect the validity of the remaining portions of this article, and, to this end, the provisions of this article are hereby declared to be severable. (1989, c. 54.)

§ 31-15-33. Construction.

The provisions of this article are remedial and shall be liberally construed and applied so as to promote the purposes set out in section three [§ 31-15-3] of this article. (1989, c. 54.)

ARTICLE 15A.

WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL.

Sec.
31-15A-1. Short title.
31-15A-2. Definitions.
31-15A-3. West Virginia infrastructure and jobs development council continued; members of council; staff of council.
31-15A-4. Development of guidelines and preliminary application for funding assistance.
31-15A-5. Requirements for project funding assistance; review of project preliminary applications by council.
31-15A-6. Powers, duties and responsibilities of the council generally; comprehensive assessment.
31-15A-7. Current and prospective planning; roads and highways; report to division of highways.
31-15A-8. Exemption of certain emergency projects from certificate of public convenience and necessity requirements; review of certain emergency projects by public service commission; and exemption for North Fork Hughes River watershed project.
31-15A-9. Infrastructure fund; deposits in fund; disbursements to provide loans, loan guarantees, grants and other assistance; loans, loan guarantees, grants and other assistance shall be subject to assistance agreements.
31-15A-10. Recommendations by council for expenditures of funds by loan, grant or for engineering assistance.
31-15A-11. Reservation of funds for projects and infrastructure projects.
31-15A-12. Additional powers of water development authority.
31-15A-13. Prohibition on funds inuring to the benefit of or being distributable to water development board; transactions between the water development board and officers having certain interests in such transactions.
31-15A-14. Termination or dissolution.
31-15A-15. Projects not to be considered public improvements; competitive bid requirements.
31-15A-16. Dedication of severance tax proceeds.

§ 31-15A-1. Short title.

This article shall be known and may be cited as the "West Virginia Infrastructure and Jobs Development Act." (1994, 1st Ex. Sess., c. 26.)

§ 31-15A-2. Definitions.

For purposes of this article:

(a) "Code" means the code of West Virginia, one thousand nine hundred thirty-one, as amended;

(b) "Cost" means, as applied to any project to be financed in whole or in part with infrastructure revenues or funds otherwise provided pursuant to this article, the cost of planning, acquisition, improvement and construction of the project; the cost of preliminary design and analysis, surveys, borings; the cost of environmental, financial, market and engineering feasibility studies, assessments, applications, approvals, submissions or clearances; the cost of preparation of plans and specifications and other engineering services; the cost of acquisition of all land, rights-of-way, property rights, easements, franchise rights and any other interests required for the acquisition, repair, improvement or construction of the project; the cost of demolishing or removing any

buildings or structures on land so acquired, including the cost of acquiring any lands to which buildings or structures may be moved; the cost of excavation, grading, shaping or treatment of earth, demolishing or removing any buildings or structures; the cost of constructing any buildings or other improvements; the cost of all pumps, tanks, vehicles, apparatus and other machinery, furnishings and equipment; loan or origination fees and all finance charges and interest incurred prior to and during the construction and for no more than six months after completion of construction; the cost of all legal services and expenses; the cost of all plans, specifications, surveys and estimates of cost; all working capital and other expenses necessary or incident to determining the feasibility or practicability of acquiring, repairing, improving or constructing any project; the cost of placing any project in operation; and all other costs and expenses of any kind or nature incurred or to be incurred by the project sponsor developing the project that are reasonable and necessary for carrying out all works and undertakings necessary or incident to the accomplishment of any project: Provided, That costs shall not include any amounts related to the ongoing operations of the owner or operator, depreciation thereof or any other cost which the council or the water development authority has not determined to be consistent with the purposes and objectives of this article;

(c) "Council" means the West Virginia infrastructure and jobs development council created in section three [§ 31-15A-3] of this article;

(d) "Division of environmental protection" means the division of environmental protection established under article one [§ 22-1-1 et seq.], chapter twenty-two of this code, or any successor to all or any substantial part of its powers and duties;

(e) "Division of health" means the division of health created in article one [§ 16-1-1 et seq.], chapter sixteen of this code, or any successor to all or any substantial part of its powers and duties;

(f) "Economic development authority" means the economic development authority established under article fifteen [§ 31-15-1 et seq.], chapter thirty-one of the code, or any successor to all or any substantial part of its powers and duties;

(g) "Emergency project" means a project which the council has determined (i) is essential to the immediate economic development of an area of the state and (ii) will not likely be developed in that area if construction of the project is not commenced immediately;

(h) "Governmental agency" means any county; municipality; watershed improvement district; assessment district; soil conservation district; sanitary district; public service district; drainage district; regional governmental authority and any other state governmental agency, entity, political subdivision or public corporation or agency authorized to acquire, construct or operate water or waste water facilities or infrastructure projects;

(i) "Housing development fund" means the West Virginia housing development fund established under article eighteen [§ 31-18-1 et seq.] of this chapter, or any successor to all or any substantial part of its powers and duties;

(j) "Infrastructure fund" means the West Virginia infrastructure fund created and established in section nine [§ 31-15A-9] of this article;

(k) "Infrastructure project" means a project in the state which the council determines is likely to foster and enhance economic growth and development in the area of the state in which the project is developed, for commercial, industrial, community improvement or preservation or other proper purposes, including, without limitation, tourism and recreational housing, land, air or water transportation facilities and bridges, industrial or commercial projects and facilities, mail order, warehouses, wholesale and retail sales facilities and other real and personal properties, including facilities owned or leased by this state or any other project sponsor, and includes, without limitation (1) the process of acquiring, holding, operating, planning, financing, demolition, construction, improving, expanding, renovation, leasing or otherwise disposing of the project or any part thereof or interest therein, and (2) preparing land for construction and making, installing or constructing improvements on the land, including water or waste water facilities or any part thereof, steam, gas, telephone and telecommunications and electric lines and installations, roads, bridges, railroad spurs, buildings, docking and shipping facilities, curbs, gutters, sidewalks, and drainage and flood control facilities, whether on or off the site;

(l) "Infrastructure revenue" means all amounts appropriated by the Legislature; all amounts deposited into the infrastructure fund; any amounts received, directly or indirectly, from any source for the use of all or any part of any project completed pursuant to this article; and any other amounts received by the state treasurer, council or the water development authority for the purposes of this article;

(m) "Project" means any waste water facility, water facility project or any combination thereof, constructed or operated or to be constructed or operated by a project sponsor;

(n) "Project sponsor" means any governmental agency or person, or any combination thereof, including, but not limited to, any public utility, which intends to plan, acquire, construct, improve or otherwise develop a project;

(o) "Public service commission" means the public service commission of West Virginia created and established under section three [§ 24-1-3], article one, chapter twenty-four of this code, or any successor to all or any substantial part of its powers and duties;

(p) "Person" means any individual, corporation, partnership, association, limited liability company or any other form of business organization;

(q) "Public utility" means any person or persons, or association of persons, however associated, whether incorporated or not, including, without limitation, any governmental agency, operating a waste water facility or water facility as a public service, which is regulated by the public service commission as a public utility under chapter twenty-four [§ 24-1-1 et seq.] of this code or which is required to file its tariff with the public service commission;

(r) "State development office" means the West Virginia development office established under article two [§ 5B-2-1 et seq.], chapter five-b of this code, or any successor to all or any substantial part of its powers and duties;

(s) "State infrastructure agency" means the division of health, division of environmental protection, housing development fund, public service commis-

sion, state development office, water development authority, economic development authority and any other state agency, division, body, authority, commission, instrumentality or entity which now or in the future receives applications for the funding of, and provides funding or technical assistance to, the planning, acquisition, construction or improvement of a project;

(t) "Waste water facility" means all facilities, land and equipment used for or in connection with treating, neutralizing, disposing of, stabilizing, cooling, segregating or holding waste water, including, without limitation, facilities for the treatment and disposal of sewage, industrial wastes or other wastes, waste water, and the residue thereof; facilities for the temporary or permanent impoundment of waste water, both surface and underground; and sanitary sewers or other collection systems, whether on the surface or underground, designed to transport waste water together with the equipment and furnishings therefor or thereof and their appurtenances and systems, whether on the surface or underground including force mains and pumping facilities therefor;

(u) "Water development authority" means the West Virginia water development authority established under article five-c [§ 20-5C-1 et seq., repealed], chapter twenty of this code, or any successor to all or any substantial part of its powers and duties; and

(v) "Water facility" means all facilities, land and equipment used for or in connection with the collection and/or storage of water, both surface and underground, transportation of water, storage of water, treatment of water and distribution of water all for the purpose of providing potable, sanitary water suitable for human consumption and use. (1994, 1st Ex. Sess., c. 26.)

Editor's notes. — Former § 20-5C-1 et seq., referred to in (u), was repealed by Acts 1994, c. 61. For provisions similar to former § 20-5C-1 et seq., see § 22C-1-1 et seq.

§ 31-15A-3. West Virginia infrastructure and jobs development council continued; members of council; staff of council.

(a) The West Virginia infrastructure and jobs development council is hereby continued. The council is a governmental instrumentality of the state. The exercise by the council of the powers conferred by this article and the carrying out of its purpose and duties shall be considered and held to be, and are hereby determined to be, essential governmental functions and for a public purpose.

(b) The council shall consist of eleven members, including the executive director of the housing development fund or his or her designee, the director of the division of environmental protection or his or her designee, the director of the economic development authority or his or her designee, the director of the water development authority or his or her designee, the executive director of the state development office or his or her designee, the director of the division of health or his or her designee, the chairman of the public service commission or his or her designee, and four members representing the general public: Provided, That there shall be at least one member representing the general public from each congressional district: Provided, however, That after the expiration of the term of office of the members first appointed as representatives of the general public, no more than one member representing the general public may be a resident of the same county. The governor shall appoint the public members of the council who shall serve three-year staggered terms. The commissioner of the division of highways, the executive director of the state rail authority, two members of the West Virginia Senate, two members of the West Virginia House of Delegates, one representative of the board of directors of the state college system and one representative of the board of trustees of the university of West Virginia shall serve as advisory members of the council. The governor shall appoint the legislative members of the council: Provided, further, That no more than three of the legislative members may be of the same political party. The governor shall appoint the representatives of the governing boards from a list of three names submitted by each governing board. The advisory members shall be ex officio, nonvoting members of the council.

(c) The council shall annually elect one of its members as chairman, and shall appoint a secretary, who need not be a member of the council and who shall keep records of its proceedings. Six members of the council shall constitute a quorum and the affirmative vote of at least the majority of those members present shall be necessary for any action taken by vote of the council. No vacancy in the membership of the council impairs the rights of a quorum by such vote to exercise all the rights and perform all the duties of the council.

(d) No member of the council who serves by virtue of his or her office shall receive any compensation or reimbursement of expenses for serving as a member. The members of the council who represent the general public shall receive reimbursement for actual expenses incurred in the service of the council.

(e) The council shall meet at least monthly to review projects and infrastructure projects requesting funding assistance and otherwise to conduct its business, and shall meet more frequently if necessary. Notwithstanding any other provision of this article to the contrary, the economic development authority shall not be subject to council review with regard to any action taken pursuant to the authority established in article fifteen [§ 31-15-1 et seq.], chapter thirty-one of this code nor shall the governor's civil contingent fund be subject to council review with regard to projects or infrastructure projects funded through the governor's civil contingent fund.

(f) The water development authority shall provide office space for the council, and each governmental agency represented on the council shall provide staff support for the council in the manner determined by the council from time to time.

(g) The council shall invite to all its meetings one or more representatives of the United States department of agriculture, rural economic community development, the United States economic development agency and the United States army corps of engineers or any successors thereto. The council shall also invite such other appropriate parties as may be necessary to effectuate the purposes of this article. (1994, 1st Ex. Sess., c. 26; 1995, c. 130.)

Effect of amendment of 1995. — The amendment, effective March 10, 1995, in (a), rewrote the first sentence and substituted "is" for "shall be" in the second sentence; in (b), substituted "eleven members" for "nine members" following "shall consist of," substituted

"four members" for "two members" preceding "representing the general public", added the provisos at the end of the first sentence, and made minor punctuation changes; substituted "six members" for "five members" in the second sentence in (c); and rewrote (d), (e), and (g).

§ 31-15A-4. Development of guidelines and preliminary application for funding assistance.

(a) To implement and carry out the intent of this article, the council shall promulgate legislative rules in accordance with article three [§ 29A-3-1 et seq.], chapter twenty-nine-a of this code to develop comprehensive, uniform guidelines for use by the council and other state infrastructure agencies in evaluating any request by a project sponsor for funding assistance to plan, acquire, construct, improve or otherwise develop a project or infrastructure project. The guidelines shall include the following factors: (1) the public health benefits of the project or infrastructure project; (2) the economic development benefits of the project or infrastructure project; (3) the degree to which the project or infrastructure project will correct deficiencies in the compliance of water supply or sewage treatment facilities with state or federal laws, regulations or standards; (4) the degree to which the project or infrastructure project encourages effective and efficient consolidation of water or sewage treatment systems consistent with the comprehensive plan developed pursuant to section six [§ 31-15A-6], of this article; (5) the cost effectiveness of the project or infrastructure project as compared with alternatives which achieve substantially the same public health or economic development benefits, including the consideration of providing maximum feasible fire protection; (6) the availability of alternative sources of funding which could finance all or a part of the project and infrastructure project, and the need for the assistance of the council to finance the project or infrastructure project or attract other sources of funding; (7) the applicant's ability to operate and maintain the system if the project or infrastructure project is approved; (8) the degree to which the project or infrastructure project achieves other state or regional planning goals; (9) the estimated date upon which the project or infrastructure project could commence if funding were available and the estimated completion date of the project or infrastructure project; and (10) such other considerations as the council may consider necessary or appropriate to accomplish the purpose and intent of this article.

(b) The council shall create a preliminary application form which shall be used by all project sponsors requesting funding assistance from state infrastructure agencies to plan, acquire, construct, improve or otherwise develop an infrastructure project or project. The preliminary application form shall contain all information required by all state infrastructure agencies that will be required to issue permits and/or certificates regarding the project or infrastructure project. The preliminary application shall require the project sponsor to set forth the type and proposed location of the infrastructure project or project; the estimated total cost of the project; the amount of funding assistance required and the specific uses of the funding; other sources of funding available or potentially available for the infrastructure project or project; information demonstrating the need for the infrastructure project or

project and that the proposed funding of the project is the most economically feasible and viable alternative to completing the project or infrastructure project; and such other information as the council considers necessary to enable it to recommend the type of project or infrastructure project financing, in terms of the kind, amount and source of funding, which the project sponsor should pursue and which the state infrastructure agency or agencies should consider an appropriate investment of public funds, and to otherwise carry out the intent of this article. (1994, 1st Ex. Sess., c. 26.)

§ 31-15A-5. Requirements for project funding assistance; review of project preliminary applications by council.

(a) No project sponsor may apply for or receive any loan, loan guarantee, grant or other funding assistance for a project or infrastructure project from any state infrastructure agency (i) unless the project sponsor requiring the funding assistance first submits a completed preliminary application to the council on the form prepared for such purpose by the council pursuant to section four of this article, and (ii) except as may be recommended by the council after consideration of the preliminary application: Provided, That any project sponsor which has an infrastructure project or project with either acceptable bids or all funding in place on the effective date of this act is not required to comply with the provisions of this section.

(b) The council shall, within thirty days of receipt of each completed preliminary application submitted to it, review the preliminary application and either (i) make a written recommendation as to the infrastructure project or project financing, in terms of the kind, amount and source of funding, which the project sponsor submitting the application should pursue and which the state infrastructure agency or agencies should consider an appropriate investment of public funds, or (ii) if the council determines that (1) the proposed project or infrastructure project is not eligible for funding assistance from any state infrastructure agency, or (2) the proposed project or infrastructure project is not otherwise an appropriate or prudent investment of state funds, the council shall recommend that the project sponsor not seek funding from any state infrastructure agency. A project sponsor shall include the preliminary application and the council's recommendations in any application to a state infrastructure agency.

(c) The council shall provide a copy of its recommendation with respect to each preliminary application, together with a copy of the preliminary application, to all appropriate state infrastructure agencies, which shall take into account the council's recommendations with respect to a project or infrastructure project before taking any action with respect to the project. No state infrastructure agency shall take any action inconsistent with the recommendation of the council unless the governing body of the agency, or the head of the agency if it has no governing body, expressly finds and determines that the recommendation is not in the best interest of the state or the area in which the proposed infrastructure project or project is to be located.

(d) In reviewing each preliminary application, the council shall use the engineering, financial and technical expertise of the respective staffs of the state infrastructure agencies represented on the council so as to recommend for funding those projects or infrastructure projects which are consistent with the purposes and intent of this article and with the policies and priorities of this state generally. The council may include in its findings a recommendation that a state infrastructure agency consider technical reports on the project prepared by other infrastructure agencies or by any federal agency. (1994, 1st Ex. Sess., c. 26.)

§ 31-15A-6. Powers, duties and responsibilities of the council generally; comprehensive assessment.

(a) In addition to the powers set forth elsewhere in this article, the council is hereby granted, has and may exercise all powers necessary or appropriate to carry out and effectuate the purposes and intent of this article. The council shall have the power and capacity to:

(1) Provide consultation services to project sponsors in connection with the planning, acquisition, improvement, construction or development of any infrastructure project or project;

(2) Periodically prepare a list of infrastructure projects or projects which cannot meet the established funding guidelines of the various state infrastructure agencies, other than the housing development fund, but which are consistent with the mandates of this article and recommend to the water development authority that it make a grant or loan to the project sponsors from the infrastructure fund to finance the cost of one or more such projects or infrastructure projects;

(3) Do all other acts necessary and proper to carry out the powers expressly granted to the authority in this article; and

(4) To make and execute contracts, commitments and obligations and other instruments necessary or convenient for the exercise of its powers.

(b) The council shall develop a comprehensive statewide inventory of water supply systems and sewage treatment systems and an assessment of current and future needs by the first day of July, one thousand nine hundred ninety-six. The assessment shall identify the areas of the state which do not have adequate public water or sewage systems and offer recommendations for the construction of new facilities or the extension or expansion of existing facilities to meet the identified needs. The council shall include in the assessment an identification of the obstacles, issues and problems which prevent or inhibit development of adequate infrastructure throughout the state, including financial, governmental, physical, or geographical factors and make recommendation as the council considers appropriate regarding the obstacles, issues or problems identified. This comprehensive inventory and assessment shall be updated at least once in every three year period after the initial assessment and inventory is completed.

(c) The council shall study the viability of the consolidation of public service districts throughout the state: Provided, That the study shall encompass not

only public service districts but also any and all entities which provide or supply water and sewer service to the general public: Provided, however, That the council shall, in the preparation of the study, consult with the public service district division of the public service commission and representatives of the West Virginia rural water association and the West Virginia association of public service districts, as needed. The council shall report their findings and conclusions on or before the sixteenth of January of the year one thousand nine hundred ninety-five to the governor, speaker of the house of delegates and president of the senate. (1994, 1st Ex. Sess., c. 26.)

§ 31-15A-7. Current and prospective planning; roads and highways; report to division of highways.

(a) The council shall take into account the current and prospective infrastructure needs in relation to plans of the division of highways for the development and building of new roads. Upon completion an environmental impact study, the commissioner of highways shall provide the council with plans for any and all new roads. In a timely manner, the council shall advise the commissioner of the division of highways on the feasibility of the expansion of new or existing water and sewer lines concomitant to the construction of the new roads.

(b) The council has the authority to appoint local infrastructure planning teams. The local infrastructure planning teams may consist of the following: A designee of the division of highways from the region where the new road is being built; a designee of the division of highways from the central state office; a designee from the environmental engineers division of the department of health and human resources; a designee from the local developmental authority where the new road is being built; a designee from the regional developmental authority in the area where the new road is being built; a designee from the public service commission; a designee from the division of environmental protection; a designee from the county commission where the new road is being built who shall serve as chairperson of the planning team; a citizen of the county where the new road is being built to be chosen by the county commission; and the elected state delegates and senators from the area where the new road is being built. In order to avoid delay of any highway project, immediately upon appointment of a local infrastructure planning team, the director of the division of highways shall submit to the council a time frame within which the planning team must act and within which the planning team must submit any plans, maps, recommendations or reports developed pursuant to this subsection. The local infrastructure planning team shall meet prior to the development and building of a new road. Members of the local infrastructure planning team shall only receive payment for actual expenses incurred. The local infrastructure planning team shall advise the commissioner of the division of highways on the feasibility of an infrastructure plan. The local infrastructure planning team shall meet to develop an infrastructure plan that includes an assessment study of existing water and sewer lines and a feasibility study on future development and laying of water and sewer lines.

After these studies are completed, a developmental map shall be drawn of the proposed road route with overlays of the proposed water and sewer lines. These studies and the map shall be presented to the commissioner of the division of highways and shall be used by the commissioner in the planning, developing and building of the road.

(c) The water development authority shall establish a restricted account within the infrastructure fund to be expended for the construction of water and sewage lines as may be recommended by the council in accordance with this article and specifically, in accordance the plan developed under subsection (b) of this section. The reserve account shall be known as the "infrastructure road improvement reserve account". The council and the division of highways may enter into agreements to share the cost of financing projects approved in accordance with this section from moneys available in the infrastructure road reserve account and moneys available from the state road fund. Annually, the council may direct the water development authority to transfer funds from the infrastructure fund in an amount not to exceed one million dollars to the restricted account: Provided, That at no time may the balance of the restricted account exceed one million dollars.

(d) For the purposes of this section the term "new" means a road right-of-way being built for the first time.

(e) After the construction of water and sewer lines adjacent to the new road these new lines shall be turned over to existing utilities by expansion of boundaries of public service districts or shall be main extensions from the municipality. (1994, 1st Ex. Sess., c. 26.)

§ 31-15A-8. Exemption of certain emergency projects from certificate of public convenience and necessity requirements; review of certain emergency projects by public service commission; and exemption for North Fork Hughes River watershed project.

(a) If the council determines a project to be an emergency and the emergency project will be funded solely with grant money for the extension of an existing certificated water facility or waste water facility, and if the council finds in its recommendation that the construction and acquisition of the emergency project will have no effect on the public utility's customer rates and will have no significant effect on its operational costs as a result of the project cost, then the emergency project is exempt from the requirement to obtain a certificate of public convenience and necessity under section eleven [§ 24-2-11], article two, chapter twenty-four of this code. If the public utility is a public service district, it is exempt from the approval of the public service commission required under section twenty-five [§ 16-13A-25], article thirteen-a, chapter sixteen of this code.

(b) Any public utility, and any other entity that will operate as a public utility, must obtain a certificate of public convenience and necessity pursuant

to section eleven, article two, chapter twenty-four of this code for any emergency project that is not exempt under subsection (a) of this section. The public service commission shall render its final decision on any application for a certificate within one hundred twenty days of the filing of the application: Provided, That the thirty day prefiling requirement is not required. If the project sponsor is a public service district, then the project will be exempted from the approval requirements of section twenty-five, article thirteen-a, chapter sixteen of this code.

(c) Projects that are not emergency projects are subject to the requirements of section eleven, article two, chapter twenty-four of this code to the extent they would be otherwise.

(d) The North Fork Hughes River watershed project, proposed to enhance economic growth and development through tourism as provided in subsection (k), section two [§ 31-15A-2(k)] of this article and to include a water facility project as defined in subsection (m), section two [§ 31-15A-2(m)] of this article, is hereby specifically exempted from any requirement imposed by this article, except that the provisions of subdivision (a) of this section are specifically made applicable to the project. The project is hereby specifically authorized and the public land corporation shall have and may exercise the power of eminent domain and all authority otherwise prescribed by law to acquire necessary land and rights-of-way, to include approximately four hundred seventy-eight acres, in connection with the project. Funding for the project shall be provided by the federal government from the Appalachian regional commission through the United States soil conservation service. Upon completion of the project, the property acquired shall be transferred to the state park system. The commissioner of the division of tourism and parks or the successor to the commissioner's powers and duties is directed to expand the boundaries of North Bend state park to include the project area and to operate the expanded park property, including improved recreational facilities, from funds appropriated for that purpose. (1994, 1st Ex. Sess., c. 26.)

§ 31-15A-9. Infrastructure fund; deposits in fund; disbursements to provide loans, loan guarantees, grants and other assistance; loans, loan guarantees, grants and other assistance shall be subject to assistance agreements.

(a) The water development authority shall create and establish a special revolving fund of moneys made available by appropriation, grant, contribution or loan to be known as the "West Virginia Infrastructure Fund". This fund shall be governed, administered and accounted for by the directors, officers and managerial staff of the water development authority as a special purpose account separate and distinct from any other moneys, funds or funds owned and managed by the water development authority. The infrastructure fund shall consist of sub-accounts, as deemed necessary by the council or the water development authority, for the deposit of: (1) Infrastructure revenues; (2) any appropriations, grants, gifts, contributions, loan proceeds or other revenues

received by the infrastructure fund from any source, public or private; (3) amounts received as payments on any loans made by the water development authority to pay for the cost of a project or infrastructure project; (4) insurance proceeds payable to the water development authority or the infrastructure fund in connection with any infrastructure project or project; (5) all income earned on moneys held in the infrastructure fund; (6) all funds deposited in accordance with section four [§ 31-15B-4] of article fifteen-b; and (7) all proceeds derived from the sale of bonds issued pursuant to article fifteen-b [§ 31-15B-1 et seq.] of this chapter.

Any money collected pursuant to this section shall be paid into the West Virginia infrastructure fund by the state agent or entity charged with the collection of the same, credited to the infrastructure fund, and used only for purposes set forth in this article or article fifteen-b.

Amounts in the infrastructure fund shall be segregated and administered by the water development authority separate and apart from its other assets and programs. Amounts in the infrastructure fund may not be transferred to any other fund or account or used, other than indirectly, for the purposes of any other program of the water development authority, except that the water development authority may use funds in the infrastructure fund to reimburse itself for any administrative costs incurred by it and approved by the council in connection with any loan, loan guarantee, grant or other funding assistance made by the water development authority pursuant to this article.

(b) Notwithstanding any provision of this code to the contrary, amounts in the infrastructure fund shall be deposited by the water development authority in one or more banking institutions: Provided, That any moneys so deposited shall be deposited in a banking institution located in this state. The banking institution shall be selected by the water development authority by competitive bid. Pending the disbursement of any money from the infrastructure fund as authorized under this section, the water development authority shall invest and reinvest the moneys subject to the limitations set forth in article eighteen [§ 31-18-1 et seq.], chapter thirty-one of this code.

(c) To further accomplish the purposes and intent of this article and article fifteen-b of this chapter, the water development authority may pledge infrastructure revenues and from time to time establish one or more restricted accounts within the infrastructure fund for the purpose of providing funds to guarantee loans for infrastructure projects or projects: Provided, That for any fiscal year the water development authority may not deposit into the restricted accounts more than twenty percent of the aggregate amount of infrastructure revenues deposited into the infrastructure fund during the fiscal year. No loan guarantee shall be made pursuant to this article unless recourse under the loan guarantee is limited solely to amounts in the restricted account or accounts. No person shall have any recourse to any restricted accounts established pursuant to this subsection other than those persons to whom the loan guarantee or guarantees have been made.

(d) Each loan, loan guarantee, grant or other assistance made or provided by the water development authority shall be evidenced by a loan, loan guarantee, grant or assistance agreement between the water development

authority and the project sponsor to which the loan, loan guarantee, grant or assistance shall be made or provided, which agreement shall include, without limitation and to the extent applicable, the following provisions:

(1) The estimated cost of the infrastructure project or project, the amount of the loan, loan guarantee or grant or the nature of the assistance, and in the case of a loan or loan guarantee, the terms of repayment and the security therefor, if any;

(2) The specific purposes for which the loan or grant proceeds shall be expended or the benefits to accrue from the loan guarantee or other assistance, and the conditions and procedure for disbursing loan or grant proceeds;

(3) The duties and obligations imposed regarding the acquisition, construction, improvement or operation of the project or infrastructure project; and

(4) The agreement of the governmental agency to comply with all applicable federal and state laws, and all rules and regulations issued or imposed by the water development authority or other state, federal or local bodies regarding the acquisition, construction, improvement or operation of the infrastructure project or project and granting the water development authority the right to appoint a receiver for the project or infrastructure if the project sponsor should default on any terms of the agreement.

(e) Any resolution of the water development authority approving loan, loan guarantee, grant or other assistance shall include a finding and determination that the requirements of this section have been met.

(f) The interest rate on any loan to governmental, quasi-governmental, or not for profit project sponsors for projects made pursuant to this article shall not exceed three percent per annum. Due to the limited availability of funds available for loans for projects, it is the public policy of this state to prioritize funding needs to first meet the needs of governmental, quasi-governmental and not for profit project sponsors and to require that loans made to for-profit entities shall bear interest at the current market rates. Therefore, no loan may be made by the council to a for-profit entity at an interest rate which is less than the current market rate at the time of the loan agreement.

(g) The water development authority shall cause an annual audit to be made by an independent certified public accountant of its books, accounts and records, with respect to the receipts, disbursements, contracts, leases, assignments, loans, grants and all other matters relating to the financial operation of the infrastructure fund, including the operating of any sub-account within the infrastructure fund. The person performing such audit shall furnish copies of the audit report to the commissioner of finance and administration [office abolished], where they shall be placed on file and made available for inspection by the general public. The person performing such audit shall also furnish copies of the audit report to the Legislature's joint committee on government and finance. (1994, 1st Ex. Sess., c. 26; 1995, c. 130.)

Editor's notes. — The bracketed words were inserted by the editor. The office of the commissioner of finance and administration was abolished, and the duties of that office were transferred to the secretary of administration. See § 5A-1-2.

Effect of amendment of 1995. — The amendment, effective March 10, 1995, rewrote (a); in (b), substituted "shall" for "may" after "infrastructure fund" and added the proviso in the first sentence, and inserted the present second sentence; inserted "and article fifteen-b

of this chapter" in the first sentence of (c); substituted "the" for "such" preceding "loan guarantee" in (d)(2); and added (f) and (g).

§ 31-15A-10. Recommendations by council for expenditures of funds by loan, grant or for engineering assistance.

(a) To further accomplish the purpose and intent of this article, the water development authority shall use the moneys in the infrastructure fund created pursuant to section nine [§ 31-15A-9] of this article, upon receipt of one or more recommendations from the council pursuant to section five [§ 31-15A-5] of this article, to make loans, with or without interest, loan guarantees or grants and to provide other assistance, financial, technical or otherwise, to finance all or part of the costs of infrastructure projects or projects to be undertaken by a project sponsor: Provided, That any moneys disbursed from the infrastructure fund in the form of grants shall not exceed twenty percent of the total funds available for the funding of projects. No loan, loan guarantee, grant or other assistance shall be made or provided except upon a determination by the council that the loan, loan guarantee, grant or other assistance and the manner in which it will be provided are necessary or appropriate to accomplish the purposes and intent of this article, based upon an application submitted to the council: Provided, however, That no grant shall be made to a project sponsor that is not a governmental agency or a not for profit corporation under the provisions of section 501(c) of the Internal Revenue Code of 1986, as amended. Applications for loans, loan guarantees, grants or other assistance may be submitted by a project sponsor for one or more infrastructure projects on preliminary application forms prepared by the council pursuant to section four [§ 31-15A-4] of this article. Any recommendation of the council approving a loan, loan guarantee, grant or other assistance shall include a finding and determination by the council that the requirements of this section have been met. The council shall base any decisions to loan money for projects to project sponsors pursuant to this article solely on the need of the project sponsors.

(b) The council has the authority in its sole discretion to make grants to project sponsors if it finds that: (1) The level of rates for the users would otherwise be an unreasonable burden given the users' likely ability to pay; or (2) the absence of a sufficient number of users prevents funding of the project except through grants: Provided, That no project sponsor shall receive infrastructure grant money in an amount in excess of fifty percent of the total cost of the project. Therefore, the council may consider the economic or financial conditions of the area to be served. As a condition for receipt of a grant under this subsection, the council may require, in addition to any other conditions, that the applicant pursue other state or federal grant or loan programs. Upon a recommendation by the council, the water development authority shall provide the grant in accordance with the recommendation. The council shall develop criteria to be considered in making grants to project sponsors which shall require consideration of the economic or financial conditions of the area to be served and the availability of other funding sources. The council shall

adopt procedural rules regarding the manner in which grants will be awarded in conformity with this section. The procedural rules shall be adopted pursuant to article three [§ 29A-3-1 et seq.], chapter twenty-nine-a of this code.

(c) The council shall affix a mandatory minimum end user utility rate that must be met by the project sponsor before grant assistance may be awarded. The mandatory minimum utility rate shall be established by legislative rule promulgated in accordance with article three, chapter twenty-nine-a of this code. The rule shall provide that the mandatory minimum utility rate be based upon a uniform statewide percentage of the median household income in a particular geographic area which is rationally related to the geographic area of the project to be served.

(d) No loan or grant funds may be made available for a project if the project to be funded will provide subsidized services to certain users in the service area of the project.

(e) Notwithstanding any other provision of this article to the contrary, engineering studies and requirements imposed by the council for preliminary applications shall not exceed those engineering studies and requirements which are necessary for the council to determine the economic feasibility of the project. If the council determines that the engineering studies and requirements for the pre-application would impose an undue hardship on any project sponsor, the council may provide funding assistance to project sponsors to defray the expenses of the pre-application process from moneys available in the infrastructure fund for making loans: Provided, That the council may only provide funding assistance in an amount equal to five thousand dollars or fifty percent of the total pre-application cost of the project, whichever amount is greater. If the project is ultimately approved for a loan by the council, the amount of funding assistance provided to the project sponsor for the pre-application process shall be included in the total amount of the loan to be repaid by the project sponsor. If the project is not ultimately approved by the council, then the amount of funding assistance provided to the project sponsor will be considered a grant by the council and the total amount of the assistance shall be forgiven. In no event may the amount of funding assistance provided to all project sponsors exceed, in the aggregate, one hundred thousand dollars annually. (1994, 1st Ex. Sess., c. 26; 1995, c. 130.)

Effect of amendment of 1995. — The amendment, effective March 10, 1995, in (a), divided the former first sentence into the present first two sentences, added the language beginning "any moneys disbursed" at the end of the first sentence, substituted "project sponsor" for "profit sponsor" in the proviso in the present second sentence, substituted "on preliminary application forms" for "or projects from time to time, and shall be submitted in the manner and on the preliminary application form" in the third sentence, and added the last sentence; added the proviso and made minor punctuation changes in the first sentence in (b); and added (c), (d), and (e).

Editor's notes. — Section 501 of the Internal Revenue Code of 1986, referred to in (a), is codified at 26 U.S.C. § 501.

§ 31-15A-11. Reservation of funds for projects and infrastructure projects.

Eighty percent of the funds deposited in the West Virginia infrastructure fund shall be dedicated for the purpose of providing funding for the cost of projects as defined in subsection (m), section two [§ 31-15A-2(m)] of this article. Twenty percent of the funds deposited in the West Virginia infrastructure fund shall be dedicated for the purpose of providing funding for costs of infrastructure projects as defined in subsection (k), section two [§ 31-15A-2(k)] of this article. Project sponsors of infrastructure projects shall follow the application process as established by this article: Provided, That notwithstanding any provision of this article to the contrary, all applications for any infrastructure project shall be submitted to the council for community and economic development, or its successor, for review, recommendation and approval regarding infrastructure project funding. (1994, 1st Ex. Sess., c. 26.)

§ 31-15A-12. Additional powers of water development authority.

To accomplish the purpose and intent of this article, the water development authority is hereby empowered, in addition to all other powers granted to it under this code, upon approval of the council, to (1) enter into agreements or other transactions with any federal or state agency in connection with any infrastructure project or project; (2) receive or administer on behalf of any federal or state agency grants, subsidies or other payments to be applied to the costs of any infrastructure project or project financed in whole or in part or otherwise assisted by the water development authority, including, but not limited to, payments to be applied to operating costs and debt service or obligations of any project sponsor; (3) receive and accept aid or contributions from any source of money, property, labor or other things of value, to be held, used and applied only for the purposes for which such grants and contributions are made; (4) establish and amend the criteria and qualifications for making loans, loan guarantees or grants, or providing any other assistance, for any infrastructure project or project, and the terms of any loans, loan guarantee, grant or assistance agreement for any project; and (5) do all things which are necessary to further the purposes and intent of this article. (1994, 1st Ex. Sess., c. 26.)

§ 31-15A-13. Prohibition on funds inuring to the benefit of or being distributable to water development board; transactions between the water development board and officers having certain interests in such transactions.

No part of the infrastructure fund shall inure to the benefit of or be distributable to the water development board directors or officers of the water development authority except that the water development authority is authorized and empowered to pay reasonable compensation, other than to members of the water development board, including the chairman, vice chairman, secretary-treasurer for services rendered and to make loans and exercise its other powers as previously specified in furtherance of its corporate purpose: Provided, That no loans shall be made, and no property shall be purchased or leased from, or sold, leased or otherwise disposed of, to any water development board member or officer of the water development authority. (1994, 1st Ex. Sess., c. 26.)

§ 31-15A-14. Termination or dissolution.

Upon the termination or dissolution of the water development authority, all rights and properties of the water development authority with respect to the infrastructure fund shall pass to and be vested in the state, subject to the rights of lienholders and other creditors. (1994, 1st Ex. Sess., c. 26.)

§ 31-15A-15. Projects not to be considered public improvements; competitive bid requirements.

(a) No project or infrastructure project acquired, constructed, maintained or financed in whole or in part by the water development authority shall be considered to be a "public improvement" within the meaning of the provisions of article five-a [§ 21-5A-1 et seq.], chapter twenty-one of this code, as a result of such financing.

(b) The state and its subdivisions shall, except as provided in this subsection, solicit competitive bids and require the payment of prevailing wage rates as provided in article five-a, chapter twenty-one of this code for every project or infrastructure project funded pursuant to this article exceeding twenty-five thousand dollars in total cost. Following the solicitation of the bids, the construction contract shall be awarded to the lowest qualified responsible bidder, who shall furnish a sufficient performance and payment bond: Provided, That the state and its subdivisions may reject all bids and solicit new bids on the project. Nothing in this subsection applies to work performed on construction or repair projects not exceeding a total cost of twenty-five thousand dollars by regular full-time employees of the state or its subdivisions, nor shall anything in this subsection prevent students enrolled in vocational educational schools from being utilized in the construction or repair projects when such use is a part of the students' training program. Nothing in this subsection applies to emergency repairs to building components and systems: Provided, however, That the the term "emergency repairs" means repairs that if not made immediately will seriously impair the use of the building components and systems or cause danger to those persons using the building components and systems. This subsection shall not apply to any situation where the state or a subdivision thereof comes to an agreement with volunteers, or a volunteer group, whereby the governmental body will provide construction or repair materials, architectural, engineering, technical or any other professional services and the volunteers will provide the necessary labor

without charge to, or liability upon, the governmental body: Provided further, That the total cost of the construction or repair projects does not exceed twenty-five thousand dollars.

(c) The provisions of subsection (b) of this section shall not apply to privately owned projects or infrastructure projects constructed on lands not owned by the state or a subdivision of the state. (1994, 1st Ex. Sess., c. 26.)

§ 31-15A-16. Dedication of severance tax proceeds.

(a) There shall be dedicated an annual amount from the collections of the tax collected pursuant to article thirteen-a [§ 11-13A-1 et seq.], chapter eleven of this code for the construction, extension, expansion, rehabilitation, repair and improvement of water supply and sewage treatment systems and for the acquisition, preparation, construction and improvement of sites for economic development in this state as provided in this article.

(b) Notwithstanding any other provision of this code to the contrary, beginning on the first day of July, one thousand nine hundred ninety-five, the first sixteen million dollars of the tax collected pursuant to article thirteen-a, chapter eleven of this code shall be deposited to the credit of the West Virginia infrastructure general obligation debt service fund created pursuant to section three [§ 31-15B-3], article fifteen-b of this chapter: Provided, That none of the collections from the tax imposed pursuant to section six [§ 11-13A-6], article thirteen-a, chapter eleven of this code shall be so dedicated or deposited: Provided, however, That the portion of the tax imposed by article thirteen-a, chapter eleven and dedicated for purposes of medicaid and the division of forestry pursuant to section twenty-a of said article thirteen-a [§ 11-13A-20a] shall remain dedicated for the purposes set forth in said section twenty-a.

(c) On or before the first day of May of each year, commencing the first day of May, one thousand nine hundred ninety-five, the council, by resolution, shall certify to the treasurer and the water development authority the principal and interest coverage ratio and amount for the following fiscal year on any infrastructure general obligation bonds issued pursuant to the provisions of article fifteen-b of this chapter. (1994, 1st Ex. Sess., c. 26; 1995, c. 130.)

Effect of amendment of 1995. — The amendment, effective March 10, 1995, in (b), inserted "general obligation debt service" prior to "fund created pursuant to" and substituted "section three, article fifteen-b of this chapter" for "section nine of this article"; and added (c).

ARTICLE 15B.

INFRASTRUCTURE BONDS.

Sec.
31-15B-1. Definitions.
31-15B-2. Infrastructure general obligation bonds; amount; when may issue.
31-15B-3. Creation of debt service fund; disbursements to pay debt service on infrastructure general obligation bonds.
31-15B-4. Infrastructure general obligation debt service fund; sources used to pay bonds and interest; investment of remainder.
31-15B-5. Covenants of state.
31-15B-6. Sale by governor; minimum price.
31-15B-7. Prohibition on funds inuring to the benefit of or being distributable to directors or officers; transactions between the council and West Virginia water development authority and directors or officers having certain interests in such transactions.
31-15B-8. Infrastructure bonds lawful investments.
31-15B-9. Refunding bonds.
31-15B-10. Termination or dissolution.
31-15B-11. Treasurer to determine financial advisor.
31-15B-12. Governor to determine bond counsel.
31-15B-13. Approval and payment of all necessary expenses.

§ 31-15B-1. Definitions.

For purposes of this article and article fifteen-a [§ 31-15A-1 et seq.] of this chapter:

(a) "Council" means the West Virginia infrastructure and jobs development council created in section three [§ 31-15A-3], article fifteen-a of this chapter;

(b) "Infrastructure amendment" means the amendment to the constitution of this state entitled "infrastructure amendment" as approved by referendum in the month of November, one thousand nine hundred ninety-four;

(c) "Infrastructure general obligation bond" means any bond or bonds issued by the state pursuant to section two [§ 31-15B-2] of this article;

(d) "Water development authority" means the West Virginia water development authority established under article one [§ 22C-1-1 et seq.], chapter twenty-two-c of this code, or any successor to all or any substantial part of its powers and duties. (1995, c. 130.)

§ 31-15B-2. Infrastructure general obligation bonds; amount; when may issue.

Bonds of the state of West Virginia, under authority of the infrastructure improvement amendment of 1994, of the par value not to exceed in the aggregate three hundred million dollars, are hereby authorized to be issued and sold solely for the construction, extension, expansion, rehabilitation, repair and improvement of water supply and sewage treatment systems and for the acquisition, preparation, construction and improvement of sites for economic development as provided for by the constitution and the provisions of this article.

These bonds may be issued by the governor upon resolution by the infrastructure council and certification to the governor. The bonds shall bear such date and mature at such time, bear interest at such rate not to exceed eight percent per annum, be in such amounts, be in such denominations, be in such registered form, carry such registration privileges, be due and payable at such time and place and in such amounts, and subject to such terms of redemption as such resolution may provide: Provided, That in no event may the amount of bonds outstanding exceed an amount for which sixteen million dollars would not be sufficient to provide annual service on the total amount of debt outstanding.

Both the principal and interest of the bonds shall be payable in the lawful money of the United States of America and the bonds and the interest thereon shall be exempt from taxation by the state of West Virginia, or by any county,

WEST VIRGINIA CODE

ANNOTATED

VOLUME 10

1996 Replacement

1997 Supplement

Including Acts passed during the 1997 Regular and First Extraordinary Sessions

Prepared by the Editorial Staff of the Publishers

Under the Supervision of

RICHARD W. WALTER, JR.
PETER R. ROANE
RUTH P. KNIGHT
LYNN P. SEUFFERT

Place in pocket of corresponding bound volume

MICHIE
CHARLOTTESVILLE, VIRGINIA
1997

Such statement shall be signed by the president or a vice president or secretary or an assistant secretary, of the corporation, verified by the signer and delivered to the secretary of state, and upon receipt thereof shall be filed by the secretary of state in his office.

(b) A corporation may at any time change the address of its principal office; or the name and address, or the address, of the person to whom shall be sent notice or process served upon, or service of which is accepted by, the secretary of state. Such change shall become effective as the name and address or address last furnished to the secretary of state for the purposes of section fifteen of this article only when such corporation has filed in the office of the secretary of state a statement setting forth:

(1) The name of the corporation.

(2) The state under whose laws it was incorporated.

(3) If the address of the principal office is changed, then the address of the former or present principal office and the address to which it is changed or to be changed.

(4) If the name and address or address only of the person to whom notice or process is to be sent is to be changed, then the name and address of such person to be used from and after the filing of the statement required by this section.

(5) That such change was duly authorized by the board of directors.

(c) The corporation may file a record of the election or appointment of new corporate officers, setting forth:

(1) The name and principal office address of the corporation.

(2) The name, address and office of each new officer.

(3) That the officers were duly elected or appointed.

Such statement shall be signed by the president, vice president, secretary or assistant secretary of the corporation and verified by him. The fee for filing any notice of a change of agent, officers and/or principal office address shall be as required by section two [§ 59-1-2], article one, chapter fifty-nine of this code. (1974, c. 13; 1975, c. 118; 1997, c. 165.)

Effect of amendment of 1997. — The amendment, effective July 1, 1997, inserted (c); and added the second sentence of the undesignated final paragraph.

ARTICLE 15A.

WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL.

§ 31-15A-1. Short title.

Cited in State ex rel. Cooper v. Caperton, 196 W. Va. 208, 470 S.E.2d 162 (1996).

ARTICLE 16.

WEST VIRGINIA STEEL FUTURES PROGRAM.

Sec.
31-16-1. Legislative intent; purpose and administration.
31-16-2. Steel advisory commission; membership, appointment, terms, quorum and selection of officers.
31-16-3. General powers of the commission.
31-16-4. Steel futures program.
31-16-5. Continuation of program.

§ 31-16-1. Legislative intent; purpose and administration.

The Legislature recognizes that the steel industry plays a significant role in West Virginia's economy, and the industry's survival and success is of significant importance to the residents and the tax base of the state. Because of this significant economic role, there is hereby created in the bureau of commerce a steel advisory commission and a new program entitled "The Steel Futures Program". The purpose of the commission and the program is to preserve and improve the economy of the state by promoting employment and increased productivity, thereby ensuring continued economic development consistent with these goals, and to maintain a high standard of living for the residents of the state. The commission, through the steel futures program, may supplement any other enterprise assistance program administered by the West Virginia development office. The steel futures program shall be administered so as to provide financial and technical assistance as provided in this article to increase the competitiveness of existing steel and steel-related industries within the state and to encourage the establishment and development of new steel and steel-related industries within the state. (1993, c. 128; 1997, c. 169.)

Effect of amendment of 1997. — The amendment, in the second sentence, substituted "bureau of commerce" for "West Virginia department of commerce, labor and environmental resources"; and in the fourth sentence, substituted "West Virginia development office" for "West Virginia department of commerce, labor and environmental resources."

§ 31-16-2. Steel advisory commission; membership, appointment, terms, quorum and selection of officers.

(a) There is hereby created the West Virginia steel advisory commission within the bureau of commerce, which shall consist of fifteen members. The governor or his or her designee shall be a member of the commission and shall serve as its chairperson. Ten members shall be appointed by the governor with the advice and consent of the Senate. At least four of the members appointed by the governor shall be senior management representatives of steel manufacturing companies that employ over fifty people. At least two of the members appointed by the governor shall be representatives of organized labor. One of the members appointed by the governor shall be a member of the united steelworkers of America. One of the members appointed by the governor shall be a member of the independent steelworkers union. One member shall be

-0-

After due discussion and consideration, the following Order creating the Brooke County Public Service District was approved by motion of Alfred DeAngelis, seconded by John P. Teeters, and unanimously passed:

O R D E R

That the County Commission of Brooke County, West Virginia on this day December 10, 1975, in order to promote and preserve the public health, comfort, and convenience of the general public of Brooke County, West Virginia, does hereby order the creation of a public service district for the purpose of providing sewage services for the general public within Brooke County, West Virginia, as authorized by Chapter 16, Article 13A of the West Virginia State Code, as amended, to be known as the Brooke County Public Service District;

That such district is created subsequent to a public hearing, properly advertised, having been held on the 3rd day of December, 1975, at 7:00 o'clock P.M. in the Brooke County Courthouse, wherein a discussion, by all present, was held concerning the formation of the proposed Brooke County Public Service District as required by Statute;

Further, be it ordered that the territory to be embraced by the Brooke County Public Service District shall be all land within the boundaries of Brooke County, West Virginia, less however, those sewage authorities within the Cities of Weirton, Follansbee, Wellsburg, Bethany and Beech Bottom, and those areas now covered by the existing Hooverson Heights Public Service District;

Further, it is ordered that those sewage rights previously granted to the public service districts of Washington Pike Public Service District and Hammond Public Service District by this Commission are hereby rescinded and shall become a part of the Brooke County Public Service District, in that neither the Washington Pike Public Service District nor the Hammond Public Service District are presently furnishing sewage services, as authorized.

Entered this 10th day of December, 1975.

s/ Henry A. Wilson
Henry A. Wilson, President
Brooke County Commission

ATTEST: s/ Anthony J. Filberto
Anthony Filberto
Brooke County Clerk

-0-

MISCELLANEOUS ORDERS

CASTO & HARRIS INC., SPENCER, W. VA. RE-ORDER NO. 56755

By Order of this Commission the following gentlemen were appointed to serve on the Brooke County Public Service Board for the terms of office specified:

Mr. Paul Pettit - 6 year term.
Mr. John Suitlas - 4 year term.
Mr. Nicholas Valero - 2 year term.

The Clerk was instructed to send these gentlemen letters of appointment.

The Clerk was also instructed to send a letter to Donald Donell thanking him for his consideration and willingness to serve on the Board, but due to his geographic location he has found that he cannot serve on the Board.

-0-

COUNTY CLERK'S CERTIFICATION

STATE OF WEST VIRGINIA
County of Brooke, } ss

I, SYLVIA J. BENZO, Clerk of the County Court of Brooke County, the same being a Court of Record, having the custody of the Files, Journals and Records of said County, do certify that the foregoing is a true and accurate copy of Excerpt from the Minutes of the meeting of December 10, 1975 and Order creating the Brooke County Public Service District as the same appears of record in my office, in Miscellaneous Orders Book No. 17, Page 346, and I further certify that I have carefully compared the foregoing copy with the original record and that the same is a full and correct transcript thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Court, at Wellsburg, Brook County, West Virginia, this 27th day of October, 19 97.

Sylvia J Benzo
Clerk County Court, Brooke County, WV

By _____
Deputy

REGULAR ADJOURNED SESSION OF THE COUNTY COMMISSION OF BROOKE COUNTY, WEST VIRGINIA, HELD WEDNESDAY, APRIL 21, 1976

-0-

The County Commission of Brooke County, West Virginia, met in regular adjourned session this 21st day of April, 1976 at 9:30 a.m. at the Courthouse.

Present: John P. Teeters, President
Henry A. Wilson and Alfred DeAngelis, Commissioners
Anthony J. Filberto, County Clerk
Pauline Pasinetti, Deputy County Clerk

-0-

Also present at this meeting for the Public Hearing for the purpose of including the Village of Beech Bottom in the existing Brooke County Public Service District were: J. P. McMullen, Jr., Prosecuting Attorney; Lowery Bailey, Project Director, Region XI, Planning and Development Council; Earl Couch and Ross Grigsby, residents of the Beech Bottom area; and two representatives of the Wheeling-Pittsburgh Steel Corporation.

Mr. Couch and Mr. Grigsby were present in the interest of being included personally in the Public Service District. Both Mr. Couch and Mr. Grigsby reside outside the Corporate limits of the Village of Beech Bottom. Therefore, they are already included in the existing Brooke County Public Service District.

Comments were made by J. P. McMullen, Jr. and Lowery Bailey.

There being no one present to object to the inclusion of the Corporate Limits of the Village of Beech Bottom in the existing Brooke County Public Service District, and upon the recommendation of J. P. McMullen, Jr., Prosecuting Attorney, motion was made by Henry A. Wilson, seconded by Alfred DeAngelis, and unanimously passed, to adopt the following Order to include the Village of Beech Bottom in the existing Brooke County Public Service District:

O R D E R

On the 21st day of April, 1976, came the Village of Beech Bottom, West Virginia, by and through its City Solicitor, J. P. McMullen, Jr. who submitted a copy of the ordinance duly passed by said Village requesting the County Court of Brooke County, West Virginia, to include the corporate limits of the Village of Beech Bottom, Brooke County, West Virginia, in the county-wide Public Service District for the purpose of the Public Service District collecting, treating, purifying and disposing of liquid or solid waste, sewage or industrial waste from the Village of Beech Bottom, which Public Service having been duly formed on the 10th day of December, 1975 by the County Court of Brooke County, West Virginia, and which ordinance was duly passed by the Village of Beech Bottom on the 10th day of March, 1976.

WHEREUPON, the County Court, after due publication as required by law, set this date for hearing any objections or comments in regard to the Village of Beech Bottom becoming a part of the county-wide Public Service District for the purposes as specified as aforesaid, and there being no persons appearing before this Court and the Court perceiving no objection to the admittance of the Village of Beech Bottom into the county-wide Public Service District as aforesaid, it is hereby

CASTO & HARRIS INC., SPENCER, W. VA. RE-ORDER NO. 66755

ORDERED, that the Village of Beech Bottom is hereby made a part of the Brooke County Public Service District, which District was formed on the 10th day of December, 1975, for the sole purpose of collecting, treating, purifying and disposal of liquid or solid waste, sewage or industrial waste from the Village of Beech Bottom.

s/ John P. Teeters

-0-

COUNTY CLERK'S CERTIFICATION

STATE OF WEST VIRGINIA
County of Brooke, } ss

I, SYLVIA J. BENZO, Clerk of the County Court of Brooke County, the same being a Court of Record, having the custody of the Files, Journals and Records of said County, do certify that the foregoing is a true and accurate copy of Excerpt from the Minutes of the meeting of April 21, 1976 with the adoption of the Order to include the Village of Beech Bottom in the Brooke County Public Service District as the same appears of record in my office, in Miscellaneous Orders Book No. 17, Page 420, and I further certify that I have carefully compared the foregoing copy with the original record and that the same is a full and correct transcript thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Court, at Wellsburg, Brook County, West Virginia, this 27th day of October, 19 97.

Sylvia J. Benzo
Clerk County Court, Brooke County, WV

By _____
Deputy

23-234

BEFORE THE COUNTY COMMISSION
OF BROOKE COUNTY, WEST VIRGINIA

IN THE MATTER OF ENLARGING
OHIO COUNTY PUBLIC SERVICE
DISTRICT INTO BROOKE COUNTY

ORDER

On the 1st day of June, 1995, at a session of the Commission duly called and at which all of the Commissioners were present, the Commission conducted a public hearing in the Brooke County Commission Hearing Room at the Brooke County Courthouse in Wellsburg, West Virginia, commencing at 4:00 o'clock p.m., to consider and determine the feasibility of the following proposal, which proposal was made by the Commission on its own motion by order duly adopted and entered on May 11, 1995:

> That Ohio County Public Service District, a public corporation and political subdivision of the State of West Virginia which was heretofore created for the purpose of supplying water and sewer services within its existing territory, be enlarged to include and embrace the additional territory as hereinbelow described for the purpose of supplying sewer service to such territory:
>
> > Beginning at the intersection of the centerline of Short Creek Road (Ohio County Route 1) with the boundary line separating Ohio County and Brooke County, West Virginia; thence following said centerline of Short Creek Road in a northerly direction Eight Hundred (800) feet, more or less, to its intersection with the centerline of Girty's Point Road (Brooke County Route 2/2); thence following said centerline of Girty's Point Road in a northerly, then easterly direction Fourteen Thousand Six Hundred and Eighty (14,680) feet, more or less, to the intersection of the centerline of Girty's Point Road with the boundary line between Ohio County and Brooke County, West Virginia; thence with said boundary line in a westerly direction Eleven Thousand (11,000) feet, more or less, to the intersection of said boundary line with the waters of Short Creek; thence with the waters of Short Creek in a northerly direction One Thousand Eight Hundred and Eighty (1,880) feet, more or less, to the place of beginning.

Thereupon came Edwin K. Clifford, General Manager of the Ohio County Public Service District, who tendered to the Commission for filing a copy of the affidavit of Bonnie Mattern for the publisher of The Wheeling Intelligencer, of the publication of notice that this hearing would be held at this time and place, and as well he tendered for filing his own affidavit stating that he had posted said notice as required by law. Said affidavits were thereupon **ORDERED** filed by the Commission.

The Commission then proceeded to hear and consider the comments of all persons in attendance, affording all of them the opportunity to be heard with respect to said proposal made by the Commission. And after hearing the arguments in favor of said motion and finding that there was no opposition thereto, the Commission does make the following findings of fact:

1. That the Clerk of the Commission caused notice of said hearing and the time and place thereof, and setting forth a description of the additional territory proposed for inclusion in Ohio County Public Service District, to be published in The Wheeling Intelligencer, a qualified newspaper of general circulation in Brooke County, West Virginia, on May 19, 1995, being more than ten (10) days prior to said hearing.

2. That more than ten (10) days prior to said hearing, there was posted in at least five (5) conspicuous places in the said territory proposed for inclusion in said District a notice containing the same information as was contained in the notice published on May 19, 1995.

3. That affidavits filed heretofore of the publication and posting of said notice were duly made by Bonnie Mattern for the publisher of the said Wheeling Intelligencer and Edwin K. Clifford, both under oath, containing a copy of said notice as published and posted, all in accordance with Chapter 59, Article 3, Section 4, of the Code of West Virginia of 1931, as amended.

4. That at said hearing on June 1, 1995, which was conducted not more than forty (40) days and not less than twenty (20) days from the date of the said motion of the Commission making

the aforesaid proposals and fixing said date for said hearing, no oral or written protest was made or filed by any person or persons to the aforesaid proposals.

5. That the enlargement of Ohio County Public Service District to include and embrace the additional territory set forth and hereinbefore described, within both its existing territory and said additional territory, and to include the construction or acquisition by purchase or otherwise, and the maintenance, operation, improvement, and extension of, public service properties supplying such sewer services, will be conducive to the preservation of public health, comfort and convenience of the existing territory of said District, will be conducive to the preservation of public health, comfort, and convenience of the additional territory proposed for inclusion in said District, and will be conducive to the preservation of public health, comfort, and convenience of said existing and additional territories combined.

6. That it is necessary, feasible, and proper to carry into effect said proposal made by the Commission by its said motion duly adopted and made on May 11, 1995.

7. That the description of the additional territory proposed for inclusion in said District as the same are set forth in the said notice is sufficient to identify the territory embraced therein, and no cities, incorporated towns or other municipal corporations, and no territory of any other public service district currently providing sewer services, are included in said territory.

On the motion of Commissioner Henry Wilson, which was seconded by Commissioner Norman A. Schwertfeger and unanimously carried, it is accordingly

ADJUDGED and ORDERED by the Commission that Ohio County Public Service District, a public corporation and political subdivision of the State of West Virginia, be, and it is hereby enlarged to include and embrace the additional territory hereinbefore set forth and described, and that the said Ohio County Public Service District as so enlarged, shall hereby include and embrace all

of the territory set forth and described in said paragraph for the purposes of providing sewer services therein; and it is further

ADJUDGED and ORDERED that the said Ohio County Public Service District, as hereinbefore enlarged, is hereby invested with and granted all of the rights, powers, and authority conferred by the laws of the State of West Virginia, and particularly by Article 13A of Chapter 16 of the Code of West Virginia of 1931, as amended, upon public service districts created, constituted, established, and organized to furnish and supply both water facilities and services and sewerage facilities and services.

ENTERED this 1st day of June, 1995.

COUNTY COMMISSION OF BROOKE COUNTY,

By Daniel L. Hilchust
President

BEFORE THE COUNTY COMMISSION
OF BROOKE COUNTY, WEST VIRGINIA

IN THE MATTER OF ENLARGING)
OHIO COUNTY PUBLIC SERVICE)
DISTRICT INTO BROOKE COUNTY)

AFFIDAVIT

STATE OF WEST VIRGINIA,
COUNTY OF OHIO, To-wit:

Before the undersigned authority appeared Edwin K. Clifford, who, having first been duly sworn according to law, did depose and say:

1. That he is the General Manager of the Ohio County Public Service District;

2. That more than ten (10) days prior to June 1, 1995, he posted in five (5) conspicuous places in the said territory proposed for inclusion in said District a copy of the Order entered by the Ohio County Commission on May 11, 1995, which order gave notice of the public hearing and which contained the same information as was contained in the notice published on May 19, 1995, in the Wheeling Intelligencer;

3. And further the affiant saith naught.

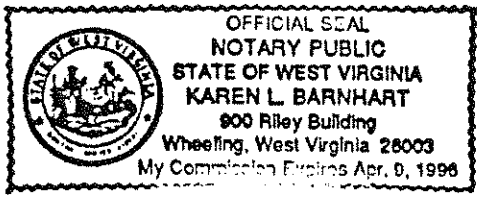
Edwin K. Clifford

Taken, subscribed and sworn to before me this 1st day of June, 1995.

Karen L. Barnhart
Notary Public

My commission expires:
4-9-96

F:\WPDOCS\CLIENTS\OCP0882\OCP0882.11\CLIFFAFF.BRK
Thu 01Jun95 15:09:47



BEFORE THE COUNTY COMMISSION
OF BROOKE COUNTY, WEST VIRGINIA

IN THE MATTER OF ENLARGING
OHIO COUNTY PUBLIC SERVICE
DISTRICT INTO BROOKE COUNTY

ORDER AND RESOLUTION

WHEREAS, the Public Service Board of the Ohio County Public Service District has requested the Brooke County Commission for an order amending the description of and expanding the territorial boundaries of the District, in order that the District could lawfully provide sewer service to the portion of Brooke County hereinafter described; and

WHEREAS, the Brooke County Commission has determined to grant such request and upon its own motion proposes to amend and expand said boundaries as requested;

BE IT ACCORDINGLY ORDERED AND RESOLVED by the County Commission of Brooke County, West Virginia, that said Commission does hereby propose upon its own motion to amend the description of and expand the boundaries of the Ohio County Public Service District to include the following described territory situate in Buffalo District, Brooke County, West Virginia:

Beginning at the intersection of the centerline of Short Creek Road (Ohio Count Route 1) with the boundary line separating Ohio County and Brooke County, West Virginia; thence following said centerline of Short Creek Road in a northerly direction Eight Hundred (800) feet, more or less, to its intersection with the centerline of Girty's Point Road (Brooke County Route 2/2); thence following said centerline of Girty's Point Road in a northerly, then easterly direction Fourteen Thousand Six Hundred and Eighty (14,680) Feet, more or less, to the intersection of the centerline of Girty's Point Road with the boundary line between Ohio County and Brooke County, West Virginia; thence with said boundary line in a westerly direction Eleven Thousand (11,000) feet, more or less, to the intersection of said boundary line with the waters of Short Creek; thence with the waters of Short Creek in a northerly direction One Thousand Eight Hundred and Eighty (1,880) feet, more or less, to the place of beginning.

IT IS FURTHER ORDERED AND RESOLVED that the County Commission of Brooke County hereby fixes the 1st day of June, 1995, said date being not more than forty (40) and not less than twenty (20) days from the date of entry of this order, for a public hearing before the Brooke County Commission upon the said amendment and expansion to the boundaries of the Ohio County Public Service District, said hearing to be held in the meeting room of the Brooke County Commission at 4:00 p.m.

The County Commission hereby directs that a certified copy of this order be delivered to the County Commission of Ohio County, West Virginia, by certified mail, in order to notify said County Commission of the entry of this order and the date, place and time of the public hearing. This Commission further directs that notice be given of the public hearing and the time and place thereof, and setting forth a description of all the territory proposed to be included therein, by publishing this order one time in a newspaper of general circulation published in Brooke County at least ten (10) days prior to the date of the hearing, the cost of such publication to be paid by the Ohio County Public Service District, and by posting a copy of this order in at least five (5) conspicuous places in the territory proposed to be included in the District at least ten (10) days before the date of the public hearing.

ENTERED this 11th day of May, 1995.

Daniel L. Gilchrist

Norman A. Schwertfeger

STATE OF WEST VIRGINIA,
COUNTY OF OHIO.

I, Bonnie Mattern *for the publisher of the*

~~WHEELING NEWS-REGISTER~~
WHEELING INTELLIGENCER *newspapers published in the CITY OF*

WHEELING, STATE OF WEST VIRGINIA, hereby certify that the annexed publication was inserted in said newspaper on the following dates:

May 19, 1995

commencing on the 19 *day of* May, *19* 95

Given under my hand this 23 *day of* May, *19* 95

Bonnie Mattern

Sworn to and subscribed before me this 23rd *day of* May *19* 95 *at WHEELING, OHIO COUNTY, WEST VIRGINIA*

Jean Diane Barnes

Notary Public

of, in and for OHIO COUNTY, WEST VIRGINIA.

My Commission expires April 12, 2005

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
JEAN DIANE BARNES
613 Main Street

COUNTY CLERK'S CERTIFICATION

STATE OF WEST VIRGINIA
County of Brooke, } ss

I, SYLVIA J. BENZO, Clerk of the County Court of Brooke County, the same being a Court of Record, having the custody of the Files, Journals and Records of said County, do certify that the foregoing is a true and accurate copy of Order in the matter of enlarging Ohio County Public Service District into Brooke County as adopted at the Brooke County Commission meeting of June 1, 1995 as the same appears of record in my office, in Miscellaneous Book No. 23, Page 234, and I further certify that I have carefully compared the foregoing copy with the original record and that the same is a full and correct transcript thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Court, at Wellsburg, Brook County, West Virginia, this 28th day of October, 19 97.

Sylvia J. Benzo
Clerk County Court, Brooke County, WV

By _____
Deputy

"RESOLUTION ESTABLISHING RULES BY WHICH THE TIME AND PLACE OF ALL REGULARLY SCHEDULED MEETINGS AND THE TIME, PLACE AND PURPOSE OF ALL SPECIAL MEETINGS ARE TO BE MADE AVAILABLE, IN ADVANCE, TO THE PUBLIC AND NEWS MEDIA AND PROVIDING WHEN THIS RESOLUTION AND SUCH RULES SHALL TAKE EFFECT."

Be it Resolved and Ordered by The Brooke County Public Service District,Brooke County, West Virginia:

Section 1. Statutory Mandate for These Rules. The rules established in and by this Resolution are mandated by and promulgated pursuant to Chapter 6, Article 9A, of the Code of West Virginia, 1931, as amended (herein called the "Act"), and other applicable provisions of law.

Section 2. Findings and Determinations. It is hereby found, determined and declared as follows:

(A) Section 3 of the Act requires each governing body, as defined in the Act, to promulgate rules by which the time and place of all regularly scheduled meetings and the time, place and purpose of all special meetings are made available, in advance, to the public and news media.

(B) The Public Service Board of Brooke County Public Service District, Brooke County, West Virginia (herein called the "Board"), is a governing body within the meaning of the Act.

(C) Accordingly, it is hereby ordered that the rules set out in Section 3 hereof be promulgated and established as Rules of Procedure of the Board.

Section 3. Rules. The following are hereby promulgated and established as Rules of Procedure of the Board:

Rule No. 1. Notice of Regularly Scheduled Meetings. Immediately after adoption of this Resolution and in July of each year thereafter, the Board shall instruct the Secretary to, and the Secretary shall, post, and leave posted throughout the year to which it applies, at the regular meeting place where notices customarily are posted a notice setting forth the times and places of the Board's regularly scheduled meetings for the ensuing year. Such notice shall be of size and style sufficient to give notice and shall be of quality

sufficient to withstand deterioration throughout the year to which it applies. Additional copies of the notice shall be delivered to the Secretary.

Also immediately after adoption of this Resolution and in July of each year thereafter, the Board shall instruct the Secretary to, and the Secretary shall, distribute to each of the newspapers, television stations, radio stations and other news media listed below a notice identical to that posted.

BROOKE COUNTY NEWS MEDIA

News Media	Address
The Wheeling Intelligencer	Weirton/Steubenville Division 1500 Main Street Wheeling, WV 26003
Weirton Daily Times The Herald Star	Brook County Bureau 61 Seventh Street Wellsburg, WV 26070
The Brooke News	P.O. Box 591 Wellsburg, WV 26070
Brooke County Review	319 Charles Street Wellsburg, WV 26070
WDIG AM 950	News Director 4030 Sunset Boulevard Steubenville, OH 43952
WTOV-TV	News Director P.O. Box 9999 Steubenville, OH 43952
WSTV Radio	320 Market Street Steubenville, OH 43952

A notice shall be considered distributed to a news medium when it has been addressed to such news medium at the address listed above, or at such other address as the news medium has in writing requested be used, marked or stamped with first class postage and deposited in the United States mail. In June of each year after the adoption of this Resolution, the Board shall review the above list and shall amend such list as needed, in the opinion of the Board, to reflect properly all the newspapers, television stations, radio stations and other news media that customarily cover news of the area served by the Board.

In the event of any modification in the time or place of a regularly scheduled meeting of the Board, notice of such modification shall be given to the public and news media by posting at the place and distributing to the news media in the manner set forth above, not less than three (3) days prior to the date of such regularly scheduled meeting, or, if such regularly scheduled meeting has been rescheduled for an earlier time, prior to the date of such rescheduled meeting, a notice setting forth such modification in the time or place of such regularly scheduled meeting. A copy of such notice shall be attached to and made a part of the minutes of the meeting for which such notice was given.

Notwithstanding the foregoing provisions, notice of the recess or adjournment of a regularly scheduled meeting and of the time and place for the continuation or reconvening thereof publicly given during such regularly scheduled meeting shall be adequate notice to the public and news media of the time and place thereof.

Provided, failure of the Secretary to comply exactly with the posting and distribution requirements hereof shall not invalidate the actions taken at the meeting for which such notice was posted and distributed if the Board shall determine that such posting and distribution were in substantial compliance herewith.

Rule 2. Notice of Special Meeting. Not less than three (3) but not more than eight (8) days prior to the date set for any special meeting of the Board, the Board shall instruct the Secretary to, and the Secretary shall, post on the door of the regular meeting place of the Board, and at such other place, if any, where notices customarily are posted a notice setting forth the time, place and purpose or purposes of such special meeting. Business at such special meeting shall be limited to the purpose or purposes specified in said notice.

As soon as practical after the posting of said notice, but not less than three (3) days prior to the date set for such special meeting, the Secretary shall distribute to each of the newspapers, television stations, radio stations and other news media listed in Rule No. 1 hereof a notice identical to that posted. Amendments made to such list, as provided for in said Rule No. 1, shall be incorporated by reference in this Rule No. 2. A notice shall be considered distributed to a news medium when it has been addressed to such news medium

at the address listed in said Rule No. 1, or at such other address as the news medium has in writing requested be used, marked or stamped with first class postage and deposited in the United States mail.

A copy of such notice posted and distributed pursuant to this Rule No. 2 shall be attached to and made a part of the minutes of the meeting for which such notice was given.

Notwithstanding the foregoing provisions, notice of the recess or adjournment of any special meeting and of the time and place for the continuation or reconvening thereof publicly given during such special meeting shall be adequate notice to the public and news media of the time and place thereof, the purpose or purposes therefor remaining the same.

Provided, failure of the Secretary to comply exactly with the posting and distribution requirements hereof shall not invalidate the actions taken at the meeting for which such notice was posted and distributed if the Board shall determine that such posting and distribution were in substantial compliance herewith.

Rule No. 3. Emergency Meeting. A meeting as of the Board may be held without the notice to the public and news media required by Rule No. 1 and Rule No. 2 hereof only in the event of any emergency requiring immediate official action. The existence for such an emergency requiring immediate official action shall be determined by the Board and shall be attested to in a certificate by the Secretary describing such emergency and setting forth the reason or reasons immediate official action is required, which certificate shall be attached to and made a part of the minutes of such emergency meeting.

Section 4. Conflicting Provisions Repealed. All resolutions, orders and rules, or parts thereof, in conflict with the provisions of this Resolution are, to the extent of such conflicts, hereby repealed.

[Remainder of Page Intentionally Left Blank]

Section 5. Effective Time. This Resolution and the rules promulgated hereby shall take effect immediately upon the adoption hereof.

Introduced at Board Meeting: 11/12/97

Adopted by Board: Brooke Co PSD

William M Lipscomb
Chairman

[SEAL]

John W. Bates
Secretary

CHASFS3:107373

The total Budget for General County and Coal Severance was $4,581,105 which includes a 3% raise for all full-time employees.

The Commission asked the Clerk to notify the outside agencies and indicate that they did not receive an increase at this time, however; when the Commission does their unencumbered balance they will be glad to review monies at that time.

-0-

Ruby Greathouse was present and indicated that the Museum received about one-third of the funds needed for the stairlift in the Museum.
She also indicated that she had not heard from Dave Cross or Richard Vulgamore on the ADA concerning the installation of a video for the handicapped. This video would enable the handicapped to be able to access the top flood of the Museum since it is too hard for them to get up to the third floor of the Museum.

Ruby reported that Brooke County had about an 88% response from the survey forms on the Bike Trail.

-0-

Invoices and vouchers were approved, and the following checks were ordered written:

General County Fund - Check Nos. 2172 to 2175
General County Fund - Check Nos. 2230 to 2262
Ambulance Service Fund - Check Nos. 186 to 192
Coal Severance Fund - Check Nos. 477 to 479

-0-

No further business to come before the Commission Daniel Gilchrist made a motion to adjourn, seconded by Henry Wilson, and unanimously passed.

-0-

Norman A. Schwertfeger

Norman Schwertfeger, President

Teste:

Sylvia J. Benzo

Clerk

REGULAR ADJOURNED SESSION OF THE COUNTY COMMISSION OF BROOKE COUNTY,

WEST VIRGINIA, HELD THURSDAY, MARCH 27, 1997

-0-

The County Commission of Brooke County, West Virginia, met in regular adjourned session this 27th day of March, 1997, at 3:30 o'clock p.m. at the Courthouse.

Present: Norman A. Schwertfeger, President
Henry Wilson and Daniel L. Gilchrist, Commissioners
Sylvia J. Benzo, County Clerk

-0-

Motion was made by Daniel Gilchrist, seconded by Henry Wilson, and unanimously passed to accept the minutes of the meeting held on March, 20, 1997.

-0-

The following correspondence was read:

A notice from Gloria Barrett of a Bicentennial Committee meeting on April 3, 1997 at noon in the County Commissioner's Office.

Notification of the Friends of Brooke County meeting on Thursday, March 27th at noon at Boram Construction, 536 Charles Street, Wellsburg.

An invitation to attend the annual Crime Victims Award luncheon to be held on April 17, 1997 at noon at the Wheeling Civic Center.

A copy of a letter Donald Chaney of 799 Carolina Avenue, Chester, West Virginia sent to Senator Rockefeller requesting funding for getting new bridges for the New Cumberland and Wellsburg areas. He wanted to let the Commission know of his concerns.

A copy of a Proclamation from the National Association for Family and Community education asking to Tune Out TV Violence on April 5th and put TV to work for children. They ask the Commission to adopt the Resolution. Henry Wilson made a motion, seconded by Daniel Gilchrist, and unanimously passed to adopt said Proclamation. Copies will be mailed to the appropriate agencies.

A grant application and information was received from the West Virginia Edward Byrne Memorial dealing with Drug Control and Violent Crime for FY97. This was given to Sheriff Kazienko who was present.

Notification from the Department of Tax & Revenue that James R. Barbe, CPA was appointed to conduct the audit of Brooke County for July 1, 1995 through June 30, 1996.

A letter from Change, Inc. that they have been designated as a CHDO through the Northern Panhandle Consortium. This will be sent to the various cities as they deal with home buyers and offer loans for low to moderate income individuals.

A letter from the West Virginia Development Office enclosing a copy of the proposed 1997 HUD Consolidated Action Plan which includes HOME. Comments can be submitted and meetings will be held in April. A copy will be mailed to Suzann Gad of BHJ.

The above correspondence was ordered filed in the County Clerk's Office.

-0-

The following miscellaneous information was received by the Commission and reviewed and ordered filed in the County Clerk's Office.

Minutes of the Museum Board meeting of February 15, 1997.

A copy from the State of the 1996 Automobile Appraisal Assessment Report.

The audit report of the Board of Health for fiscal year ended June 30, 1996.

-0-

Daniel Gilchrist made a motion, seconded by Henry Wilson and unanimously passed to reappoint Lou Feola to the Brooke County Public Service District Board. He will be notified by the County Clerk to come in and take the oath of office.

-0-

Sheriff Kazienko was present and indicated that he had sent Deputy Bill Elcesser and Dispatcher Marsha Kazienko to a seminar in Moundsville on the new Tele-type system. Deputy Elcesser explained that this new system is mandated by the State and must be installed by September of 1988. If the Commission chooses to order this system before April 15th there is a $500 savings with no payment until June. The advantages of the new system will be having access to a list of sex offenders, gun permit applicants, digital imaging of photos, domestic violence orders, fingerprinting comparisons, etc. The cost of the hardware is $11,166.60, a maintenance fee of $3,317.40 annually and a monthly charge of $155.00. The State wants all the equipment to be the same all over the State. Deputy Elcesser explained that our current system is over loaded and this would stand alone.

The Commission was concerned as they have been advocating with the State that if the State requires the County to do something that they provide funding to go along with those mandates. The Commission thanked the Sheriff's Department for reviewing this and they will review this among themselves before making a decision.

-0-

John Schwertfeger was present and wanted to know if the Commission had decided anything with regards to part-time pay raises. The Commission had not made a final decision.

Secondly, John was appearing as a citizen and indicated that he had been in contact with the Coalition of Mayors concerning cable systems in Brooke County. He asked the Commission to back the Mayors Coalition due to the fact that we have bad cable, service and reception in some areas. The Commission will review same.

-0-

Ruby Greathouse was present and stated that the stairlift at the Wellsburg Museum is progressing.

She also gave the Commission a map with regards to markings for the Bicycle/Hike-Bike Trails.

-0-

Henry Wilson made a motion, seconded by Daniel Gilchrist, and unanimously passed to authorize Dave Hall to proceed with the electrical work at the Museum.

-0-

The Commission wanted the Clerk to notify the offices that have part-time employment that they have decided on a 1½ per cent raise for part-time employees. The did not decide on any pay increase for part-time employees when they adopted their budget on March 19, 1997.

-0-

Invoices and vouchers were approved, and the following checks were ordered written:

General County Fund - Check Nos. 0290 to 0324

-0-

No further business to come before the Commission, Norman Schwertfeger made a motion to adjourn, seconded by Henry Wilson, and unanimously passed.

-0-

Daniel L. Gilchrist
Daniel L. Gilchrist, President

Teste:

Sylvia J. Benzo
Clerk

REGULAR ADJOURNED SESSION OF THE COUNTY COMMISSION OF BROOKE COUNTY, WEST VIRGINIA, HELD THURSDAY, MARCH 28, 1996

-0-

The County Commission of Brooke County, West Virginia, met in regular adjourned session this 28th day of March, 1996, at 3:30 o'clock p.m. at the Courthouse.

Present: Henry A. Wilson, President Pro-Tem
Norman Schwertfeger, Commissioner
Sylvia J. Benzo, County Clerk

-0-

Motion was made by Norman Schwertfeger, seconded by Henry Wilson, and unanimously passed to accept the minutes of the meeting held on March 21, 1996.

-0-

The following correspondence was read:

A letter from Dimension Cable Services that they will be carrying Speedvision, a new programming network dedicated to aviation, automobile and marine enthusiasts, beginning May 15th.

A copy of a letter that BHJ sent to Jack McCoy enclosing a report that was generated by the WVDOT regarding the proposed extension of Brooke County Route 3/2 (Lee Road) and some of the disadvantages and advantages of the proposed road.

A letter from Robert W. Butts, Jr. of 220 Manor Drive, Wellsburg who is interested in being on the Brooke County Public Service District Board. Norman Schwertfeger made a motion, seconded by Henry Wilson and passed to appoint Mr. Butts to the Brooke County PSD Board. He will be replacing William T. Watson who resigned two weeks ago.

A copy of a letter that John Schwertfeger, BCOES Director sent to Tom Burns of Charleston declaring that the roadway leading to the McKinleyville Volunteer Fire Department is an emergency situation and in need of repair.

A copy of a Resolution that Boone County passed and urges other counties to support concerning a funding increase for the National Reserve Account Grants Program. It plays a vital role in the education and retraining of displaced and laid-off workers. The Clerk will submit a copy to the Prosecutor for his review.

An application and information on the Northern Panhandle Private Industry Council request for positions for disaster relief funds. Applications must be made by April 12, 1996. The Commission is interested in applying for 12 positions.

The above correspondence was ordered filed in the County Clerk's Office.

-0-

Michael Kearns and Raymond Trivoli representatives of W.E.C. Engineering were present to let the Commission know that they have just recently opened an office in Weirton. They specialize in Civil Engineering and do all aspects of highways, bridges, interstate work and can provide engineering services. They are working with BHJ on the G.I.S. Mapping System.

The Commission thanked them for coming into Brooke County and advised that they should contact the public service districts as well as the cities to let them know they are available.

REGULAR ADJOURNED SESSION OF THE COUNTY COMMISSION OF BROOKE COUNTY, WEST VIRGINIA, HELD THURSDAY, MAY 25, 1995

-0-

The County Commission of Brooke County, West Virginia, met in regular adjourned session this 25th day of May, 1995, at 3:30 o'clock p.m. at the Courthouse.

Present: Daniel L. Gilchrist, President
Henry A. Wilson and Norman Schwertfeger, Commissioners
Sylvia J. Benzo, County Clerk

-0-

Motion was made by Norman Schwertfeger, seconded by Henry Wilson, and unanimously passed to accept the minutes of the meeting held on May 18, 1995.

-0-

Michael Gaudio, an attorney was present to ask the Commission to sign a Resolution for the merger of the Hooverson Heights Public Service District with the City of Follansbee. A merger Agreement was sent to the PSC, however; they asked for a Resolution from the County Commission that the County is in favor of the merger. Henry Wilson made a motion, seconded by Norman Schwertfeger and unanimously passed to adopt the following Resolution:

IN THE COUNTY COMMISSION OF BROOKE COUNTY, WEST VIRGINIA

RESOLUTION

WHEREAS, the Brooke County Commission has been advised that the City of Follansbee and its Combined Waterworks and Sewerage System Board is presently in the process of acquiring all of the assets and liabilities of the Hooverson Heights Public Service District and shall, thereafter, provide water and sewage services to all of the customers of the said Hooverson Heights Public Service District; and

WHEREAS, the Brooke County Commission has been further advised that, upon the completion and finalization of the aforesaid acquisition, the City of Follansbee, its Combined Waterworks and Sewerage System Board, and the Hooverson Heights Public Service District shall jointly petition the Brooke County Commission for the dissolution of the said Hooverson Heights Public Service District; and

WHEREAS, the Brooke County Commission has been still further advised that all of the said parties involved in the aforesaid acquisition and dissolution, to wit the City of Follansbee, its Combined Waterworks and Sewerage System Board, and the Hooverson Heights Public Service District, fully approve, support, and agree with the acquisition and dissolution and that each respective entity has duly passed a resolution indicating such approval, support, and agreement; and

WHEREAS, all of the aforesaid parties have individually and jointly held public hearings and have taken public comment in regard to the aforesaid acquisition and dissolution, some of which public hearings were attended by individual members of the Brooke County Commission; and

WHEREAS, the Brooke County Commission believes that it is in the best welfare and interests of the parties concerned, and that it is in the best welfare and interests of the customers of the parties and the citizens of Brooke County, that the aforesaid acquisition take place and that the Hooverson Heights Public Service District be dissolved;

NOW, THEREFORE, be it **RESOLVED** as follows:

1) That the Brooke County Commission hereby supports, agrees with, and approves of the aforesaid acquisition of all of the Hooverson Heights Public Service District's assets and liabilities by the City of Follansbee and its Combined Waterworks and Sewerage System Board and, thereafter, their providing water and sewage services to all of the customers of the said Hooverson Heights Public Service District; and

2) That, upon the completion and finalization of the aforesaid acquisition, the Brooke County Commission hereby further supports, agrees with, and approves of the dissolution of the Hooverson Heights Public Service District upon the joint petition of the City of Follansbee, its Combined Waterworks and Sewerage System Board, and the Hooverson Heights Public Service District.

DATED this 25th day of May, 1995.

s/Daniel L. Gilchrist
COMMISSIONER

s/Norman A. Schwertfeger
COMMISSIONER

s/Henry A. Wilson
COMMISSIONER

The foregoing was adopted this 25th day of May, 1995.

-0-

The following correspondence was read:

A notice from the Washington Pike Public Service District who have changed their meeting of the third Tuesday of the month to June 13, 1995 at 8:00 p.m. at the water office.

A letter from the Office of the Commissioner indicating that effective July 3, 1995 the Division of Corrections will accept inmates expeditiously following adjudication which will relieve the Counties and Regional Jails of the burden of housing State inmates. A copy will be given to Sheriff Allman.

A letter from the Criminal Justice and Highway Safety Division acknowledging receipt of our request for $55,000 in Victims of Crime Act Assistance Program Funds.

A letter from the Criminal Justice and Highway Safety Division in receipt of our application for funds under the Drug and Violent Crime Control Grant Program, however; our application will not be considered as the deadline was May 5, 1995.

A memo from the Department of Commerce, Labor and Environmental Resources enclosing a Grant application for Recycling. The deadline to submit an application is August 1, 1995.

A letter from Hammond Public Service District indicating that their customers no longer have to boil their water as the VOC's have been removed.

A response letter from the County Commissioners' Association in which the Commission inquired about making public buildings, restaurants, vending machines, etc. smoke free. A copy of this will be sent to Wellsburg Middle School and the classmates that wrote concerning making restaurants in our area and other establishments smoke free. A copy will also be sent to the Health Department.

The above correspondence was ordered filed in the County Clerk's Office.

-0-

Minutes of the Washington Pike Public Service District meeting of May 16, 1995 were reviewed by the Commission and ordered filed in the County Clerk's Office.

-0-

The Commission authorized Mr. Gilchrist to sign the Contract, dated July 1, 1995 between the Board of Health and the Commission, pursuant to House Bill No. 184. The Contract indicates that the the Health services agrees to provide services and the Commission agrees to provide the sum of $102,500 in quarterly payments of $25,625 each quarter.

-0-

Norman Schwertfeger made a motion, seconded by Henry Wilson, and unanimously passed to appoint William Liposchak as a member of the Brooke County Public Service District. He will be filling the unexpired term of Teresa Yost. His term will expire on December 31, 1999. This appointment was made pending the approval of the Prosecuting Attorney. The Commission did not know if this appointment would be a conflict of interest since Mr. Liposchak is the Mayor of Windsor Heights.

-0-

The Circuit Clerk Glenda Brooks was in on behalf of Judge Risovich to request telephone lines be installed in the Law Master Office and the Jury Room. The phone numbers will be the same used in the Judge's Chambers and not new telephone numbers. Henry Wilson made a motion, seconded by Norman Schwertfeger, and unanimously passed to authorize the installation of the same telephone numbers and lines be installed in the Family Law Master Office and the Jury Room that are currently in the Judge's Chambers.

-0-

Robyn Mayhew a 7th Grade student at St. John School along with her teacher were present to receive a check in the amount of $150.00 on behalf of St. John School. Local students were asked to draw a poster of what our area would look like in the future. This was sponsored by the Appalachian

10 BARNARD ST LOUIS

State of West Virginia, Brooke County, ss:

I, Lou Feola do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of West Virginia, and that I will faithfully discharge the duties of BROOKE COUNTY PUBLIC SERVICE DISTRICT BOARD MEMBER. TERM TO EXPIRE: 12/31/02

to the best of my skill and judgment. So help me God.

X L C Feola

Sworn and subscribed to before me this 18th day of April 19 97

Sylvia J Berzo
Clerk of the County Commission of Brooke County.

By ..... Deputy

COUNTY CLERK'S CERTIFICATION

STATE OF WEST VIRGINIA
County of Brooke, } ss

I, SYLVIA J. BENZO, Clerk of the County Court of Brooke County, the same being a Court of Record, having the custody of the Files, Journals and Records of said County, do certify that the foregoing is a true and accurate copy of Oath of Office of Lou Feola, member of the Brooke County Public Service District Board, term to expire 12/31/2002

as the same appears of record in my office, in Oath of Office Book No. 6, Page 110, and I further certify that I have carefully compared the foregoing copy with the original record and that the same is a full and correct transcript thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Court, at Wellsburg, Brook County, West Virginia, this 27th day of October, 19 97.

Sylvia J. Benzo
Clerk County Court, Brooke County, WV

By _____
Deputy

Attended Mandatory PSC Training in Canaan Valley 7/96.

Engineer - Computer Analyst / Tech. Secretary
Building Division

State of West Virginia, Brooke County, ss:

I, Robert W. Butts, Jr. do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of West Virginia, and that I will faithfully discharge the duties of member, Brooke County Public Service District Board.

to the best of my skill and judgment. So help me God. Robert W. Butts, Jr.

Sworn and subscribed to before me this 8th day of April, 1996

Sylvia J. Benzo
Clerk of the County Commission of Brooke County.

By Donna R. Brown Deputy

COUNTY CLERK'S CERTIFICATION

STATE OF WEST VIRGINIA
County of Brooke, } ss

I, SYLVIA J. BENZO, Clerk of the County Court of Brooke County, the same being a Court of Record, having the custody of the Files, Journals and Records of said County, do certify that the foregoing is a true and accurate copy of Oath of Office of Robert W. Butts, Jr., a member of the BROOKE COUNTY PUBLIC SERVICE DISTRICT BOARD. Term to expire: Dcember 31, 1999

as the same appears of record in my office, in Oath of Office Book No. 6, Page 93, and I further certify that I have carefully compared the foregoing copy with the original record and that the same is a full and correct transcript thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Court, at Wellsburg, Brook County, West Virginia, this 12th day of March, 19 97.

Sylvia J. Benzo
Clerk County Court, Brooke County, WV

By _____
Deputy

Attended Mandatory PSC Training in Clarksburg 7/95.

Assistant Electrician - Weirton Steel Corp. Retired

State of West Virginia, Brooke County, ss:

I, William Mack Liposhack do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of West Virginia, and that I will faithfully discharge the duties of member of the Brooke County Public Service District Board to fill the unexpired term of Teresa Yost. The term is due to expire 12/31/99.

to the best of my skill and judgment. So help me God.

William Mack Liposhack

Sworn and subscribed to before me this 6th day of June 19 95

Sylvia J. Bezzo

Clerk of the County Commission of Brooke County.

By ..... Deputy

COUNTY CLERK'S CERTIFICATION

STATE OF WEST VIRGINIA
County of Brooke, } ss

I, SYLVIA J. BENZO, Clerk of the County Court of Brooke County, the same being a Court of Record, having the custody of the Files, Journals and Records of said County, do certify that the foregoing is a true and accurate copy of Oath of Office of William Mack Liposchak, a member of the BROOKE COUNTY PUBLIC SERVICE DISTRICT BOARD. Term to expire: December 31, 1999 as the same appears of record in my office, in Oath of Office Book No. 6, Page 88, and I further certify that I have carefully compared the foregoing copy with the original record and that the same is a full and correct transcript thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Court, at Wellsburg, Brook County, West Virginia, this 12th day of March, 19 97.

Sylvia J. Benzo
Clerk County Court, Brooke County, WV

By _____
Deputy

BROOKE COUNTY PSD BOARD MEETING
COURT HOUSE, 6:30 pm 4/10/96 Tape:0001

ATTENDANCE: Bill Liposchak, Lou Feola, Rob Butts, Jerry Lewis, Kim Weaver, Wayne Mielke, Ron Schultz and Craig Richards

Board Reorganization:

Motion to appoint Bill Liposchak as Chairman; Lou Feola, Rob Butts second, motion passed.
Motion to appoint Rob Butts as secretary; Lou Feola, Bill Liposchak second, motion passed.
Motion to appoint Lou Feola as treasurer; Bill Liposchak, Rob Butts second, motion passed.

Reading of the Minutes: 3/1/96 Board Meeting.

Old Business:

Ron Schultz of Burgess & Niple introduced two amendments to the current agreement. 1) To deal with the increased line length and additional manholes at Windsor Heights. 2)To deal with Franklin Manor. Draft copies were distributed for review. Cost for Franklin manor can be isolated upon acceptance of these amendments. The draft for Franklin Manor is for the plant only.

Bill Liposchak stated that the board members would go to Franklin Manor on Saturday, 4/13/96, to determine if the sewer lines need replaced. If so, he would contact Craig on Monday for additional designs and amendments. A special meeting of the board would then be scheduled at a later date for review of the new material.

Kim Weaver then asked Craig Richards the status of the aerial flyover of Franklin Manor and suggested that at least the pictures be taken as soon as possible before the area is covered with new foliage. Craig stated the Henderson Aerial Surveys was the lowest bidder with photography cost of $675.00 for a 1 inch to 100 ft scale photo. Total cost for all mapping would be $3485.00. Kim stated the $675.00 would be taken from the Advanced Assistance fund. The current balance is approximately $29,800.00.

Jerry Lewis then presented deposits of $2,200.00 and water bill which needs to be paid. He then discussed several bad valves and straps at the plant which needed replaced. These valves and

straps were supposed to be stainless steel, but galvanized valves were used. Bill asked Jerry to start a preventative maintenance program of replacing all galvanized valves and straps. Lou then asked if a spare parts stocking program should be implemented. Storage of spare parts was discussed as an area of concern. Purchase of a package shed from a local lumber store was then discussed and believed to be cheaper than having a building built as part of the project. Also, Jerry is to make a list of vital spare parts so they can be purchased and stocked.

Craig Richards then presented a marked up version of a plat of the required property for the Franklin Manor system. The copy was given to Wayne Mielke who is then to discuss it with Mr. Hilt and his attorney before preparing a final plat and legal description. The drawing was then shown to the board. The land swap, landscaping, placement of the system as well as a 20 foot temporary easement required on Lot 22 were then discussed. Wayne then expressed concern over the grade of the hill and the possible liability resulting from it. Craig explained it was a 2 to 1 slope and mowable. B&N has also requested proposal for soil boring samples. Temporary easements may be required to start the borings.

Craig then said the a two man survey crew would be at Windsor Heights/Short creek would be there on Thursday and Friday to check items in field. Pat Batel will be there Thursday and Friday meeting with the power company to discuss the electrical drops. The same soil boring proposal will cover that portion of the work. A Division of Highways permit is required since borings may take place in state right of ways. Clinton Ave was questioned on who permission was required from since they are not in the state right of way. Wayne believed that they would be owned by the county. Craig said he would check with the County Commissioners for permission. Bill Liposchak then signed the application for the permit.

Craig and Bill then discussed a meeting with Arty Salvagiat regarding the Windsor Heights lift station. Mr. Salvagiat would prefer the lift station not be on his property. An alternative site on the old railroad right of way was presented. They would see what the state would require as a permit to build the station on that property. A concern of the condition of a permit were discussed, since future requirements of the state may be a liability. The state told Burgess & Niple that they would have to deal with them. The actual owner of the property needs to be determined since it is possible that the state is not the owner. Craig said he would have to check in the Court House as to who the legal owner is.

Craig then stated that the deadline for the plant specifications is April 25. They expect to have the specifications completed by April 18th. Four State Revolving Fund applications were then submitted. 1)Windsor Heights North/South Beech Bottom project. 2) Colliers project, 3)Cross

Creek/Eldersville project and 4)Washington Pike project. Kim Weaver described the DEP State Revolving Fund program and the requirements to be considered for the grants. She also stated that the applications must be sent in by April 19. Kim also discussed grant money available from the Infrastructure Council required to keep the rate at $27.24. The board members then signed the applications.

Kim then discussed the filing process for the addition of Franklin Manor. She said that the addition of Franklin did not significantly effect the existing project schedule since it is currently running late. Bill then asked how soon rates can be set at Franklin Manor. Kim said that would be a separate case that may take as long as 120 days due to set lead times for such a case. She then discussed the pre-filing and legal notices that must be issued. If the estimated costs of the projects are greater than the legal notice, the case will have to be refiled. Therefore, the highest possible cost should be used to estimate the project. She also estimated that the project will be 6 months behind schedule.

Kim then read a resolution from DEP that authorizes the chairman to be the signator for any and all contracts, obligations of funds or any information requiring a signature. The resolution was then signed by the board.

Kim then read a letter from Susan Reese who is a staff attorney regarding the request for a determination on whether the PSD is required to extend the taps past the property line for residents. According to rule 5.4.14 of the commissions of rules and regulations for the government of sewer utilities. The rule states that customers are not required to pay for changes made to utility and shall be at the utilities expense. However, since the village has never filed for a certificate to operate the facility or a rate on file with the commission, the residents are not customers, as defined by the commission, of any operating utility. Therefore, the PSD is only required to provide service to the property line. Tap service may be provided to the homes, however, at the expense and discretion. This is the opinion of the staff only and not necessarily that of the commission.

A discussion on the providing tap service to the homes ensued. Concern over the economic ability of the residents of the Windsor Heights area to pay for the tap was discussed. Also, the board felt that if the service was provided to a portion of the customers, then all customers must be given the same service. The additional cost of approximately $425,000.00 would be added to the project if the taps were provided to the homes of all customers. Kim stated she has contacted several banks on providing low interest loans for persons unable to pay for their lateral line hookup. Craig also brought up the potential liability associated with the PSD running and owning

the lines. Customers may expect the PSD to fix or replace the lateral lines if they are included in the project.

Motion to drop the tap fee and provide service to the property line only; Lou Feola, Rob Butts, second; motion passed.

The board then agreed to try to identify banks willing to make loans to the residents to help pay for the lateral service. The board will also help to identify contractors to install the lateral lines on the customers property.

Kim then gave Wayne and Bill a two draft copies of a State Revolving Fund Management Services Agreement for review. Their first for the Windsor Heights/Short Creek/ North/South Beech project with a cost of $15,000.00 for the engineers who have administered the project. The second was for the Franklin Manor project for $10,000.00 for administrative cost.

Kim then presented voucher number 17 for Burgess & Niple for design services rendered through 2/17/96 for $56,618.07.

Motion made to accept voucher #17; Rob Butts, Bill Liposchak second, motion passed.

Kim presented voucher number 18 for BHJ Planning & Development Council for administration services rendered through 2/11/96 for $3,946.04.

Motion made to accept voucher #18; Rob Butts, Lou Feola second, motion passed.

The board then set up a meeting at Franklin Manor on Saturday to asses the condition of the sewer lines and decide if they need replaced.

Motion was made to approve the Treasurers Report; Rob Butts, Bill Liposchak second, motion passed.

Kim then discussed the Colliers income survey. It appears the area is 56% low to moderate income. The Brooke County Commission is eligible to apply for a application if the Infrastructure council would allow them to. The commission will have a public hearing in May from PSD's in the county for potential applications. The Colliers project may be used for the application.

Meeting adjourned.

BROOKE COUNTY PUBLIC SERVICE DISTRICT

SEWER SYSTEM REVENUE BONDS, SERIES 1997 A

SEWER SYSTEM REVENUE BONDS, SERIES 1997 B

SEWER SYSTEM REVENUE BONDS, SERIES 1997 C

BOND RESOLUTION

BROOKE COUNTY PUBLIC SERVICE DISTRICT
SEWER SYSTEM REVENUE BONDS,
SERIES 1997 A, SERIES 1997 B AND SERIES 1997 C

INDEX

PAGE

ARTICLE I
STATUTORY AUTHORITY, DEFINITIONS AND FINDINGS

Section 1.01. Authority of this Resolution 1
Section 1.02. Definitions 1
Section 1.03. Resolution Constitutes Contract 12
Section 1.04. Findings 12

ARTICLE II
AUTHORIZATION OF EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO SYSTEM

Section 2.01. Authorization of Extensions, Additions, Betterments and Improvements 14

ARTICLE III
AUTHORIZATION, TERMS, EXECUTION AND REGISTRATION OF BONDS

Section 3.01. Authorization and Terms of Original Bonds 15
Section 3.02. Execution of Bonds 16
Section 3.03. Authentication and Registration 16
Section 3.04. Negotiability, Transfer and Registration 16
Section 3.05. Bonds Mutilated, Destroyed, Stolen or Lost 17
Section 3.06. Bonds not to be Indebtedness of the Issuer 17
Section 3.07. Bonds Secured by Pledge of Net Revenues 17
Section 3.08. Form of Original Bonds 18
Section 3.09. Sale of Original Bonds; Ratification and Execution of Loan Agreements 43
Section 3.10. Certificate of Consulting Engineers 43
Section 3.11. Amended Schedule A Filing 43

ARTICLE V
SYSTEM REVENUES AND APPLICATION THEREOF

Section 5.01. Establishment of Funds and Accounts with Depository Bank 45
Section 5.02. Establishment of Funds and Accounts with Commission 45
Section 5.03. System Revenues; Flow of Funds 45
Section 5.04. Excess Bond Proceeds 48

ARTICLE VI
APPLICATION OF ORIGINAL BOND PROCEEDS; FUNDS AND ACCOUNTS

Section 6.01. Application of Original Bond Proceeds 49
Section 6.02. Disbursements From the Bond Construction Trust Funds 49

ARTICLE VII
ADDITIONAL COVENANTS OF THE ISSUER

Section 7.01. General Covenants of the Issuer 52
Section 7.02. Bonds not to be Indebtedness of the Issuer 52
Section 7.03. Bonds Secured by Pledge of Net Revenues 52
Section 7.04. Rates 52
Section 7.05. Completion, Operation and Maintenance; Schedule of Cost . . 53
Section 7.06. Sale of the System 53
Section 7.07. Issuance of Other Obligations Payable out of Revenues and General Covenant Against Encumbrances 54
Section 7.08. Parity Bonds 54
Section 7.09. Insurance and Construction Bonds 56
Section 7.10. Consulting Engineers 57
Section 7.11. Compliance With Loan Agreements, Rules and Regulations . 57
Section 7.12. No Free Services 58
Section 7.13. Enforcement of Collections 58
Section 7.14. No Competing Franchise 58
Section 7.15. Books, Records and Facilities 58
Section 7.16. Operating Budget 60
Section 7.17. Mandatory Connection 61
Section 7.18. Tax Covenants 61
Section 7.19. Statutory Mortgage Lien 62
Section 7.20. PSC Order 62
Section 7.21. Covenant to Amend Resolution 62
Section 7.22. Compensation of the Issuer 62
Section 7.23. Securities Law Compliance 63

ARTICLE VIII
INVESTMENT OF FUNDS; NON-ARBITRAGE

Section 8.01. Investments 64
Section 8.02. Arbitrage 64
Section 8.03. Rebate of Excess Investment Earnings to the United States . . 64

ARTICLE IX
DEFAULT AND REMEDIES

Section 9.01. Events of Default 69
Section 9.02. Remedies 69
Section 9.03. Appointment of Receiver 69

ARTICLE X
DEFEASANCE

Section 10.01. Defeasance of Bonds 71

ARTICLE XI
MISCELLANEOUS

Section 11.01. Modification or Amendment 72
Section 11.02. Severability of Invalid Provisions 72
Section 11.03. Table of Contents and Headings 72
Section 11.04. Repeal of Conflicting Resolutions 72
Section 11.05. Covenant of Due Procedure 72
Section 11.06. Effective Date 72

Exhibit A - Project Description
Exhibit B - Loan Agreements

BOND RESOLUTION

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING SEWER SYSTEM OF THE BROOKE COUNTY PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF, THROUGH THE ISSUANCE BY THE DISTRICT OF SEWER SYSTEM REVENUE BONDS; AUTHORIZING THE ISSUANCE OF THREE SEPARATE SERIES OF SEWER SYSTEM REVENUE BONDS OF THE DISTRICT IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED $3,200,000 TO BE USED, ALONG WITH OTHER FUNDS AND MONEYS OF, OR AVAILABLE TO, THE DISTRICT WHICH MAY BE LAWFULLY EXPENDED FOR SUCH PURPOSES, TO FINANCE THE COST OF SUCH ACQUISITION AND CONSTRUCTION, TO FUND RESERVE ACCOUNTS FOR SUCH BONDS, AND TO PAY OTHER COSTS IN CONNECTION THEREWITH; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A LOAN AGREEMENT OR LOAN AGREEMENTS RELATING TO SUCH BONDS; AND ADOPTING OTHER PROVISIONS RELATED THERETO.

BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF THE BROOKE COUNTY PUBLIC SERVICE DISTRICT:

ARTICLE I

STATUTORY AUTHORITY, DEFINITIONS AND FINDINGS

Section 1.01. Authority of this Resolution. This Resolution is enacted pursuant to the provisions of Chapter 16, Article 13A, Chapter 22C, Article 2 and Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended, and other applicable provisions of law.

Section 1.02. Definitions. The following terms shall have the following meanings in this Resolution unless the context expressly requires otherwise.

"Act" shall mean collectively Chapter 16, Article 13A, Chapter 22C, Article 2 and Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended and in effect on the date of enactment of this Resolution.

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

"Board" means the public service board of the Issuer and shall include the membership of the board as may hereafter be duly constituted as the legal successors to the present membership or any other authority vested with and authorized to exercise the powers of the Issuer.

"Bond Act" means Chapter 16, Article 13A of the Code of West Virginia, 1931, as amended, and in effect on the date of the enactment of this Resolution.

"Bond Construction Trust Funds" shall mean the funds created by Section 6.01 hereof, and when preceded by a designated series of Bonds, shall mean the individual Bond Construction Trust Fund created for such series of Bonds.

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

"Bond Year" shall mean, with respect to the Series 1997 C Bonds, the twelve-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" shall mean the Original Bonds and any pari passu additional Bonds hereafter issued within the terms, restrictions and conditions contained in this Resolution.

"Certificate of Authentication and Registration" means the certificate of authentication and registration on the Bonds in substantially the form set forth in Section 3.08 hereof.

"Chairman" means the Chairman of the Board of the Issuer.

"Closing Date" shall mean the date upon which there is an exchange of the Bonds for all or a significant portion of the proceeds representing the purchase of the Bonds by the Authority.

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

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

"Completion Date" means the completion date of the Project, as defined in the SRF Regulations.

"Consulting Engineers" shall mean Burgess & Niple, Ltd., Consulting Engineers, Parkersburg, West Virginia, or any engineer or firm of engineers which shall at any time hereafter be retained by the Issuer as Consulting Engineers for the System.

"Cost of Project" or "Costs" shall mean those costs described in Section 1.04(E) hereof to be a part of the cost of the acquisition and construction phase of the Project, as the case may be, as hereinafter defined.

"Debt Service" shall mean the scheduled amount of interest and amortization of principal payable on the Bonds during the period of computation, excluding amounts scheduled during such period which relate to principal which has been retired before the beginning of such period.

"DEP" shall mean West Virginia Division of Environmental Protection, a division of the West Virginia Bureau of Environment, or any other agency, board or department of the State that succeeds the function of the West Virginia Division of Environmental Protection.

"Depository Bank" shall mean a bank or national banking association located in the State, eligible under the laws of the State to receive deposits of state municipal funds and insured by the FDIC, and designated as such in the Supplemental Resolution, and its successors and assigns.

"Earnings Fund" shall mean the separate fund created by Section 8.03A hereof.

"Excess Investment Earnings" shall mean, with respect to the Series 1997 C Bonds, an amount equal to the sum of:

(A) The excess of

(i) The aggregate amount earned from the Closing Date on all Nonpurpose Investments in which Gross Proceeds of the Series 1997 C Bonds are invested [other than amounts attributable to an excess described in this clause (A) of this definition of Excess Investment Earnings], over

(ii) The amount that would have been earned if the Yield on such Nonpurpose Investments [other than amounts attributable to an excess described in this clause (A) of this definition of Excess Investment earnings] had been equal to the Yield on the Series 1997 C Bonds, plus

(B) Any income attributable to the excess described in clause (A) of this definition of Excess Investment Earnings.

"Event of Default" means any event or occurrence specified in Section 9.01 hereof.

"FDIC" means the Federal Deposit Insurance Corporation and any successor to the functions thereof.

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

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

"Grant" shall mean any grant or grants received by the Issuer in aid of the cost of the design, acquisition and construction of the Project.

"Grant Agreement" shall mean a written commitment for the payment of any Grant, specifying the amount of such Grant, the terms and conditions upon which such Grant is made and the date or dates or event or events upon which such Grant is repaid to the Issuer.

"Grant Receipts" shall mean all monies received by the Issuer on account of any Grant.

"Government Obligations" means direct obligations of, or obligations the timely payment of the principal of and interest on which is guaranteed by, the United States of America, including (i) such obligations which have been stripped from their unmatured interest coupons, interest coupons stripped from such obligations and receipts or certificates evidencing payments from such obligations or interest coupons stripped from such obligations, (ii) evidences of ownership of a proportionate interest in specified direct obligations of, or specified obligations which are unconditionally and fully guaranteed by, the United States of America, which obligations are held by a bank or trust company organized and existing under the laws of the United States of America or any state thereof in the capacity of custodian and (iii) obligations, the sole source of the payment of the

principal of and interest on which are obligations of the nature of those described in clause (i), which are irrevocably pledged for such purposes.

"Gross Proceeds" means, with respect to the Series 1997 C Bonds, the sum of the following amounts:

(i) Original proceeds, namely, net amounts received by or for the Issuer as a result of the sale of the Series 1997 C Bonds, excluding original proceeds which become transferred proceeds (determined in accordance with applicable Regulations) of obligations issued to refund in whole or in part the Series 1997 C Bonds;

(ii) Investment proceeds, namely, amounts received at any time by or for the Issuer, such as interest and dividends, resulting from the investment of any original proceeds (as referenced in clause (i) above) or investment proceeds (as referenced in this clause (ii)) in Nonpurpose Investments, increased by any profits and decreased (if necessary, below zero) by any losses on such investments, excluding investment proceeds which become transferred proceeds (determined in accordance with applicable Regulations) of obligations issued to refund in whole or in part the Series 1997 C Bonds;

(iii) Transferred proceeds, namely, original proceeds of any prior obligations, and interest earnings and profits less losses resulting from investment of such original proceeds in Nonpurpose Investments, which are used to discharge the outstanding principal of any prior obligations and which are deemed to become proceeds of the Series 1997 C Bonds ratably as original proceeds of the Series 1997 C Bonds, and interest earnings and profits resulting from investment of such original proceeds in Nonpurpose Investments, which are used to discharge the outstanding principal of any such prior obligations, all on the date of such ratable discharge;

(iv) Sinking fund proceeds, namely, amounts, other than original proceeds, investment proceeds or transferred proceeds [as referenced in clauses (i) through (iii) above] of the Series 1997 C Bonds, which are held in any fund to the extent that the Issuer reasonably expects to use such other fund to pay Debt Service;

(v) Amounts in the Series 1997 C Bonds Reserve Account and in any other fund established as a reasonably required reserve or replacement fund;

(vi) Investment Property pledged as security for payment of Debt Service on the Series 1997 C Bonds by the Issuer;

(vii) Amounts, other than as specified in this definition, used to pay Debt Service on the Series 1997 C Bonds; and

(viii) Amounts received as a result of investing amounts described in this definition.

"Gross Revenues" shall mean the aggregate gross operating and non-operating revenues 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; provided, that "Gross Revenues" does not include any gains from the sale or other disposition of, or from any increase in the value of, capital assets (including Qualified Investments, as hereinafter defined) or any Tap Fees, as hereinafter defined, and for the furnishing by the Issuer of miscellaneous services.

"Independent Accountants" shall mean any certified public accountant or firm of certified public accountants which shall be retained by the Issuer as independent accountants for the System or for any other purpose except keeping the accounts of the System in the normal operation of its business and affairs.

"Infrastructure Council" means the West Virginia Infrastructure and Jobs Development Council or any successor thereto.

"Infrastructure Council Act" means Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended, and in effect on the date of the enactment of this Resolution.

"Investment Property" shall mean, with respect to the Series 1997 C Bonds, any security (as said term is defined in Section 165(g)(2)(A) or (B) of the Code), obligation, annuity contract or 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.

"Issuer" or "District" means the Brooke County Public Service District, a public corporation and political subdivision of the State.

"Loan Agreement" or "Loan Agreements" shall mean (a) the Water Pollution Control Revolving Fund Loan Agreement by and among the Authority, the DEP and the Issuer providing for the purchase of the Series A Bonds from the Issuer by the Authority, and/or, as the case may be, (b) the loan agreement or loan agreements to be entered into between the Authority and the Issuer, pursuant to which the Authority shall agree, subject to the Issuer's satisfying certain legal, engineering and other requirements, to purchase the Series B Bonds and Series C Bonds, the forms of which agreements are attached hereto as Exhibit B.

"Net Proceeds" means, with respect to the Series 1997 C Bonds, the face amount of the Series 1997 C Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds deposited in the Series 1997 C 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 1997 C Bonds, without regard to whether or not such investment is made in tax-exempt obligations.

"Net Revenues" shall mean the balance of the Gross Revenues remaining after deduction of Operating Expenses, as hereafter defined.

"Nonpurpose Investment" shall mean, with respect to the Series 1997 C Bonds, any Investment Property which is acquired with the Gross Proceeds of the Bonds and is not acquired in order to carry out the governmental purpose of the Series 1997 C Bonds.

"Operating Expenses" shall mean the reasonable, proper and necessary costs of repair, maintenance and operation 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); fees and expenses of the Authority, DEP, the Infrastructure Council, fiscal agents, the Registrar and the Paying Agent (other than those capitalized as part of the Costs); 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; provided, that "Operating Expenses" does not include payments on account of the principal of or redemption premium, if any, or interest on the Bonds; charges for depreciation, losses from the sale or other disposition of, or from any decrease in the value of, capital assets; and amortization of debt discount or such miscellaneous deductions as are applicable to prior accounting periods.

"Original Bonds" or "Bonds originally authorized hereby" or similar phrases shall mean the not more than $3,200,000 Sewer System Revenue Bonds, Series 1997 A, Series 1997 B and Series 1997 C, to be issued for the purpose of paying a portion of the Costs of the acquisition and construction of the Project and for such other purposes permitted hereby and authorized by a resolution supplemental hereto.

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

"Parity Bonds" shall mean additional Bonds issued under the provisions and within the limitations prescribed by Section 7.08 hereof, payable from Net Revenues on a parity with the Original Bonds.

"Paying Agent" shall mean the West Virginia Municipal Bond Commission or such other entity or authority as may be designated as a paying agent by the Issuer and the Supplemental Resolution with the written consent of the Authority and the DEP.

"Private Business Use" shall mean, with respect to the Series 1997 C Bonds, any use directly or indirectly in a trade or business carried on by a natural person, including all persons "related" to such person within the meaning of Section 144(a)(3) of the Code, or in any activity carried on by a person other than a natural person, including all persons "related" to such person within the meaning of Section 144(a)(3) of the Code, excluding, however, use by a state or local governmental unit and use as a member of the general public. All of the foregoing shall be determined in accordance with the Code, including, without limitation, giving due regard to "incidental use", if any, of the proceeds of the issue and/or proceeds used for "qualified improvements", if any.

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

"Project" shall mean the acquisition and construction of certain extensions, additions, betterments and improvements to the System, a description of which is attached hereto as Exhibit A and incorporated herein by reference.

"PSC" means the Public Service Commission of West Virginia and any successor to the functions thereto.

"PSC Order" means the Recommended Decision of the PSC in Case No. 97-0333-PSD-CN, which was entered by an Administrative Law Judge of the PSC on September 16, 1997, and which became the final order of the PSC on October 6, 1997, granting the Issuer a Certificate of Convenience and Necessity to construct the Project and approving the financing thereof.

"Purchase Price," for the purpose of computation of the Yield of the Series 1997 C 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 1997 C 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 1997 C Bonds of each maturity is sold or, if the Series 1997 C Bonds are privately placed, the price paid by the first buyer of the Series 1997 C Bonds or the acquisition costs 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 1997 C Bonds for acquisition thereof or, if later, on the date

that Investment Property constituting a Nonpurpose Investment becomes a Nonpurpose Investment of the Series 1997 C Bonds.

"Qualified Investments" shall mean and include any of the following:

(a) Government Obligations;

(b) Government Obligations which have been stripped of their unmatured interest coupons, interest coupons stripped from Government Obligations, and receipts or certificates evidencing payments from Government Obligations or interest coupons stripped from Government Obligations;

(c) Bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Banks for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Bank System; Export-Import Bank of the United States; Federal Land Banks; Government National Mortgage Association; the Tennessee Valley Authority; or the Washington Metropolitan Area Transit Authority;

(d) Any bond, debenture, note, participation certificate or other similar obligation issued by the Federal National Mortgage Association to the extent such obligation is guaranteed by the Government National Mortgage Association or issued by any other federal agency and backed by the full faith and credit of the United States of America;

(e) Time accounts (including accounts evidenced by time certificates of deposit, time deposits or other similar banking arrangements) which, to the extent not insured by the Federal Deposit Insurance Corporation ("FDIC"), shall be secured by a pledge of Government Obligations, provided, that said Government Obligations pledged either must mature as nearly as practicable coincident with the maturity of said time accounts or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said time accounts;

(f) Money market funds or similar funds whose only assets are investments of the type described in paragraphs (a) through (e) above;

(g) Repurchase agreements, fully secured by investments of the types described in paragraphs (a) through (e), above, with banks or national banking associations which are members of FDIC or with government bond dealers recognized as primary dealers by the Federal Reserve Bank of New York, provided, that said investments securing said repurchase agreements either must mature as nearly as practicable coincident with the maturity of said repurchase agreements or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said repurchase agreements, and provided further that the owner of such repurchase agreement shall have a prior perfected security interest in the collateral therefor; must have (or its agent must have) possession of such collateral; and such collateral must be free of all claims by third parties;

(h) The "consolidated fund" (or any distinct portion thereof) managed by the West Virginia State Board of Investments pursuant to Article 6, Chapter 12 of the Code of West Virginia, 1931, as amended; and

(i) Obligations of states or political subdivisions or agencies thereof, the interest on which is exempt from federal income taxation, and which are rated at least "A" by Moody's Investor Service, Inc., or Standard and Poor's Corporation.

"Rebate Fund" shall mean the separate fund created by Section 8.03A hereof.

"Registrar" or "Bond Registrar" shall mean the bank or other entity to be designated as such in the Supplemental Resolution and its successors and assigns.

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

"Renewal and Replacement Fund" shall mean the fund created by Section 5.01(2) hereof.

"Reserve Accounts" shall mean the Reserve Accounts created by Section 5.02(1)(a) hereof, and when preceded by a designated series of Bonds, shall mean the individual Reserve Account created for such series of Bonds.

"Reserve Requirement" shall mean as of any date of calculation, the maximum amount of principal and interest, if any, which will become due on each series of the Bonds in the then current or any succeeding Fiscal Year.

"Resolution" means this resolution, as from time to time amended or supplemented.

"Revenue Fund" shall mean the fund created by Section 5.01(1) hereof.

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

"SRF Act" shall mean Chapter 22C, Article 2 of the Code of West Virginia, 1931, as amended, and in effect on the date of the enactment of this Resolution.

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

"Secretary" means the Secretary of the Board of the Issuer.

"Series 1997 A Bonds" or "Series A Bonds" shall mean the not more than $450,000 in aggregate principal amount of Sewer Revenue Bonds, Series 1997 A to be purchased by the Authority on behalf of the Fund.

"Series 1997 B Bonds" or "Series B Bonds" shall mean the not more than $2,300,000 in aggregate principal amount of Sewer Revenue Bonds, Series 1997 B to be purchased by the Authority on behalf of the Infrastructure Council.

"Series 1997 C Bonds" or "Series C Bonds" shall mean the not more than $450,000 in aggregate principal amount of Sewer Revenue Bonds, Series 1997 C to be purchased by the Authority on behalf of the Infrastructure Council.

"State" shall mean the State of West Virginia.

"Supplemental Resolution" shall mean any resolution or order of the Issuer supplementing or amending this Resolution and, when preceded by the article "the," refers specifically to the supplemental resolutions authorizing the sale of the Original Bonds; provided, that any matter intended by this Resolution to be included in the Supplemental Resolution with respect to the Original Bonds and not so included may be included in another Supplemental Resolution.

"Surplus Revenues" shall mean the net revenues not required by this Resolution to be set aside and held for the payment of or security for the Bonds, including the reserve accounts and the Renewal and Replacement Fund.

"System" shall mean the existing sanitary sewer collection and treatment system, both within and without said Issuer, and shall include any extensions, additions, betterments and improvements thereto.

"Yield" means, with respect to the Series 1997 C Bonds, that yield which, when used in computing the present worth of all payments of principal and interest (or other payments in the case of Nonpurpose Investments which require payments in a form not characterized as principal and interest) on a Nonpurpose Investment or on the Series 1997 C Bonds, produces an amount equal to the Purchase Price of such Nonpurpose Investment or the Series 1997 C Bonds, all computed as prescribed in applicable Regulations.

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

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

The terms "herein", "hereunder", "hereby", "hereto", "hereof" and any similar terms refer to this Resolution; and the term "hereafter" means after the date of the adoption of this Resolution.

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

Section 1.03. Resolution Constitutes Contract. In consideration of the acceptance of the Original Bonds and any other bonds authorized to be issued hereunder by those who shall own the same from time to time, this Resolution 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 said Issuer shall be for the equal benefit, protection and security of the legal owners 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 Bonds by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

Section 1.04. Findings. It is hereby found, determined and declared as follows:

A. The Issuer is a public corporation and political subdivision of the State in Brooke County of said State. The Issuer now owns and operates a public wastewater collection and treatment system furnishing service to residences, premises and businesses residing or located within the territory of the Issuer.

B. It is deemed necessary and desirable for the health, welfare and safety of the inhabitants of the District that there be acquired and constructed the Project, at an estimated cost of $6,275,906, in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have been approved by DEP and are on file with the Issuer. The Project is generally described in Exhibit A attached hereto and incorporated by reference herein. The Project has an estimated useful life in excess of forty years.

C. The Issuer derives Net Revenues from the System, and said Net Revenues are not pledged or encumbered in any manner.

D. The estimated revenues to be derived in each year after the enactment of this Resolution from the operation of said System will be sufficient to pay all the costs of the operation and maintenance of said System, the principal of and interest on each series of Original Bonds of the Issuer and all sinking fund and other payments provided for in this Resolution.

E. It is deemed necessary for the Issuer to issue its Original Bonds in the aggregate principal amount of not more than $3,200,000 to finance the costs of the acquisition and construction of the Project herein described through the Program and the Infrastructure Council. Said costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor; interest on the Original Bonds prior to and during construction or acquisition and for six months after completion of construction of the Project, if any; engineering, fiscal and legal expenses; expenses for

estimates of cost and revenue; expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise; administrative expense, any fees or expenses of the Authority, DEP and the Infrastructure Council, commitment fees, discount, initial fees for the service of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Original Bonds, and such other expenses as may be necessary or incidental to the financing herein authorized, the construction or acquisition of the Project and the placing of the 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 Original Bonds or the repayment of the indebtedness incurred by the Issuer for such purposes shall be deemed part of the Cost of the Project.

F. The Infrastructure Council has approved the Project and has authorized the Authority to purchase bonds of the Issuer, to provide moneys which, along with the Small Cities Block Grant, a grant from the Infrastructure Council, and the bonds to be issued under the SRF Program, will finance the Project. It is in the best interests of the Issuer that its Series 1997 A Bonds be sold to the Authority pursuant to the terms and provisions of the Loan Agreement by and among the Authority, the DEP and the Issuer and it is in the best interest of the Issuer that its Series 1997 B Bonds and Series 1997 C Bonds be sold to the Authority pursuant to the terms and provisions of the Loan Agreements by and between the Authority and the Issuer.

G. The Issuer has complied with all requirements of West Virginia law relating to authorization of the construction, acquisition and operation of the Project and issuance of the Original Bonds, or will have so complied prior to the issuance of any thereof, including, among other things, the obtaining of a Certificate of Convenience and Necessity from the PSC by final order, the time for rehearing and appeal of which will have expired or will have been waived prior to the issuance of the Original Bonds.

H. The Issuer will not permit, at any time, any of the proceeds of the Series 1997 C Bonds or any other funds of the Issuer to be used directly or indirectly in a manner which would result in the exclusion of the Series 1997 C Bonds from the treatment afforded by Section 103(a) of the Code.

I. The Issuer will file all statements, instruments and returns necessary to assure the tax-exempt status of the Series 1997 C Bonds.

J. The Series 1997 C Bonds will not be federally guaranteed within the meaning of the Code.

K. It is reasonably anticipated that all proceeds of the Original Bonds will be spent within three years from the date of issuance.

ARTICLE II

AUTHORIZATION OF EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO SYSTEM

Section 2.01. Authorization of Extensions, Additions, Betterments and Improvements. There is hereby authorized the acquisition and construction of the Project in accordance with plans and specifications prepared by the Consulting Engineers, approved by DEP, the Infrastructure Council and the Issuer, and on file in the office of the Board; provided, however, that such plans and specifications, and the construction and acquisition of the Project in accordance therewith, are subject to the specific authorization by the Board pursuant to a Supplemental Resolution.

Prior to issuing the Original Bonds for the acquisition and construction of the Project, the Issuer must receive acceptable bids or enter into contracts for the acquisition and construction of the Project, compatible with the financing plan submitted to the Program and the Infrastructure Council.

ARTICLE III

AUTHORIZATION, TERMS, EXECUTION AND REGISTRATION OF BONDS

Section 3.01. Authorization and Terms of Original Bonds. For the purposes of funding the reserve accounts, paying costs of issuance and financing a portion of the costs of the acquisition and construction of the Project not otherwise provided for, on any one of such items, there shall be issued the Original Bonds of the Issuer. The Original Bonds shall be issued in three series, with the first series to be designated "Sewer Revenue Bonds, Series 1997 A" and so on, in an aggregate principal amount of not more than $3,200,000. Each series of Original Bonds shall be dated as of the date of delivery thereof, shall bear such interest, shall mature at such times, not exceeding forty (40) years after the date of issuance, and in such amount or amounts as shall be set out in each Loan Agreement and/or in the Supplemental Resolution. The Series 1997 A Bonds shall not bear interest, if any, during the construction period but interest shall commence accruing on the Completion Date as defined in the SRF Regulations, provided that the annual repayment of principal and payment of interest, if any, on the Series 1997 A Bonds shall begin not later than one (1) year after the completion date. The Series 1997 B Bonds shall not bear interest, if any, during the construction period but interest shall commence accruing on the completion of construction, which date must be identified prior to the Closing Date. The Series 1997 C Bonds shall not bear interest, if any, during the construction period but interest shall commence accruing on the first month following the final payment of principal and interest on the Series 1997 A Bonds, or such earlier or later date as provided for in Section 5.03A(2) of this Resolution. The repayment of principal and interest, if any, on the Original Bonds shall be as set forth on Schedule Y to the respective Loan Agreements. The Original Bonds shall contain such other terms, provisions, conditions and limitations, all as provided by this Resolution and the Loan Agreements and as the Board of the Issuer shall prescribe by resolution (or by supplemental or amendatory resolution of said Board as said Board shall determine) adopted in connection with the sale of such Original Bonds.

The Bonds shall be payable as to principal, at the principal office of the Paying Agent, in any coin or currency which, on the dates of payment of principal is legal tender for the payment of public or private debts under the laws of the United States of America. Interest on the Bonds, if any, shall be paid by check or draft mailed to the registered owner thereof at the address as it appears on the books of the Bond Registrar, provided, that so long as the Authority is the owner thereof, interest on the Original Bonds may be paid by wire transfer or other methods satisfactory to the Issuer, the Paying Agent and the Authority.

Unless otherwise provided by the Supplemental Resolution, the Original Bonds shall be issued in the form of a single bond for each series, fully registered to the Authority, with a record of advances and a payment record attached, representing the aggregate principal amount, and shall mature in principal installments, all as provided in the Loan Agreements and said Supplemental Resolution. Bonds shall be exchangeable at the option

and expense of the Bondholder for other fully registered Bonds in aggregate principal amount equal to the amount of said Bonds then Outstanding, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of said Bonds; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

Subsequent series of Bonds may be issued in fully registered form, in the denomination of $5,000 or any integral multiple thereof, all as determined by a Supplemental Resolution. Said Bonds shall be dated as of the date specified in said Supplemental Resolution and shall bear interest from such date.

Section 3.02. Execution of Bonds. Said Bonds shall be executed in the name of the Issuer by the Chairman and attested by the Secretary, and the seal of the Issuer shall be affixed thereto or imprinted thereon. In case any one or more of the officers who shall have signed or sealed any of the Bonds shall cease to be such officer of the Issuer before the Bonds so signed and sealed have been 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 Bonds may be signed and sealed on behalf of the Issuer by such person as, at the actual time of the execution of such Bonds, shall hold the proper office in the Issuer, 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 Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Resolution unless and until the Certificate of Authentication and Registration on such Bond, substantially in the form set forth in Section 3.08, shall have been duly manually executed by the Registrar. Any such executed Certificate of Authentication and Registration upon any such Bond shall be conclusive evidence that such Bond has been authenticated, registered and delivered under this Resolution. The Certificate of Authentication and Registration on any Bond shall be deemed to have been executed by the Registrar if manually 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 Bonds issued hereunder.

Section 3.04. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Bonds shall be, and have all of the qualities and incidents of, negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive owner, 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 of West Virginia, and each successive owner shall further be conclusively deemed to have agreed that said Bonds shall be incontestable in the hands of a bona fide holder for value in the manner provided hereinafter in the form of said Bonds.

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

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

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

Section 3.05. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue and deliver a new Bond in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Owner's furnishing the Issuer proof of ownership thereof and satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer may incur and the Registrar shall authenticate the new Bond. All Bonds so surrendered shall be canceled by the Registrar and held for the account of the Issuer. If such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the Issuer 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 anyone, and such duplicate Bonds shall be entitled to equal and proportionate benefits and rights as to lien and source of security for payment from the revenues pledged herein with all other Bonds issued hereunder.

Section 3.06. Bonds not to be Indebtedness of the Issuer. The Bonds shall not, in any event, be or constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Gross Revenues derived from the operation of the System as herein provided. No Owner or Owners of any of the Bonds shall ever have the right to compel the exercise of the taxing power, if any, of the Issuer to pay the Bonds or any interest thereon.

Section 3.07. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of all the Original Bonds shall be secured forthwith equally and ratably with

each other by a first lien on the Net Revenues derived from the System. Such Net Revenues in an amount sufficient to pay the principal of and interest on and other payments for the Bonds and to make the payments into the sinking funds and the reserve accounts therein and in the Renewal and Replacement Fund hereinafter established are hereby irrevocably pledged to the payment of the principal of and any interest on the Bonds as the same become due.

Section 3.08. Form of Original Bonds. The text of each series of Original Bonds shall be of substantially the following tenor, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted by this Resolution or any subsequent resolution adopted prior to the issuance thereof.

[This space intentionally left blank]

[FORM OF THE SERIES 1997 A BOND]

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
COUNTY OF BROOKE
BROOKE COUNTY PUBLIC SERVICE DISTRICT
SEWER SYSTEM
REVENUE BONDS, SERIES 1997 A
(WEST VIRGINIA SRF PROGRAM)

No. AR-1 $_____

KNOW ALL MEN BY THESE PRESENTS: That the BROOKE COUNTY PUBLIC SERVICE DISTRICT, a public corporation and political subdivision organized and existing under the laws of the State of West Virginia, in Brooke County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to West Virginia Water Development Authority (the "Authority "), or registered assigns, the sum of _____ ($_____), or such lesser amount as is set forth on the Record of Advances attached hereto as Exhibit A and incorporated herein by reference, in quarterly installments on the 1st day of March, the 1st day of June, the 1st day of September and the 1st day of December in each year beginning ____, 199_, as set forth on the "Schedule of Debt Service" attached as Exhibit A hereto and incorporated herein by reference, with interest on each installment at the rate per annum set forth on said Exhibit A. The SRF Administrative Fee (as defined in the hereinafter described Bond Resolution) shall also be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing _____ 1, 19__, as set forth on Exhibit B attached hereto.

Interest on this Bond shall be zero (0%) percent from the date hereof until the Date of Completion of the Project, and after such date, interest, if any, shall be payable on the 1st day of March, the 1st day of June, the 1st day of September and the 1st day of December in each year beginning ____, 199_, at the rate of zero percent (0%) per annum. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of principal, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the Paying Agent. The interest on this Bond, if any, is payable by check or draft mailed to the Authority at the address as it appears on the books of the Registrar on the 15th day of the month preceding an interest payment date or by such other method as shall be mutually agreeable, so long as the Authority is the registered owner hereof.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and as otherwise provided by the Loan Agreement dated _____, 1997, among the Authority, the DEP and the Issuer.

This Bond is issued to permanently finance a portion of the costs of the acquisition and construction of certain extensions, additions, betterments and improvements to the existing system of the Issuer (the "Project," and together with any further extensions, additions, betterments and improvements thereto, the "System") and to pay certain costs of issuance hereof and related costs. This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13A of the West Virginia Code of 1931, as amended (the "Act"), a Resolution duly enacted by the Issuer on the 12th day of November, 1997, and a Supplemental Resolution adopted by the Issuer on the 12th day of November, 1997 (collectively called the "Resolution"), and is subject to all the terms and conditions thereof. The Resolution 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 Bonds under the Resolution.

THIS BOND RANKS EQUALLY AS TO LIEN AND SECURITY WITH THE ISSUER'S SEWER SYSTEM REVENUE BONDS, SERIES 1997 B AND SERIES 1997 C (THE "PARITY BONDS").

This Bond is payable only from and secured by a pledge of a first lien on the Net Revenues, on a parity with the lien of the Parity Bonds, to be derived from the operation of the System, moneys in the Reserve Account created under the Resolution and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest thereon except from said special fund provided from the Net Revenues, the moneys in the Reserve Account and unexpended Bond proceeds. Pursuant to the Resolution, 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 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 amount required to pay the maximum amount due in any ensuing fiscal year of principal of and interest on all obligations on a parity with the Bonds, payable from such revenues, provided however, that so long as there exists in the Reserve Account an amount equal to the maximum amount of principal and interest which will become due on the Bonds and any bonds on a parity therewith in any succeeding fiscal year, respectively, an amount equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds, for the terms of which, reference is made to the Resolution. Remedies provided the registered owners of the Bonds are exclusively as provided in the Resolution, to which reference is here made for a detailed description thereof.

This Bond is transferable, as provided in the Resolution, only upon the books of One Valley Bank, National Association, Charleston, West Virginia, (the "Registrar"), kept for that purpose at the office of the Registrar, by the registered owner or its attorney duly

authorized in writing, upon the surrender of this Bond together, with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

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

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law, shall be applied solely to the payment of the Costs of the Project described in the Resolution or to the appurtenant sinking fund, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the owner of this Bond.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this 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 Bond, together with all other obligations of the 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 the Issuer for the prompt payment of the principal of and interest on this Bond.

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

IN WITNESS WHEREOF, THE BROOKE COUNTY PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairman and its corporate seal to be hereunto affixed or imprinted hereon and attested by its Secretary, and has caused this Bond to be dated the 9th day of December, 1997.

[SEAL]

_____
Chairman

ATTEST:

_____
Secretary

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Original Bonds described in the within-mentioned Resolution and has been duly registered in the name of the registered owner set forth above.

ONE VALLEY BANK,
NATIONAL ASSOCIATION

By _____
Its Authorized Officer

Dated: _____

EXHIBIT A

RECORD OF ADVANCES

Amount	Date	Amount	Date
(1) $		(7) $	
(2) $		(8) $	
(3) $		(9) $	
(4) $		(10) $	
(5) $		(11) $	
(6) $		(12) $	

Total $_____

EXHIBIT B

SCHEDULE OF ANNUAL DEBT SERVICE

[Form of Assignment]

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

_____

_____

_____

_____

_____

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

Dated: _____, ___.

_____

In the presence of:

_____

[FORM OF THE SERIES 1997 B BOND]

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
COUNTY OF BROOKE
BROOKE COUNTY PUBLIC SERVICE DISTRICT
SEWER SYSTEM
REVENUE BONDS, SERIES 1997 B
(WEST VIRGINIA INFRASTRUCTURE FUND)

No. BR-1 $_____

KNOW ALL MEN BY THESE PRESENTS: That the BROOKE COUNTY PUBLIC SERVICE DISTRICT, a public corporation and political subdivision organized and existing under the laws of the State of West Virginia, in Brooke County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to West Virginia Water Development Authority (the "Authority "), or registered assigns, the sum of _____ ($_____), or such lesser amount as is set forth on the Record of Advances attached hereto as Exhibit A and incorporated herein by reference, in quarterly installments on the 1st day of March, the 1st day of June, the 1st day of September and the 1st day of December in each year beginning ____, 199_, as set forth on the "Schedule of Debt Service" attached as Exhibit A hereto and incorporated herein by reference, with interest on each installment at the rate per annum set forth on said Exhibit A.

Interest on this Bond shall be zero (0%) percent from the date hereof until the Date of Completion of the Project, and after such date, interest, if any, shall be payable on the 1st day of March, the 1st day of June, the 1st day of September and the 1st day of December in each year beginning ____, 199_, at the rate of zero percent (0%) per annum. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of principal, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the Paying Agent. The interest on this Bond, if any, is payable by check or draft mailed to the Authority at the address as it appears on the books of the Registrar on the 15th day of the month preceding an interest payment date or by such other method as shall be mutually agreeable, so long as the Authority is the registered owner hereof.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and as otherwise provided by the Loan Agreement dated _____, 1997, between the Authority and the Issuer.

This Bond is issued to permanently finance a portion of the costs of the acquisition and construction of certain extensions, additions, betterments and improvements to the existing system of the Issuer (the "Project," and together with any further extensions, additions, betterments and improvements thereto, the "System") and to pay certain costs of issuance hereof and related costs. This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13A of the West Virginia Code of 1931, as amended (the "Act"), a Resolution duly enacted by the Issuer on the 12th day of November, 1997, and a Supplemental Resolution adopted by the Issuer on the 12th day of November, 1997 (collectively called the "Resolution"), and is subject to all the terms and conditions thereof. The Resolution 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 Bonds under the Resolution.

THIS BOND RANKS EQUALLY AS TO LIEN AND SECURITY WITH THE ISSUER'S SEWER SYSTEM REVENUE BONDS, SERIES 1997 A AND 1997 C (THE "PARITY BONDS").

This Bond is payable only from and secured by a pledge of a first lien on the Net Revenues, on a parity with the lien of the Parity Bonds, to be derived from the operation of the System, moneys in the Reserve Account created under the Resolution and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest thereon except from said special fund provided from the Net Revenues, the moneys in the Reserve Account and unexpended Bond proceeds. Pursuant to the Resolution, 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 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 amount required to pay the maximum amount due in any ensuing fiscal year of principal of and interest on all obligations on a parity with the Bonds, payable from such revenues, provided however, that so long as there exists in the Reserve Account an amount equal to the maximum amount of principal and interest which will become due on the Bonds and any bonds on a parity therewith in any succeeding fiscal year, respectively, an amount equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds, for the terms of which, reference is made to the Resolution. Remedies provided the registered owners of the Bonds are exclusively as provided in the Resolution, to which reference is here made for a detailed description thereof.

This Bond is transferable, as provided in the Resolution, only upon the books of One Valley Bank, National Association, Charleston, West Virginia, (the "Registrar"), kept for that purpose at the office of the Registrar, by the registered owner or its attorney duly

authorized in writing, upon the surrender of this Bond together, with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

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

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law, shall be applied solely to the payment of the Costs of the Project described in the Resolution or to the appurtenant sinking fund, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the owner of this Bond.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this 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 Bond, together with all other obligations of the 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 the Issuer for the prompt payment of the principal of and interest on this Bond.

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

IN WITNESS WHEREOF, THE BROOKE COUNTY PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairman and its corporate seal to be hereunto affixed or imprinted hereon and attested by its Secretary, and has caused this Bond to be dated the 9th day of December, 1997.

[SEAL]

_____
Chairman

ATTEST:

_____
Secretary

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Original Bonds described in the within-mentioned Resolution and has been duly registered in the name of the registered owner set forth above.

ONE VALLEY BANK,
NATIONAL ASSOCIATION

By _____
Its Authorized Officer

Dated: _____

EXHIBIT A

RECORD OF ADVANCES

Amount	Date	Amount	Date
(1) $		(7) $	
(2) $		(8) $	
(3) $		(9) $	
(4) $		(10) $	
(5) $		(11) $	
(6) $		(12) $	

Total $_____

EXHIBIT B

SCHEDULE OF ANNUAL DEBT SERVICE

[Form of Assignment]

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

_____

_____

_____

_____

_____

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

Dated: _____, ___.

_____

In the presence of:

_____

[FORM OF THE SERIES 1997 C BOND]

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
COUNTY OF BROOKE
BROOKE COUNTY PUBLIC SERVICE DISTRICT
SEWER SYSTEM
REVENUE BONDS, SERIES 1997 C
(WEST VIRGINIA INFRASTRUCTURE FUND)

No. CR-1 $_____

KNOW ALL MEN BY THESE PRESENTS: That the BROOKE COUNTY PUBLIC SERVICE DISTRICT, a public corporation and political subdivision organized and existing under the laws of the State of West Virginia, in Brooke County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to West Virginia Water Development Authority (the "Authority "), or registered assigns, the sum of _____ ($_____), or such lesser amount as is set forth on the Record of Advances attached hereto as Exhibit A and incorporated herein by reference, in quarterly installments on the 1st day of March, the 1st day of June, the 1st day of September and the 1st day of December in each year beginning ___, ____, as set forth on the "Schedule of Debt Service" attached as Exhibit A hereto and incorporated herein by reference, or such earlier or later date as provided for in Section 5.03A(2) of the hereinafter-defined Resolution, with interest on each installment at the rate per annum set forth on said Exhibit A. The SRF Administrative Fee (as defined in the hereinafter described Resolution) shall also be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing _____ 1, ____, or such earlier or later date as provided for in Section 5.03A(2) of the hereinafter-defined Resolution, as set forth on Exhibit B attached hereto.

Interest on this Bond shall be zero (0%) percent from the date hereof until the Date of Completion of the Project, and after such date, interest, if any, shall be payable on the 1st day of March, the 1st day of June, the 1st day of September and the 1st day of December in each year beginning ____, __, or such earlier or later date as provided for in Section 5.03A(2) of the hereinafter-defined Resolution, at the rate of one percent (1%) per annum. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of principal, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the Paying Agent. The interest on this Bond, if any, is payable by check or draft mailed to the Authority at the address as it appears on the books of the Registrar on the 15th day of the month preceding an interest payment date or by such other method as shall be mutually agreeable, so long as the Authority is the registered owner hereof.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and as otherwise provided by the Loan Agreement dated _____, 1997, among the Authority, the DEP and the Issuer.

This Bond is issued to permanently finance a portion of the costs of the acquisition and construction of certain extensions, additions, betterments and improvements to the existing system of the Issuer (the "Project," and together with any further extensions, additions, betterments and improvements thereto, the "System"); and to pay certain costs of issuance hereof and related costs. This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13A of the West Virginia Code of 1931, as amended (the "Act"), a Resolution duly enacted by the Issuer on the 12th day of November, 1997, and a Supplemental Resolution adopted by the Issuer on the 12th day of November, 1997 (collectively called the "Resolution"), and is subject to all the terms and conditions thereof. The Resolution 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 Bonds under the Resolution.

THIS BOND RANKS EQUALLY AS TO LIEN AND SECURITY WITH THE ISSUER'S SEWER SYSTEM REVENUE BONDS, SERIES 1997 B AND SERIES 1997 C (THE "PARITY BONDS").

This Bond is payable only from and secured by a pledge of a first lien on the Net Revenues, on a parity with the lien of the Parity Bonds, to be derived from the operation of the System, moneys in the Reserve Account created under the Resolution and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest thereon except from said special fund provided from the Net Revenues, the moneys in the Reserve Account and unexpended Bond proceeds. Pursuant to the Resolution, 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 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 amount required to pay the maximum amount due in any ensuing fiscal year of principal of and interest on all obligations on a parity with the Bonds, payable from such revenues, provided however, that so long as there exists in the Reserve Account an amount equal to the maximum amount of principal and interest which will become due on the Bonds and any bonds on a parity therewith in any succeeding fiscal year, respectively, an amount equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds, for the terms of which, reference is made to the Resolution. Remedies provided the registered owners of the Bonds are exclusively as provided in the Resolution, to which reference is here made for a detailed description thereof.

This Bond is transferable, as provided in the Resolution, only upon the books of One Valley Bank, National Association, Charleston, West Virginia, (the "Registrar"), kept for that purpose at the office of the Registrar, by the registered owner or its attorney duly authorized in writing, upon the surrender of this Bond together, with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

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

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law, shall be applied solely to the payment of the Costs of the Project described in the Resolution or to the appurtenant sinking fund, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the owner of this Bond.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this 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 Bond, together with all other obligations of the 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 the Issuer for the prompt payment of the principal of and interest on this Bond.

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

IN WITNESS WHEREOF, THE BROOKE COUNTY PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairman and its corporate seal to be hereunto affixed or imprinted hereon and attested by its Secretary, and has caused this Bond to be dated the 9th day of December, 1997.

[SEAL]

_____
Chairman

ATTEST:

_____
Secretary

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Original Bonds described in the within-mentioned Resolution and has been duly registered in the name of the registered owner set forth above.

ONE VALLEY BANK,
NATIONAL ASSOCIATION

By _____
Its Authorized Officer

Dated: _____

EXHIBIT A

RECORD OF ADVANCES

Amount	Date	Amount	Date
(1) $		(7) $	
(2) $		(8) $	
(3) $		(9) $	
(4) $		(10) $	
(5) $		(11) $	
(6) $		(12) $	

Total $_____

EXHIBIT B

SCHEDULE OF ANNUAL DEBT SERVICE

[Form of Assignment]

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

_____

_____

_____

_____

_____

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

Dated: _____, ___.

_____

In the presence of:

_____

Section 3.09. Sale of Original Bonds; Ratification and Execution of Loan Agreements. The Original Bonds for each phase shall be sold to the Authority, pursuant to the terms and conditions of the respective Loan Agreements. As a ratification of the resolution of Council authorizing execution of the Loan Agreements, the Chairman is specifically authorized and directed to execute the Loan Agreements and the Secretary is directed to affix the seal of the Issuer, attest the same and deliver the Loan Agreements to the Authority. The Loan Agreements are specifically incorporated into this Resolution.

Section 3.10. Certificate of Consulting Engineers. Prior to the issuance of the Original Bonds, the Issuer must obtain the certificate of the Consulting Engineers, in the form attached to the SRF Loan Agreement, to the effect that the Project has been designed as provided in the Program application and will be constructed in accordance with the approved plans, specifications and design as submitted to the DEP and the Authority, as the case may be, that the Project will be adequate for the purposes for which it was designed, and the funding plan as submitted to the DEP and the Authority is sufficient to pay the costs of the acquisition and construction of the Project.

Section 3.11. Amended Schedule A Filing. Within 60 days following the Completion Date, the Issuer will file with the Authority its schedule, in substantially the form of "Amended Schedule A" to the Loan Agreement, setting forth the actual costs of the Project and sources of funds used therefor.

ARTICLE IV

[Reserved]

ARTICLE V

SYSTEM REVENUES AND APPLICATION THEREOF

Section 5.01. Establishment of Funds and Accounts with Depository Bank. The following special funds or accounts are created with and shall be held by the Depository Bank:

(1) Revenue Fund;

(2) Renewal and Replacement Fund;

(3) Series 1997 A Bond Construction Trust Fund;

(4) Series 1997 B Bond Construction Trust Fund; and

(5) Series 1997 C Bond Construction Trust Fund.

Section 5.02. Establishment of Funds and Accounts with Commission. The following special funds or accounts are hereby established with the Commission for each series of Original Bonds:

(1) Sinking Fund;

(a) Within the Sinking Fund, the Reserve Account.

Section 5.03. System Revenues; Flow of Funds. A. The entire Gross Revenues derived from the operation of the System shall be deposited upon receipt in the Revenue Fund. The Revenue Fund shall constitute a trust fund for the purposes provided in this Resolution and 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 therein and herein provided.

(1) The Issuer shall, each month, transfer from the Revenue Fund an amount sufficient to pay current Operating Expenses of the System.

(2) The Issuer shall next, on the first day of each month (i) commencing 4 months prior to the first date of payment of interest, if any, on the respective series of Bonds for which interest has not been capitalized (or, in the case of the Series 1997 C Bonds, commencing on the earlier of that date or the first day of the month following the last date of payment of principal of the Series 1997 A Bonds, whichever occurs first), apportion and set apart out of the Revenue Fund and remit to the Commission, for deposit in the respective Sinking Funds, a sum equal to 1/3rd of the amount of interest which will become due on the respective series of Bonds on the next ensuing quarterly interest payment

date; provided, that, in the event the period to elapse between the date of such initial deposit in the respective Sinking Funds and the next quarterly interest payment date is less than 4 months, then such monthly payments shall be increased proportionately to provide, one month prior to the next quarterly interest payment date, the required amount of interest coming due on such date, and (ii) on the first day of each month, commencing 4 months prior to the first date of payment of principal on the respective series of Bonds (or, in the case of the Series 1997 C Bonds, commencing on the earlier of that date or the month after the last date of payment of principal of the Series 1997 A Bonds, whichever occurs first), apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the respective Sinking Funds, a sum equal to 1/3rd of the amount of principal which will mature and become due on the respective series of Bonds on the next ensuing quarterly principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the respective Sinking Fund and the next quarterly principal payment date is less than 4 months, then such monthly payments shall be increased proportionately to provide, one month prior to the next quarterly principal payment date, the required amount of principal coming due on such date. When additional series of Original Bonds are issued, the payment of interest and principal on said bonds shall be made simultaneously with the payments described in this Section 5.03A(2) and to the extent that Revenues are insufficient to make all of the payments, such payments shall be made, pro rata, among each series of Bonds.

(3) The Issuer shall next transfer from the Revenue Fund and pay to the Commission on the first day of each month, commencing 3 months prior to the first date of payment of principal of each respective series of Bonds (or, in the case of the Series 1997 C Bonds, commencing on the earlier of that date or the month after there shall have been deposited in the Reserve Account for the Series 1997 A Bonds an amount equal to the Series 1997 A Reserve Requirement), if not fully funded upon issuance of such series of Bonds, for deposit in the respective Reserve Account, an amount equal to 1/120 of the respective Reserve Requirement; provided, that no further payments shall be made into the respective Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the respective Reserve Requirement. When additional series of Original Bonds are issued, the payment of interest and principal on said bonds shall be made simultaneously with the payments described in this Section 5.03A(3) and to the extent that Revenues are insufficient to make all of the payments, such payments shall be made, pro rata, among each series of Bonds.

(4) The Issuer shall next, from the moneys remaining in the Revenue Fund, on the first day of each month, transfer to the Renewal and Replacement Fund a sum equal to 2 1/2% 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. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, emergency repairs, improvements or extensions to the System; provided, that any deficiencies in the 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 moneys from the Renewal and Replacement Fund.

Moneys in the respective Sinking Funds shall be used only for the purposes of paying principal of and interest on the respective series of Bonds as the same shall become due. Moneys in the Reserve Account in the respective Sinking Funds shall be used only for the purpose of paying principal of or interest on the respective series of Bonds, as the same shall come due, when other moneys in the respective Sinking Fund are insufficient therefor, and for no other purpose. Except for the funds required to be deposited in the Rebate Fund, all investment earnings on moneys in the respective Reserve Accounts shall be transferred, not less than once each year, to the respective Bond Construction Trust Funds prior to completion of the Project and thereafter, pro rata, to the respective Sinking Funds.

Any withdrawals from the Reserve Accounts which result in a reduction in the balance of any Reserve Account to an amount below the applicable Reserve Requirement shall be subsequently restored from the first Net Revenues available after all required payments to the Sinking Funds for payment of debt service on the Bonds have been made in full.

B. As and when additional Bonds ranking on a parity with the Original Bonds are issued, provision shall be made for additional payments into the Sinking Fund sufficient to pay any interest on such additional Bonds and accomplish retirement thereof at maturity and to accumulate a balance in the Reserve Account in an amount equal to the Reserve Requirement.

The Commission is hereby designated as the fiscal agent for the administration of the Sinking Funds created hereunder, and all amounts required for said Sinking Funds shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein.

The payments into the Sinking Funds shall be made on the first day of each month, except that when the first day of any month shall be a Sunday or legal holiday then such payments shall be made on the next succeeding business day, and all such payments shall be remitted to the Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of this Resolution.

Moneys in the Reserve Accounts shall be invested and reinvested by the Commission in accordance with Article VIII hereof.

The Sinking Funds, including the Reserve Accounts therein, shall be used solely and only for, and is hereby pledged for, the purpose of servicing the respective series of Bonds and any additional Bonds ranking on a parity with them that may be issued and Outstanding under the conditions and restrictions hereinafter set forth.

C. 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 said Revenue Fund a balance in excess of the estimated amounts required to be so transferred and paid into the Sinking Funds, including the Reserve Accounts therein, and the Renewal and Replacement Fund during the following month or such longer period as shall be required by the Act, such excess shall be considered as surplus revenues (the "Surplus Revenue"). Surplus Revenues may be used for any lawful purpose of the System.

D. The Issuer shall remit from the Revenue Fund to the Commission or the Depository Bank, on such dates as the Commission or the Depository Bank, as the case may be, shall require, such additional sums as shall be necessary to pay any Depository Bank's charges then due.

Simultaneously with the deposits made to the Commission pursuant to Section 5.03A(2) and (3) the Issuer shall remit to the Commission the SRF Administrative Fee.

The Issuer shall complete the "monthly payment form," which form is attached to the Loan Agreement as Exhibit F, and submit a copy of said form along with a copy of its payment check to the Authority by the fifth day of each calendar month.

E. The moneys in excess of the maximum amounts insured by FDIC in the Revenue Fund and the Renewal and Replacement Fund shall at all times be secured, to the full extent thereof in excess of such insured sum, by Qualified Investments as shall be eligible as security for deposits of state and municipal funds under the laws of the State.

F. If, on any monthly payment date, the revenues are insufficient to place the required amount in any of the funds and accounts as hereinabove provided, the deficiency shall be made up in the subsequent payments, in addition to the payments which would otherwise be required to be made into the funds and accounts on the subsequent payment dates.

G. All remittances made by the Issuer to the Commission shall clearly identify the fund or account into which each amount is to be deposited.

H. The Gross Revenues of the System shall only be used for purposes of the System.

Section 5.04. Excess Bond Proceeds. Upon completion of the Project, any proceeds of the Original Bonds not required to pay Costs of the Project shall be applied as directed by the Authority and Council.

ARTICLE VI

APPLICATION OF ORIGINAL BOND PROCEEDS; FUNDS AND ACCOUNTS

Section 6.01. Application of Original Bond Proceeds. From the moneys received from time to time from the sale of any or all of the Original Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. From the proceeds of the Bonds, there shall be deposited with the Commission in the respective reserve account the sum, if any, set forth in the Supplemental Resolution for funding of said Reserve Account.

B. The remaining moneys derived from the sale of the Original Bonds shall be deposited by the Issuer, as received from time to time, in the Bond Construction Trust Funds hereinafter established.

C. There is hereby created and established with the Depository Bank a special fund, designated the "Bond Construction Trust Fund," for each series of Original Bonds. The Depository Bank shall act as a trustee and fiduciary for the Bondholder with respect to the Bond Construction Trust Funds and shall comply with all requirements with respect to the disposition of the Bond Construction Trust Funds set forth in this Resolution. Except with respect to any transfers to the Rebate Fund, moneys in the Bond Construction Trust Funds shall be used solely to pay Costs of the Project and until so transferred or expended, are hereby pledged as additional security for the Bonds.

D. After completion of construction of the Project, as certified by the Consulting Engineers, and after all costs have been paid, any remaining proceeds of the Series 1997 A Bonds shall be used as directed in writing by the Authority and any remaining proceeds of the Series 1997 B Bonds or Series 1997 C Bonds shall be used as directed in writing by the Authority and the Infrastructure Council.

Section 6.02. Disbursements From the Bond Construction Trust Funds.

A. With respect to the proceeds of the Series 1997 A Bonds, on or before the Closing Date, the Issuer shall have delivered to the Authority a report listing the specific purposes for which the proceeds of the Series 1997 A Bonds will be expended and the disbursement procedures for such proceeds, including an estimated monthly draw schedule.

Except as provided in Section 6.01 hereof, disbursements from the respective Series 1997 A Bond Construction Trust Fund (except for the cost of issuance of the Original Bonds which shall be made upon request of the Issuer) shall be made only after submission to, and approval from, the Authority and the DEP of the following:

(1) A "Payment Requisition Form," attached to the Loan Agreement for the Series 1997 A Bonds, and

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

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

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

(C) That each of such costs has been otherwise properly incurred; and

(D) That payment for each of the items proposed is then due and owing.

B. With respect to the proceeds of the Series 1997 B Bonds and the Series 1997 C Bonds, on or before the Closing Date, the Issuer shall have delivered to the Infrastructure Council a report listing the specific purposes for which the proceeds of the Series 1997 B and 1997 C Bonds will be expended and the disbursement procedures for such proceeds, including an estimated monthly draw schedule.

With respect to the proceeds of the Series 1997 B Bonds and Series 1997 C Bonds, by the fifteenth day of each month, the Issuer shall provide the Infrastructure Council with a requisition for costs incurred for the Project with such documentation as the Infrastructure Council shall from time to time require. Upon receipt of the proceeds from the Authority, the Issuer shall deposit the proceeds in the respective Bond Construction Trust Fund and pay any approved costs. Payments for Costs of the Project shall be made monthly.

Except as provided in Section 6.01 hereof, disbursements from the Series 1997 B Bond Construction Trust Fund and the Series 1997 C Bond Construction Trust Fund (except for the cost of issuance of the Series 1997 B Bonds or the Series 1997 C Bonds which shall be made upon request of the Issuer) shall be made only after submission to, and approval from, the Authority and the Infrastructure Council, of a certificate, signed by the Chairman and the Consulting Engineers, stating that:

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

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

(C) That each of such costs has been otherwise properly incurred; and

(D) That payment for each of the items proposed is then due and owing.

C. In case any contract provides for the retention of a portion of the contract price, the Depository Bank shall disburse from the Bond Construction Trust Funds only the net amount remaining after deduction of any such portion. All payments made from the Bond Construction Trust Funds shall be presumed by the Depository Bank to be made for the purposes set forth in said certificate, and the Depository Bank shall not be required to monitor the application of disbursements from the Bond Construction Trust Funds. The Consulting Engineers shall, from time to time, file with the Depository Bank written statements advising the Depository Bank of its then authorized representative.

Pending such application, moneys in the Bond Construction Trust Funds, including any accounts therein, shall be invested and reinvested in Qualified Investments at the written direction of the Issuer.

ARTICLE VII

ADDITIONAL COVENANTS OF THE ISSUER

Section 7.01. General Covenants of the Issuer. All the covenants, agreements and provisions set forth in this Resolution shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any owner or owners of the Bonds. In addition to the other covenants, agreements and provisions of this Resolution, the Issuer hereby covenants and agrees with the owners of the Bonds as hereinafter provided in this Article VII. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of said Bonds, or the interest thereon, is Outstanding and unpaid.

Section 7.02. Bonds not to be Indebtedness of the Issuer. The Bonds shall not be nor 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 funds pledged for such payment by this Resolution. No Holder or Holders of any Bonds shall ever have the right to compel the exercise of the taxing power, if any, of the Issuer to pay said Bonds or the interest thereon.

Section 7.03. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of the Original Bonds issued hereunder shall be secured forthwith, equally and ratably, by a first lien on the Net Revenues derived from the operation of the System. The revenues derived from the System, in an amount sufficient to pay the principal of and interest on the Bonds herein authorized and to make the payments into the Sinking Funds, including the Reserve Accounts therein, and all other payments provided for in this Resolution are hereby irrevocably pledged, in the manner provided herein, to the payment of the principal of and interest on the Bonds and for the other purposes provided in the Resolution.

Section 7.04. Rates. Prior to issuance of the Original Bonds, equitable rates or charges for the use of and service rendered by the System will be established in the manner and form required by law, and copies of such rates and charges so established will be continuously on file with the Secretary, which copies will be open to inspection by all interested parties. The schedule of rates and charges shall at all times be adequate to produce Gross Revenues from said System sufficient to pay Operating Expenses and to make the prescribed payments into the funds created hereunder. Such schedule of rates and charges shall be changed and readjusted, 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 reductions in income and revenues, the Issuer hereby covenants and agrees that the schedule of rates or charges from time to time in effect shall be sufficient, together with other revenues of the System, (i) to provide for all reasonable expenses of operation, repair and maintenance of the System, including any reserves required by the PSC Order or any supplemental or amendments thereto, and (ii) to leave a balance each Fiscal Year equal to at least 115% of the maximum amount required in any succeeding Fiscal Year for payment of principal of and

interest on the Bonds; provided that, in the event that an amount at least equal to or in excess of the Reserve Requirement is on deposit in the Reserve Account and the reserve account for the Bonds is funded at least at the requirement provided for in the Resolutions, such balance each Fiscal Year need only equal at least 110% of the maximum amount required in any succeeding Fiscal Year for payment of principal of and interest on the Original Bonds.

Section 7.05. Completion, Operation and Maintenance; Schedule of Cost. The Issuer will expeditiously complete the Project and 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 the Resolution.

Upon completion of the Project, the Issuer shall file with the Authority a schedule, in substantially the form of Amended Schedule A to the Program loan application, setting forth the actual costs of the Project and sources of funds therefor.

Section 7.06. Sale of the System. 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 fully to pay or redeem at or prior to maturity all the Bonds Outstanding. The proceeds from such sale, mortgage, lease or other disposition of the System shall immediately be remitted to the Commission for deposit in the appropriate Sinking Funds, and the Issuer shall direct the Commission to apply such proceeds to the payment of principal and any interest at maturity of Bonds about to mature and to the redemption prior to maturity, at the earliest date permitted hereby and at the redemption price, of all other Outstanding Bonds. Any balance remaining after the redemption or payment of all the Bonds and interest thereon shall be remitted to the Issuer by the Commission, unless necessary for the payment of other obligations of the Issuer payable out of the 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. The Board may then, if it be so advised, as evidenced by certificates of the Consulting Engineers, by resolution duly adopted, approve and concur in such finding and provide for the sale of such property if the amount to be received therefor is not in excess of ten thousand dollars ($10,000), or authorize such sale, lease or other disposition of such property, upon public bidding, if the amount to be received therefor is in excess of ten thousand dollars ($10,000) but not in excess of fifty thousand dollars ($50,000). The proceeds of any such sale, lease or other disposition of such property, not in excess of $10,000, shall be deposited in the Renewal and Replacement Fund. The proceeds derived from any such sale, lease or other disposition of such property, in excess of $10,000 and not in excess of $50,000, shall be remitted by the Issuer to the Commission for deposit in the appropriate Sinking Funds and shall be applied only to the redemption of Bonds of the last maturities then Outstanding or to the purchase

of Bonds of the last maturities then Outstanding at prices not greater than the redemption price of such Bonds. Such payments of such proceeds into the Sinking Fund or the Renewal and Replacement Fund shall not reduce the amounts required to be paid into said funds by other provisions of this Resolution.

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 fifty thousand dollars ($50,000) and be insufficient to pay or redeem, prior to maturity, all the Bonds then Outstanding, without the prior approval and consent in writing of the owners, or their duly authorized representatives, of sixty-six and two-thirds percent (66-2/3%) in amount of the Bonds then Outstanding. The Issuer shall prepare the form of such approval and consent for execution by the then owners of the Bonds, for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 7.07. Issuance of Other Obligations Payable out of Revenues and General Covenant Against Encumbrances. The Issuer shall not issue any other obligations whatsoever, except pari passu additional Bonds provided for in Section 7.08 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 such revenues with the Bonds; provided, however, that additional Parity Bonds may be issued as provided in Section 7.08 hereafter. 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 Bonds to the extent such are Outstanding; provided, that no such subordinate obligations shall be issued unless all payments required to be made into the respective Reserve Accounts and the Renewal and Replacement Fund, at the time of the issuance of such subordinate obligations, have been made and are current.

Except as provided above, 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 said pari passu additional Bonds, being on a parity with the lien of the Bonds, and the interest thereon, upon any of the income and revenues of the System pledged for payment of the Bonds and the interest thereon in this Resolution or upon the System or any part thereof.

The Issuer shall give the Authority and the DEP prior written notice of its issuance of any other obligations to be used for the Project, payable from the revenues of the System or from any grants for the Project, or any other obligations related to the Project or the System.

Section 7.08. Parity Bonds. No Parity Bonds payable out of the revenues of the System shall be issued after the issuance of any Bonds pursuant to this Resolution, except under the conditions and in the manner herein provided and with the prior written consent of DEP, the Infrastructure Council and the Authority.

No Parity Bonds shall be issued, except for the purpose of financing the costs of the acquisition or construction of extensions, additions, betterments or improvements to the System or refunding the entirety of one or more issues or series of bonds or both such purposes.

No Parity Bonds shall be issued at any time, however, unless and until there has been procured and filed with the Secretary a written statement by Independent Accountants, based upon the necessary investigation and certification by the Consulting Engineers, reciting the conclusion that the net revenues actually derived, subject to the adjustments hereinafter provided, from the System during any twelve (12) consecutive months within the eighteen (18) months immediately preceding the date of the actual issuance of such Parity Bonds, plus the estimated average increased annual net revenues to be received in each of the three (3) succeeding years after the completion of the improvements to be financed by such additional Parity Bonds, shall not be less than one hundred fifteen percent (115%) of the maximum debt service in any succeeding year on the following:

(1) Each series of Original Bonds then Outstanding;

(2) Any Parity Bonds theretofore issued pursuant to the provisions contained in this Resolution then Outstanding; and

(3) The Parity Bonds then proposed to be issued.

The "estimated average increased annual net revenues to be received in each of the three (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 any increase in rates enacted by the Issuer, the time for appeal of which shall have expired prior to the date of delivery of such Parity Bonds, and shall not exceed the amount to be stated in a certificate of the Consulting Engineers, which shall be filed in the office of the Secretary prior to the issuance of such additional Parity Bonds.

The Net Revenues actually derived from the System during the twelve (12) consecutive month period hereinabove 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 Consulting Engineers and the Independent Accountants as stated in a certificate jointly made and signed by the Consulting Engineers and the Independent Accountants, on account of increased rates, rentals, fees and charges for the System enacted by the Issuer, the time for appeal of which shall have expired prior to issuance of such Parity Bonds.

Not later than simultaneously with the delivery of such Parity Bonds, the Issuer shall have entered into written contracts for the immediate acquisition or construction of such extensions, additions, betterments or improvements to the System which are to be financed by such Parity Bonds.

All the covenants and other provisions of this Resolution (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the owners of the Original Bonds and the owners of any Parity Bonds subsequently issued, from time to time, within the limitations of and in compliance with this Section. All the Bonds, regardless of the time or times of their issuance shall rank equally with respect to their respective liens on the revenues of the System, and their respective sources of and security for payment from said revenues, without preference of any Bond over any other. The Issuer shall comply fully with all the increased payments into the various funds created in this Resolution required for and on account of such additional Bonds, in addition to the payments required for Bonds theretofore issued pursuant to this Resolution.

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 lien of the Outstanding 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 lien on and source of and security for payment from such revenues, with the Bonds.

No Parity Bonds shall be issued at any time, however, unless all the payments into the respective funds and accounts provided for in this Resolution on account of the Bonds then Outstanding, and any other payments provided for in this Resolution, shall have been made in full as required to the date of delivery of the Parity Bonds, and the Issuer shall then be in full compliance with all the covenants, agreements and terms of this Resolution.

Section 7.09. Insurance and Construction Bonds. The Issuer will carry such insurance and in such amounts as is customarily carried with respect to works and properties similar to the System, with a reputable insurance carrier or carriers, against loss or damage by fire, explosion, hurricane, earthquake, cyclone, occupancy or other hazards and risks. The Issuer will require that each of its contractors and all subcontractors maintain, during the life of the construction contract, workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Authority and the DEP, so long as the Authority is the Owner of the Bonds. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance (fire and extended coverage) on a one hundred percent (100%) basis (completed value form) on the insurable portion of the Project, to protect the interests of the Issuer, the Authority, the prime contractor and all subcontractors as their interests may appear, in accordance with the Loan Agreement, during construction of the Project in the full insurable value thereof. In time of war, the Issuer shall also carry in said amount such insurance as may be available against loss or damage by the risks and hazards of war. The proceeds of all such insurance policies shall be disposed of as provided in the Resolution and otherwise shall be placed in the Renewal and Replacement Fund and used only for the repair and restoration of the damaged or destroyed properties or for the other purposes provided herein for said Renewal and Replacement Fund. The Issuer shall also carry liability insurance for damage or injury to persons or property in amounts adequate for

such purposes and customarily carried with respect to works and properties similar to the System. The Issuer shall carry such other insurance as is required by the Authority and DEP and as set forth in the Loan Agreement, including but not limited to flood insurance and business interruption insurance, to the extent available at reasonable cost to the Issuer.

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

Section 7.10. Consulting Engineers. The Issuer shall provide and maintain competent and adequate resident engineering services satisfactory to the Authority, the Infrastructure Council and the DEP covering the supervision and inspection of the development and construction of the Project and bearing the responsibility of assuring that construction conforms to the plans, specifications and designs prepared by the Consulting Engineers. Such resident engineer shall certify to the Authority, the DEP and the Issuer, at the completion of construction, that construction is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies. The Issuer shall require the Consulting Engineers to submit Recipient As-Built Plans, as defined in the SRF Regulations, to it within 60 days of the completion of the Project. The Issuer shall notify the DEP in writing of such receipt. The Issuer shall submit a Performance Certificate, the form of which is attached as Exhibit A to the Loan Agreement and is incorporated herein by reference, to the DEP within 60 days of the end of the first year after the Project is completed.

The Issuer shall require the Consulting Engineers to submit the final Operation and Maintenance Manual, as defined in the SRF Regulations, to the DEP when the Project is 90% completed. The Issuer agrees that it will, at all times, provide operation and maintenance of the System to comply with any and all State and federal standards. The Issuer agrees that qualified operating personnel, properly certified by the State, will be employed before the Project is 25% complete and agrees that it will retain such a certified operator(s) to operate the System during the entire term of this Loan Agreement. The Issuer shall notify the DEP in writing of the certified operator employed at the 25% completion stage.

The Issuer agrees that qualified operating personnel, properly certified by the State, will be retained to operate the System during the entire term of the Loan Agreements.

Section 7.11. Compliance With Loan Agreements, Rules and Regulations. The Issuer hereby covenants and agrees to perform and satisfy all terms and conditions of the Loan Agreements and to comply with all applicable laws, rules and regulations issued by the Authority, the Infrastructure Council, the DEP or other State, federal or local bodies in regard to the construction of the Project and operation, maintenance and use of the System. Notwithstanding anything herein to the contrary, the Issuer will provide the DEP and the Infrastructure Council with copies of all documents submitted to the Authority.

Section 7.12. No Free Services. 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 of the Issuer shall avail itself or himself or herself 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 7.13. Enforcement of Collections. The Issuer will diligently enforce and collect all fees, rates, 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, rates, rentals or other charges that shall become delinquent to the full extent permitted or authorized by the laws of the State of West Virginia. All such rates and charges, if not paid when due, shall become a lien on the premises served by the System.

Whenever any rates, rentals or charges for the services or facilities of the System, or of the waterworks system or sewerage system constituting a part thereof, shall remain unpaid for a period of thirty (30) days after the same shall become due and payable, the property and the owner thereof, as well as the user of the services and facilities, shall be delinquent until such time as all such rates and charges are fully paid. The Issuer further covenants and agrees that it will, to the full extent permitted by law, and any rules and regulations promulgated by the PSC applicable thereto, discontinue and shut off both the water and sewerage services and facilities of the System to all delinquent users of the services and facilities of the System, or of the waterworks system or sewerage system constituting a part thereof, and will not restore either water or sewerage services of the System until all delinquent charges for the service and facilities of the System, or of the waterworks system or sewerage system constituting a part thereof, plus reasonable interest penalty charges for the restoration of service, have been fully paid. As required by the PSC Order, the Issuer has entered into a Water Service Termination Agreement with the Village of Beech Bottom.

Section 7.14. No Competing Franchise. To the extent allowable by law, 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 7.15. Books, Records and Facilities. The Issuer shall keep complete and accurate records of the cost of acquiring the Project site and the costs of acquiring, constructing and installing the Project. The Issuer shall permit the Authority, the Infrastructure Council, and the DEP, or their agents and representatives, to inspect all books, documents, papers and records relating to the Project and the System, at all reasonable times,

for the purpose of audit and examination. The Issuer shall submit to the Authority, the Infrastructure Council, and the DEP such documents and information as they may reasonably require in connection with the acquisition, construction and installation of the Project, the operation and maintenance of the System and the administration of the Loan Agreements or Grant Receipts or other sources of financing for the Project.

The Issuer shall permit the Authority, the Infrastructure Council and the DEP, or their agents and representatives, to inspect all records pertaining to the operation of the System, at all reasonable times, following completion of construction of the Project and commencement of operation thereof, or, if the Project is an improvement to an existing system, at any reasonable time following commencement of construction.

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 owner of a Bond or Bonds issued pursuant to the Resolution 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 currently accepted accounting practices in accordance with the rules and regulations of the PSC 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 the Board shall direct.

The Issuer shall file with the Consulting Engineers and the Authority, the Infrastructure Council and DEP, and shall mail in each year to any owner or owners of Bonds requesting the same, an annual report containing the following:

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

(B) A balance sheet statement showing all deposits in all the funds and accounts provided for in this Resolution with respect to said Bonds and the status of all said funds and accounts.

(C) The amount of any Bonds or other obligations Outstanding and secured by a lien on the Net Revenues of the System.

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be completely audited by Independent Accountants in compliance with OMB Circular 128 and the Single Audit Act, or any successors thereto, and shall mail

upon request, and make available generally, the report of said Independent Accountants, or a summary thereof, to any owner or owners of Bonds issued pursuant to this Resolution, and shall submit said report to the Authority, the Infrastructure Council and the DEP. The report of said audit shall include a statement that the Issuer is in compliance with the terms and provisions of the Act and the Loan Agreements and that the Issuer's revenues are adequate to meet its operation and maintenance expenses and debt service requirements.

The Issuer shall, commencing on the date contracts are executed for the construction of the Project and for two years following the completion of the Project, each month complete a Monthly Financial Report and forward a copy by the 10th of each month to the Authority, the Infrastructure Council and the DEP.

The Issuer shall, during construction of the Project, complete Payment Requisition Forms, the form of which is attached to the SRF Loan Agreement as Exhibit C and is incorporated herein by reference, and forward a copy to the DEP in compliance with the Issuer's construction schedule.

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

The Issuer shall permit the Authority, the Infrastructure Council or the DEP, or their agents and representatives, to enter and inspect the Project site and Project facilities at all reasonable times. Prior to, during and after completion of construction of the Project, the Issuer shall also provide the Authority, the Infrastructure Council and the DEP, or their agents and representatives, with access to the System site and System facilities as may be reasonably necessary to accomplish all of the powers and rights of the Authority, the Infrastructure Council and the DEP with respect to the System pursuant to the Act.

Section 7.16. Operating Budget. The Issuer shall, annually, at least 45 days preceding the beginning of each Fiscal Year, 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 and shall submit a copy of such budget to the Authority, the Infrastructure Council and the DEP within thirty days of the adoption thereof. No expenditures for the operation and maintenance of the System shall be made in any Fiscal Year in excess of the amounts provided therefor in such budget without a written finding and recommendation by the Consulting Engineers, which finding and recommendation shall state in detail the purpose of and necessity for such increased expenditures for the operation and maintenance of the System, and no such increased expenditures shall be made until the Board shall have approved such finding and recommendation by a resolution duly adopted. No increased expenditures in excess of 10% of the amount of such budget shall be made, except upon the further certificate of the Consulting Engineers that such increased expenditures are necessary for the continued operation of the System. The Issuer shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the

Authority and to any Holder of any Bonds who shall file his address with the Issuer and request in writing that copies of all such budgets and resolutions be furnished him and shall make available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to any Holder of any Bonds or anyone acting for and in behalf of such Holder of any Bonds.

In addition, the Issuer shall annually cause the records of the System to be audited by Independent Accoutants in compliance with OMB Circular 128 and the Single Audit Act, or any successors thereto, the report of which audit shall be submitted to the Authority, the Infrastructure Council and the DEP. This audit report shall include a statement that the Issuer is in compliance with the terms and provisions of the Act and the Loan Agreements and that the Issuer's revenues are adequate to meet its operation and maintenance expenses and debt service requirements.

Section 7.17. Mandatory Connection. The mandatory use of the System is essential and necessary to protect and preserve the public health, comfort, safety, convenience and welfare of the inhabitants and residents of, and the economy of, the Issuer and to assure the rendering harmless of sewage and water-borne waste matter produced or arising within the territory served by the System. Accordingly, every owner, tenant or occupant of any house, dwelling or building located near the System, where sewage will flow by gravity or be transported by such other methods approved by the State Department of Health from such house, dwelling or building into the System, to the extent permitted by the laws of the State and the rules and regulations of the PSC shall connect with and use the System and shall cease the use of all other means for the collection, treatment and disposal of sewage and waste matter from such house, dwelling or building where there is such gravity flow or transportation by such other method approved by the State Department of Health and such house, dwelling or building can be adequately served by the System, and every such owner, tenant or occupant shall, after a 30 day notice of the availability of the System, pay the rates and charges established therefor.

Any such house, dwelling or building from which emanates sewage or water-borne waste matter and which is not so connected with the System is hereby declared and found to be a hazard to the health, safety, comfort and welfare of the inhabitants 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 7.18. Tax Covenants. The Issuer hereby further covenants and agrees as follows:

A. PUBLIC PURPOSE BONDS. The Issuer shall use the Bond proceeds of the Series 1997 C Bonds solely for the Project and as otherwise set forth herein, and the Project will be solely operated as a public purpose and as local governmental activity of the Issuer.

B. PRIVATE ACTIVITY BOND COVENANT. The Issuer shall not permit at any time or times any of the proceeds of the Series 1997 C Bonds or any other funds of the Issuer to be used directly or indirectly in a manner which would result in the exclusion of the Series 1997 C Bonds from the treatment afforded by Section 103(a) of the Code by reason of the classification of the Series 1997 C Bonds as "private activity bonds" within the meaning of the Code. The Issuer will take all actions necessary to comply with the Code in order to assure the tax-exempt status of the Series 1997 C Bonds.

C. PRIVATE LOAN LIMITATION. The Issuer shall assure that not in excess of 5% of the Net Proceeds of the Series 1997 C Bonds are used, directly or indirectly, to make or finance a loan (other than loans constituting Nonpurpose Investments) to persons other than state or local government units.

D. 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 1997 C Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

E. INFORMATION RETURN. The Issuer will file all statements, instruments and returns necessary to assure the tax exempt status of the Series 1997 C Bonds, including, without limitation, the information return required under Section 149(e) of the Code.

F. FURTHER ACTIONS. The Issuer will take any and all actions that may be required of it (including those deemed necessary by the Authority) so that the interest on the Series 1997 C Bonds will be and remain excludible from gross income for federal income tax purposes, and will not take any actions, or fail to take any actions (including those determined by the Authority) which would adversely affect such exclusion.

Section 7.19. Statutory Mortgage Lien. For the further protection of the Bondholders, a statutory mortgage lien upon the System is granted and created by the Bond Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding and shall take effect immediately upon delivery of the Bonds and shall be for the benefit of all Owners of the Bonds.

Section 7.20. PSC Order. The Issuer shall comply with the conditions of the PSC Order and any supplement or amendment thereto.

Section 7.21. Covenant to Amend Resolution. The Issuer retains the right to make any amendments, insertions or deletions by Supplemental Resolution of this Resolution as the Issuer deems necessary prior to the issuance of the Bonds to meet the requirements of the Authority and the Infrastructure Council.

Section 7.22. Compensation of the Issuer. The Issuer hereby covenants and agrees that no compensation for policy direction shall be paid to the members of the Board

of the Issuer in excess of the amount permitted by the Act. Payment of any compensation to any such member for policy direction shall not be made if such payment would cause the Net Revenues to fall below the amount required to meet all payments provided for herein, nor when there is a default in the performance of or compliance with any covenants or provision hereof.

Section 7.23. Securities Law Compliance. The Issuer will provide the Authority, in a timely manner, with any and all information that may be requested of it (including its annual audit report, financial statements, related information and notices of changes in usage and customer base) so that the Authority may comply with the provisions of SEC Rule 15c2-12 (17 CFR Part 240).

ARTICLE VIII

INVESTMENT OF FUNDS; NON-ARBITRAGE

Section 8.01. Investments. Any moneys held as a part of the funds and accounts created by this Resolution, other than the Revenue Fund, shall be invested and reinvested by the Commission or the Depository Bank, as the case may be, at the written direction of the Issuer in any Qualified Investments to the fullest extent possible under applicable laws, this Resolution, the need for such moneys for the purposes set forth herein and the specific restrictions and provisions set forth in this Section 8.01.

Except as specifically provided herein, any investment shall be held in and at all times deemed a part of the fund or account in which such moneys were originally held, including but not limited to those in the Bond Construction Trust Funds, and used for the purpose of such fund or account. 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 investments held for any fund or account shall be valued at the lower of cost or then current market value, or at the redemption price thereof if then redeemable at the option of the Owner, including the value of accrued interest and giving effect to the amortization of discount and investments in the "consolidated fund" of the West Virginia Board of Investments shall be valued at par. The Commission or the Depository Bank, as the case may be, 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. Such Depository Bank may make any and all investments permitted by this Section through its own bond department and shall not be responsible for any losses from such investments, other than for its own negligence or willful misconduct.

Notwithstanding the foregoing, any investments made pursuant to this Resolution shall comply with the guidelines of the Authority and the Infrastructure Council.

Section 8.02. Arbitrage. The Issuer covenants that (i) it will restrict the use of the proceeds of the Series 1997 C Bonds in such manner and to such extent as may be necessary, in view of the Issuer's reasonable expectations at the time of issuance of the Series 1997 C Bonds, so that the Series 1997 C Bonds will not constitute "arbitrage bonds" under Section 148 of the Code, and (ii) it will take all actions that may be required of it (including, without implied limitation, the timely filing of a federal information return with respect to the Series 1997 C Bonds so that the interest on the Series 1997 C Bonds will be and remain excluded from gross income for federal income tax purposes, and will not take any actions which would adversely affect such exclusion.

Section 8.03. Rebate of Excess Investment Earnings to the United States. A. CREATION OF FUNDS. There are hereby created, to be held by the Depository Bank as separate funds distinct from all other funds and accounts held by the Depository Bank under

this Resolution, the Earnings Fund and the Rebate Fund. All interest earnings and profits on amounts in all funds and accounts established under this Resolution on account of the Series 1997 C Bonds, other than (i) interest earnings and profits on any funds referenced in Subsection C(5) of this Section if such earnings in any Bond Year are less than $100,000, (ii) interest earnings and profits on amounts in funds and accounts which do not constitute Gross Proceeds, and (iii) interest earnings and profits on the Rebate Fund shall, upon receipt by the Depository Bank, be deposited in the Earnings Fund. In addition, all interest earnings and profits on Gross Proceeds in funds held by the Issuer shall, upon receipt, be paid to the Depository Bank for deposit in the Earnings Fund. Annually, on or before the 30th day following the end of each Bond Year or on the preceding business day in the event that such last day is not a business day, or such earlier date as may be required under the Code or the Loan Agreement, the Depository Bank shall transfer from the Earnings Fund to the Rebate Fund for purposes of ultimate payment to the United States an amount equal to Excess Investment Earnings, all as more particularly described in this Section. Following the transfer referenced in the preceding sentence, the Depository Bank shall transfer all amounts remaining in the Earnings Fund to the Series 1997 C Bond Construction Trust Fund until completion of the Project, and thereafter to the Revenue Fund.

B. DUTIES OF ISSUER IN GENERAL. The Issuer shall calculate Excess Investment Earnings in accordance with Subsection C and shall assure payment of an amount equal to Excess Investment Earnings to the United States in accordance with Subsections D and E.

C. CALCULATION OF EXCESS INVESTMENT EARNINGS. Within 15 days following the last day of the first Bond Year, the Issuer shall calculate, and shall provide written notice to the Authority and Depository Bank of, the Excess Investment Earnings referenced in clause (A) of the definition of Excess Investment Earnings. Thereafter, within 15 days following the last day of each Bond Year and within 15 days following the date of the retirement of the Series 1997 C Bonds, the Issuer shall calculate, and shall provide written notice to the Authority and Depository Bank of, the amount of Excess Investment Earnings. Said calculations shall be made or caused to be made and/or monitored by the Issuer or the Authority, in its sole discretion, in accordance with the following:

(1) Except as provided in (2), in determining the amount described in clause A(i) of the definition of Excess Investment Earnings, the aggregate amount earned on Nonpurpose Investments shall include (i) all income realized under federal income tax accounting principles (whether or not the person earning such income is subject to federal income tax) with respect to such Nonpurpose Investments and with respect to the reinvestment of investment receipts from such Nonpurpose Investments (without regard to the transaction costs incurred in acquiring, carrying, selling or redeeming such Nonpurpose Investments), including, but not limited to, gain or loss realized on the disposition of such Nonpurpose Investments (without regard to when such gains are taken into account under Section 453 of the Code relating to taxable year of inclusion of gross income), and income under Section 1272 of the Code

(relating to original issue discount) and (ii) any unrealized gain or loss as of the date of retirement of the Bonds in the event that any Nonpurpose Investment is retained after such date.

(2) In determining the amount described in clause (A) of the definition of Excess Investment Earnings, Investment Property shall be treated as acquired for its fair market value at the time it becomes a Nonpurpose Investment, so that gain or loss on the disposition of such Investment Property shall be computed with reference to such fair market value as its adjusted basis.

(3) In determining the amount described in clause (A)(ii) of the definition of Excess Investment Earnings, the Yield on the Series 1997 C Bonds shall be determined based on the actual Yield of the Series 1997 C Bonds and during the period between the Closing Date for the Series 1997 C Bonds and the date the computation is made (with adjustments for original issue discount or premium).

(4) In determining the amount described in clause (B) of the definition of Excess Investment Earnings, all income attributable to the excess described in clause (A) of said definition must be taken into account, whether or not that income exceeds the Yield of the Series 1997 C Bonds, and no amount may be treated as "negative arbitrage."

(5) In determining the amount of Excess Investment Earnings, there shall be excluded any amount earned on any fund or account which is used primarily to achieve a proper matching of revenues and Debt Service within each Bond Year and which is depleted at least once a year except for a reasonable carryover amount not in excess of the greater of 1 year's earnings on such fund or account or 1/12th of annual Debt Service as well as amounts earned on said earnings if the gross earnings on such fund or account for the Bond Year is less than $100,000.

D. PAYMENT TO THE UNITED STATES. The Issuer shall direct the Depository Bank to pay from the Rebate Fund an amount equal to Excess Investment Earnings to the United States in installments with the first payment to be made not later than 30 days after the end of the 5th Bond Year and with subsequent payments to be made not later than 5 years after the preceding payment was due. The Issuer shall assure that each such installment is in an amount equal to at least 90% of the Excess Investment Earnings with respect to the Gross Proceeds as of the close of the computation period. Not later than 60 days after the retirement of the Series 1997 C Bonds, the Issuer shall direct the Depository Bank to pay from the Rebate Fund to the United States 100% of the theretofore unpaid Excess Investment Earnings in the Rebate Fund. In the event that there are any amounts remaining in the Rebate Fund following the payment 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 at the address prescribed by the Regulations as the same may be from 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 by this Subsection D, 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 therefor.

In the event the Issuer fails to make any such rebates as required, the Issuer shall pay any and all penalties, obtain a waiver from the Internal Revenue Service and take any other actions necessary or desirable to preserve the exclusion from gross income for Federal income tax purposes of interest on the Series 1997 C Bonds.

E. FURTHER OBLIGATIONS OF ISSUER. The Issuer shall assure that Excess Investment Earnings are not paid or disbursed except as required in this Section. To that end the Issuer shall assure that investment transactions are on an arm's length basis and that Nonpurpose Investments are acquired at their fair market value. In the event that Nonpurpose Investments consist of certificates of deposit or investment contracts, investment in such Nonpurpose Investments shall be made in accordance with the procedures described in applicable Regulations as from time to time in effect. The Depository Bank shall keep the moneys in the Earnings Fund and Rebate Fund invested and reinvested to the fullest extent practicable in Government Obligations with maturities consonant with the required use thereof and investment profits and earnings shall be credited to the account of such fund on which earned.

F. MAINTENANCE OF RECORDS. The Issuer shall keep, and retain for a period of six years following the retirement of the Series 1997 C Bonds, records of the determinations made pursuant to this Section 8.03.

G. INDEPENDENT CONSULTANTS. In order to provide for the administration of this Section 8.03, the Issuer and the Depository Bank (at the expense of the Issuer) may provide for the employment of independent attorneys, accountants or consultants compensated on such reasonable basis as the Issuer or the Depository Bank may deem appropriate.

H. FURTHER AGREEMENT. Notwithstanding the foregoing, the Issuer further covenants to comply with all Regulations from time to time in effect and applicable to the Series 1997 C Bonds, as may be necessary in order to fully comply with Section 148(f) of the Code.

I. REPORTING TO AUTHORITY. The Issuer shall furnish to the Authority, annually, at such time as it is required to perform its rebate calculations under the Code, a certificate with respect to its rebate calculations and, at any time, any additional information relating thereto as may be requested by the Authority and shall furnish to the Authority such information with respect to earnings on all funds constituting "gross proceeds" of the Series 1997 C Bonds (as that term is defined in the Code) from time to time as the Authority may request.

J. AMENDMENTS TO THIS SECTION. Notwithstanding any of the provisions herein to the contrary, the Issuer agrees to amend the provisions of this Section from time to time at the direction of the Authority in order to insure continuing compliance with Section 8.02 hereof.

ARTICLE IX

DEFAULT AND REMEDIES

Section 9.01. Events of Default. Each of the following events shall constitute an "Event of Default" with respect to the Bonds:

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

(B) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part relating to such Bonds set forth in this Resolution, any supplemental Resolution, or in such Bonds, and such default shall have continued for a period of 30 days after the Issuer shall have been given written notice of such default by any bank or banking association holding any fund or account hereunder or an owner of such Bonds; 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.

Section 9.02. Remedies. Upon the happening and continuance of any Event of Default with respect to any Bonds, any Registered Owner of such Bond may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his or her rights and, in particular, (i) bring suit for any unpaid principal or interest then due, (ii) by mandamus or other appropriate proceeding, enforce all rights of such registered Owners, including the right to require the Issuer to perform its duties under the Act and the Resolution relating thereto, including but not limited to the making and collection of sufficient rates or charges for services rendered by the System, (iii) bring suit upon such Bonds, (iv) 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 registered Owners of such Bonds, and (v) by action or bill in equity, enjoin any acts in violation of the Resolution with respect to such Bonds, or the rights of such registered Owners.

Section 9.03. Appointment of Receiver. Any Bondholder may, by proper legal action, compel the performance of the duties of the Issuer under the Resolution and the Act, including the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any default in the payment of interest on any Bonds when the same shall become due, or in the payment of the principal of any Bond or Bonds, either at the specified date of maturity thereof or at a date set for redemption thereof, or otherwise in the performance of any covenant contained in the Resolution other than as to such payment and such default shall continue for a period of thirty (30) days after written notice to the Issuer of such default, any Bondholder 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 Bonds and any interest thereon, 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 the Resolution 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 Bonds issued pursuant to the Resolution and interest thereon and under any covenants of the Resolution for reserve, sinking or other funds 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 Resolution shall have been cured and made good, 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 owner of Bonds issued pursuant to this Resolution 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 or her, 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 Owners of Bonds issued pursuant to the Resolution. 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 Bondholders, and the curing and making good of any default under the provisions of the Resolution, 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.

ARTICLE X

DEFEASANCE

Section 10.01. Defeasance of Bonds. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the Owners of all Bonds the principal thereof, and redemption premium, if applicable, and interest due or to become due thereon, at the times and in the manner stipulated therein and in the Resolution, then the pledge of Net Revenues and any other moneys and securities pledged under this Resolution and all covenants, agreements and other obligations of the Issuer to the Bondholders shall thereupon cease, terminate and become void and be discharged and satisfied.

Bonds for the payment of which either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the Paying Agent at the same or earlier time, shall be sufficient to pay, as and when due, the principal of and interest on the Bonds shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this Section. All 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 Commission or its agents, either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with other moneys, if any, deposited with the Commission at the same time, shall be sufficient to pay when due the principal installments and interest due and to become due on said Bonds on and prior to the maturity dates thereof. Neither securities nor moneys deposited with the Commission pursuant to this Section nor principal or interest payments on any such securities shall be withdrawn or used for any purposes other than, and shall be held in trust for, the payment of the principal of and redemption premium, if applicable, on and interest on said Bonds; provided, that any cash received from such principal or interest payments on such securities deposited with the Commission, 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 applicable, on and interest to become due on said Bonds on and prior to such redemption date or maturity date thereof, as the case may be, and interest earned from such reinvestments shall be paid over to the Issuer, as received by the Commission, free and clear of any trust, lien or pledge. For the purpose of this Section, securities shall mean and include only Government Obligations.

ARTICLE XI

MISCELLANEOUS

Section 11.01. Modification or Amendment. No material modification or amendment of this Resolution or of any Resolution or Resolution amendatory hereof or supplemental hereto which would materially and adversely affect the rights of Bondholders shall be made without the consent in writing of the owners of two-thirds (2/3) or more in principal amount of the Bonds then Outstanding and to be affected by said modification; provided, however, that no change shall be made in the maturity of any Bond or Bonds or the rate of interest thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest out of the revenues of the System without the consent of the owner thereof. No amendment or modification shall be made which would reduce the percentage of the principal amount of Bonds required for consent to the above permitted amendments or modifications.

Section 11.02. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Resolution shall be held invalid, such invalidity shall not affect any of the remaining provisions of this Resolution.

Section 11.03. Table of Contents and Headings. The Table of Contents and the 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 11.04. Repeal of Conflicting Resolutions. All resolutions, resolutions and orders, or parts thereof, in conflict with this Resolution are, to the extent of such conflict, repealed.

Section 11.05. Covenant of Due Procedure. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the final enactment and passage of this Resolution do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Chairman, the Secretary and members of the Board were at all times when any actions in connection with this Resolution occurred, and are, duly in office and duly qualified for such office.

Section 11.06. Effective Date. This Resolution shall take effect immediately upon its adoption.

BROOKE COUNTY PUBLIC SERVICE DISTRICT

[SEAL]

Chairman, Public Service Board

Member, Public Service Board

Member, Public Service Board

CERTIFICATION

Certified as a true copy of the Resolution adopted by the Public Service Board of the Brooke County Public Service District.

Secretary, Public Service Board

[SEAL]

CHASFS3:107462

EXHIBIT A

Project Description

Acquisition and construction of (i) a wastewater collection system in the Windsor Heights, Short Creek and North/South Beech Bottom areas of Brooke County, West Virginia, consisting of approximately 40,900 linear feet of 6", 8" and 10" gravity sewers, 226 manholes, 41 cleanouts, 10 residential grinder stations, 8 sewer lift stations, 2 odor control facilities, and 24,100 linear feet of 1-1/4", 1-1/2", 2", 4" and 6" force mains; (ii) upgrades to the existing wastewater treatment plant at Beech Bottom to an aerated lagoon, activated sludge system; and (iii) a collection system and a new 25,000 gallon per day extended-aeration package treatment plant to replace the existing Franklin Manor package treatment plant.

EXHIBIT B

(See Tab No. 10)

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNTS, DATES, MATURITIES, INTEREST RATE, PRINCIPAL PAYMENT SCHEDULES, SALE PRICES AND OTHER TERMS OF THE BROOKE COUNTY PUBLIC SERVICE DISTRICT SEWER REVENUE BONDS, SERIES 1997 A, SERIES 1997 B AND SERIES 1997 C; AUTHORIZING AND APPROVING THE SALE AND DELIVERY OF SUCH BONDS TO WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; MAKING PROVISIONS FOR THE PAYMENT OF THE SERIES 1997 BONDS; AND MAKING OTHER PROVISIONS AS TO THE SERIES 1997 BONDS.

WHEREAS, the Public Service Board (the "Board") of the Brooke County Public Service District (the "District"), has duly and officially adopted a Bond Resolution on November 12, 1997, (the "Resolution"), entitled:

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING SEWER SYSTEM OF THE BROOKE COUNTY PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF, THROUGH THE ISSUANCE BY THE DISTRICT OF SEWER SYSTEM REVENUE BONDS; AUTHORIZING THE ISSUANCE OF THREE SEPARATE SERIES OF SEWER REVENUE BONDS OF THE DISTRICT IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED $3,200,000 TO BE USED, ALONG WITH OTHER FUNDS AND MONEYS OF, OR AVAILABLE TO, THE DISTRICT WHICH MAY BE LAWFULLY EXPENDED FOR SUCH PURPOSES, TO FINANCE THE COST OF SUCH ACQUISITION AND CONSTRUCTION, TO FUND RESERVE ACCOUNTS FOR SUCH BONDS, AND TO PAY OTHER COSTS IN CONNECTION THEREWITH; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A LOAN AGREEMENT OR LOAN AGREEMENTS RELATING TO SUCH BONDS; AND ADOPTING OTHER PROVISIONS RELATED THERETO.

WHEREAS, the Resolution provides for the issuance of the Brooke County Public Service District Sewer Revenue Bonds, Series 1997 A, Series 1997 B and Series 1997 C of the District (the "Bonds"), in the aggregate principal amount not to exceed $3,200,000, and has authorized the execution and delivery of a loan agreement or loan agreements relating to the Bonds, including all amendments and supplements (collectively, the "Loan Agreement"), by and among the District and the West Virginia Water Development Authority (the "Authority") on behalf of the West Virginia Division of Environmental Protection ("DEP") and the West Virginia Infrastructure and Jobs Development Council (the "Council"), all in accordance with Chapter 16, Article 13A, Chapter 22C, Article 2, and Chapter 31, Article 15A, of the West Virginia Code of 1931, as amended (collectively, the "Act"); and in the Resolution it is provided that the exact principal amounts, maturity dates, interest rates, interest and principal payment dates, sale prices and other terms of the Bonds should be established by a supplemental resolution pertaining to the Bonds; and that other matters relating to the Bonds be herein provided for;

WHEREAS, the Board deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted and that the exact principal amounts, the prices, the maturity dates, the redemption provisions, the interest rates and the interest and principal payment dates of the Bonds be fixed hereby in the manner stated herein, and that other matters relating to the Bonds be herein provided for; and

WHEREAS, capitalized terms not otherwise defined shall have the meanings given such terms in the Resolution;

NOW, THEREFORE, BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF THE BROOKE COUNTY PUBLIC SERVICE DISTRICT, WEST VIRGINIA, AS FOLLOWS:

Section 1. Pursuant to the Resolution and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the:

(A) Brooke County Public Service District Sewer Revenue Bonds, Series 1997 A, of the District, originally represented by a single Bond, numbered AR-1, in the principal amount of $450,000. The Bonds shall be dated the date of delivery thereof and shall finally mature March 1, 2019, and shall bear no interest. The principal on the Bonds is payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 1999. The Bonds shall be subject to redemption upon the written consent of the Authority and the DEP, upon payment of the redemption premium, if any, and upon continued compliance with the Loan Agreement, so long as the Authority shall be the registered owner of the Bonds, and shall be payable in installments of principal in the amounts as set forth in "Schedule Y," attached thereto and incorporated herein by reference. The Town shall pay the 1% SRF Administrative Fee as provided in the Loan Agreement.

(B) Brooke County Public Service District Sewer Revenue Bonds, Series 1997 B, of the District, originally represented by a single Bond, numbered BR-1, in the

principal amount of $2,163,971. The Bonds shall be dated the date of delivery thereof, shall finally mature December 1, 2037, and shall bear no interest. The principal on the Bonds is payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 1999. The Bonds shall be subject to redemption upon the written consent of the Authority and the Infrastructure Council, upon payment of the redemption premium, if any, and upon continued compliance with the Loan Agreement, so long as the Authority shall be the registered owner of the Bonds, and shall be payable in installments of principal in the amounts as set forth in "Schedule Y," attached thereto and incorporated herein by reference.

(C) Brooke County Public Service District Sewer Revenue Bonds, Series 1997 C, of the District, originally represented by a single Bond, numbered CR-1, in the principal amount of $450,000. The Bonds shall be dated the date of delivery thereof, shall finally mature December 1, 2037, and shall bear interest at the rate of one percent (1.00%) per annum, commencing June 1, 2019, or on such earlier or later date as provided for in Section 5.03A(2) of the Resolution. Both principal of and interest on the Bonds are payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing June 1, 2019, or on such earlier or later date as provided for in Section 5.03A(2) of the Resolution. The Bonds shall be subject to redemption upon the written consent of the Authority and the Infrastructure Council, upon payment of the interest and redemption premium, if any, upon continued compliance with the Loan Agreement, so long as the Authority shall be the registered owner of the Bonds, and shall be payable in installments of principal and interest in the amounts as set forth in "Schedule Y," attached thereto and incorporated herein by reference.

Section 2. The Bonds shall each be issued as a fully registered Bond, both as to principal and interest, if any, and shall be registered to the Authority.

Section 3. All other provisions relating to the Bonds and the text of the Bonds shall be in substantially the form provided in the Resolution.

Section 4. The District does hereby ratify the Loan Agreements, copies of which are incorporated herein by reference, and the execution and delivery of the Chairman of the Loan Agreements, and the performance of the obligations contained therein, on behalf of the District are hereby authorized, directed, ratified and approved. The District hereby affirms all covenants and representations made in the Loan Agreements and in the Applications to the DEP, Infrastructure Council and the Authority. The price of the Bonds shall be 100% of par value, there being no interest accrued thereon, provided that the proceeds will be advanced from time to time as requisitioned by the District.

Section 5. The District does hereby appoint and designate One Valley Bank, National Association, Charleston, West Virginia, as Registrar (the "Registrar") for the Bonds and does approve and accept the Registrar's Agreement to be dated the date of delivery of the Bonds, by and between the District and the Registrar, in substantially the form attached hereto, and the execution and delivery by the Chairman of the Registrar's Agreement, and

the performance of the obligations contained therein, on behalf of the District are hereby authorized, approved and directed.

Section 6. The District does hereby appoint and direct the West Virginia Municipal Bond Commission, Charleston, West Virginia, to serve as Paying Agent for the Bonds.

Section 7. The District does hereby appoint Advance Financial Savings Bank, Wellsburg, West Virginia, as Depository Bank under the Resolution.

Section 8. The District has established with the Depository Bank a Reserve Account for each series of Bonds pursuant to the Resolution. At closing, the Reserve Account will be funded on the date the Bonds are issued in an amount equivalent to the Reserve Requirement applicable to such series of Bonds. Moneys in the Reserve Accounts and the Sinking Funds therein (established for the annual payment of principal and interest) will be used solely to pay principal of and interest on the Bonds and will not be available to pay costs of the Project.

Section 9. The proceeds of the Bonds, as advanced from time to time, shall be deposited in or credited to the Bond Construction Trust Fund, as received from time to time for payment of Costs of the Project, including costs of issuance of the Bonds.

Section 10. The Chairman and Secretary are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Bonds hereby and by the Resolution approved and provided for, to the end that the Bonds may be delivered on or about December 9, 1997, to the Authority pursuant to the Loan Agreements.

Section 11. The financing of the Project in part with proceeds of the Bonds is in the public interest, serves a public purpose of the District and will promote the health, welfare and safety of the residents of the District.

Section 12. The District hereby determines to invest all moneys in the funds and accounts established by the Resolution held by the Depository Bank until expended, in money market accounts secured by a pledge of Government Obligations, and therefore, the District hereby directs the Depository Bank to take such actions as may be necessary to cause such moneys to be invested in such money market accounts until further directed in writing by the District. Moneys in the Sinking Funds, including the Reserve Accounts therein, shall be invested by the Municipal Bond Commission in the West Virginia Consolidated Fund.

Section 13. The District shall not permit at any time or times any of the proceeds of the Bonds or any other funds of the District to be used directly or indirectly in a manner which would result in the exclusion of the Series 1997 C Bonds from the treatment afforded by Section 103(a) of the Internal Revenue Code of 1986, as amended, and any regulations promulgated thereunder or under any predecessor thereto (the "Code"), by reason

of the classification of the Bonds as "private activity bonds" within the meaning of the Code. The Town will take all actions necessary to comply with the Code and Treasury Regulations to be promulgated thereunder.

Section 14. The financing of the Project in part with the proceeds of the Bonds is in the public interest, serves a public purpose of the District, and will promote the health, safety and welfare of the citizens of the District.

Section 15. The District hereby approves the costs of issuance and authorizes the payment of the same.

Section 16. This Supplemental Resolution shall be effective immediately following adoption hereof.

Dated: November 12, 1997

BROOKE COUNTY PUBLIC SERVICE DISTRICT

Chairman, Public Service Board

Member, Public Service Board

Member, Public Service Board

[SEAL]

Secretary

CERTIFICATION

Certified as a true copy of the Supplemental Resolution adopted by the Public Service Board of the Brooke County Public Service District.

Secretary, Public Service Board

[SEAL]

CHASFS3:107734

BROOKE COUNTY PUBLIC SERVICE DISTRICT

Sewer System Revenue Bonds, Series 1997 A,
Series 1997 B and Series 1997 C

EXCERPT OF MINUTES

I, Robert W. Butts, Jr., Secretary to the Brooke County Public Service Board (the "Board") of the Brooke County Public Service District (the "District"), hereby certify that the following is a true and correct excerpt of the minutes of the meeting of the said Board held on November 12, 1997.

The Board met at its regular meeting, pursuant to notice duly given, published and posted, on the 12th day of November, 1997, at the Brooke County Public Service District Office, Follansbee, West Virginia, at 6:30 p.m., prevailing time.

The Chairman announced that a quorum of members was present.

Present: William Liposchak, Chairman
Lou Feola, Treasurer and Member
Robert W. Butts, Jr., Secretary and Member

Also present were Chris Callas, Esq. of Jackson & Kelly, Bond Counsel , Sen. Ed Bowman, Rep. Tim Ennis, Rep. Roy Givens, Co. Comm. Henry Wilson & Dan Gilchrist, Suzann Gad, Maurice Pearson, and Calvert Estal.

William Liposchak, Chairman, presided and Robert W. Butts, Jr., served as Secretary.

The Chairman announced that a quorum of members was present and that the meeting was open for any business properly before it. Thereupon, Mr. Callas presented a Resolution, in writing, entitled:

RESOLUTION ESTABLISHING RULES BY WHICH THE TIME AND PLACE OF ALL REGULARLY SCHEDULED MEETINGS AND THE TIME, PLACE AND PURPOSE OF ALL SPECIAL MEETINGS ARE TO BE MADE AVAILABLE, IN ADVANCE, TO THE PUBLIC AND NEWS

MEDIA AND PROVIDING WHEN THIS RESOLUTION AND SUCH RULES SHALL TAKE EFFECT.

and caused the same to be read and there was discussion. Thereupon, on motion of Robert W. Butts, Jr., seconded by Lou Feola, it was unanimously ordered that said Resolution be adopted and be in full force and effect on and from the date thereof.

Thereupon, Mr. Callas presented a Bond Resolution, in writing, entitled:

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING SEWER SYSTEM OF THE BROOKE COUNTY PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF, THROUGH THE ISSUANCE BY THE DISTRICT OF SEWER SYSTEM REVENUE BONDS; AUTHORIZING THE ISSUANCE OF THREE SEPARATE SERIES OF SEWER SYSTEM REVENUE BONDS OF THE DISTRICT IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED $3,200,000 TO BE USED, ALONG WITH OTHER FUNDS AND MONEYS OF, OR AVAILABLE TO, THE DISTRICT WHICH MAY BE LAWFULLY EXPENDED FOR SUCH PURPOSES, TO FINANCE THE COST OF SUCH ACQUISITION AND CONSTRUCTION, TO FUND RESERVE ACCOUNTS FOR SUCH BONDS, AND TO PAY OTHER COSTS IN CONNECTION THEREWITH; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A LOAN AGREEMENT OR LOAN AGREEMENTS RELATING TO SUCH BONDS; AND ADOPTING OTHER PROVISIONS RELATED THERETO.

and caused the same to be read and there was discussion. Thereupon, on motion of Robert W. Butts, Jr., seconded by Lou Feola, it was unanimously ordered that said Bond Resolution be adopted and be in full force and effect on and from the date thereof.

Mr. Callas then presented a Supplemental Resolution, in writing, entitled:

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNTS, DATES, MATURITIES, INTEREST RATE, PRINCIPAL PAYMENT SCHEDULES, SALE PRICES AND OTHER TERMS OF THE BROOKE COUNTY PUBLIC SERVICE DISTRICT SEWER REVENUE BONDS, SERIES 1997 A, SERIES 1997 B AND SERIES 1997 C; AUTHORIZING AND APPROVING THE SALE AND DELIVERY OF SUCH BONDS TO WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; MAKING PROVISIONS FOR THE PAYMENT OF THE SERIES 1997 BONDS; AND MAKING OTHER PROVISIONS AS TO THE SERIES 1997 BONDS.

and caused the same to be read and there was discussion. Thereupon, on motion of Robert W. Butts, Jr., seconded by Lou Feola, it was unanimously ordered that said Supplemental Resolution be adopted and be in full force and effect on and from the date thereof.

I hereby certify that the foregoing action of said Board remains in full force and effect and has not been amended or appealed.

WITNESS my signature on this 9th day of December, 1997.

[SEAL]

Secretary, Brooke County Public Service District

110935

SRF-LP-1
(September 1997)

LOAN AGREEMENT

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

BROOKE COUNTY PUBLIC SERVICE DISTRICT (Windsor Heights)
(Local Government)

WITNESSETH:

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

WHEREAS, pursuant to the provisions of Chapter 20, Article 5I, of the Code of West Virginia, 1931, as amended (the "Act"), the State of West Virginia (the "State") has established a state water pollution control revolving fund program (the "Program") to direct the distribution of loans to particular local governments pursuant to the Clean Water Act;

WHEREAS, under the Act the DEP is designated the instrumentality to enter into capitalization agreements with the United States Environmental Protection Agency ("EPA") to accept capitalization grant awards and DEP has been awarded capitalization grants to partially fund the Program;

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

WHEREAS, pursuant to the Act, the Authority and DEP are empowered to make loans from the Fund to local governments for the acquisition or construction of

wastewater treatment projects by such local governments, all subject to such provisions and limitations as are contained in the Clean Water Act and the Act;

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

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

WHEREAS, the Local Government is authorized and empowered by the statutes of the State to construct, operate and improve a wastewater treatment project and to finance the cost of constructing or acquiring the same by borrowing money to be evidenced by revenue bonds issued by the Local Government;

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

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

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

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

ARTICLE I

Definitions

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE II

The Project and the System

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

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

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

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

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

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

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

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

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

2.10 The Local Government shall require the Consulting Engineers to submit the final Operation and Maintenance Manual, as defined in the SRF Regulations, to DEP when the Project is 90% completed. The Local Government agrees that it will at all times provide operation and maintenance of the System to comply with any and all State and federal standards. The Local Government agrees that qualified operating personnel properly certified by the State will be employed before the Project is 25% complete and agrees that it will retain such a certified operator(s) to operate the System during the entire term of this Loan Agreement. The Local Government shall notify DEP in writing of the certified operator employed at the 25% completion stage.

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

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

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

ARTICLE III

Conditions to Loan; Issuance of Local Bonds

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

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

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

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

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

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

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

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

(h) The Local Government shall have obtained any and all approvals of rates and charges required by State law and shall have taken any other action required to establish and impose such rates and charges (imposition of such rates and charges is not, however, required to be effective until completion of construction of the Project) with all requisite appeal periods having expired, and the Authority and DEP shall have received an opinion of counsel to the Local Government, which may be local counsel to the Local Government, bond counsel or special PSC counsel but must be satisfactory to the Authority and DEP, to such effect;

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

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

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

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

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

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

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

3.6 The Local Government shall provide DEP with the appropriate documentation to comply with the special conditions established by federal and state regulations as set forth in Exhibit E hereto at such times as are set forth in Exhibit E.

ARTICLE IV

Local Bonds; Security for Loan; Repayment of Loan; Interest on Loan; Fees and Charges

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

(a) That the gross revenues of the System shall always be used for purposes of the System. The revenues generated from the operation of the System will be used monthly, in the order of priority listed below:

(i) to pay Operating Expenses of the System;

(ii) to the extent not otherwise limited by any outstanding loan resolution, indenture or other act or document and beginning on the date set forth in Schedule X to provide debt service on the Local Bonds by depositing in a sinking fund one-third (1/3) of the interest payment next coming due on the Local Bonds and one-third (1/3) of the principal payment next coming due on the Local Bonds and, beginning three (3) months prior to the first date of payment of principal of the Local Bonds, if the reserve account for the Local Bonds (the "Reserve Account") was not funded from proceeds of the Local Bonds or otherwise concurrently with the issuance thereof in an amount equal to an amount at least equal to the maximum amount of principal and interest which will come due on the Local Bonds in the then current or any succeeding year (the "Reserve Requirement"), by depositing in the Reserve Account an amount not less than one-twelfth (1/12) of one-tenth (1/10) of the Reserve Requirement or, if the Reserve Account has been so funded (whether by Local Bond proceeds, monthly deposits or otherwise), any amount necessary to maintain the Reserve Account at the Reserve Requirement;

(iii) to create a renewal and replacement, or similar, fund in an amount equal to two and one-half percent (2-1/2%) of the gross revenues from the System, exclusive of any payments into the Reserve Account, for the purpose of improving

or making emergency repairs or replacements to the System or eliminating any deficiencies in the Reserve Account; and

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

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

(b) Covenants substantially as follows:

(i) That the Local Bonds shall be secured by the net revenues from the System;

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

(iii) That the Local Government will complete the Project and operate and maintain the System in good condition;

(iv) That, except as otherwise required by State law or the Regulations, the System may be sold, mortgaged, leased or otherwise disposed of as a whole or substantially as a whole provided that the net proceeds to be realized from such sale, mortgage, lease or other deposition shall be sufficient to fully pay all of the local bonds outstanding and further provided that portions of the System when no longer required for the ongoing operation of such System as evidenced by certificates from the Consulting Engineer, may be disposed of with such restrictions as are normally contained in such covenants;

(v) That the Local Government shall not issue any other obligations payable from the revenues of the System which rank prior to, or equally, as to lien and security with the Local Bonds, except parity bonds which shall only be issued if net revenues of the System prior to issuance of such parity bonds, plus reasonably projected revenues from rate increases and the improvements to be financed by such parity bonds, shall not be less than one hundred fifteen percent (115%) of the maximum debt service in any succeeding year on all Local Bonds and parity bonds theretofore and then being issued and

on any obligations secured by a lien on or payable from the revenues of the System prior to the Local Bonds and with the written consent of the Authority and DEP; provided, however, that additional parity bonds may be issued to complete the Project, as described in the Application as of the date hereof, without regard to the foregoing;

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

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

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

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

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

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

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

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

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

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

(xvi) That the Local Government shall on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the West Virginia Municipal Bond Commission (the "Commission") its required interest, principal and reserve fund payment. The Local Government shall complete the Monthly Payment Form, attached hereto as Exhibit F and incorporated herein by reference, and submit a copy of said form along with a copy of the check to the Authority by the 5th day of such calendar month;

(xvii) That the Commission shall serve as paying agent for all Local Bonds;

(xviii) That, unless it qualifies for an exception to the provisions of Section 148 of the Code, which exception shall be set forth in an opinion of bond counsel, the Local Government will furnish to the Authority, annually, at such time as it is required to perform its rebate calculations under the Code, a certificate with respect to its rebate calculations and, at any time, any additional information requested by the Authority;

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

(xx) That the Local Government shall, to the full extent permitted by applicable law and the rules and regulations of the West Virginia Public Service Commission, terminate the services of any water facility owned by it to any customer of the System who is delinquent in payment of charges for services provided by the System and will

not restore the services of the water facility until all delinquent charges for the services of the System have been fully paid or, if the water facility is not owned by the Local Government, then the Local Government shall enter into a termination agreement with the water provider.

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

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

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

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

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

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

ARTICLE V

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

5.1 The Local Government hereby irrevocably covenants and agrees to comply with all of the terms, conditions and requirements of this Loan Agreement and the Local Act. The Local Government hereby further irrevocably covenants and agrees that, as one of the conditions of the Authority to make the Loan, it has fixed and collected, or will fix and collect, the rates, fees and other charges for the use of the System, as set forth in the Local Act and in compliance with the provisions of Subsection 4.1(b)(ii) hereof.

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

5.3 In the event the Local Government defaults in any payment due to the Authority pursuant to Section 4.2 hereof, the amount of such default shall bear interest at the interest rate of the installment of the Loan next due, from the date of the default until the date of the payment thereof.

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

ARTICLE VI

Other Agreements of the Local Government

6.1 The Local Government hereby acknowledges to the Authority and DEP its understanding of the provisions of the Act, vesting in the Authority and DEP certain powers, rights and privileges with respect to wastewater treatment projects in the event of default by local governments in the terms and covenants of loan agreements, and the Local Government hereby covenants and agrees that, if the Authority should hereafter have

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

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

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

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

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

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

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

ARTICLE VII

Miscellaneous

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

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

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

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

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

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

7.7 This Loan Agreement shall terminate upon the earlier of:

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

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

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

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

Brooke County Public Service District
[Proper Name of Local Government]

(SEAL)

By: William M Lipscomb
Its: Chairman

Attest:

Date: November 7, 1997

Its Secretary

WEST VIRGINIA DIVISION OF ENVIRONMENTAL PROTECTION

By: Barbara S Taylor
Its: Chief, Office of Water Resources

Date: 11/12/97

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

(SEAL)

By: Daniel B Yarbosh
Its: Director

Attest:

Date: November 6, 1997

Barbara B Meadows
Secretary-Treasurer

APPROVED AS TO FORM PRIOR TO ACKNOWLEDGEMENT THEREOF, THIS 25th day of September 19 97
DARRELL V. McGRAW, JR.
ATTORNEY GENERAL
By: Dawn E Warfield
DEPUTY ATTORNEY GENERAL

EXHIBIT A

[Form of Performance Certificate]

[TO BE PROVIDED BY DEP]

EXHIBIT B

[Form of Monthly Financial Report]
[Name of Local Government]
[Name of Bond Issue]
Fiscal Year - __
Report Month: _____

ITEM	CURRENT MONTH	YEAR TO DATE	BUDGET YEAR TO DATE	BUDGET DIFFERENCE
1. Gross Revenues Collected				
2. Operation and Maintenance Expense				
3. Other Bond Debt Payments (including Reserve Fund deposits)				
4. SRF Bond Payments (include Reserve Fund deposits)				
5. Renewal and Replacement Fund Deposit				
6. Funds available for capital construction				

Witnesseth my signature this __ day of ____, ____.

[Name of Local Government]

By: _____
Authorized Officer

EXHIBIT C

PAYMENT REQUISITION FORM

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

EXHIBIT D

FORM OF CERTIFICATE OF CONSULTING ENGINEER

_____
(Issuer)

_____
(Name of Bonds)

I, _____, Registered Professional Engineer, West Virginia License No._____, of _____, Consulting Engineers, _____, _____, hereby certify that my firm is engineer for the acquisition and construction of _____ to the _____ system (herein called the "Project") of _____ (the "Issuer") to be constructed primarily in _____County, West Virginia, which construction and acquisition are being permanently financed in part by the above-captioned bonds (the "Bonds") of the Issuer. Capitalized words not defined herein shall have the meaning set forth in the _____ passed by the _____ of the Issuer on _____, 19___, effective _____, 19___, and the Loan Agreement by and among the Issuer, the West Virginia Water Development Authority (the "Authority"), and the West Virginia Division of Environmental Protection ("DEP") dated _____, 19___.

1. The Bonds are being issued for the purpose of _____ _____ (the "Project").

2. The undersigned hereby certifies that (i) the Project will be constructed in accordance with the approved plans, specifications and designs prepared by my firm and as described in the application submitted to the Authority requesting the Authority to purchase the Bonds (the "Application") and approved by all necessary governmental bodies, (ii) the Project is adequate for the purpose for which it was designed and has an estimated useful life of at least twenty years, (iii) the Issuer has received bids for the construction of the Project which are in an amount and otherwise compatible with the plan of financing described in the Application and my firm has ascertained that all contractors have made required provisions for all insurance and payment and performance bonds and that such insurance policies or binders and such bonds have been verified by my firm for accuracy, (iv) the Issuer has obtained all permits required by the laws of the State and the federal government necessary for the construction of the Project, (v) the rates and charges for the System as adopted by the ____ of the Issuer are sufficient to comply with the provisions of Subsection 4.1(b) of the Loan Agreement, (vi) the net proceeds of the Bonds, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants irrevocably committed therefor, are sufficient to pay the costs of construction and

acquisition of the Project as set forth in the Application, and (vii) attached hereto as Exhibit A is the final amended "Schedule A - Total Cost of Project and Sources of Funds" for the Project.

WITNESS my signature on this _____ day of _____, 19___.

_____

By _____

West Virginia License No. __

[SEAL]

EXHIBIT E

SPECIAL CONDITIONS

A. The recipient agrees to include, when issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, (1) the percentage of the total costs of the program or project which will be financed with Federal money, (2) the dollar amount of Federal funds for the project or program, and (3) percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

B. AUDIT REQUIREMENT (Supplement to Article IV 4.1 (b) (xi)) - The loan recipient that receives $25,000 or more in a fiscal year must obtain audits in accordance with the Single Audit Act of 1984 and OMB Circular 128. Financial statement audits are required once all funds have been received by the loan recipient.

C. A title opinion must be presented, signed by competent title counsel, identifying the project and contract and indicating the applicant has, or will obtain without delay, valid title and/or rights-of-way.

D. Documentation of Disadvantaged Business Enterprise must be provided by contractors.

EXHIBIT F

[Monthly Payment Form]

West Virginia Water Development
Authority
1201 Dunbar Avenue
Dunbar, WV 25064

Re: [Name of bond issue]

Dear Sirs:

The following deposits were made to the West Virginia Municipal Bond Commission on behalf of [Local Government] on _____, __.

Sinking Fund:

Interest $____

Principal $____

Total: $____

Reserve Fund: $____

Witness my signature this ___ day of_____.

[Name of Local Government]

By: _____
Authorized Officer

Enclosure: copy of check(s)

EXHIBIT G

[Opinion of Bond Counsel for Local Government]

[To Be Dated as of Date of Loan Closing]

West Virginia Water Development Authority
1201 Dunbar Avenue
Dunbar, West Virginia 25064

Gentlemen:

We are bond counsel to _____ (the "Local Government"), a _____.

We have examined a certified copy of proceedings and other papers relating to (i) the authorization of a loan agreement dated _____, 19__, including all schedules and exhibits attached thereto (the "Loan Agreement"), between the Local Government and the West Virginia Water Development Authority (the "Authority") and (ii) the issue of a series of revenue bonds of the Local Government, dated _____, 19_ (the "Local Bonds"), to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Local Bonds are in the principal amount of $_____, issued in the form of one bond registered as to principal and interest to the Authority, with interest payable _____ 1, ____ 1, ____ 1, and ____ 1 of each year, beginning _____ 1, 19_, at the respective rate or rates and with principal payable in installments on ____ 1 in each of the years, all as follows:

Year	Installment	Interest Rate

The Local Bonds are issued for the purpose of _____ and paying certain issuance and other costs in connection therewith.

We have also examined the applicable provisions of _____ of the Code of West Virginia, 1931, as amended (the "Local Statute"), and the bond _____ duly enacted by the Local Government on _____ (the "Local Act"), pursuant to and under which Local Statute and Local Act the Local Bonds are authorized and issued, and the Loan Agreement that has been undertaken. The Local Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Local Act and the Loan Agreement.

Brooke County Public Service District - Windsor Heights
$450,000.00 SRF Loan
20 Years, 0% Interest Rate, 1% Administrative Fee

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Total P+I
9/01/2010	5,696.20	-	5,696.20
12/01/2010	5,696.20	-	5,696.20
3/01/2011	5,696.20	-	5,696.20
6/01/2011	5,696.20	-	5,696.20
9/01/2011	5,696.20	-	5,696.20
12/01/2011	5,696.20	-	5,696.20
3/01/2012	5,696.20	-	5,696.20
6/01/2012	5,696.20	-	5,696.20
9/01/2012	5,696.20	-	5,696.20
12/01/2012	5,696.20	-	5,696.20
3/01/2013	5,696.20	-	5,696.20
6/01/2013	5,696.20	-	5,696.20
9/01/2013	5,696.20	-	5,696.20
12/01/2013	5,696.20	-	5,696.20
3/01/2014	5,696.20	-	5,696.20
6/01/2014	5,696.20	-	5,696.20
9/01/2014	5,696.20	-	5,696.20
12/01/2014	5,696.20	-	5,696.20
3/01/2015	5,696.20	-	5,696.20
6/01/2015	5,696.20	-	5,696.20
9/01/2015	5,696.20	-	5,696.20
12/01/2015	5,696.20	-	5,696.20
3/01/2016	5,696.20	-	5,696.20
6/01/2016	5,696.20	-	5,696.20
9/01/2016	5,696.20	-	5,696.20
12/01/2016	5,696.20	-	5,696.20
3/01/2017	5,696.20	-	5,696.20
6/01/2017	5,696.20	-	5,696.20
9/01/2017	5,696.20	-	5,696.20
12/01/2017	5,696.20	-	5,696.20
3/01/2018	5,696.20	-	5,696.20
6/01/2018	5,696.20	-	5,696.20
9/01/2018	5,696.20	-	5,696.20
12/01/2018	5,696.20	-	5,696.20
3/01/2019	5,696.20	-	5,696.20 *
TOTAL	450,000.00	-	450,000.00

*Plus $562.50 one-percent administrative fee paid quarterly. Total fee paid over the life of the is $45,000.

SCHEDULE Y

Brooke County Public Service District - Windsor Heights
$450,000.00 SRF Loan
20 Years, 0% Interest Rate, 1% Administrative Fee

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Total P+I
6/01/1999	-	-	-
9/01/1999	5,696.21	-	5,696.21
12/01/1999	5,696.21	-	5,696.21
3/01/2000	5,696.21	-	5,696.21
6/01/2000	5,696.21	-	5,696.21
9/01/2000	5,696.21	-	5,696.21
12/01/2000	5,696.21	-	5,696.21
3/01/2001	5,696.21	-	5,696.21
6/01/2001	5,696.21	-	5,696.21
9/01/2001	5,696.21	-	5,696.21
12/01/2001	5,696.21	-	5,696.21
3/01/2002	5,696.21	-	5,696.21
6/01/2002	5,696.21	-	5,696.21
9/01/2002	5,696.21	-	5,696.21
12/01/2002	5,696.21	-	5,696.21
3/01/2003	5,696.21	-	5,696.21
6/01/2003	5,696.21	-	5,696.21
9/01/2003	5,696.21	-	5,696.21
12/01/2003	5,696.21	-	5,696.21
3/01/2004	5,696.21	-	5,696.21
6/01/2004	5,696.21	-	5,696.21
9/01/2004	5,696.20	-	5,696.20
12/01/2004	5,696.20	-	5,696.20
3/01/2005	5,696.20	-	5,696.20
6/01/2005	5,696.20	-	5,696.20
9/01/2005	5,696.20	-	5,696.20
12/01/2005	5,696.20	-	5,696.20
3/01/2006	5,696.20	-	5,696.20
6/01/2006	5,696.20	-	5,696.20
9/01/2006	5,696.20	-	5,696.20
12/01/2006	5,696.20	-	5,696.20
3/01/2007	5,696.20	-	5,696.20
6/01/2007	5,696.20	-	5,696.20
9/01/2007	5,696.20	-	5,696.20
12/01/2007	5,696.20	-	5,696.20
3/01/2008	5,696.20	-	5,696.20
6/01/2008	5,696.20	-	5,696.20
9/01/2008	5,696.20	-	5,696.20
12/01/2008	5,696.20	-	5,696.20
3/01/2009	5,696.20	-	5,696.20
6/01/2009	5,696.20	-	5,696.20
9/01/2009	5,696.20	-	5,696.20
12/01/2009	5,696.20	-	5,696.20
3/01/2010	5,696.20	-	5,696.20
6/01/2010	5,696.20	-	5,696.20

IC/WDA-1
(July 1996)

LOAN AGREEMENT

THIS LOAN AGREEMENT, Made and entered into in several counterparts, by and between the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY, a governmental instrumentality and body corporate of the State of West Virginia (the "Authority"), acting on behalf of the WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL (the "Council") and the governmental agency designated below (the "Governmental Agency");

BROOKE COUNTY PUBLIC SERVICE DISTRICT
(Governmental Agency)

W I T N E S S E T H:

WHEREAS, pursuant to the provisions of Chapter 31, Article 15A, of the Code of West Virginia, 1931, as amended (the "Act"), the Authority is empowered upon request of the Council to make loans to governmental agencies for the acquisition or construction of projects by such governmental agencies, subject to such provisions and limitations as are contained in the Act;

WHEREAS, the Governmental Agency constitutes a governmental agency as defined by the Act;

WHEREAS, the Governmental Agency is authorized and empowered by the statutes of the State to construct, operate and improve a project, as defined by the Act, and to finance the cost of constructing or acquiring the same by borrowing money to be evidenced by revenue bonds issued by the Governmental Agency;

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

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

WHEREAS, having reviewed the Application and made all findings required by the Act and having available sufficient funds therefor, the Council has authorized the Authority to lend the Governmental Agency the amount set forth on Schedule X attached hereto and incorporated herein by reference, through the purchase of revenue bonds of the Governmental Agency with money in the Infrastructure Fund subject to the Governmental Agency's satisfaction of certain legal and other requirements of the Council's loan program (the "Program") as hereinafter set forth.

NOW, THEREFORE, in consideration of the premises and the mutual agreements hereinafter contained, the Governmental Agency and the Authority hereby agree as follows:

ARTICLE I

Definitions

1.1 Except where the context clearly indicates otherwise, the terms "Authority," "cost," "governmental agency," "project," "waste water facility" and "water facility" have the definitions and meanings ascribed to them in the Act.

1.2 "Authority" means the West Virginia Water Development Authority, which is expected to be the original purchaser of the Bonds, acting in its administrative capacity pursuant to Section 10 of the Council Act and upon authorization from the Council.

1.3 "Consulting Engineers" means the professional engineer, licensed by the State, who shall not be a regular, full-time employee of the State or any of its agencies, commissions or political sub-divisions, and designated in the Application and any qualified successor thereto; provided, however, when a Loan is made for a Project financed, in part, by the Office of Abandoned Mine Lands, "Consulting Engineers" shall mean the West Virginia Division of Environmental Protection, or any successor thereto.

1.4 "Infrastructure Fund" means the West Virginia Infrastructure Fund established in accordance with Section 9 of the Act.

1.5 "Loan" means the loan to be made by the Authority to the Governmental Agency through the purchase of Local Bonds, as hereinafter defined, pursuant to this Loan Agreement.

1.6 "Local Act" means the official action of the Governmental Agency required by Section 4.1 hereof, authorizing the Local Bonds.

1.7 "Local Bonds" means the revenue bonds to be issued by the Governmental Agency pursuant to the provisions of the Local Statute, as hereinafter defined, to evidence the Loan and to be purchased by the Authority, all in accordance with the provisions of this Loan Agreement.

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

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

1.10 "Project" means the project hereinabove referred to, to be constructed or being constructed by the Governmental Agency in whole or in part with the net proceeds of the Local Bonds.

1.11 "System" means the project owned by the Governmental Agency, of which the Project constitutes all or to which the Project constitutes an improvement, and any improvements thereto hereafter constructed or acquired from any sources whatsoever.

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

ARTICLE II

The Project and the System

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

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

2.3 All real estate and interests in real estate and all personal property constituting the Project and the Project site heretofore or hereafter acquired shall at all times be and remain the property of the Governmental Agency, subject to any mortgage lien or

other security interest as is provided for in the Local Statute unless a sale or transfer of all or a portion of said property or any interest therein is approved by the Authority and Council.

2.4 The Governmental Agency agrees that the Authority and its duly authorized agents shall have the right at all reasonable times to enter upon the Project site and Project facilities and to examine and inspect the same. The Governmental Agency further agrees that the Authority and its duly authorized agents and representatives shall, prior to, at and after completion of construction and commencement of operation of the Project, have such rights of access to the System site and System facilities as may be reasonably necessary to accomplish all of the powers and rights of the Authority with respect to the System pursuant to the pertinent provisions of the Act.

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

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

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

2.8 The Governmental Agency shall require that each of its contractors and all subcontractors maintain, during the life of the construction contract, workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Authority. Until the Project facilities are completed and accepted by the Governmental Agency, the Governmental Agency or (at the option of the Governmental Agency) the contractor shall maintain builder's risk insurance (fire and extended coverage) on a one hundred percent (100%) basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Governmental Agency, the prime contractor and

all subcontractors, as their interests may appear. If facilities of the System which are detrimentally affected by flooding are or will be located in designated special flood or mudslide-prone areas and if flood insurance is available at a reasonable cost, a flood insurance policy must be obtained by the Governmental Agency on or before the Date of Loan Closing, as hereinafter defined, and maintained so long as any of the Local Bonds is outstanding. Prior to commencing operation of the Project, the Governmental Agency must also obtain, and maintain so long as any of the Local Bonds is outstanding, business interruption insurance if available at a reasonable cost.

2.9 The Governmental Agency shall provide and maintain competent and adequate resident engineering services satisfactory to the Council and the Authority covering the supervision and inspection of the development and construction of the Project, and bearing the responsibility of assuring that construction conforms to the plans, specifications and designs prepared by the Consulting Engineers, which have been approved by all necessary governmental bodies. Such resident engineer shall certify to the Authority and the Governmental Agency at the completion of construction that construction is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies.

2.10 The Governmental Agency agrees that it will at all times provide operation and maintenance of the System to comply with any and all State and federal standards. The Governmental Agency agrees that qualified operating personnel properly certified by the State will be retained to operate the System during the entire term of this Loan Agreement.

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

2.12 The Governmental Agency, commencing on the date contracts are executed for the construction of the Project and for two years following the completion of the Project, shall each month complete a Monthly Financial Report, the form of which is attached hereto as Exhibit C and incorporated herein by reference, and forward a copy by the 15th of each month to the Authority and Council.

ARTICLE III

Conditions to Loan; Issuance of Local Bonds

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

(a) The Governmental Agency shall have performed and satisfied all of the terms and conditions to be performed and satisfied by it in this Loan Agreement;

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

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

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

(e) The Governmental Agency shall have obtained all requisite orders of and approvals from the Public Service Commission of West Virginia (the "PSC") necessary for the construction of the Project and operation of the System with all requisite appeal periods having expired without successful appeal, and the Authority shall have received an opinion of counsel to the Governmental Agency, which may be local counsel to the Governmental Agency, bond counsel or special PSC counsel but must be satisfactory to the Authority, to such effect;

(f) The Governmental Agency shall have obtained any and all approvals for the issuance of the Local Bonds required by State law, and the Authority shall have received an opinion of counsel to the Governmental Agency, which may be local

counsel to the Governmental Agency, bond counsel or special PSC counsel but must be satisfactory to the Authority, to such effect;

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

(h) Such rates and charges for the System shall be sufficient to comply with the provisions of Subsections 4.1(a) and 4.1(b)(ii) hereof, and the Authority shall have received a certificate of the accountant for the Governmental Agency, or such other person or firm experienced in the finances of governmental agencies and satisfactory to the Authority, to such effect; and

(i) The net proceeds of the Local Bonds, together with all moneys on deposit or to be simultaneously deposited (or, with respect to proceeds of grant anticipation notes or other indebtedness for which a binding purchase contract has been entered, to be deposited on a date certain) and irrevocably pledged thereto and the proceeds of grants irrevocably committed therefor, shall be sufficient to pay the costs of construction and acquisition of the Project as set forth in the Application, and the Authority shall have received a certificate of the Consulting Engineers, or such other person or firm experienced in the financing of water development projects and satisfactory to the Authority, to such effect, such certificate to be in form and substance satisfactory to the Authority, and evidence satisfactory to the Authority of such irrevocably committed grants.

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

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

3.4 The Local Bonds shall be delivered to the Authority, at the offices of the Authority, on a date designated by the Governmental Agency by written notice to the

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

3.5 The Governmental Agency understands and acknowledges that it is one of several governmental agencies which have applied to the Council for loans to finance projects and that the obligation of the Authority to make any such loan is subject to the Council's authorization and the Governmental Agency's fulfilling all of the terms and conditions of this Loan Agreement on or prior to the Date of Loan Closing. The Governmental Agency specifically recognizes that the Authority will not purchase the Local Bonds unless and until it has available in the Infrastructure Fund funds sufficient to purchase all the Local Bonds and that, prior to such execution, the Authority may commit to and purchase the revenue bonds of other governmental agencies for which it has sufficient funds available.

ARTICLE IV

Local Bonds; Security for Loan; Repayment of Loan; Interest on Loan; Fees and Charges

4.1 The Governmental Agency shall, as one of the conditions of the Authority to make the Loan, authorize the issuance of and issue the Local Bonds pursuant to an official action of the Governmental Agency in accordance with the Local Statute, which shall, as enacted, contain provisions and covenants in substantially the form as follows, unless the specific provision or covenant is modified or waived by the Council:

(a) That the gross revenues of the System shall always be used for purposes of the System. The revenues generated from the operation of the System will be used monthly, in the order of priority listed below:

(i) to pay Operating Expenses of the System;

(ii) to the extent not otherwise limited by any outstanding loan resolution, indenture or other act or document and beginning on the date set forth in Schedule

X to provide debt service on the Local Bonds by depositing in a sinking fund one-third (1/3) of the interest payment next coming due on the Local Bonds and one-third (1/3) of the principal payment next coming due on the Local Bonds and, beginning three (3) months prior to the first date of payment of principal of the Local Bonds, if the reserve account for the Local Bonds, if any (the "Reserve Account"), was not funded from proceeds of the Local Bonds or otherwise concurrently with the issuance thereof in an amount equal to an amount at least equal to the maximum amount of principal and interest which will come due on the Local Bonds in the then current or any succeeding year (the "Reserve Requirement"), by depositing in the Reserve Account an amount not less than one-twelfth (1/12) of one-tenth (1/10) of the Reserve Requirement or, if the Reserve Account has been so funded (whether by Local Bond proceeds, monthly deposits or otherwise), any amount necessary to maintain the Reserve Account at the Reserve Requirement;

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

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

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

(b) Covenants substantially as follows:

(i) That the Local Bonds shall be secured by the gross or net revenues from the System, as more fully set forth in Schedules X and Y attached hereto;

(ii) That the schedule of rates or charges for the services of the System shall be sufficient to provide funds which, along with other revenues of the System, will pay all Operating Expenses and leave a balance each year equal to at least one hundred fifteen percent (115%) of the maximum amount required in any year for debt service on the Local Bonds and all other obligations secured by a lien on or payable from the revenues of the System prior to or on a parity with the Local Bonds or, if the reserve account, if any, established for the payment of debt service on the Local Bonds (the "Reserve Account") is funded (whether by Local Bond proceeds, monthly deposits or otherwise) at an amount at least equal to the maximum amount of principal and interest which will come due on the Local Bonds in the then current or any succeeding year (the "Reserve Requirement") and any reserve account for any such prior or parity obligations is funded at least at the requirement therefor, equal to at least one hundred ten percent (110%) of the maximum

amount required in any year for debt service on the Local Bonds and any such prior or parity obligations;

(iii) That the Governmental Agency will complete the Project and operate and maintain the System in good condition;

(iv) That, except as otherwise required by State law or with the written consent of the Council and the Authority, the System may not be sold, mortgaged, leased or otherwise disposed of except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to pay fully all the Local Bonds outstanding, with further restrictions on the disposition of portions of the System as are normally contained in such covenants;

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

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

(vii) That the Governmental Agency will not render any free services of the System;

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

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

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

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

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

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

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

(xv) That, as long as the Authority is the owner of any of the Local Bonds, the Governmental Agency may not redeem any Local Bonds by it without the written consent of the Authority and the Council and otherwise in compliance with this Loan Agreement;

(xvi) That, unless it qualifies for an exception to the provisions of Section 148 of the Code, which exception shall be set forth in an opinion of bond counsel, the Governmental Agency will furnish to the Authority, annually, at such time as it is required to perform its rebate calculations under the Code, a certificate with respect to its rebate calculations and, at any time, any additional information requested by the Authority;

(xvii) That the Governmental Agency shall take any and all action, or shall refrain from taking any action, as shall be deemed necessary by the Authority to maintain the exclusion from gross income for Federal income tax purposes of interest on the State's general obligation bonds or any bonds secured by the Local Bonds;

(xviii) That the Governmental Agency shall have obtained the certificate of the Consulting Engineer in the form attached to the Loan Application, to the effect that the Project has been or will be constructed in accordance with the approved plans, specifications and design as submitted to the Authority, the Project is adequate for the purposes for which it was designed and the funding plan as submitted to the Authority is sufficient to pay the costs of acquisition and construction of the Project;

(xix) To the extent applicable, that the Governmental Agency shall, to the full extent permitted by applicable law and the rules and regulations of the West Virginia Public Service Commission, terminate the services of any water facility owned by it to any customer of the System who is delinquent in payment of charges for services provided by the System and will not restore the services of the water facility until all delinquent charges for the services of the System have been fully paid or, if the water facility is not owned by the Governmental Agency, then the Governmental Agency shall enter into a termination agreement with the water provider;

(xx) That the Governmental Agency shall furnish to the Authority such information with respect to earnings on all funds constituting "gross proceeds" of the Local Bonds (as that term is defined in the Code) from time to time as the Authority may request; and

(xxi) That the Governmental Agency shall submit all proposed change orders to the Council for written approval. The Governmental Agency shall obtain the written approval of the Council before expending any proceeds of the Local Bonds held in "contingency" as set forth in the final Schedule B. The Governmental Agency shall obtain the written approval of the Council before expending any proceeds of the Local Bonds available due to bid/construction/project underruns.

The Governmental Agency hereby represents and warrants that the Local Act has been or shall be duly adopted in compliance with all necessary corporate and other action and in accordance with applicable provisions of law. All legal matters incident to the authorization, issuance, sale and delivery of the Local Bonds shall be approved without qualification by recognized bond counsel acceptable to the Authority in substantially the form of legal opinion attached hereto as Exhibit B.

4.2 The Loan shall be secured by the pledge and assignment by the Governmental Agency, as effected by the Local Act, of the fees, charges and other revenues of the Governmental Agency from the System as further set forth by and subject only to such

reservations and exceptions as are described in Schedules X and Y hereto or are otherwise expressly permitted in writing by the Authority and the Council.

4.3 The principal of the Loan shall be repaid by the Governmental Agency on the days and in the years provided in Schedule X hereto. Interest payments on the Loan shall be made by the Governmental Agency on a quarterly basis as provided in said Schedule X.

4.4 The Loan shall bear interest from the date of first payment at the rate or rates per annum set forth on Schedule X hereto. In no event shall the interest rate on or the net interest cost of the Local Bonds exceed any statutory limitation with regard thereto.

4.5 The Local Bonds shall be delivered to the Authority in fully registered form, transferable and exchangeable as provided in the Local Act at the expense of the Governmental Agency. Anything to the contrary herein notwithstanding, the Local Bonds may be issued in one or more series, as reflected by Schedule X hereto.

4.6 The Governmental Agency agrees to expend the net proceeds of the Local Bonds for the Project within 3 years of the issuance of the State's general obligation bonds unless otherwise agreed to by the Council.

ARTICLE V

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

5.1 The Governmental Agency hereby irrevocably covenants and agrees to comply with all of the terms, conditions and requirements of this Loan Agreement and the Local Act. The Governmental Agency hereby further irrevocably covenants and agrees that, as one of the conditions of the Authority to make the Loan, it has fixed and collected, or will fix and collect, the rates, fees and other charges for the use of the System, as set forth in the Local Act and in compliance with the provisions of Subsections 4.1(a) and 4.1(b)(ii) hereof.

5.2 In the event, for any reason, the schedule of rates, fees and charges initially established for the System in connection with the Local Bonds shall prove to be insufficient to produce the minimum sums set forth in the Local Act, the Governmental Agency hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates, fees and charges so as to provide funds sufficient to produce the minimum sums set forth in the Local Act and as required by this Loan Agreement.

5.3 In the event the Governmental Agency defaults in the payment of any fees due to the Authority pursuant to Section 4.6 hereof, the amount of such default shall bear interest at the interest rate of the installment of the Loan next due, from the date of the default until the date of the payment thereof.

5.4 The Governmental Agency hereby irrevocably covenants and agrees with the Authority that, in the event of any default hereunder by the Governmental Agency, the Authority may exercise any or all of the rights and powers granted under the Act and State law, including without limitation the right to an appointment of a receiver.

ARTICLE VI

Other Agreements of the Governmental Agency

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

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

6.3 Notwithstanding Section 6.2, the Authority may at any time, in its sole discretion, cause the rebate calculations prepared by or on behalf of the Governmental Agency to be monitored or cause the rebate calculations for the Governmental Agency to be prepared, in either case at the expense of the Governmental Agency.

6.4 The Governmental Agency hereby agrees to give the Authority prior written notice of the issuance by it of any other obligations to be used for the Project, payable

from the revenues of the System or from any grants for the Project or otherwise related to the Project or the System.

6.5 The Governmental Agency hereby agrees to file with the Authority upon completion of acquisition and construction of the Project a schedule in substantially the form of Amended Schedule A to the Application, setting forth the actual costs of the Project and sources of funds therefor.

ARTICLE VII

Miscellaneous

7.1 Additional definitions, additional terms and provisions of the Loan and additional covenants and agreements of the Governmental Agency may be set forth in Schedule Z attached hereto and incorporated herein by reference, with the same effect as if contained in the text of this Loan Agreement.

7.2 The Authority shall take all actions required by the Council in making and enforcing this Loan Agreement.

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

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

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

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

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

7.8 This Loan Agreement shall terminate upon the earlier of:

(i) the end of ninety (90) days after the date of execution hereof by the Authority if the Governmental Agency has failed to deliver the Local Bonds to the Authority;

(ii) termination by the Authority pursuant to Section 6.1 hereof; or

(iii) payment in full of the principal of and interest on the Loan and of any fees and charges owed by the Governmental Agency to the Authority, acting on behalf of the Council.

7.9 The Authority acknowledges that certain terms and requirements in this Loan Agreement may not be applicable when the Project is financed in part by the West Virginia Division of Environmental Protection, Office of Abandoned Mine Lands and under that circumstance those terms and requirements are specifically waived or modified as agreed to by the Authority and set forth in the Local Act.

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

BROOKE COUNTY PUBLIC
SERVICE DISTRICT

(SEAL)

By: William Lipscomb
Its: Chairman

Attest:

Its: Secretary

Date: _____

WEST VIRGINIA WATER
DEVELOPMENT AUTHORITY

(SEAL)

By: Daniel B. Yankosky
Director

Attest:

Barbara B Meadows
Secretary-Treasurer

Date: Dec. 9, 1997

EXHIBIT A

FORM OF CERTIFICATE OF CONSULTING ENGINEER

_____
(Issuer)

_____
(Name of Bonds)

I, _____, Registered Professional Engineer, West Virginia License No. _____, of _____, Consulting Engineers, _____, _____, hereby certify that my firm is engineer for the acquisition and construction of _____ to the _____ _____ system (herein called the "Project") of _____ (the "Issuer") to be constructed primarily in ___ County, West Virginia, which construction and acquisition are being permanently financed in part by the above-captioned bonds (the "Bonds") of the Issuer. Capitalized words not defined herein shall have the meaning set forth in the _____ passed by the _____ of the Issuer on _____, 19_, effective ___, 19_, and the Loan Agreement by and between the Issuer and the West Virginia Water Development Authority (the "Authority") dated _____, 19_.

1. The Bonds are being issued for the purpose of _____ _____ (the "Project").

2. The undersigned hereby certifies that (i) the Project will be constructed in accordance with the approved plans, specifications and designs prepared by my firm and as described in the application submitted to the Authority requesting the Authority to purchase the Bonds (the "Application") and approved by all necessary governmental bodies, (ii) the Project is adequate for the purpose for which it was designed and has an estimated useful life of at least _____ years, (iii) the Issuer has received bids for the construction of the Project which are in an amount and otherwise compatible with the plan of financing described in the Application and my firm has ascertained that all contractors have made required provisions for all insurance and payment and performance bonds and that such insurance policies or binders and such bonds have been verified by my firm for accuracy, (iv) the Issuer has obtained all permits required by the laws of the State and the federal government necessary for the construction of the Project, (v) the rates and charges for the System as adopted by the ____ of the Issuer are sufficient to comply with the provisions of Subsection 4.1(b)(ii) of the Loan Agreement, (vi) the net proceeds of the Bonds, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants irrevocably committed therefor, are sufficient to pay the costs of construction and acquisition of the Project as set forth in the Application, and (vii) attached hereto as Exhibit A is the final amended "Schedule B - Total Cost of Project and Sources of Funds" for the Project.

WITNESS my signature on this __ day of ____, 19_.

_____

By: _____

West Virginia License No. _____

[SEAL]

EXHIBIT B

[Opinion of Bond Counsel for Governmental Agency]

[To Be Dated as of Date of Loan Closing]

West Virginia Infrastructure and
Jobs Development Council
c/o West Virginia Water Development Authority
1201 Dunbar Avenue
Dunbar, West Virginia 25064

Ladies and Gentlemen:

We are bond counsel to _____ (the "Governmental Agency"), a _____.

We have examined a certified copy of proceedings and other papers relating to (i) the authorization of a loan agreement dated _____, 19__, including all schedules and exhibits attached thereto (the "Loan Agreement"), between the Governmental Agency and the West Virginia Water Development Authority (the "Authority") and (ii) the issue of a series of revenue bonds of the Governmental Agency, dated _____, 19__ (the "Local Bonds"), to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Local Bonds are in the principal amount of $_____, issued in the form of one bond registered as to principal and interest to the Authority, with interest and principal payable in installments on September 1, December 1, March 1 and June 1 of each year, beginning December 1, 1997, at the rate as set forth in Exhibit A incorporated in and made a part of the Bonds.

The Local Bonds are issued for the purpose of _____ and paying certain issuance and other costs in connection therewith.

We have also examined the applicable provisions of _____ of the Code of West Virginia, 1931, as amended (the "Local Statute"), and the bond _____ duly enacted by the Governmental Agency on _____ (the "Local Act"), pursuant to and under which Local Statute and Local Act the Local Bonds are authorized and issued, and the Loan Agreement that has been undertaken. The Local Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Local Act and the Loan Agreement.

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

1. The Loan Agreement has been duly authorized by and executed on behalf of the Governmental Agency and is a valid and binding special obligation of the Governmental Agency enforceable in accordance with the terms thereof.

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

3. The Governmental Agency is a duly organized and presently existing _____, with full power and authority to construct and acquire the Project and to operate and maintain the System referred to in the Loan Agreement and to issue and sell the Local Bonds, all under the Local Statute and other applicable provisions of law.

4. The Governmental Agency has legally and effectively enacted the Local Act and all other necessary _____ in connection with the issuance and sale of the Local Bonds. The Local Act contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

5. The Local Bonds are valid and legally enforceable special obligations of the Governmental Agency, payable from the [net] revenues of the System referred to in the Local Act and secured by a [first] lien on and pledge of the [net] revenues of said System, all in accordance with the terms of the Local Bonds and the Local Act, and have been duly issued and delivered to the Authority.

6. [If required, the Local Bonds are, by statute, exempt _____ ___, and under existing statutes and court decisions of the United States of America, as presently written and applied, the interest on the Local Bonds is excludable from the gross income of the recipients thereof for Federal income tax purposes.]

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

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

Very truly yours,

EXHIBIT C

Monthly Financial Report

_____

[Name of Governmental Agency]

_____

[Name of Bond Issue]

Fiscal Year - __

Report Month: _____

ITEM	CURRENT MONTH	YEAR TO DATE	BUDGET YEAR TO DATE	DIFFERENCE
1. Gross Revenues Collected				
2. Operation and Maintenance Expense				
3. Other Bond Debt Payments (including Reserve Fund deposits)				
4. Bond Payments (include Reserve Fund deposits)				
5. Renewal and Replacement Fund Deposit				
6. Funds available for capital construction				

Witnesseth my signature this __ day of ____, 19_.

[Name of Governmental Agency]

By: _____
Authorized Officer

CHASFS3:58465

Brooke County Public Service District, West Virginia
$2,163,971 Infrastructure Fund Loan
40 Years, 0% Interest

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Total P+I
9/01/2010	14,051.76	-	14,051.76
12/01/2010	14,051.76	-	14,051.76
3/01/2011	14,051.76	-	14,051.76
6/01/2011	14,051.76	-	14,051.76
9/01/2011	14,051.76	-	14,051.76
12/01/2011	14,051.76	-	14,051.76
3/01/2012	14,051.76	-	14,051.76
6/01/2012	14,051.76	-	14,051.76
9/01/2012	14,051.76	-	14,051.76
12/01/2012	14,051.76	-	14,051.76
3/01/2013	14,051.76	-	14,051.76
6/01/2013	14,051.76	-	14,051.76
9/01/2013	14,051.76	-	14,051.76
12/01/2013	14,051.76	-	14,051.76
3/01/2014	14,051.76	-	14,051.76
6/01/2014	14,051.76	-	14,051.76
9/01/2014	14,051.76	-	14,051.76
12/01/2014	14,051.76	-	14,051.76
3/01/2015	14,051.76	-	14,051.76
6/01/2015	14,051.76	-	14,051.76
9/01/2015	14,051.76	-	14,051.76
12/01/2015	14,051.76	-	14,051.76
3/01/2016	14,051.76	-	14,051.76
6/01/2016	14,051.76	-	14,051.76
9/01/2016	14,051.76	-	14,051.76
12/01/2016	14,051.76	-	14,051.76
3/01/2017	14,051.76	-	14,051.76
6/01/2017	14,051.76	-	14,051.76
9/01/2017	14,051.76	-	14,051.76
12/01/2017	14,051.76	-	14,051.76
3/01/2018	14,051.76	-	14,051.76
6/01/2018	14,051.76	-	14,051.76
9/01/2018	14,051.76	-	14,051.76
12/01/2018	14,051.76	-	14,051.76
3/01/2019	14,051.76	-	14,051.76
6/01/2019	14,051.76	-	14,051.76
9/01/2019	14,051.76	-	14,051.76
12/01/2019	14,051.76	-	14,051.76
3/01/2020	14,051.76	-	14,051.76
6/01/2020	14,051.76	-	14,051.76
9/01/2020	14,051.76	-	14,051.76
12/01/2020	14,051.76	-	14,051.76
3/01/2021	14,051.76	-	14,051.76
6/01/2021	14,051.76	-	14,051.76
9/01/2021	14,051.76	-	14,051.76

Brooke County Public Service District, West Virginia
$2,163,971 Infrastructure Fund Loan
40 Years, 0% Interest

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Total P+I
12/01/2021	14,051.76	-	14,051.76
3/01/2022	14,051.76	-	14,051.76
6/01/2022	14,051.76	-	14,051.76
9/01/2022	14,051.76	-	14,051.76
12/01/2022	14,051.76	-	14,051.76
3/01/2023	14,051.76	-	14,051.76
6/01/2023	14,051.76	-	14,051.76
9/01/2023	14,051.76	-	14,051.76
12/01/2023	14,051.76	-	14,051.76
3/01/2024	14,051.76	-	14,051.76
6/01/2024	14,051.76	-	14,051.76
9/01/2024	14,051.76	-	14,051.76
12/01/2024	14,051.76	-	14,051.76
3/01/2025	14,051.76	-	14,051.76
6/01/2025	14,051.76	-	14,051.76
9/01/2025	14,051.76	-	14,051.76
12/01/2025	14,051.76	-	14,051.76
3/01/2026	14,051.76	-	14,051.76
6/01/2026	14,051.76	-	14,051.76
9/01/2026	14,051.76	-	14,051.76
12/01/2026	14,051.76	-	14,051.76
3/01/2027	14,051.76	-	14,051.76
6/01/2027	14,051.76	-	14,051.76
9/01/2027	14,051.76	-	14,051.76
12/01/2027	14,051.76	-	14,051.76
3/01/2028	14,051.76	-	14,051.76
6/01/2028	14,051.76	-	14,051.76
9/01/2028	14,051.76	-	14,051.76
12/01/2028	14,051.76	-	14,051.76
3/01/2029	14,051.76	-	14,051.76
6/01/2029	14,051.76	-	14,051.76
9/01/2029	14,051.76	-	14,051.76
12/01/2029	14,051.76	-	14,051.76
3/01/2030	14,051.76	-	14,051.76
6/01/2030	14,051.76	-	14,051.76
9/01/2030	14,051.76	-	14,051.76
12/01/2030	14,051.76	-	14,051.76
3/01/2031	14,051.76	-	14,051.76
6/01/2031	14,051.76	-	14,051.76
9/01/2031	14,051.76	-	14,051.76
12/01/2031	14,051.76	-	14,051.76
3/01/2032	14,051.76	-	14,051.76
6/01/2032	14,051.76	-	14,051.76
9/01/2032	14,051.76	-	14,051.76
12/01/2032	14,051.76	-	14,051.76

Brooke County Public Service District, West Virginia
$2,163,971 Infrastructure Fund Loan
40 Years, 0% Interest

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Total P+I
3/01/2033	14,051.76	-	14,051.76
6/01/2033	14,051.76	-	14,051.76
9/01/2033	14,051.76	-	14,051.76
12/01/2033	14,051.76	-	14,051.76
3/01/2034	14,051.76	-	14,051.76
6/01/2034	14,051.76	-	14,051.76
9/01/2034	14,051.76	-	14,051.76
12/01/2034	14,051.76	-	14,051.76
3/01/2035	14,051.76	-	14,051.76
6/01/2035	14,051.76	-	14,051.76
9/01/2035	14,051.76	-	14,051.76
12/01/2035	14,051.76	-	14,051.76
3/01/2036	14,051.76	-	14,051.76
6/01/2036	14,051.76	-	14,051.76
9/01/2036	14,051.76	-	14,051.76
12/01/2036	14,051.76	-	14,051.76
3/01/2037	14,051.75	-	14,051.75
6/01/2037	14,051.75	-	14,051.75
9/01/2037	14,051.75	-	14,051.75
12/01/2037	14,051.75	-	14,051.75
TOTAL	2,163,971.00	-	2,163,971.00

YIELD STATISTICS

Bond Year Dollars	$41,926.94
Average Life	19.375 Years
Average Coupon	-
Net Interest Cost (NIC)	-
True Interest Cost (TIC)	0.0000000%
Bond Yield for Arbitrage Purposes	0.0000000%
All Inclusive Cost (AIC)	0.0000000%
IRS FORM 8038	
Net Interest Cost	-
Weighted Average Maturity	19.375 Years

IC/WDA-1
(July 1996)

LOAN AGREEMENT

THIS LOAN AGREEMENT, Made and entered into in several counterparts, by and between the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY, a governmental instrumentality and body corporate of the State of West Virginia (the "Authority"), acting on behalf of the WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL (the "Council") and the governmental agency designated below (the "Governmental Agency");

BROOKE COUNTY PUBLIC SERVICE DISTRICT
(Governmental Agency)

W I T N E S S E T H:

WHEREAS, pursuant to the provisions of Chapter 31, Article 15A, of the Code of West Virginia, 1931, as amended (the "Act"), the Authority is empowered upon request of the Council to make loans to governmental agencies for the acquisition or construction of projects by such governmental agencies, subject to such provisions and limitations as are contained in the Act;

WHEREAS, the Governmental Agency constitutes a governmental agency as defined by the Act;

WHEREAS, the Governmental Agency is authorized and empowered by the statutes of the State to construct, operate and improve a project, as defined by the Act, and to finance the cost of constructing or acquiring the same by borrowing money to be evidenced by revenue bonds issued by the Governmental Agency;

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

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

WHEREAS, having reviewed the Application and made all findings required by the Act and having available sufficient funds therefor, the Council has authorized the Authority to lend the Governmental Agency the amount set forth on Schedule X attached hereto and incorporated herein by reference, through the purchase of revenue bonds of the Governmental Agency with money in the Infrastructure Fund subject to the Governmental Agency's satisfaction of certain legal and other requirements of the Council's loan program (the "Program") as hereinafter set forth.

NOW, THEREFORE, in consideration of the premises and the mutual agreements hereinafter contained, the Governmental Agency and the Authority hereby agree as follows:

ARTICLE I

Definitions

1.1 Except where the context clearly indicates otherwise, the terms "Authority," "cost," "governmental agency," "project," "waste water facility" and "water facility" have the definitions and meanings ascribed to them in the Act.

1.2 "Authority" means the West Virginia Water Development Authority, which is expected to be the original purchaser of the Bonds, acting in its administrative capacity pursuant to Section 10 of the Council Act and upon authorization from the Council.

1.3 "Consulting Engineers" means the professional engineer, licensed by the State, who shall not be a regular, full-time employee of the State or any of its agencies, commissions or political sub-divisions, and designated in the Application and any qualified successor thereto; provided, however, when a Loan is made for a Project financed, in part, by the Office of Abandoned Mine Lands, "Consulting Engineers" shall mean the West Virginia Division of Environmental Protection, or any successor thereto.

1.4 "Infrastructure Fund" means the West Virginia Infrastructure Fund established in accordance with Section 9 of the Act.

1.5 "Loan" means the loan to be made by the Authority to the Governmental Agency through the purchase of Local Bonds, as hereinafter defined, pursuant to this Loan Agreement.

1.6 "Local Act" means the official action of the Governmental Agency required by Section 4.1 hereof, authorizing the Local Bonds.

1.7 "Local Bonds" means the revenue bonds to be issued by the Governmental Agency pursuant to the provisions of the Local Statute, as hereinafter defined, to evidence the Loan and to be purchased by the Authority, all in accordance with the provisions of this Loan Agreement.

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

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

1.10 "Project" means the project hereinabove referred to, to be constructed or being constructed by the Governmental Agency in whole or in part with the net proceeds of the Local Bonds.

1.11 "System" means the project owned by the Governmental Agency, of which the Project constitutes all or to which the Project constitutes an improvement, and any improvements thereto hereafter constructed or acquired from any sources whatsoever.

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

ARTICLE II

The Project and the System

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

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

2.3 All real estate and interests in real estate and all personal property constituting the Project and the Project site heretofore or hereafter acquired shall at all times be and remain the property of the Governmental Agency, subject to any mortgage lien or

other security interest as is provided for in the Local Statute unless a sale or transfer of all or a portion of said property or any interest therein is approved by the Authority and Council.

2.4 The Governmental Agency agrees that the Authority and its duly authorized agents shall have the right at all reasonable times to enter upon the Project site and Project facilities and to examine and inspect the same. The Governmental Agency further agrees that the Authority and its duly authorized agents and representatives shall, prior to, at and after completion of construction and commencement of operation of the Project, have such rights of access to the System site and System facilities as may be reasonably necessary to accomplish all of the powers and rights of the Authority with respect to the System pursuant to the pertinent provisions of the Act.

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

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

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

2.8 The Governmental Agency shall require that each of its contractors and all subcontractors maintain, during the life of the construction contract, workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Authority. Until the Project facilities are completed and accepted by the Governmental Agency, the Governmental Agency or (at the option of the Governmental Agency) the contractor shall maintain builder's risk insurance (fire and extended coverage) on a one hundred percent (100%) basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Governmental Agency, the prime contractor and

all subcontractors, as their interests may appear. If facilities of the System which are detrimentally affected by flooding are or will be located in designated special flood or mudslide-prone areas and if flood insurance is available at a reasonable cost, a flood insurance policy must be obtained by the Governmental Agency on or before the Date of Loan Closing, as hereinafter defined, and maintained so long as any of the Local Bonds is outstanding. Prior to commencing operation of the Project, the Governmental Agency must also obtain, and maintain so long as any of the Local Bonds is outstanding, business interruption insurance if available at a reasonable cost.

2.9 The Governmental Agency shall provide and maintain competent and adequate resident engineering services satisfactory to the Council and the Authority covering the supervision and inspection of the development and construction of the Project, and bearing the responsibility of assuring that construction conforms to the plans, specifications and designs prepared by the Consulting Engineers, which have been approved by all necessary governmental bodies. Such resident engineer shall certify to the Authority and the Governmental Agency at the completion of construction that construction is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies.

2.10 The Governmental Agency agrees that it will at all times provide operation and maintenance of the System to comply with any and all State and federal standards. The Governmental Agency agrees that qualified operating personnel properly certified by the State will be retained to operate the System during the entire term of this Loan Agreement.

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

2.12 The Governmental Agency, commencing on the date contracts are executed for the construction of the Project and for two years following the completion of the Project, shall each month complete a Monthly Financial Report, the form of which is attached hereto as Exhibit C and incorporated herein by reference, and forward a copy by the 15th of each month to the Authority and Council.

ARTICLE III

Conditions to Loan;
Issuance of Local Bonds

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

(a) The Governmental Agency shall have performed and satisfied all of the terms and conditions to be performed and satisfied by it in this Loan Agreement;

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

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

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

(e) The Governmental Agency shall have obtained all requisite orders of and approvals from the Public Service Commission of West Virginia (the "PSC") necessary for the construction of the Project and operation of the System with all requisite appeal periods having expired without successful appeal, and the Authority shall have received an opinion of counsel to the Governmental Agency, which may be local counsel to the Governmental Agency, bond counsel or special PSC counsel but must be satisfactory to the Authority, to such effect;

(f) The Governmental Agency shall have obtained any and all approvals for the issuance of the Local Bonds required by State law, and the Authority shall have received an opinion of counsel to the Governmental Agency, which may be local

counsel to the Governmental Agency, bond counsel or special PSC counsel but must be satisfactory to the Authority, to such effect;

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

(h) Such rates and charges for the System shall be sufficient to comply with the provisions of Subsections 4.1(a) and 4.1(b)(ii) hereof, and the Authority shall have received a certificate of the accountant for the Governmental Agency, or such other person or firm experienced in the finances of governmental agencies and satisfactory to the Authority, to such effect; and

(i) The net proceeds of the Local Bonds, together with all moneys on deposit or to be simultaneously deposited (or, with respect to proceeds of grant anticipation notes or other indebtedness for which a binding purchase contract has been entered, to be deposited on a date certain) and irrevocably pledged thereto and the proceeds of grants irrevocably committed therefor, shall be sufficient to pay the costs of construction and acquisition of the Project as set forth in the Application, and the Authority shall have received a certificate of the Consulting Engineers, or such other person or firm experienced in the financing of water development projects and satisfactory to the Authority, to such effect, such certificate to be in form and substance satisfactory to the Authority, and evidence satisfactory to the Authority of such irrevocably committed grants.

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

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

3.4 The Local Bonds shall be delivered to the Authority, at the offices of the Authority, on a date designated by the Governmental Agency by written notice to the

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

3.5 The Governmental Agency understands and acknowledges that it is one of several governmental agencies which have applied to the Council for loans to finance projects and that the obligation of the Authority to make any such loan is subject to the Council's authorization and the Governmental Agency's fulfilling all of the terms and conditions of this Loan Agreement on or prior to the Date of Loan Closing. The Governmental Agency specifically recognizes that the Authority will not purchase the Local Bonds unless and until it has available in the Infrastructure Fund funds sufficient to purchase all the Local Bonds and that, prior to such execution, the Authority may commit to and purchase the revenue bonds of other governmental agencies for which it has sufficient funds available.

ARTICLE IV

Local Bonds; Security for Loan; Repayment of Loan; Interest on Loan; Fees and Charges

4.1 The Governmental Agency shall, as one of the conditions of the Authority to make the Loan, authorize the issuance of and issue the Local Bonds pursuant to an official action of the Governmental Agency in accordance with the Local Statute, which shall, as enacted, contain provisions and covenants in substantially the form as follows, unless the specific provision or covenant is modified or waived by the Council:

(a) That the gross revenues of the System shall always be used for purposes of the System. The revenues generated from the operation of the System will be used monthly, in the order of priority listed below:

(i) to pay Operating Expenses of the System;

(ii) to the extent not otherwise limited by any outstanding loan resolution, indenture or other act or document and beginning on the date set forth in Schedule

X to provide debt service on the Local Bonds by depositing in a sinking fund one-third (1/3) of the interest payment next coming due on the Local Bonds and one-third (1/3) of the principal payment next coming due on the Local Bonds and, beginning three (3) months prior to the first date of payment of principal of the Local Bonds, if the reserve account for the Local Bonds, if any (the "Reserve Account"), was not funded from proceeds of the Local Bonds or otherwise concurrently with the issuance thereof in an amount equal to an amount at least equal to the maximum amount of principal and interest which will come due on the Local Bonds in the then current or any succeeding year (the "Reserve Requirement"), by depositing in the Reserve Account an amount not less than one-twelfth (1/12) of one-tenth (1/10) of the Reserve Requirement or, if the Reserve Account has been so funded (whether by Local Bond proceeds, monthly deposits or otherwise), any amount necessary to maintain the Reserve Account at the Reserve Requirement;

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

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

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

(b) Covenants substantially as follows:

(i) That the Local Bonds shall be secured by the gross or net revenues from the System, as more fully set forth in Schedules X and Y attached hereto;

(ii) That the schedule of rates or charges for the services of the System shall be sufficient to provide funds which, along with other revenues of the System, will pay all Operating Expenses and leave a balance each year equal to at least one hundred fifteen percent (115%) of the maximum amount required in any year for debt service on the Local Bonds and all other obligations secured by a lien on or payable from the revenues of the System prior to or on a parity with the Local Bonds or, if the reserve account, if any, established for the payment of debt service on the Local Bonds (the "Reserve Account") is funded (whether by Local Bond proceeds, monthly deposits or otherwise) at an amount at least equal to the maximum amount of principal and interest which will come due on the Local Bonds in the then current or any succeeding year (the "Reserve Requirement") and any reserve account for any such prior or parity obligations is funded at least at the requirement therefor, equal to at least one hundred ten percent (110%) of the maximum

amount required in any year for debt service on the Local Bonds and any such prior or parity obligations;

(iii) That the Governmental Agency will complete the Project and operate and maintain the System in good condition;

(iv) That, except as otherwise required by State law or with the written consent of the Council and the Authority, the System may not be sold, mortgaged, leased or otherwise disposed of except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to pay fully all the Local Bonds outstanding, with further restrictions on the disposition of portions of the System as are normally contained in such covenants;

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

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

(vii) That the Governmental Agency will not render any free services of the System;

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

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

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

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

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

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

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

(xv) That, as long as the Authority is the owner of any of the Local Bonds, the Governmental Agency may not redeem any Local Bonds by it without the written consent of the Authority and the Council and otherwise in compliance with this Loan Agreement;

(xvi) That, unless it qualifies for an exception to the provisions of Section 148 of the Code, which exception shall be set forth in an opinion of bond counsel, the Governmental Agency will furnish to the Authority, annually, at such time as it is required to perform its rebate calculations under the Code, a certificate with respect to its rebate calculations and, at any time, any additional information requested by the Authority;

(xvii) That the Governmental Agency shall take any and all action, or shall refrain from taking any action, as shall be deemed necessary by the Authority to maintain the exclusion from gross income for Federal income tax purposes of interest on the State's general obligation bonds or any bonds secured by the Local Bonds;

(xviii) That the Governmental Agency shall have obtained the certificate of the Consulting Engineer in the form attached to the Loan Application, to the effect that the Project has been or will be constructed in accordance with the approved plans, specifications and design as submitted to the Authority, the Project is adequate for the purposes for which it was designed and the funding plan as submitted to the Authority is sufficient to pay the costs of acquisition and construction of the Project;

(xix) To the extent applicable, that the Governmental Agency shall, to the full extent permitted by applicable law and the rules and regulations of the West Virginia Public Service Commission, terminate the services of any water facility owned by it to any customer of the System who is delinquent in payment of charges for services provided by the System and will not restore the services of the water facility until all delinquent charges for the services of the System have been fully paid or, if the water facility is not owned by the Governmental Agency, then the Governmental Agency shall enter into a termination agreement with the water provider;

(xx) That the Governmental Agency shall furnish to the Authority such information with respect to earnings on all funds constituting "gross proceeds" of the Local Bonds (as that term is defined in the Code) from time to time as the Authority may request; and

(xxi) That the Governmental Agency shall submit all proposed change orders to the Council for written approval. The Governmental Agency shall obtain the written approval of the Council before expending any proceeds of the Local Bonds held in "contingency" as set forth in the final Schedule B. The Governmental Agency shall obtain the written approval of the Council before expending any proceeds of the Local Bonds available due to bid/construction/project underruns.

The Governmental Agency hereby represents and warrants that the Local Act has been or shall be duly adopted in compliance with all necessary corporate and other action and in accordance with applicable provisions of law. All legal matters incident to the authorization, issuance, sale and delivery of the Local Bonds shall be approved without qualification by recognized bond counsel acceptable to the Authority in substantially the form of legal opinion attached hereto as Exhibit B.

4.2 The Loan shall be secured by the pledge and assignment by the Governmental Agency, as effected by the Local Act, of the fees, charges and other revenues of the Governmental Agency from the System as further set forth by and subject only to such

reservations and exceptions as are described in Schedules X and Y hereto or are otherwise expressly permitted in writing by the Authority and the Council.

4.3 The principal of the Loan shall be repaid by the Governmental Agency on the days and in the years provided in Schedule X hereto. Interest payments on the Loan shall be made by the Governmental Agency on a quarterly basis as provided in said Schedule X.

4.4 The Loan shall bear interest from the date of first payment at the rate or rates per annum set forth on Schedule X hereto. In no event shall the interest rate on or the net interest cost of the Local Bonds exceed any statutory limitation with regard thereto.

4.5 The Local Bonds shall be delivered to the Authority in fully registered form, transferable and exchangeable as provided in the Local Act at the expense of the Governmental Agency. Anything to the contrary herein notwithstanding, the Local Bonds may be issued in one or more series, as reflected by Schedule X hereto.

4.6 The Governmental Agency agrees to expend the net proceeds of the Local Bonds for the Project within 3 years of the issuance of the State's general obligation bonds unless otherwise agreed to by the Council.

ARTICLE V

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

5.1 The Governmental Agency hereby irrevocably covenants and agrees to comply with all of the terms, conditions and requirements of this Loan Agreement and the Local Act. The Governmental Agency hereby further irrevocably covenants and agrees that, as one of the conditions of the Authority to make the Loan, it has fixed and collected, or will fix and collect, the rates, fees and other charges for the use of the System, as set forth in the Local Act and in compliance with the provisions of Subsections 4.1(a) and 4.1(b)(ii) hereof.

5.2 In the event, for any reason, the schedule of rates, fees and charges initially established for the System in connection with the Local Bonds shall prove to be insufficient to produce the minimum sums set forth in the Local Act, the Governmental Agency hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates, fees and charges so as to provide funds sufficient to produce the minimum sums set forth in the Local Act and as required by this Loan Agreement.

5.3 In the event the Governmental Agency defaults in the payment of any fees due to the Authority pursuant to Section 4.6 hereof, the amount of such default shall bear interest at the interest rate of the installment of the Loan next due, from the date of the default until the date of the payment thereof.

5.4 The Governmental Agency hereby irrevocably covenants and agrees with the Authority that, in the event of any default hereunder by the Governmental Agency, the Authority may exercise any or all of the rights and powers granted under the Act and State law, including without limitation the right to an appointment of a receiver.

ARTICLE VI

Other Agreements of the Governmental Agency

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

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

6.3 Notwithstanding Section 6.2, the Authority may at any time, in its sole discretion, cause the rebate calculations prepared by or on behalf of the Governmental Agency to be monitored or cause the rebate calculations for the Governmental Agency to be prepared, in either case at the expense of the Governmental Agency.

6.4 The Governmental Agency hereby agrees to give the Authority prior written notice of the issuance by it of any other obligations to be used for the Project, payable

from the revenues of the System or from any grants for the Project or otherwise related to the Project or the System.

6.5 The Governmental Agency hereby agrees to file with the Authority upon completion of acquisition and construction of the Project a schedule in substantially the form of Amended Schedule A to the Application, setting forth the actual costs of the Project and sources of funds therefor.

ARTICLE VII

Miscellaneous

7.1 Additional definitions, additional terms and provisions of the Loan and additional covenants and agreements of the Governmental Agency may be set forth in Schedule Z attached hereto and incorporated herein by reference, with the same effect as if contained in the text of this Loan Agreement.

7.2 The Authority shall take all actions required by the Council in making and enforcing this Loan Agreement.

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

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

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

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

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

7.8 This Loan Agreement shall terminate upon the earlier of:

(i) the end of ninety (90) days after the date of execution hereof by the Authority if the Governmental Agency has failed to deliver the Local Bonds to the Authority;

(ii) termination by the Authority pursuant to Section 6.1 hereof; or

(iii) payment in full of the principal of and interest on the Loan and of any fees and charges owed by the Governmental Agency to the Authority, acting on behalf of the Council.

7.9 The Authority acknowledges that certain terms and requirements in this Loan Agreement may not be applicable when the Project is financed in part by the West Virginia Division of Environmental Protection, Office of Abandoned Mine Lands and under that circumstance those terms and requirements are specifically waived or modified as agreed to by the Authority and set forth in the Local Act.

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

BROOKE COUNTY PUBLIC
SERVICE DISTRICT

(SEAL)

By: William Lipsic Sr
Its: Chairman

Attest:

Date: 12/9/97

Its: Secretary

WEST VIRGINIA WATER
DEVELOPMENT AUTHORITY

(SEAL)

By: Daniel B. Yankosky
Director

Attest:

Date: Dec. 9, 1997

Barbara B Meadows
Secretary-Treasurer

EXHIBIT A

FORM OF CERTIFICATE OF CONSULTING ENGINEER

_____
(Issuer)

_____
(Name of Bonds)

I, _____, Registered Professional Engineer, West Virginia License No. _____, of _____, Consulting Engineers, _____, _____, hereby certify that my firm is engineer for the acquisition and construction of _____ to the _____ _____ system (herein called the "Project") of _____ (the "Issuer") to be constructed primarily in ___ County, West Virginia, which construction and acquisition are being permanently financed in part by the above-captioned bonds (the "Bonds") of the Issuer. Capitalized words not defined herein shall have the meaning set forth in the _____ passed by the _____ of the Issuer on _____, 19_, effective ___, 19_, and the Loan Agreement by and between the Issuer and the West Virginia Water Development Authority (the "Authority") dated _____, 19_.

1. The Bonds are being issued for the purpose of _____ _____ (the "Project").

2. The undersigned hereby certifies that (i) the Project will be constructed in accordance with the approved plans, specifications and designs prepared by my firm and as described in the application submitted to the Authority requesting the Authority to purchase the Bonds (the "Application") and approved by all necessary governmental bodies, (ii) the Project is adequate for the purpose for which it was designed and has an estimated useful life of at least _____ years, (iii) the Issuer has received bids for the construction of the Project which are in an amount and otherwise compatible with the plan of financing described in the Application and my firm has ascertained that all contractors have made required provisions for all insurance and payment and performance bonds and that such insurance policies or binders and such bonds have been verified by my firm for accuracy, (iv) the Issuer has obtained all permits required by the laws of the State and the federal government necessary for the construction of the Project, (v) the rates and charges for the System as adopted by the ____ of the Issuer are sufficient to comply with the provisions of Subsection 4.1(b)(ii) of the Loan Agreement, (vi) the net proceeds of the Bonds, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants irrevocably committed therefor, are sufficient to pay the costs of construction and acquisition of the Project as set forth in the Application, and (vii) attached hereto as Exhibit A is the final amended "Schedule B - Total Cost of Project and Sources of Funds" for the Project.

WITNESS my signature on this __ day of ____, 19_.

_____

By: _____

West Virginia License No. _____

[SEAL]

EXHIBIT B

[Opinion of Bond Counsel for Governmental Agency]

[To Be Dated as of Date of Loan Closing]

West Virginia Infrastructure and
Jobs Development Council
c/o West Virginia Water Development Authority
1201 Dunbar Avenue
Dunbar, West Virginia 25064

Ladies and Gentlemen:

We are bond counsel to _____ (the "Governmental Agency"), a _____
_____.

We have examined a certified copy of proceedings and other papers relating to (i) the authorization of a loan agreement dated _____, 19__, including all schedules and exhibits attached thereto (the "Loan Agreement"), between the Governmental Agency and the West Virginia Water Development Authority (the "Authority") and (ii) the issue of a series of revenue bonds of the Governmental Agency, dated _____, 19__ (the "Local Bonds"), to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Local Bonds are in the principal amount of $_____, issued in the form of one bond registered as to principal and interest to the Authority, with interest and principal payable in installments on September 1, December 1, March 1 and June 1 of each year, beginning December 1, 1997, at the rate as set forth in Exhibit A incorporated in and made a part of the Bonds.

The Local Bonds are issued for the purpose of _____ and paying certain issuance and other costs in connection therewith.

We have also examined the applicable provisions of _____ of the Code of West Virginia, 1931, as amended (the "Local Statute"), and the bond _____ duly enacted by the Governmental Agency on _____ (the "Local Act"), pursuant to and under which Local Statute and Local Act the Local Bonds are authorized and issued, and the Loan Agreement that has been undertaken. The Local Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Local Act and the Loan Agreement.

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

1. The Loan Agreement has been duly authorized by and executed on behalf of the Governmental Agency and is a valid and binding special obligation of the Governmental Agency enforceable in accordance with the terms thereof.

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

3. The Governmental Agency is a duly organized and presently existing _____, with full power and authority to construct and acquire the Project and to operate and maintain the System referred to in the Loan Agreement and to issue and sell the Local Bonds, all under the Local Statute and other applicable provisions of law.

4. The Governmental Agency has legally and effectively enacted the Local Act and all other necessary _____ in connection with the issuance and sale of the Local Bonds. The Local Act contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

5. The Local Bonds are valid and legally enforceable special obligations of the Governmental Agency, payable from the [net] revenues of the System referred to in the Local Act and secured by a [first] lien on and pledge of the [net] revenues of said System, all in accordance with the terms of the Local Bonds and the Local Act, and have been duly issued and delivered to the Authority.

6. [If required, the Local Bonds are, by statute, exempt _____ ___, and under existing statutes and court decisions of the United States of America, as presently written and applied, the interest on the Local Bonds is excludable from the gross income of the recipients thereof for Federal income tax purposes.]

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

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

Very truly yours,

EXHIBIT C

Monthly Financial Report

_____

[Name of Governmental Agency]

_____

_____

[Name of Bond Issue]

Fiscal Year - __

Report Month: _____

	ITEM	CURRENT MONTH	YEAR TO DATE	BUDGET YEAR TO DATE	DIFFERENCE
1.	Gross Revenues Collected				
2.	Operation and Maintenance Expense				
3.	Other Bond Debt Payments (including Reserve Fund deposits)				
4.	Bond Payments (include Reserve Fund deposits)				
5.	Renewal and Replacement Fund Deposit				
6.	Funds available for capital construction				

Witnesseth my signature this __ day of ____, 19_.

[Name of Governmental Agency]

By: _____
Authorized Officer

CHASFS3:58465

SCHEDULE X

DESCRIPTION OF BONDS

Principal Amount of Bonds	$450,000
Purchase Price of Bonds	$450,000

Principal and interest on the Bonds is payable quarterly, to commence on the earlier of June 1, 2019 or the quarter following the repayment of the Governmental Agency's Sewer Revenue Bonds, Series 1997A, to and including December 1, 2037, at a rate of 1% per annum. Quarterly payments will be made thereafter on each September 1, December 1, March 1 and June 1, as set forth on Schedule Y attached hereto and incorporated herein by reference. The Bonds shall be issued on a parity with the Governmental Agency's Sewer Revenue Bonds, Series 1997A and Series 1997B issued simultaneously herewith.

The Governmental Agency shall submit its payments monthly to the West Virginia Municipal Bond Commission which will make quarterly payments to the West Virginia Water Development Authority at such address as is given to the West Virginia Municipal Bond Commission in writing by the Authority.

The Bonds will be fully registered in the name of the West Virginia Water Development Authority as to principal and interest and such Bonds shall grant the Authority a first parity lien on the net revenues of the Governmental Agency's system.

The Governmental Agency may prepay the Bonds in full at any time at the price of par but only with the Council's written consent. The Governmental Agency shall request approval from the Authority and Council in writing of any proposed debt which will be issued by the Governmental Agency on a parity with Bonds which request must be filed at least 60 days prior to the intended date of issuance.

SCHEDULE Y

Brooke County PSD - Windsor Heights, West Virginia
$450,000.00 Infrastructure Fund Loan
20 Years, 1% Interest

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Interest	Total P+I
3/01/2019	-	-	-	-
6/01/2019	5,462.54	1.000%	1,125.00	6,587.54
9/01/2019	5,476.20	1.000%	1,111.34	6,587.54
12/01/2019	5,489.89	1.000%	1,097.65	6,587.54
3/01/2020	5,503.61	1.000%	1,083.93	6,587.54
6/01/2020	5,517.37	1.000%	1,070.17	6,587.54
9/01/2020	5,531.17	1.000%	1,056.38	6,587.55
12/01/2020	5,544.99	1.000%	1,042.55	6,587.54
3/01/2021	5,558.86	1.000%	1,028.69	6,587.55
6/01/2021	5,572.75	1.000%	1,014.79	6,587.54
9/01/2021	5,586.69	1.000%	1,000.86	6,587.55
12/01/2021	5,600.65	1.000%	986.89	6,587.54
3/01/2022	5,614.65	1.000%	972.89	6,587.54
6/01/2022	5,628.69	1.000%	958.85	6,587.54
9/01/2022	5,642.76	1.000%	944.78	6,587.54
12/01/2022	5,656.87	1.000%	930.67	6,587.54
3/01/2023	5,671.01	1.000%	916.53	6,587.54
6/01/2023	5,685.19	1.000%	902.35	6,587.54
9/01/2023	5,699.40	1.000%	888.14	6,587.54
12/01/2023	5,713.65	1.000%	873.89	6,587.54
3/01/2024	5,727.94	1.000%	859.61	6,587.55
6/01/2024	5,742.26	1.000%	845.29	6,587.55
9/01/2024	5,756.61	1.000%	830.93	6,587.54
12/01/2024	5,771.00	1.000%	816.54	6,587.54
3/01/2025	5,785.43	1.000%	802.11	6,587.54
6/01/2025	5,799.89	1.000%	787.65	6,587.54
9/01/2025	5,814.39	1.000%	773.15	6,587.54
12/01/2025	5,828.93	1.000%	758.61	6,587.54
3/01/2026	5,843.50	1.000%	744.04	6,587.54
6/01/2026	5,858.11	1.000%	729.43	6,587.54
9/01/2026	5,872.76	1.000%	714.79	6,587.55
12/01/2026	5,887.44	1.000%	700.11	6,587.55
3/01/2027	5,902.16	1.000%	685.39	6,587.55
6/01/2027	5,916.91	1.000%	670.63	6,587.54
9/01/2027	5,931.70	1.000%	655.84	6,587.54
12/01/2027	5,946.53	1.000%	641.01	6,587.54
3/01/2028	5,961.40	1.000%	626.14	6,587.54
6/01/2028	5,976.30	1.000%	611.24	6,587.54
9/01/2028	5,991.24	1.000%	596.30	6,587.54
12/01/2028	6,006.22	1.000%	581.32	6,587.54
3/01/2029	6,021.24	1.000%	566.31	6,587.55
6/01/2029	6,036.29	1.000%	551.25	6,587.54
9/01/2029	6,051.38	1.000%	536.16	6,587.54
12/01/2029	6,066.51	1.000%	521.03	6,587.54
3/01/2030	6,081.68	1.000%	505.87	6,587.55

Brooke County PSD - Windsor Heights, West Virginia
$450,000.00 Infrastructure Fund Loan
20 Years, 1% Interest

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Interest	Total P+I
6/01/2030	6,096.88	1.000%	490.66	6,587.54
9/01/2030	6,112.12	1.000%	475.42	6,587.54
12/01/2030	6,127.40	1.000%	460.14	6,587.54
3/01/2031	6,142.72	1.000%	444.82	6,587.54
6/01/2031	6,158.08	1.000%	429.47	6,587.55
9/01/2031	6,173.47	1.000%	414.07	6,587.54
12/01/2031	6,188.91	1.000%	398.64	6,587.55
3/01/2032	6,204.38	1.000%	383.16	6,587.54
6/01/2032	6,219.89	1.000%	367.65	6,587.54
9/01/2032	6,235.44	1.000%	352.10	6,587.54
12/01/2032	6,251.03	1.000%	336.51	6,587.54
3/01/2033	6,266.66	1.000%	320.89	6,587.55
6/01/2033	6,282.32	1.000%	305.22	6,587.54
9/01/2033	6,298.03	1.000%	289.51	6,587.54
12/01/2033	6,313.77	1.000%	273.77	6,587.54
3/01/2034	6,329.56	1.000%	257.99	6,587.55
6/01/2034	6,345.38	1.000%	242.16	6,587.54
9/01/2034	6,361.25	1.000%	226.30	6,587.55
12/01/2034	6,377.15	1.000%	210.39	6,587.54
3/01/2035	6,393.09	1.000%	194.45	6,587.54
6/01/2035	6,409.07	1.000%	178.47	6,587.54
9/01/2035	6,425.10	1.000%	162.45	6,587.55
12/01/2035	6,441.16	1.000%	146.38	6,587.54
3/01/2036	6,457.26	1.000%	130.28	6,587.54
6/01/2036	6,473.41	1.000%	114.14	6,587.55
9/01/2036	6,489.59	1.000%	97.95	6,587.54
12/01/2036	6,505.81	1.000%	81.73	6,587.54
3/01/2037	6,522.08	1.000%	65.47	6,587.55
6/01/2037	6,538.38	1.000%	49.16	6,587.54
9/01/2037	6,554.73	1.000%	32.81	6,587.54
12/01/2037	6,571.12	1.000%	16.43	6,587.55
TOTAL	450,000.00	-	44,065.69	494,065.69

YIELD STATISTICS

Bond Year Dollars	$4,406.57
Average Life	9.792 Years
Average Coupon	0.9999994%
Net Interest Cost (NIC)	0.9999994%
True Interest Cost (TIC)	1.0012495%
Bond Yield for Arbitrage Purposes	1.0012495%
All Inclusive Cost (AIC)	1.0012495%

IRS FORM 8038

Net Interest Cost	0.9999994%
Weighted Average Maturity	9.792 Years

(August 1996)

GRANT AGREEMENT

This Grant Agreement entered into between the West Virginia Water Development Authority (the "Authority") on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council") and the Brooke County Public Service District (the "Governmental Agency").

RECITALS

WHEREAS, the Council has authorized the Authority to make a grant to the Governmental Agency in the amount not to exceed $2,014,780 (the "Grant") for the purpose of the acquisition and construction/design/planning of a project for which a preliminary application has been submitted and approved by the Council;

WHEREAS, the Governmental Agency wishes to accept the Grant upon such terms and conditions as are hereinafter set forth for the purpose of constructing the project described in Exhibit A attached hereto and incorporated herein by reference (the "Project");

WHEREAS, this Agreement sets forth the Council, the Authority and the Governmental Agency's understanding and agreements with regard to the Grant.

NOW, THEREFORE, in consideration of the premises and the mutual agreements hereinafter contained, the Authority and the Governmental Agency hereby agree as follows:

TERMS

1. Prior to the distribution of the Grant, the Governmental Agency shall provide the Authority with a Project budget and an anticipated monthly draw schedule reflecting the receipt dates and amounts from other funding sources.

2. The Authority shall advance the Council's share of the Project costs from the Grant from time to time upon receipt of a requisition evidencing the costs incurred, which requisition must be satisfactory to the Authority and the Council.

3. The monthly requisition will also set forth (i) the amounts requested for that requisition period from all other funding agencies, and (ii) the amounts advanced for the Project to date from all other funding agencies.

4. The Governmental Agency will use the proceeds of the Grant only for the purposes specifically set forth in Exhibit A.

5. The Governmental Agency shall comply with and is bound by the Council's rules set forth as Title 167, Series 1 and more particularly Section 5.9 with respect to the sale of the Project.

6. The Governmental Agency acknowledges that the Grant may be reduced, from time to time, to reflect actual Project costs and availability of other funding.

7. The Governmental Agency shall submit all proposed change orders to the Council for written approval. The Governmental Agency shall obtain the written approval of the Council before expending any proceeds of the Grant held in "contingency" as set forth in the final Schedule B. The Governmental Agency shall obtain the written approval of the Council before expending any proceeds of the Grant available due to bid/construction/project underruns.

8. This Agreement shall be governed by the laws of the State of West Virginia.

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

BROOKE COUNTY PUBLIC
SERVICE DISTRICT

By: William Lyonchak
Its: Chairman

Date: 12/9/97

SEAL

ATTEST

Its: Secretary

WEST VIRGINIA WATER
DEVELOPMENT AUTHORITY

By: Daniel B. Lyonchak
Director

Date: 12/9/97

SEAL

ATTEST

Secretary - Treasurer

EXHIBIT A

The project consists of improvements to the wastewater treatment plant at Beech Bottom including renovations to the control building and aerated lagoon, conversion of the settling lagoon to a sludge storage lagoon, a new mechanical screening facility, two new pump stations, two new final clarifiers, a new ultraviolet light disinfection facility, and a new air supply system; improvements to the wastewater treatment plant at the Franklin Manor subdivision including abandonment of the existing package treatment plant and construction of a new 25,000 gpd package sewage treatment plant, positive displacement blowers, slow sand filters, influent and outfall piping; and, construction of 41,500 LF of 6", 8", and 10" gravity sewers, 10 residential grinder stations, 8 lift stations, 24,100 LF of 1 1/4", 1 ½", 2", 4" and 6" force mains and all necessary appurtenances. The total project cost is $6,618,751.

STATE OF WEST VIRGINIA
OFFICE OF THE GOVERNOR
CHARLESTON 25305

GASTON CAPERTON
GOVERNOR

November 18, 1994

The Honorable Daniel Gilchrist
President
Brooke County Commission
Post Office Box 272
Wellsburg, West Virginia 26070

Dear Commissioner Gilchrist:

Thank you for your application to the Small Cities Block Grant program for fiscal year 1994.

I am pleased to approve your request in an amount not to exceed $1,500,000. These funds will enable you to construct a sewage collection and treatment system in the Village of Windsor Heights, Short Creek area, and North/South Beech Bottom. The expenditure of these funds will be subject to review and concurrence by the newly established Infrastructure and Jobs Development Council. Please be advised that cost necessary to obtain concurrence from the Infrastructure and Jobs Development Council after this date will be considered allowable project cost.

In order to most effectively use the limited dollars available, I hereby commit $620,000 from our fiscal year 1994 allocation which will be immediately available to you. The remaining $880,000 necessary to complete this project will be evaluated and committed in the coming fiscal year. I encourage you to expedite this project and reach its completion as quickly as possible with this funding strategy in mind. The West Virginia Development Office, Community Development Division staff, will contact you to complete the necessary contracts in order to proceed with your project.

It is with pleasure that I am able to work with you to make this project a reality.

Sincerely,

Gaston Caperton

Gaston Caperton
Governor

GC:dlb

STATE OF WEST VIRGINIA
OFFICE OF THE GOVERNOR
CHARLESTON 25305

GASTON CAPERTON
GOVERNOR

August 17, 1995

The Honorable Daniel L. Gilchrist
President
Brooke County Commission
Post Office Box 272
Wellsburg, West Virginia 26070

Dear Commissioner Gilchrist:

On November 28, 1994, the Brooke County Commission was awarded a Small Cities Block Grant (SCBG) in the amount of $1,500,000 for the extension of sewer service to the Village of Windsor Heights, Short Creek, and North/South Beech Bottom.

In order to most effectively utilize the limited dollars available and to time the obligation of funds closer to when they are actually needed, $620,000 was committed from the FY1994 allocation with an additional commitment to evaluate progress and provide the remaining $880,000 from future funding.

In order to not delay the completion of this project, I am please to approve the remaining $880,000. It is extremely important that the final design be completed and the project be under construction as soon as possible. I encourage you to monitor the progress of this project closely to achieve that purpose.

The WV Development Office, Community Development staff, will be contacting you to assist in the changes necessary to amend your SCBG contract. If you have any questions, please do not hesitate to contact Mrs. Debbie Legg at (304) 558-4010.

Sincerely,

Gaston Caperton

Gaston Caperton
Governor

GC:dls

GASTON CAPERTON
GOVERNOR

DIVISION OF ENVIRONMENTAL PROTECTION
617 Broad Street
Charleston, WV 25301-1251

DAVID C. CALLAGHAN
DIRECTOR

August 10, 1995

AUG 2 2 1995

Mr. Howard Cunningham, Executive Secretary
Public Service Commission
201 Brooks Street
P.O. Box 812
Charleston, West Virginia 25323-0812

RE: Brooke County PSD
(Windsor Heights)
SRF No. C-544172

Dear Mr. Cunningham:

At the request of the above referenced project we are writing this letter to confirm our funding commitments. A grant of $40,033 has just been awarded to the District to help pay for the preliminary engineering report recently approved by this office. Further the proposed construction project is contained on our FY96 Priority List and Intended Use Plan under our SRF program. An estimated loan amount of $1,494,948 is anticipated based upon preliminary estimates. The interest rate will be determined later but will not exceed 3%.

This project must also go through the Infrastructure and Jobs Development Council review process prior to receipt of a SRF loan. Should you have any questions, please let me know.

Sincerely,

OFFICE OF WATER RESOURCES

Mike Johnson

Mike Johnson, P.E.
Assistant Chief
Construction Assistance

MJ/a

cc: Brooke Co. PSD
Region II PDC
Gills, Guard, Johnson, Inc.

West Virginia Infrastructure & Jobs Development Council

Public Members:
Russell L. Isaacs, Chairman
Cottageville
James D. Williams, Vice-Chairman
St. Albans
Lloyd P. Adams, P.E.
Wheeling
James L. Harrison, Sr.
Princeton

1320 One Valley Square
Charleston, West Virginia 25301
Telephone: (304) 558-4607
Facsimile: (304)558-4609

Susan J. Riggs, Esquire
Executive Secretary

June 5, 1997

William M. Liposchak, Chairman
Brooke County Public Service District
R.D. 2, Box 45-a
Wellsburg, WV 26070

Re: Binding Commitment Letter
Wastewater System Extension Project
(Windsor Heights/Beech Bottom) 96S-222

Dear Mr. Liposchak:

The West Virginia Infrastructure and Jobs Development Council (Council) provides this binding offer of a loan of approximately $2,613,971 and a grant of approximately $2,081,935 for the Brooke County Public Service District's (District) proposed project to improve its wastewater system and extend service to 575 new customers in the Windsor Heights, Short Creek, North/South Beech Bottom and Franklin Manor areas (Project). The loan and grant will be subject to the terms set forth on Schedule A attached hereto and incorporated herein by reference. The final loan and grant amounts will be established after the District has received bids for the Project. The Water Development Authority (Authority), as administrator of the Infrastructure Fund, has set aside moneys in the Infrastructure Fund to make this loan and grant upon the District's compliance with the program requirements. This commitment is good for 180 days from the date hereof. If the District has not entered into loan and grant agreements by December 4, 1997, then this commitment shall expire.

The Council may, when justifiable circumstances occur, offer to extend the commitment expiration date. It should be understood by the District that the offer to extend the time period is at the sole discretion of the Council.

The Authority will enter into loan and grant agreements with the District following receipt of the completed Schedule B (the form of which is attached hereto); a final, nonappealable order from the Public Service Commission authorizing construction of the Project; evidence of binding commitments for other funding; evidence of all permits; evidence of acceptable bids; requisite bond-related documents and opinions in a form and substance satisfactory to the Authority and the Council and any other documents requested by the Council. Following execution of the loan agreement, the Council will establish a closing date.

No statements or representations made before or after the issuance of this Binding Commitment Letter by any person, member of the Council, or agent or employee of the Authority shall be construed as approval to alter or amend this Commitment, as all such amendments or alterations shall only be made in writing after approval of the Council.

If the District has any questions regarding this commitment, please contact Susan J. Riggs at the above-referenced telephone number.

Sincerely,

Russell L. Isaacs

RLI/bh
Attachments
cc: Craig Richards, P.E.

NOTE: This letter is sent in triplicate. Please acknowledge receipt on two copies and immediately return one to the Council, and one to the Authority.

Brooke County Public Service District

By: William M Liposchak

Its: Chairman

Date: 6-16-97

WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL

Brooke County Public Service District
Wastewater System Extension
96S-222
June 5, 1997

SCHEDULE A

A. Approximate Amount: $2,613,971 - Loan
$2,081,935 - Grant

B. If Loan:

1. Maturity Date: 40 years from date of loan closing
2. Loan Advancement Date(s): Monthly upon receipt of proper requisition and after complete advancement of the State Revolving fund (SRF) loan and the Small Cities Block Grant.
3. Special Conditions (if any): (i) For $2,163,971, the debt service commencement date will be the first quarter following completion of construction, which date must be identified prior to loan closing, and the interest rate will be 0%.
(ii) For the remaining $450,000, the debt service commencement date will be the first month after payment of the SRF loan and the interest rate will not exceed 1%.

C. If Grant:

1. a. Grant Advancement Date(s): Monthly, upon receipt of proper requisition and after complete advancement of the Small Cities Block Grant, SRF loan, and Infrastructure Fund loan.
b. Monthly percentage: None specified.
2. Special Conditions (if any)

NOTICE: The terms set forth above are subject to change following the Governmental Agency's receipt of construction bids.

D. Other Funding Sources:

1. State Revolving Fund Loan
a. Amount: $450,000
b. Interest Rate: 1-3%
c. Maturity Date: 20 years

2. Small Cities Block Grant
a. Amount: $1,500,000

E. Proposed User Rates:

Average: $33.81/4500 gallons

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

FINAL
10-6-97

Entered: September 16, 1997

CASE NO. 97-0333-PSD-CN

BROOKE COUNTY PUBLIC SERVICE DISTRICT,
a public utility.

Application for a certificate of convenience and necessity to construct a wastewater collection system in Windsor Heights, Short Creek and North/South Beech Bottom and to construct a new treatment plant and collection system in the subdivision of Franklin Manor.

RECOMMENDED DECISION

On May 6, 1997, the Brooke County Public Service District (District) filed an application with the Public Service Commission, pursuant to West Virginia Code §24-2-11, for a certificate of public convenience and necessity to construct a wastewater collection system in Windsor Heights, Short Creek and North/South Beech Bottom and to construct a new treatment plant and collection system in the subdivision of Franklin Manor. The project is estimated to cost $6,705,706. The District proposes to finance the project with a Small Cities Block grant in the amount of $1,500,000; a loan from the West Virginia Infrastructure Council (WVIC) in the amount of $2,163,971; a WVIC grant in the amount of $2,081,935; a delayed loan from WVIC of $450,000; a loan from the State Revolving Fund in the amount of $469,800; and a Department of Environmental Protection Advance Assistance grant in the amount of $40,000. The project will serve approximately 600 new and existing customers. The District proposed charging $7.40 per 1,000 gallons for the first 5,000 gallons and $5.95 per thousand for all volumes in excess of 5,000 gallons. A flat rate would be available for nonmetered customers based on 4,500 gallons of $33.30.

On May 6, 1997, the Commission directed the District to publish the Notice of Filing, once, in a newspaper duly qualified by the Secretary of State, published and generally circulated in Brooke County. The Notice of Filing provided that, if no substantial protests were filed within thirty (30) days, the Commission may waive formal hearing and grant the certificate, based upon its review of the evidence submitted with the application. On May 13, 1997, the Commission ordered the District to publish a corrected notice of filing which was substantially similar to the earlier notice. On September 15, 1997, the District submitted an affidavit of publication which indicated that the notice was published on May 22, 1997, in the *Brooke County Review*, a newspaper published and in general circulation in Brooke County. No protests were received.

On May 9, 1997, the Commission entered the Commission Referral Order in this proceeding. The Commission established a decision due date of on or before December 2, 1997.

On May 16, 1997, the District requested a hearing on the application. The District indicated that it has received numerous requests that the District use a flat rate for all customers in the project. The District requested a hearing on that issue to allow the Commission to hear the comments of the homeowners requesting the flat rate.

On May 27, 1997, Staff filed its Initial Joint Staff Memorandum. Staff indicated that it would file a substantive recommendation at a later date.

By Procedural Order of June 2, 1997, the matter was set for hearing on August 15, 1997.

On August 5, 1997, the District withdrew its request for a hearing.

On August 12, 1997, Staff indicated that it would not be able to issue a recommendation on or before the August 15, 1997 hearing. Staff requested that the hearing be rescheduled.

By Procedural Order of August 12, 1997, the matter was rescheduled to September 19, 1997.

On September 11, 1997, Staff filed a Final Joint Staff Memorandum. Staff recommended approval of the District's application and cancellation of the September 19, 1997 hearing. Staff indicated that the project is 54% grant funded. All funding commitments have been filed with the Commission. Staff believes that the proposed funding is sufficient to provide the required revenues for the additional operating and maintenance expenses as well as the added debt service.

Staff recommended approval of the water service termination agreement between the District and the Village of Beech Bottom which the District filed with the Commission in this proceeding. Staff indicated that the terms of the agreement were similar to other agreements approved by the Commission. The agreement calls for the District to pay the Village of Beech Bottom's $20.00 reconnection fee which will be passed on to the District's customers. Staff recommended that the reconnection fee be approved for the District's tariff.

Staff indicated that the homes in Windsor Heights have individual septic systems. The effluent from the septic tanks is collected in a sewer system which has outfall points along the perimeter of the Village allowing the effluent to flow overland to the Ohio River. The outfalls create odor problems during the summer months. The homes in the community of Short Creek have outfalls going into Short Creek. The Franklin Manor residents are currently served by a severely deteriorated and undersized wastewater facility which was constructed in the early 1970s.

Staff indicated that the cost per customer served is $19,722. Staff viewed the cost as high but less than some other projects approved by the Commission. Staff viewed the customer density of 43 customers a mile as good.

The District has obtained all necessary permits from other regulatory bodies.

Staff viewed the project as necessary and convenient. Staff believes that the proposed project will eliminate threats to health and improve living conditions of the residents of the project area.

DISCUSSION

The District has demonstrated that public convenience and necessity require the project. The proposed project will eliminate threats to health and improve living conditions of the residents. It will also eliminate offensive odors in the project area. Additionally, the project is necessary to meet state and federal environmental standards.

The proposed financing is reasonable and should be approved. The District should be allowed to receive the proposed grants and loans up to $6,705,706. The District should petition the Commission for consent and approval prior to accepting any additional grants or incurring additional indebtedness. If project funds are to be expended for any purpose other than the current scope of the project, the District should petition the Commission to approve such expenditures.

The water service termination agreement between the District and the Village of Beech Bottom which was submitted in this filing should be approved. It is reasonable and consistent with other similar agreements approved by the Commission. The $20 reconnection fee collected under the terms of the agreement will be included in the District's tariff.

The attached tariff should be approved for the District. The District may begin collecting its rates upon substantial completion of the project.

The hearing scheduled for September 19, 1997, will be canceled by separate procedural order.

FINDINGS OF FACT

1. On May 6, 1997, the Brooke County Public Service District filed an application with the Public Service Commission, pursuant to West Virginia Code §24-2-11, for a certificate of public convenience and necessity to construct a wastewater collection system in Windsor Heights, Short Creek and North/South Beech Bottom and to construct a new treatment plant and collection system in the subdivision of Franklin Manor. (See application).

2. The project is estimated to cost $6,705,706. (See application).

3. The District proposes to finance the project with a Small Cities Block grant in the amount of $1,500,000; a loan from the West Virginia Infrastructure Council (WVIC) in the amount of $2,163,971; a WVIC grant in the amount of $2,081,935; a delayed loan from WVIC of $450,000; a loan from the State Revolving Fund in the amount of $469,800; and a Department of Environmental Protection Advance Assistance grant in the amount of $40,000. (See application; Final Joint Staff Memorandum).

4. On May 13, 1997, the Commission directed the District to publish the Notice of Filing, once, in a newspaper duly qualified by the Secretary of State, published and generally circulated in Brooke County. (See May 13, 1997 Commission Order).

5. On September 15, 1997, the District filed an affidavit of publication indicating the notice of filing was published on May 22, 1997, in the *Brooke County Review*. (See affidavit of publication).

6. No protests were filed. (See Executive Secretary's file generally).

7. Staff recommended approving the certificate and related financing. (See Final Joint Staff Memorandum dated September 11, 1997).

8. Staff recommended approving the water service termination agreement between the District and the Village of Beech Bottom which was submitted in this filing. (See Final Joint Staff Memorandum dated September 11, 1997).

9. The existing sewer facilies in the area of application are insufficient and inadequate. The proposed system will improve the public health and living conditions in the area. (See, Application; Final Joint Staff Memorandum filed September 11, 1997).

CONCLUSIONS OF LAW

1. Public convenience and necessity require the proposed project.

2. The proposed financing is reasonable and should be approved.

3. The District's application for a certificate of convenience and necessity should be granted.

4. The District should be required to seek Commission approval if the scope of the project or the proposed financing should change.

5. The water service termination agreement between the District and the Village of Beech Bottom should be approved.

ORDER

IT IS, THEREFORE, ORDERED that the Brooke County Public Service District, be, and hereby is, granted a certificate of convenience and necessity to construct the project described in its May 6, 1997 application.

IT IS FURTHER ORDERED that the proposed financing of the project, comprised of a Small Cities Block grant in the amount of $1,500,000; a loan from the West Virginia Infrastructure Council (WVIC) in the amount of $2,163,971; a WVIC grant in the amount of $2,081,935; a delayed loan from WVIC of $450,000; a loan from the State Revolving Fund in the amount of $469,800; and a Department of Environmental Protection Advance Assistance grant in the amount of $40,000, be, and hereby is, approved.

IT IS FURTHER ORDERED that, if the scope, design or the financing of the project is modified, the District shall petition the Commission for approval of any modification before proceeding to construction. If contingency funds are expended for purposes other than those within the scope of the project, the District shall petition the Commission for approval prior to expending those funds.

IT IS FURTHER ORDERED that the water service termination agreement between the District and the Village of Beech Bottom, which was submitted with the District's application for a certificate, be, and hereby is, approved.

IT IS FURTHER ORDERED that the District file with the Commission a tariff containing the rates attached to be used upon substantial completion of the project.

The Executive Secretary hereby is ordered to serve a copy of this order upon the Commission Staff by hand delivery, and upon all parties of record by United States Certified Mail, return receipt requested.

Leave hereby is granted to the parties to file written exceptions supported by a brief with the Executive Secretary of the Commission within fifteen (15) days of the date this order is mailed. If exceptions are filed, the parties filing exceptions shall certify to the Executive Secretary that all parties of record have been served the exceptions.

If no exceptions are filed, this order shall become the order of the Commission, without further action or order, five (5) days following the expiration of the fifteen (15) day time period, unless it is ordered stayed or postponed by the Commission.

Any party may request waiver of the right to file exceptions to an Administrative Law Judge's order by filing an appropriate petition in writing with the Executive Secretary. No such waiver will be effective until approved by order of the Commission, nor shall any such waiver operate to make any Administrative Law Judge's Order or Decision the order of the Commission sooner than five (5) days after approval of such waiver by the Commission.

K. A. George

Keith A. George
Administrative Law Judge

KAG:s

APPENDIX A

BROOKE COUNTY PUBLIC SERVICE DISTRICT
CASE NO. 97-0333-PSD-CN

APPROVED TARIFF

APPLICABILITY

Applicable in entire territory served.

AVAILABILITY OF SERVICE

Available for general domestic, commercial and industrial use.

FLAT RATE - (UNMETERED CUSTOMERS)

Each residential unit or house $33.30

METERED RATE -

First 5,000 gallons of water used per month $7.40 per 1,000 gallons
All Over 5,000 gallons of water used per month $5.95 per 1,000 gallons

MINIMUM RATE -

No bill will be rendered for less than $29.60, based upon water usage of 4,000 gallons per month.

DELAYED PAYMENT PENALTY

The above schedule is net. On all current usage billings not paid within twenty (20) days, a ten percent (10%) charge will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

TAP FEE

$300.00

RECONNECTION FEE

Whenever water service which has been previously disconnected or otherwise withheld for non-payment of sewer bills is reconnected, a fee of $20.00 shall be charged.

WATER SERVICE TERMINATION AGREEMENT

THIS AGREEMENT, made this 5th day of September, 1992, by and between **BROOKE COUNTY PUBLIC SERVICE DISTRICT**, being a public service district and duly authorized sewer authority of the State of West Virginia (hereinafter "Sewer Authority"), and **VILLAGE OF BEECH BOTTOM**, being a public service district and duly authorized water authority of the State of West Virginia and having its principal office at P.O. Box 204, Beech Bottom, West Virginia, 26030 (hereinafter "Water Company").

WITNESSETH:

THAT WHEREAS, the Sewer Authority is engaged in supplying sewer service to the citizens and residents within its service area; and

WHEREAS, the Sewer Authority is experiencing difficulty in the collection of delinquent sewer fees through statutory means such as the imposition of liens and institution of civil actions; and

WHEREAS, a contributing factor to the Sewer Authority's collection problem is its inability to enforce payment through the termination of sewer service to delinquent customers; and

WHEREAS, the Water Company is the owner and operator of a water distribution system serving some or all of the customers of the Sewer Authority, under the applicable Rules and Regulations of the Public Service Commission of West Virginia (hereinafter "Commission"); and

WHEREAS, the Water Company is required by law, at the request and direction of the Sewer Authority and with the approval of the

Commission, to terminate the supply of water from its system to any customer or premises with regard to which the fees for sewer service supplied thereto by the Sewer Authority are delinquent; and

WHEREAS, the Water Company is willing to cooperate and assist the Sewer Authority in the collection of its delinquent accounts upon the terms hereinafter set forth.

NOW, THEREFORE, in consideration of the sum of ONE DOLLAR ($1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, and the covenants hereinafter expressed, the parties hereto do mutually agree to be bound as follows:

1. Upon receipt by the Water Company of a written request by the Sewer Authority for termination of water service to a specified customer or premises with regard to which the fees for sewer service provided by the Sewer Authority shall not have been paid for a period not less than sixty (60) days from the due date thereof, together with the hereinafter mentioned affidavit, the Water Company shall, within three (3) regular working days following receipt of the aforesaid written request (except as otherwise provided below), discontinue the supply of water from its system to such customer or premise until it is advised in writing by the Sewer Authority either that (i) all delinquent fees and costs owed by the customer to the Sewer Authority, (for which a customer's water service may be terminated under this agreement), together with any interest thereon or other permissible charges pertaining thereto, have been paid in full, or (ii) a satisfactory

payment plan has been initiated pursuant to Rule 4.08(5)(b) of the Commission's Rules and Regulations for the Government of Water Utilities or (iii) until the Sewer Authority otherwise directs. It is expressly understood and agreed that the three (3) day termination response period set forth above may be extended at the sole discretion of the Water Company to a maximum of six (6) days when and if necessary due to a large number of termination requests or for other scheduling problems. The Water Company shall not terminate water service to any customer or premises pursuant to this Agreement (i) prior to the expiration of the notice period required by the terms of Rule 4.08(1)(c) of the Rules and Regulations for the Government of Water Utilities, or (ii) on a Friday, Saturday, Sunday, day prior to a legal holiday or if an emergency exists. All disconnections of water service shall be performed between the hours of 8:00 a.m. and 4:00 p.m.

2. It is understood and agreed that, in the event any customer's water is terminated by the Water Company for any reason, including delinquency in the payment of the Sewer Authority's bill for sewer service, the Water Company shall timely notify the Sewer Authority of its intent to restore said customer's water service before any reconnection of said water service is made. Moreover, the Water Company promises and agrees not to reconnect any customer's water service, or to connect any new water customers, until such time as the Water Company receives notice from the Sewer Authority that the payment of that disconnected or unconnected water customer's sewage bills are current. The Sewer Authority

shall pay to the Water Company, concurrently with a request for restoration of a water service previously terminated at the Sewer Authority's request, a reconnection fee in the amount of Twenty Dollars ($20.00) for each water service restored by the Water Company.

It is understood and agreed that the aforesaid reconnection fee for restoration of water service shall automatically increase, without any further notice or action by the Water Company, with any increase in such corresponding fees as may now or hereafter be approved by the Public Service Commission of West Virginia and set forth in the Water Company's tariffs.

The customer shall reimburse the Sewer Authority for any reconnection fees, or other costs previously paid by the Sewer Authority with regard to such customer, provided said customer is notified pursuant to Water Rule 4.08(1)(c) that in the event water service is terminated the customer will be responsible for such fees charged to the Sewer Authority by the Water Company and that these fees and charges be specifically expressed in the termination notice.

3. The Sewer Authority shall deliver to the Water Company, concurrently with delivery of the aforesaid written request for termination of water service, an affidavit executed by an officer or authorized employee of the Sewer Authority stating;

(a) that the delinquent sewer fees upon which the Sewer Authority's request for termination of water service is based were incurred by the present occupant of the premises or a member of the

same household or that someone other than the occupant of the premises is liable for the payment of the delinquent sewer fees, such as a landlord, pursuant to West Virginia Code §16-13A-9; and

(b) that the Sewer Authority has given written notice to one or more persons liable for payment of the delinquent sewer fees, pursuant to the aforesaid Rule 4.08(1)(c) of the Commission's rules, of the Sewer Authority's intention to request termination of water service, a copy of which notice shall be attached to said affidavit.

4. The Water Company shall not be liable for any loss, damage or other claim asserted by the owner or occupant of the premises, the Sewer Authority's customer, the Water Company's customer or any other person or corporation, including the Sewer Authority, based on or arising out of the termination of such supply of water; provided, however, that the Water Authority shall be and shall remain liable for any loss, damage, or other such claim asserted by any person, party, corporation or entity which results in whole or in part, either directly or indirectly, from the negligence, omissions or willful acts of the Water Company, its agents and/or employees.

5. The Sewer Authority further agrees as follows:

(a) the Sewer Authority shall provide the Water Company a working telephone number to which customer inquiries resulting from termination of water service at the request of the Sewer Authority for delinquent sewer bills may be referred;

(b) the Sewer Authority shall be responsible for promptly answering all complaints, either verbal or written, lodged with the Commission, or received by or directed toward the Water Company, due to termination of water service at the request of the Sewer Authority for delinquent sewer bills. The Water Company shall promptly forward any such complaints received by it to the Sewer Authority; and

(c) the Sewer Authority shall be responsible for collections of all delinquent sewer bills, and no collections for delinquent sewer bills shall be made by the Water Company at their office or the office of any of their agents, unless pursuant to a separate written agreement between the parties hereto.

6. This Agreement shall become effective upon receipt by the Water Company of an original or counterpart hereof, duly executed by both parties hereto, shall continue thereafter for a period of ten (10) years and shall automatically be renewed for like successive periods unless and until terminated as hereinafter provided. This Agreement may be terminated at any time by order of the Commission or by either party hereto upon written notice in the event of legislative enactments, court rulings or administrative rulings which render all or any of the terms hereof null, void or unenforceable.

7. It is understood and agreed by the parties hereto that the Water Company may be required to comply with any existing or future regulations of the Commission relating to notice of termination of service, in addition to any other notice that might

be required under this contract or any applicable statute or ordinance. It is further understood and agreed by the parties hereto that the Water Company is under no obligation to the Sewer Authority to investigate, verify or make any inquiry with respect to any affidavit or notice submitted to the Water Company by the Sewer Authority.

8. The Sewer Authority shall deliver all written requests, statements, fees, notices and other documents or payments called for or permitted by the terms of this agreement to the Water Company at the following address:

Village of Beech Bottom
P.O. Box 204
Beech Bottom, WV 26030

9. The Water Company shall deliver all statements, notices and other documents called for or permitted by the terms of this agreement to the Sewer Authority at the following address:

Brooke County Public Service District
P.O. Box 396
Follansbee, WV 26037

10. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Upon execution by both parties hereto, one counterpart of this agreement shall be filed with the Commission by the Water Company.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be signed and attested by their proper officers and

their respective seals, if any, to be hereto affixed the day and year first above written.

(SEAL)

BROOKE COUNTY PUBLIC SERVICE DISTRICT
"Sewer Authority"

BY: _____
President

ATTEST:

BY: _____
Secretary

(SEAL)

VILLAGE OF BEECH BOTTOM
"Water Company"

BY: _____
Mayor

ATTEST:

BY: _____
Clerk

RESOLUTION

WE, the **CITY WATER BOARD** of Beech Bottom, West Virginia, do hereby **RESOLVE** that the Village of Beech Bottom, West Virginia enter into a Water Service Termination Agreement with the Brooke County Public Service District which shall, among other things, provide for the termination of water service for any Beech Bottom water customer who is delinquent on the payment of his/her sewage bill with the said Brooke County Public Service District.

Dated this 5TH day of September, 1992.

BEECH BOTTOM CITY WATER BOARD MEMBERS:

Walter C Campbell
WALTER CAMPBELL

JOHN R. NIVEN, JR.

LOUIS PALMER

BROOKE COUNTY PUBLIC SERVICE DISTRICT
SEWER SYSTEM REVENUE BONDS
SERIES 1997 A, SERIES 1997 B AND SERIES 1997 C

BROOKE COUNTY PUBLIC SERVICE DISTRICT
GENERAL CERTIFICATE

CERTIFICATE OF:

1. TERMS
2. NO LITIGATION
3. GOVERNMENTAL APPROVALS AND BIDDING
4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS; GRANTS
5. SIGNATURES
6. PUBLIC SERVICE COMMISSION ORDER; RATES
7. INCUMBENCY AND OFFICIAL NAME
8. LAND AND RIGHTS-OF-WAY
9. MEETINGS
10. INSURANCE
11. LOAN AGREEMENT
12. TRUTH AND ACCURACY
13. SPECIMEN BONDS
14. BOND PROCEEDS
15. PRIVATE USE OF FACILITIES
16. NO FEDERAL GUARANTY
17. IRS INFORMATION RETURN
18. CONFLICT OF INTEREST
19. CLEAN WATER ACT
20. COUNTERPARTS

We, the undersigned CHAIRMAN and the undersigned SECRETARY of the Brooke County Public Service District, Brooke County, West Virginia (the "Issuer"), and the undersigned ATTORNEY for the Issuer, hereby certify in connection with the fully registered Brooke County Public Service District Sewer System Revenue Bonds, Series 1997 A, numbered AR-1, dated the date hereof, in the principal amount of $450,000 and bearing no interest (the "Series 1997 A Bonds"), the fully registered Brooke County Public Service District Sewer System Revenue Bonds, Series 1997 B, numbered BR-1, dated the date hereof, in the principal amount of $2,163,971 and bearing no interest (the "Series 1997 B Bonds") and the fully registered Brooke County Public Service District Sewer System Revenue Bonds, Series 1997 C, numbered CR-1, dated the date hereof, in the principal

amount of $450,000 and bearing interest at the rate of one percent (1.00%) per annum (the "Series 1997 C Bonds," together with the Series 1997 A Bonds and Series 1997 B Bonds, the "Bonds"), as follows:

1. TERMS: All capitalized words and terms used in this Certificate and not otherwise defined shall have the same meaning as in the Bond Resolution duly adopted by the Public Service Board (the "Board") of the Issuer on November 12, 1997, and the Supplemental Resolution adopted November 12, 1997, relating to the Bonds (collectively, the "Resolution"), the Loan Agreement entered into among the Issuer, the Division of Environmental Protection ("DEP") and the West Virginia Water Development Authority (the "Authority"), dated November 6,1997, for the Series 1997 A Bonds, and the Loan Agreements entered into between the Issuer and the Authority acting on behalf of the West Virginia Infrastructure and Jobs Development Council, both dated December 9, 1997, for the Series 1997 B Bonds and Series 1997 C Bonds (collectively, the "Loan Agreements").

2. NO LITIGATION: No controversy or litigation of any nature is now pending, or, to the knowledge of any of the undersigned, threatened, restraining, enjoining or affecting the issuance and delivery of the Bonds; nor questioning the proceedings and authority by which the Board of the Issuer authorized the issuance and sale of the Bonds; nor affecting the validity of the Bonds or any provisions made or authorized for the payment thereof; nor questioning the existence of the Issuer or the title of the members or officers of the Board thereof to their respective offices; nor questioning the acquisition and construction of certain extensions, additions, betterments and improvements to the existing sanitary sewer system of the Issuer financed in part by the proceeds of sale of the Bonds (herein called the "Project"), nor operation by the Issuer of the Project (the Project and any further extensions, additions, improvements or betterments thereto, herein collectively called the "System"), nor challenging the collection or use of the revenues of the System or the pledge of the revenues to the Bonds.

3. GOVERNMENTAL APPROVALS AND BIDDING: All applicable approvals and certificates required by law for the construction and acquisition of the Project, operation of the System, and issuance of the Bonds have been duly and timely obtained and remain in full force and effect, and competitive bids for construction of the Project have been solicited in accordance with Chapter 5, Article 22, Section 1, of the Code of West Virginia, 1931, as amended, which bids remain in full force and effect.

4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS; GRANTS: There has been no adverse change in the financial condition of the Issuer since November 6, 1997. There are no bonds, notes or other obligations of the Issuer which are secured by a lien on the revenues of the system. The Bonds are being issued for the purpose of paying costs of acquisition and construction of the Project. The Series 1997 A Bonds, Series 1997 B Bonds and Series 1997 C Bonds are being issued as first lien bonds and will be on a parity as to liens, pledge and source of and security for payment on the Net Revenues of the System. The Grants remain in full force and effect.

5. SIGNATURES: The undersigned Chairman and Secretary are the duly elected or appointed, qualified and serving officers of the Issuer as indicated by the official titles opposite their signatures below, and were duly authorized to execute and seal the Bonds for the Issuer. The seal impressed upon the Bonds and this Certificate is the duly authorized, proper and only seal of the Issuer.

6. PUBLIC SERVICE COMMISSION ORDER; RATES: The undersigned Counsel hereby certifies that the Issuer has filed information with the Public Service Commission (the "PSC") and taken all other action required to maintain the Recommended Decision dated September 16, 1997 in Case No. 97-0333-PSD-CN, granting a Certificate of Convenience and Necessity and approving the sale of the Bonds, and which became a final order of the PSC on October 6, 1997 in full force and effect, and has taken all other action required by applicable law. The Issuer has also entered into a Water Sewer Termination Agreement with the Village of Beech Bottom dated September 5, 1992, as required and approved by the PSC. The Issuer's current rates, as set by the PSC, are sufficient to meet the Loan Agreement requirements.

7. INCUMBENCY AND OFFICIAL NAME: The proper corporate title of the Issuer is the "Brooke County Public Service District", and it is a public corporation and political subdivision of the State of West Virginia in Brooke County of said State. The governing body of the Issuer is its Public Service Board, consisting of three members, a chairman and a secretary. The Recorder is the ex-officio Clerk of the Common Council. The names and dates of commencement and termination of terms of office for these members and officers during these Bond proceedings, including current terms, are listed below:

Name	Date Of Termination Of Office
William M. Liposchak, Chairman	12/31/99
Robert W. Butts, Jr.	12/31/99
Lou Feola	12/31/02

The duly appointed and acting Secretary of the Board is Robert W. Butts, Jr. The duly appointed and acting Attorney of the Issuer is Wayne R. Mielke, Esquire, Wellsburg, West Virginia.

8. LAND AND RIGHTS-OF-WAY: All land in fee simple and all rights-of-way and easements necessary for the construction of the Project and the operation and maintenance of the System have been acquired or can and will be acquired by purchase or, if necessary, by condemnation by the Issuer, and are adequate for such purposes and are not or will not be subject to any liens, encumbrances, reservations or exceptions that would

adversely affect or interfere in any way with the use thereof for such purposes. The costs thereof, including costs of any properties that may have to be acquired by condemnation are, in the opinion of all the undersigned, within the ability of the Issuer to pay for the same without jeopardizing the security of or payments on the Bonds.

9. MEETINGS: All actions, ordinances, resolutions, orders and agreements taken, adopted and entered into by or on behalf of the Issuer in any way connected with the construction, acquisition, operation and financing of the Project were authorized or adopted at meetings of the Board duly and regularly or specifically called and held pursuant to all applicable statutes and the rules of procedure of Board, and a quorum of duly appointed, qualified and acting members of the Board was present and acting at all times during all such meetings. All notices required to be posted and/or published were so posted and/or published.

10. INSURANCE: The Issuer will maintain or, as appropriate, will require all contractors to maintain Worker's Compensation, public liability and property damage insurance, standard hazard insurance, builder's risk insurance, flood insurance and business interruption insurance, where applicable, in accordance with the Resolution.

11. LOAN AGREEMENTS: As of the date hereof, (i) the representations of the Issuer contained in the Loan Agreements are true and correct in all material respects as if made on the date hereof; (ii) the Loan Agreements do not contain any untrue statements of material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; (iii) to the best knowledge of the undersigned, no event affecting the Issuer has occurred since November 6, 1997, which should be disclosed for the purpose for which it is to be used or which it is necessary to disclose therein in order to make the statements and information therein not misleading; and (iv) the Issuer is in compliance with the Loan Agreements.

12. TRUTH AND ACCURACY: As of the date hereof, William M. Liposchak, Chairman and Robert W. Butts, Jr., Secretary hereby certify that the copies of documents previously or on the date hereof certified by them as being true and accurate are true and accurate as of the date hereof and that none of such documents has been repealed, rescinded, amended or otherwise modified.

13. SPECIMEN BONDS: Attached hereto as Exhibit A, Exhibit B and Exhibit C are specimens of the Bonds which, except as to execution and authentication, are identical in all respects with such Bonds this day delivered to the Authority and being substantially in the form prescribed in the Resolution.

14. BOND PROCEEDS: On the date hereof, the Issuer received $128,510 from the Authority and the DEP, being a portion of the principal amount of the Series 1997 A Bonds; $67,747 from the Authority and the Infrastructure Council, being a portion of the

principal amount of the Series 1997 B Bonds; and $22,500 from the Authority and the Infrastructure Council, being a portion of the principal amount of the Series 1997 C Bonds, and more than a de minimus amount of the proceeds of each series of Bonds. The balance of the principal amount of each series of Bonds will be advanced to the Issuer from time to time as acquisition and construction of the Project progresses.

15. PRIVATE USE OF FACILITIES: The Issuer shall at all times take, and refrain from taking, and shall not fail to take, any and all actions necessary in order to assure the initial and continued tax-exempt status of the Series 1997 C Bonds and the interest thereon. Less than 10% of the proceeds of the Series 1997 C Bonds will be used, directly or indirectly, for any private business use, and less than 10% of the payment of principal of, or the interest on, such issue, under the terms of such issue or any underlying arrangement, is, directly or indirectly, secured by any interest in property used or to be used for a private business use, payments in respect of such property, or to be derived from payments (whether or not to the Issuer) in respect of property, or borrowed money, used or to be used for a private business use. None of the proceeds of the Series 1997 C Bonds will be used, directly or indirectly, for any private business use which is not related to the governmental use of the proceeds of the Series 1997 C Bonds, including the disproportionate related business use of the proceeds of the Series 1997 C Bonds, and none of the payment of principal on, or the interest on, such issue, under the terms of any underlying arrangement, is, directly or indirectly, secured by any interest in property used, or to be used for a private business use, payments in respect of such property or to be derived from payments (whether or not to the Issuer) in respect of property, or borrowed money, used or to be used for a private business use with respect to such private business use, which is not related to any government use of such proceeds, including the disproportionate business use of the issue of the Series 1997 C Bonds. None of the proceeds of the issue of the Series 1997 C Bonds will be used, directly or indirectly, to make or finance loans to persons other than governmental units. For purposes of this paragraph, private business use means use, directly or indirectly, in a trade or business carried on by any person, including related persons, other than a governmental unit or other than use as a member of the general public. All of the foregoing shall be determined in accordance with and within the meaning of the Internal Revenue Code of 1986, as amended, including any successor provisions and rules and regulations thereunder (the "Code").

16. NO FEDERAL GUARANTY: The Series 1997 C Bonds are not and will not be, in whole or part, directly or indirectly, federally guaranteed within the meaning of Section 149(b) of the Code.

17. IRS INFORMATION RETURN: On the date hereof, the undersigned Chairman did officially sign properly completed IRS Forms 8038-G for the Series 1997 C Bonds and will cause each such executed Form 8038-G to be filed in a timely manner with the Internal Revenue Service Center, Philadelphia, Pennsylvania.

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

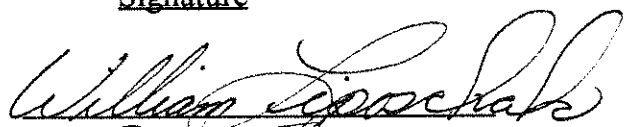
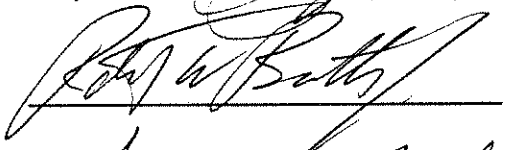
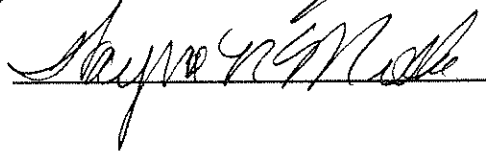
19. CLEAN WATER ACT: The project as described in the Resolution complies with Sections 208 and 303(e) of the Clean Water Act.

20. COUNTERPARTS: This Certificate may be executed in counterpart and such parts shall be deemed to be the Certificate.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

WITNESS our signatures and the official corporate seal of the Brooke County Public Service District on this 9th day of December, 1997.

[SEAL]

Signature	Official Title
	Chairman
	Secretary
	Attorney

CHASFS3:107780

"SPECIMEN"

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
COUNTY OF BROOKE
BROOKE COUNTY PUBLIC SERVICE DISTRICT
SEWER SYSTEM
REVENUE BONDS, SERIES 1997 A
(WEST VIRGINIA SRF PROGRAM)

No. AR-1 $450,000

KNOW ALL MEN BY THESE PRESENTS: That the BROOKE COUNTY PUBLIC SERVICE DISTRICT, a public corporation and political subdivision organized and existing under the laws of the State of West Virginia, in Brooke County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to West Virginia Water Development Authority (the "Authority"), or registered assigns, the sum of Four Hundred Fifty Thousand Dollars ($450,000), or such lesser amount as is set forth on the Record of Advances attached hereto as Exhibit A and incorporated herein by reference, in quarterly installments on the 1st day of March, the 1st day of June, the 1st day of September and the 1st day of December in each year beginning September 1, 1999, as set forth on the "Schedule of Debt Service" attached as Exhibit A hereto and incorporated herein by reference, with interest on each installment at the rate per annum set forth on said Exhibit A. The SRF Administrative Fee (as defined in the hereinafter described Bond Resolution) shall also be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 1999, as set forth on Exhibit B attached hereto.

Interest on this Bond shall be zero percent (0%) per annum. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of principal, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission (the "Paying Agent"). The interest on this Bond, if any, is payable by check or draft mailed to the Authority at the address as it appears on the books of One Valley Bank, National Association, Charleston, West Virginia (the "Registrar") on the 15th day of the

month preceding an interest payment date or by such other method as shall be mutually agreeable, so long as the Authority is the registered owner hereof.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and as otherwise provided by the Loan Agreement dated November 6, 1997, among the Authority, the West Virginia Division of Environmental Protection (the "DEP") and the Issuer.

This Bond is issued to permanently finance a portion of the costs of the acquisition and construction of certain extensions, additions, betterments and improvements to the existing system of the Issuer (the "Project," and together with any further extensions, additions, betterments and improvements thereto, the "System"), to fund a reserve account and to pay certain costs of issuance hereof and related costs. This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13A of the West Virginia Code of 1931, as amended (the "Act"), a Resolution duly enacted by the Issuer on the 12th day of November, 1997, and a Supplemental Resolution adopted by the Issuer on the 12th day of November, 1997 (collectively called the "Resolution"), and is subject to all the terms and conditions thereof. The Resolution 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 Bonds under the Resolution.

THIS BOND RANKS EQUALLY AS TO LIEN AND SECURITY WITH THE ISSUER'S SEWER SYSTEM REVENUE BONDS, SERIES 1997 B AND THE SEWER SYSTEM REVENUE BONDS, SERIES 1997 C (THE "PARITY BONDS"), ISSUED SIMULTANEOUSLY HEREWITH.

This Bond is payable only from and secured by a pledge of a first lien on the Net Revenues, on a parity with the lien of the Parity Bonds, to be derived from the operation of the System, moneys in the Reserve Account created under the Resolution and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest thereon except from said special fund provided from the Net Revenues, the moneys in the Reserve Account and unexpended Bond proceeds. Pursuant to the Resolution, 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 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 amount required to pay the maximum amount due in any ensuing fiscal year of principal of and interest on all obligations on a parity with the Bonds and the Parity Bonds, payable from such revenues, provided however, that so long

as there exists in the respective reserve accounts an amount equal to the maximum amount of principal and interest which will become due on the Bonds and the Parity Bonds and any bonds on a parity therewith in any succeeding fiscal year, respectively, an amount equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds, for the terms of which, reference is made to the Resolution. Remedies provided the registered owners of the Bonds are exclusively as provided in the Resolution, to which reference is here made for a detailed description thereof.

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

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

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law, shall be applied solely to the payment of the Costs of the Project described in the Resolution or to the appurtenant sinking fund, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the owner of this Bond.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this 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 Bond, together with all other obligations of the 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 the Issuer for the prompt payment of the principal of and interest on this Bond.

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

IN WITNESS WHEREOF, THE BROOKE COUNTY PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairman and its corporate seal to be hereunto affixed or imprinted hereon and attested by its Secretary, and has caused this Bond to be dated the 9th day of December, 1997.

[SEAL]

Chairman

ATTEST:

Secretary

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Original Bonds described in the within-mentioned Resolution and has been duly registered in the name of the registered owner set forth above.

ONE VALLEY BANK,
NATIONAL ASSOCIATION

By _____
Its Authorized Officer

Dated: December 9, 1997

EXHIBIT A

RECORD OF ADVANCES

Amount	Date	Amount	Date
(1) $128,510.00	December 9, 1997	(7) $	
(2) $		(8) $	
(3) $		(9) $	
(4) $		(10) $	
(5) $		(11) $	
(6) $		(12) $	

Total $_____

EXHIBIT B

SCHEDULE OF ANNUAL DEBT SERVICE

Date	Principal	Coupon	Total P+I
6/01/1999	-	-	-
9/01/1999	5,696.21	-	5,696.21
12/01/1999	5,696.21	-	5,696.21
3/01/2000	5,696.21	-	5,696.21
6/01/2000	5,696.21	-	5,696.21
9/01/2000	5,696.21	-	5,696.21
12/01/2000	5,696.21	-	5,696.21
3/01/2001	5,696.21	-	5,696.21
6/01/2001	5,696.21	-	5,696.21
9/01/2001	5,696.21	-	5,696.21
12/01/2001	5,696.21	-	5,696.21
3/01/2002	5,696.21	-	5,696.21
6/01/2002	5,696.21	-	5,696.21
9/01/2002	5,696.21	-	5,696.21
12/01/2002	5,696.21	-	5,696.21
3/01/2003	5,696.21	-	5,696.21
6/01/2003	5,696.21	-	5,696.21
9/01/2003	5,696.21	-	5,696.21
12/01/2003	5,696.21	-	5,696.21
3/01/2004	5,696.21	-	5,696.21
6/01/2004	5,696.21	-	5,696.21
9/01/2004	5,696.20	-	5,696.20
12/01/2004	5,696.20	-	5,696.20
3/01/2005	5,696.20	-	5,696.20
6/01/2005	5,696.20	-	5,696.20
9/01/2005	5,696.20	-	5,696.20
12/01/2005	5,696.20	-	5,696.20
3/01/2006	5,696.20	-	5,696.20
6/01/2006	5,696.20	-	5,696.20
9/01/2006	5,696.20	-	5,696.20
12/01/2006	5,696.20	-	5,696.20
3/01/2007	5,696.20	-	5,696.20
6/01/2007	5,696.20	-	5,696.20
9/01/2007	5,696.20	-	5,696.20
12/01/2007	5,696.20	-	5,696.20
3/01/2008	5,696.20	-	5,696.20
6/01/2008	5,696.20	-	5,696.20
9/01/2008	5,696.20	-	5,696.20
12/01/2008	5,696.20	-	5,696.20
3/01/2009	5,696.20	-	5,696.20
6/01/2009	5,696.20	-	5,696.20
9/01/2009	5,696.20	-	5,696.20
12/01/2009	5,696.20	-	5,696.20
3/01/2010	5,696.20	-	5,696.20
6/01/2010	5,696.20	-	5,696.20

EXHIBIT B

SCHEDULE OF ANNUAL DEBT SERVICE

Date	Principal	Coupon	Total P+I
9/01/2010	5,696.20	-	5,696.20
12/01/2010	5,696.20	-	5,696.20
3/01/2011	5,696.20	-	5,696.20
6/01/2011	5,696.20	-	5,696.20
9/01/2011	5,696.20	-	5,696.20
12/01/2011	5,696.20	-	5,696.20
3/01/2012	5,696.20	-	5,696.20
6/01/2012	5,696.20	-	5,696.20
9/01/2012	5,696.20	-	5,696.20
12/01/2012	5,696.20	-	5,696.20
3/01/2013	5,696.20	-	5,696.20
6/01/2013	5,696.20	-	5,696.20
9/01/2013	5,696.20	-	5,696.20
12/01/2013	5,696.20	-	5,696.20
3/01/2014	5,696.20	-	5,696.20
6/01/2014	5,696.20	-	5,696.20
9/01/2014	5,696.20	-	5,696.20
12/01/2014	5,696.20	-	5,696.20
3/01/2015	5,696.20	-	5,696.20
6/01/2015	5,696.20	-	5,696.20
9/01/2015	5,696.20	-	5,696.20
12/01/2015	5,696.20	-	5,696.20
3/01/2016	5,696.20	-	5,696.20
6/01/2016	5,696.20	-	5,696.20
9/01/2016	5,696.20	-	5,696.20
12/01/2016	5,696.20	-	5,696.20
3/01/2017	5,696.20	-	5,696.20
6/01/2017	5,696.20	-	5,696.20
9/01/2017	5,696.20	-	5,696.20
12/01/2017	5,696.20	-	5,696.20
3/01/2018	5,696.20	-	5,696.20
6/01/2018	5,696.20	-	5,696.20
9/01/2018	5,696.20	-	5,696.20
12/01/2018	5,696.20	-	5,696.20
3/01/2019	5,696.20	-	5,696.20 *
TOTAL	450,000.00	-	450,000.00

*Plus $562.50 one-percent administrative fee paid quarterly. Total fee paid over the life of the is $45,000.

[Form of Assignment]

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

_____

_____

_____

_____

_____

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

Dated: _____, ___.

_____

In the presence of:

_____

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
COUNTY OF BROOKE
BROOKE COUNTY PUBLIC SERVICE DISTRICT
SEWER SYSTEM
REVENUE BONDS, SERIES 1997 B
(WEST VIRGINIA INFRASTRUCTURE FUND)

$2,163,971

No. BR-1

KNOW ALL MEN BY THESE PRESENTS: That the BROOKE COUNTY PUBLIC SERVICE DISTRICT, a public corporation and political subdivision organized and existing under the laws of the State of West Virginia, in Brooke County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to West Virginia Water Development Authority (the "Authority"), or registered assigns, the sum of Two Million One Hundred Sixty Three Thousand Nine Hundred Seventy-One Dollars ($2,163,971), or such lesser amount as is set forth on the Record of Advances attached hereto as Exhibit A and incorporated herein by reference, in quarterly installments on the 1st day of March, the 1st day of June, the 1st day of September and the 1st day of December in each year beginning September 1, 1999, as set forth on the "Schedule of Debt Service" attached as Exhibit A hereto and incorporated herein by reference.

Interest on this Bond shall be zero percent (0%) per annum. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of principal, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission (the "Paying Agent"). The interest on this Bond, if any, is payable by check or draft mailed to the Authority at the address as it appears on the books of One Valley Bank, National Association, Charleston, West Virginia (the "Registrar") on the 15th day of the

month preceding an interest payment date or by such other method as shall be mutually agreeable, so long as the Authority is the registered owner hereof.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and as otherwise provided by the Loan Agreement dated December 9, 1997, between the Authority, on behalf of the West Virginia Infrastructure and Jobs Development Council and the Issuer.

This Bond is issued to permanently finance a portion of the costs of the acquisition and construction of certain extensions, additions, betterments and improvements to the existing system of the Issuer (the "Project," and together with any further extensions, additions, betterments and improvements thereto, the "System") and to pay certain costs of issuance hereof and related costs. This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13A of the West Virginia Code of 1931, as amended (the "Act"), a Resolution duly enacted by the Issuer on the 12th day of November, 1997, and a Supplemental Resolution adopted by the Issuer on the 12th day of November, 1997 (collectively called the "Resolution"), and is subject to all the terms and conditions thereof. The Resolution 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 Bonds under the Resolution.

THIS BOND RANKS EQUALLY AS TO LIEN AND SECURITY WITH THE ISSUER'S SEWER SYSTEM REVENUE BONDS, SERIES 1997 A AND THE SEWER SYSTEM REVENUE BONDS, SERIES 1997 C (THE "PARITY BONDS") ISSUED SIMULTANEOUSLY HEREWITH.

This Bond is payable only from and secured by a pledge of a first lien on the Net Revenues, on a parity with the lien of the Parity Bonds, to be derived from the operation of the System, moneys in the Reserve Account created under the Resolution and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest thereon except from said special fund provided from the Net Revenues, the moneys in the Reserve Account and unexpended Bond proceeds. Pursuant to the Resolution, 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 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 amount required to pay the maximum amount due in any ensuing fiscal year of principal of and interest on all obligations on a parity with the Bonds and the Parity Bonds, payable from such revenues, provided however, that so long as there exists in the respective reserve accounts an amount equal to the maximum amount

of principal and interest which will become due on the Bonds , the Parity Bonds and any bonds on a parity therewith in any succeeding fiscal year, respectively, an amount equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds, for the terms of which, reference is made to the Resolution. Remedies provided the registered owners of the Bonds are exclusively as provided in the Resolution, to which reference is here made for a detailed description thereof.

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

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

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law, shall be applied solely to the payment of the Costs of the Project described in the Resolution or to the appurtenant sinking fund, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the owner of this Bond.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this 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 Bond, together with all other obligations of the 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 the Issuer for the prompt payment of the principal of and interest on this Bond.

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

IN WITNESS WHEREOF, THE BROOKE COUNTY PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairman and its corporate seal to be hereunto affixed or imprinted hereon and attested by its Secretary, and has caused this Bond to be dated the 9th day of December, 1997.

[SEAL]

William Liposchak
"CHAIRMAN"
Chairman

ATTEST:

Robert W. Brott Jr.
Secretary

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Original Bonds described in the within-mentioned Resolution and has been duly registered in the name of the registered owner set forth above.

ONE VALLEY BANK,
NATIONAL ASSOCIATION

By _____
Its Authorized Officer

Dated: December 9, 1997

EXHIBIT A

RECORD OF ADVANCES

Amount	Date	Amount	Date
(1) $67,747.00	December 9, 1997	(7) $	
(2) $		(8) $	
(3) $		(9) $	
(4) $		(10) $	
(5) $		(11) $	
(6) $		(12) $	

Total $_____

EXHIBIT B

SCHEDULE OF ANNUAL DEBT SERVICE

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Total P+I
6/01/1999	-	-	-
9/01/1999	14,051.76	-	14,051.76
12/01/1999	14,051.76	-	14,051.76
3/01/2000	14,051.76	-	14,051.76
6/01/2000	14,051.76	-	14,051.76
9/01/2000	14,051.76	-	14,051.76
12/01/2000	14,051.76	-	14,051.76
3/01/2001	14,051.76	-	14,051.76
6/01/2001	14,051.76	-	14,051.76
9/01/2001	14,051.76	-	14,051.76
12/01/2001	14,051.76	-	14,051.76
3/01/2002	14,051.76	-	14,051.76
6/01/2002	14,051.76	-	14,051.76
9/01/2002	14,051.76	-	14,051.76
12/01/2002	14,051.76	-	14,051.76
3/01/2003	14,051.76	-	14,051.76
6/01/2003	14,051.76	-	14,051.76
9/01/2003	14,051.76	-	14,051.76
12/01/2003	14,051.76	-	14,051.76
3/01/2004	14,051.76	-	14,051.76
6/01/2004	14,051.76	-	14,051.76
9/01/2004	14,051.76	-	14,051.76
12/01/2004	14,051.76	-	14,051.76
3/01/2005	14,051.76	-	14,051.76
6/01/2005	14,051.76	-	14,051.76
9/01/2005	14,051.76	-	14,051.76
12/01/2005	14,051.76	-	14,051.76
3/01/2006	14,051.76	-	14,051.76
6/01/2006	14,051.76	-	14,051.76
9/01/2006	14,051.76	-	14,051.76
12/01/2006	14,051.76	-	14,051.76
3/01/2007	14,051.76	-	14,051.76
6/01/2007	14,051.76	-	14,051.76
9/01/2007	14,051.76	-	14,051.76
12/01/2007	14,051.76	-	14,051.76
3/01/2008	14,051.76	-	14,051.76
6/01/2008	14,051.76	-	14,051.76
9/01/2008	14,051.76	-	14,051.76
12/01/2008	14,051.76	-	14,051.76
3/01/2009	14,051.76	-	14,051.76
6/01/2009	14,051.76	-	14,051.76
9/01/2009	14,051.76	-	14,051.76
12/01/2009	14,051.76	-	14,051.76
3/01/2010	14,051.76	-	14,051.76
6/01/2010	14,051.76	-	14,051.76

EXHIBIT B

SCHEDULE OF ANNUAL DEBT SERVICE

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Total P+I
9/01/2010	14,051.76	-	14,051.76
12/01/2010	14,051.76	-	14,051.76
3/01/2011	14,051.76	-	14,051.76
6/01/2011	14,051.76	-	14,051.76
9/01/2011	14,051.76	-	14,051.76
12/01/2011	14,051.76	-	14,051.76
3/01/2012	14,051.76	-	14,051.76
6/01/2012	14,051.76	-	14,051.76
9/01/2012	14,051.76	-	14,051.76
12/01/2012	14,051.76	-	14,051.76
3/01/2013	14,051.76	-	14,051.76
6/01/2013	14,051.76	-	14,051.76
9/01/2013	14,051.76	-	14,051.76
12/01/2013	14,051.76	-	14,051.76
3/01/2014	14,051.76	-	14,051.76
6/01/2014	14,051.76	-	14,051.76
9/01/2014	14,051.76	-	14,051.76
12/01/2014	14,051.76	-	14,051.76
3/01/2015	14,051.76	-	14,051.76
6/01/2015	14,051.76	-	14,051.76
9/01/2015	14,051.76	-	14,051.76
12/01/2015	14,051.76	-	14,051.76
3/01/2016	14,051.76	-	14,051.76
6/01/2016	14,051.76	-	14,051.76
9/01/2016	14,051.76	-	14,051.76
12/01/2016	14,051.76	-	14,051.76
3/01/2017	14,051.76	-	14,051.76
6/01/2017	14,051.76	-	14,051.76
9/01/2017	14,051.76	-	14,051.76
12/01/2017	14,051.76	-	14,051.76
3/01/2018	14,051.76	-	14,051.76
6/01/2018	14,051.76	-	14,051.76
9/01/2018	14,051.76	-	14,051.76
12/01/2018	14,051.76	-	14,051.76
3/01/2019	14,051.76	-	14,051.76
6/01/2019	14,051.76	-	14,051.76
9/01/2019	14,051.76	-	14,051.76
12/01/2019	14,051.76	-	14,051.76
3/01/2020	14,051.76	-	14,051.76
6/01/2020	14,051.76	-	14,051.76
9/01/2020	14,051.76	-	14,051.76
12/01/2020	14,051.76	-	14,051.76
3/01/2021	14,051.76	-	14,051.76
6/01/2021	14,051.76	-	14,051.76
9/01/2021	14,051.76	-	14,051.76

EXHIBIT B

SCHEDULE OF ANNUAL DEBT SERVICE

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Total P+I
12/01/2021	14,051.76	-	14,051.76
3/01/2022	14,051.76	-	14,051.76
6/01/2022	14,051.76	-	14,051.76
9/01/2022	14,051.76	-	14,051.76
12/01/2022	14,051.76	-	14,051.76
3/01/2023	14,051.76	-	14,051.76
6/01/2023	14,051.76	-	14,051.76
9/01/2023	14,051.76	-	14,051.76
12/01/2023	14,051.76	-	14,051.76
3/01/2024	14,051.76	-	14,051.76
6/01/2024	14,051.76	-	14,051.76
9/01/2024	14,051.76	-	14,051.76
12/01/2024	14,051.76	-	14,051.76
3/01/2025	14,051.76	-	14,051.76
6/01/2025	14,051.76	-	14,051.76
9/01/2025	14,051.76	-	14,051.76
12/01/2025	14,051.76	-	14,051.76
3/01/2026	14,051.76	-	14,051.76
6/01/2026	14,051.76	-	14,051.76
9/01/2026	14,051.76	-	14,051.76
12/01/2026	14,051.76	-	14,051.76
3/01/2027	14,051.76	-	14,051.76
6/01/2027	14,051.76	-	14,051.76
9/01/2027	14,051.76	-	14,051.76
12/01/2027	14,051.76	-	14,051.76
3/01/2028	14,051.76	-	14,051.76
6/01/2028	14,051.76	-	14,051.76
9/01/2028	14,051.76	-	14,051.76
12/01/2028	14,051.76	-	14,051.76
3/01/2029	14,051.76	-	14,051.76
6/01/2029	14,051.76	-	14,051.76
9/01/2029	14,051.76	-	14,051.76
12/01/2029	14,051.76	-	14,051.76
3/01/2030	14,051.76	-	14,051.76
6/01/2030	14,051.76	-	14,051.76
9/01/2030	14,051.76	-	14,051.76
12/01/2030	14,051.76	-	14,051.76
3/01/2031	14,051.76	-	14,051.76
6/01/2031	14,051.76	-	14,051.76
9/01/2031	14,051.76	-	14,051.76
12/01/2031	14,051.76	-	14,051.76
3/01/2032	14,051.76	-	14,051.76
6/01/2032	14,051.76	-	14,051.76
9/01/2032	14,051.76	-	14,051.76
12/01/2032	14,051.76	-	14,051.76

EXHIBIT B

SCHEDULE OF ANNUAL DEBT SERVICE

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Total P+I
3/01/2033	14,051.76	-	14,051.76
6/01/2033	14,051.76	-	14,051.76
9/01/2033	14,051.76	-	14,051.76
12/01/2033	14,051.76	-	14,051.76
3/01/2034	14,051.76	-	14,051.76
6/01/2034	14,051.76	-	14,051.76
9/01/2034	14,051.76	-	14,051.76
12/01/2034	14,051.76	-	14,051.76
3/01/2035	14,051.76	-	14,051.76
6/01/2035	14,051.76	-	14,051.76
9/01/2035	14,051.76	-	14,051.76
12/01/2035	14,051.76	-	14,051.76
3/01/2036	14,051.76	-	14,051.76
6/01/2036	14,051.76	-	14,051.76
9/01/2036	14,051.76	-	14,051.76
12/01/2036	14,051.76	-	14,051.76
3/01/2037	14,051.75	-	14,051.75
6/01/2037	14,051.75	-	14,051.75
9/01/2037	14,051.75	-	14,051.75
12/01/2037	14,051.75	-	14,051.75
TOTAL	2,163,971.00	-	2,163,971.00

[Form of Assignment]

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

_____

_____

_____

_____

_____

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

Dated: _____, ___.

_____

In the presence of:

_____

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
COUNTY OF BROOKE
BROOKE COUNTY PUBLIC SERVICE DISTRICT
SEWER SYSTEM
REVENUE BONDS, SERIES 1997 C
(WEST VIRGINIA INFRASTRUCTURE FUND)

No. CR-1 $450,000

KNOW ALL MEN BY THESE PRESENTS: That the BROOKE COUNTY PUBLIC SERVICE DISTRICT, a public corporation and political subdivision organized and existing under the laws of the State of West Virginia, in Brooke County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to West Virginia Water Development Authority (the "Authority"), or registered assigns, the sum of Four Hundred Fifty Thousand Dollars ($450,000), or such lesser amount as is set forth on the Record of Advances attached hereto as Exhibit A and incorporated herein by reference, in quarterly installments on the 1st day of March, the 1st day of June, the 1st day of September and the 1st day of December in each year beginning June 1, 2019, as set forth on the "Schedule of Debt Service" attached as Exhibit A hereto and incorporated herein by reference, or such earlier or later date as provided for in Section 5.03A(2) of the hereinafter-defined Resolution, with interest on each installment at the rate per annum set forth on said Exhibit A.

Interest on this Bond shall be zero percent (0%) from the date hereof until the Date of Completion of the Project, and after such date, interest shall be payable on the 1st day of March, the 1st day of June, the 1st day of September and the 1st day of December in each year beginning June 1, 2019, or such earlier or later date as provided for in Section 5.03A(2) of the hereinafter-defined Resolution, at the rate of one percent (1%) per annum. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of principal, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission (the "Paying Agent"). The interest on this Bond, if any, is

payable by check or draft mailed to the Authority at the address as it appears on the books of One Valley Bank, National Association, Charleston, West Virginia (the "Registrar") on the 15th day of the month preceding an interest payment date or by such other method as shall be mutually agreeable, so long as the Authority is the registered owner hereof.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and as otherwise provided by the Loan Agreement dated December 9, 1997, between the Authority, on behalf of the West Virginia Infrastructure and Jobs Development Council and the Issuer.

This Bond is issued to permanently finance a portion of the costs of the acquisition and construction of certain extensions, additions, betterments and improvements to the existing system of the Issuer (the "Project," and together with any further extensions, additions, betterments and improvements thereto, the "System"); and to pay certain costs of issuance hereof and related costs. This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13A of the West Virginia Code of 1931, as amended (the "Act"), a Resolution duly enacted by the Issuer on the 12th day of November, 1997, and a Supplemental Resolution adopted by the Issuer on the 12th day of November, 1997 (collectively called the "Resolution"), and is subject to all the terms and conditions thereof. The Resolution 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 Bonds under the Resolution.

THIS BOND RANKS EQUALLY AS TO LIEN AND SECURITY WITH THE ISSUER'S SEWER SYSTEM REVENUE BONDS, SERIES 1997 A AND SEWER SYSTEM REVENUE BONDS, SERIES 1997 B (THE "PARITY BONDS") ISSUED SIMULTANEOUSLY HEREWITH.

This Bond is payable only from and secured by a pledge of a first lien on the Net Revenues, on a parity with the lien of the Parity Bonds, to be derived from the operation of the System, moneys in the Reserve Account created under the Resolution and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest thereon except from said special fund provided from the Net Revenues, the moneys in the Reserve Account and unexpended Bond proceeds. Pursuant to the Resolution, 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 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 amount required to pay the maximum amount due in any ensuing fiscal year of principal of and interest on all obligations on a parity with

the Bonds and the Parity Bonds, payable from such revenues, provided however, that so long as there exists in the respective reserve accounts an amount equal to the maximum amount of principal and interest which will become due on the Bonds, the Parity Bonds and any bonds on a parity therewith in any succeeding fiscal year, respectively, an amount equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds, for the terms of which, reference is made to the Resolution. Remedies provided the registered owners of the Bonds are exclusively as provided in the Resolution, to which reference is here made for a detailed description thereof.

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

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

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law, shall be applied solely to the payment of the Costs of the Project described in the Resolution or to the appurtenant sinking fund, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the owner of this Bond.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this 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 Bond, together with all other obligations of the 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 the Issuer for the prompt payment of the principal of and interest on this Bond.

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

IN WITNESS WHEREOF, THE BROOKE COUNTY PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairman and its corporate seal to be hereunto affixed or imprinted hereon and attested by its Secretary, and has caused this Bond to be dated the 9th day of December, 1997.

[SEAL]

William F. Dipasquale
Chairman

ATTEST:

Secretary

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Original Bonds described in the within-mentioned Resolution and has been duly registered in the name of the registered owner set forth above.

ONE VALLEY BANK,
NATIONAL ASSOCIATION

By _____
Its Authorized Officer

Dated: December 9, 1997

EXHIBIT A

RECORD OF ADVANCES

Amount	Date	Amount	Date
(1) $22,500.00	December 9, 1997	(7) $	
(2) $		(8) $	
(3) $		(9) $	
(4) $		(10) $	
(5) $		(11) $	
(6) $		(12) $	

Total $_____

EXHIBIT B

SCHEDULE OF ANNUAL DEBT SERVICE

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Interest	Total P+I
3/01/2019	-	-	-	-
6/01/2019	5,462.54	1.000%	1,125.00	6,587.54
9/01/2019	5,476.20	1.000%	1,111.34	6,587.54
12/01/2019	5,489.89	1.000%	1,097.65	6,587.54
3/01/2020	5,503.61	1.000%	1,083.93	6,587.54
6/01/2020	5,517.37	1.000%	1,070.17	6,587.54
9/01/2020	5,531.17	1.000%	1,056.38	6,587.55
12/01/2020	5,544.99	1.000%	1,042.55	6,587.54
3/01/2021	5,558.86	1.000%	1,028.69	6,587.55
6/01/2021	5,572.75	1.000%	1,014.79	6,587.54
9/01/2021	5,586.69	1.000%	1,000.86	6,587.55
12/01/2021	5,600.65	1.000%	986.89	6,587.54
3/01/2022	5,614.65	1.000%	972.89	6,587.54
6/01/2022	5,628.69	1.000%	958.85	6,587.54
9/01/2022	5,642.76	1.000%	944.78	6,587.54
12/01/2022	5,656.87	1.000%	930.67	6,587.54
3/01/2023	5,671.01	1.000%	916.53	6,587.54
6/01/2023	5,685.19	1.000%	902.35	6,587.54
9/01/2023	5,699.40	1.000%	888.14	6,587.54
12/01/2023	5,713.65	1.000%	873.89	6,587.54
3/01/2024	5,727.94	1.000%	859.61	6,587.55
6/01/2024	5,742.26	1.000%	845.29	6,587.55
9/01/2024	5,756.61	1.000%	830.93	6,587.54
12/01/2024	5,771.00	1.000%	816.54	6,587.54
3/01/2025	5,785.43	1.000%	802.11	6,587.54
6/01/2025	5,799.89	1.000%	787.65	6,587.54
9/01/2025	5,814.39	1.000%	773.15	6,587.54
12/01/2025	5,828.93	1.000%	758.61	6,587.54
3/01/2026	5,843.50	1.000%	744.04	6,587.54
6/01/2026	5,858.11	1.000%	729.43	6,587.54
9/01/2026	5,872.76	1.000%	714.79	6,587.55
12/01/2026	5,887.44	1.000%	700.11	6,587.55
3/01/2027	5,902.16	1.000%	685.39	6,587.55
6/01/2027	5,916.91	1.000%	670.63	6,587.54
9/01/2027	5,931.70	1.000%	655.84	6,587.54
12/01/2027	5,946.53	1.000%	641.01	6,587.54
3/01/2028	5,961.40	1.000%	626.14	6,587.54
6/01/2028	5,976.30	1.000%	611.24	6,587.54
9/01/2028	5,991.24	1.000%	596.30	6,587.54
12/01/2028	6,006.22	1.000%	581.32	6,587.54
3/01/2029	6,021.24	1.000%	566.31	6,587.55
6/01/2029	6,036.29	1.000%	551.25	6,587.54
9/01/2029	6,051.38	1.000%	536.16	6,587.54
12/01/2029	6,066.51	1.000%	521.03	6,587.54
3/01/2030	6,081.68	1.000%	505.87	6,587.55

EXHIBIT B

SCHEDULE OF ANNUAL DEBT SERVICE

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Interest	Total P+I
6/01/2030	6,096.88	1.000%	490.66	6,587.54
9/01/2030	6,112.12	1.000%	475.42	6,587.54
12/01/2030	6,127.40	1.000%	460.14	6,587.54
3/01/2031	6,142.72	1.000%	444.82	6,587.54
6/01/2031	6,158.08	1.000%	429.47	6,587.55
9/01/2031	6,173.47	1.000%	414.07	6,587.54
12/01/2031	6,188.91	1.000%	398.64	6,587.55
3/01/2032	6,204.38	1.000%	383.16	6,587.54
6/01/2032	6,219.89	1.000%	367.65	6,587.54
9/01/2032	6,235.44	1.000%	352.10	6,587.54
12/01/2032	6,251.03	1.000%	336.51	6,587.54
3/01/2033	6,266.66	1.000%	320.89	6,587.55
6/01/2033	6,282.32	1.000%	305.22	6,587.54
9/01/2033	6,298.03	1.000%	289.51	6,587.54
12/01/2033	6,313.77	1.000%	273.77	6,587.54
3/01/2034	6,329.56	1.000%	257.99	6,587.55
6/01/2034	6,345.38	1.000%	242.16	6,587.54
9/01/2034	6,361.25	1.000%	226.30	6,587.55
12/01/2034	6,377.15	1.000%	210.39	6,587.54
3/01/2035	6,393.09	1.000%	194.45	6,587.54
6/01/2035	6,409.07	1.000%	178.47	6,587.54
9/01/2035	6,425.10	1.000%	162.45	6,587.55
12/01/2035	6,441.16	1.000%	146.38	6,587.54
3/01/2036	6,457.26	1.000%	130.28	6,587.54
6/01/2036	6,473.41	1.000%	114.14	6,587.55
9/01/2036	6,489.59	1.000%	97.95	6,587.54
12/01/2036	6,505.81	1.000%	81.73	6,587.54
3/01/2037	6,522.08	1.000%	65.47	6,587.55
6/01/2037	6,538.38	1.000%	49.16	6,587.54
9/01/2037	6,554.73	1.000%	32.81	6,587.54
12/01/2037	6,571.12	1.000%	16.43	6,587.55
TOTAL	450,000.00	-	44,065.69	494,065.69

[Form of Assignment]

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

_____

_____

_____

_____

_____

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

Dated: _____, ___.

_____

In the presence of:

_____

BROOKE COUNTY PUBLIC SERVICE DISTRICT
SEWER SYSTEM REVENUE BONDS
SERIES 1997 A, SERIES 1997 B AND SERIES 1997 C

CERTIFICATE OF SECRETARY AS TO TRUTH
AND ACCURACY OF DOCUMENTS DELIVERED

I, the undersigned Robert W. Butts, Jr., Secretary of the Brooke County Public Service District, West Virginia (the "Issuer"), hereby certify that the copies of the following documents being delivered in connection with the closing of the sale of the $450,000 Brooke County Public Service District Sewer System Revenue Bonds, Series 1997 A (the "Series 1997 A Bonds"), the $2,163,971 Brooke County Public Service District Sewer System Revenue Bonds, Series 1997 B (the "Series 1997 B Bonds") and the $450,000 Brooke County Public Service District Sewer System Revenue Bonds, Series 1997 C (the "Series 1997 C Bonds," together with the Series 1997 A Bonds and the Series 1997 B Bonds, the "Bonds"), are, as of the date hereof, true and accurate copies of the originals of those documents maintained on file with the Issuer and delivered in the transcript of proceedings, and that said documents are still in full force and effect as of the date hereof and have not been repealed, rescinded, superseded, amended or modified in any way unless the document effecting such repeal, rescission, supersedence, amendment or modification is also listed below:

1. Rules of Procedure.

2. Orders of the County Commission of Brooke County (the "County Commission") creating the District.

3. Orders of the County Commission reflecting appointment of current Board members.

4. Oaths of Office of current Board members.

5. Bond Resolution.

6. Supplemental Resolution.

7. Minutes of the regular Board meeting held November 12, 1997, regarding the adoption of the Bond Resolution and the Supplemental Resolution.

8. Loan Agreement, dated November 6, 1997, between the District, the West Virginia Water Development Authority (the "Authority") and the West Virginia Division of Environmental Protection ("DEP").

9. Loan Agreement, dated December 9, 1997, between the District and the Authority for the Series 1997 B Bonds.

10. Loan Agreement, dated December 9, 1997, between the District and the Authority for the Series 1997 C Bonds.

11. West Virginia Infrastructure and Jobs Development Council approval letter dated July 15, 1996.

12. Copy of the Recommended Decision of the Administrative Law Judge of the West Virginia Public Service Commission (the "PSC") dated September 16, 1997, granting the District a Certificate of Convenience and Necessity and approving the financing, which became a final order of the PSC on October 6, 1997.

13. The Water Sewer Termination Agreement with the Village of Beech Bottom dated September 5, 1992.

14. Evidence of the West Virginia Infrastructure and Jobs Development Council Grant.

15. Evidence of the Small Cities Block Grant.

WITNESS my signature and the official seal of the Brooke County Public Service District as of the 9th day of December, 1997.

Secretary

(SEAL)

CHASFS3:107792

BROOKE COUNTY PUBLIC SERVICE DISTRICT

SEWER REVENUE BONDS, SERIES 1997 C

CERTIFICATE AS TO NON-ARBITRAGE

I, William M. Liposchak, Chairman of the Public Service Board of the Brooke County Public Service District, Brooke County, West Virginia (the "Issuer"), being one of the officials of the Issuer duly charged with the responsibility for the issuance of the $450,000 aggregate principal amount of Sewer Revenue Bonds, Series 1997 C (the "Series 1997 C Bonds") of the Issuer, dated December 9, 1997, hereby certify as follows:

1. This certificate is being executed and delivered pursuant to Section 148 of the Internal Revenue Code of 1986, as amended, and applicable regulations (the "Code"). I am one of the officers of the Issuer charged with the responsibility of issuing the Series 1997 C Bonds. I am familiar with the facts, circumstances and estimates herein certified and am duly authorized to execute and deliver this certificate on behalf of the Issuer.

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

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

4. This certificate is based upon facts, circumstances, estimates and expectations of the Issuer in existence on December 9, 1997, the date on which the Series 1997 C Bonds are to be physically delivered in exchange for the issue price thereof, and to the best of my knowledge and belief, the expectations of the Issuer set forth herein are reasonable.

5. In the Bond Resolution (the "Resolution") pursuant to which the Series 1997 C Bonds are issued, the Issuer has covenanted to make no use of the proceeds of the Series 1997 C Bonds which would cause the Series 1997 C Bonds to be "arbitrage bonds" within the meaning of the Code.

6. The Series 1997 C Bonds were sold on December 9, 1997, to the West Virginia Water Development Authority (the "Authority") pursuant to a loan agreement dated December 9, 1997, by and between the Issuer and the Authority. The Series 1997 C Bonds were issued simultaneously with the Issuer's $450,000 aggregate principal amount of Sewer Revenue Bonds, Series 1997 A (the "Series 1997 A Bonds") and the $2,163,971 aggregate

principal amount of Sewer Revenue Bonds, Series 1997 B (the "Series 1997 B Bonds", and with the Series 1997 A Bonds and the Series 1997 C Bonds sometimes hereinafter referred to as the "Original Bonds"). The Series 1997 A Bonds and the Series 1997 B Bonds bear no interest.

7. The Series 1997 C Bonds are being delivered simultaneously with the delivery of this certificate and are issued for the purposes of (i) paying a portion of the costs, not otherwise provided, of the acquisition and construction of certain extensions, additions, betterments and improvements to the existing sanitary sewer system of the Issuer (the "Project"); and (ii) paying costs of issuance and other costs in connection therewith.

8. The Issuer shall, within 30 days following delivery of the Series 1997 C Bonds, enter into agreements which require the Issuer to expend in excess of $100,000 on the Project, constituting a substantial binding commitment, or has already entered into such agreements. Acquisition, construction and equipping of the Project will proceed with due diligence to completion, and all of the proceeds from the sale of the Series 1997 C Bonds, together with any investment earnings thereon, with the exception of the reserve account deposits, if any, will be expended for payment of Costs of the Project on or before February 1, 1999.

9. The total cost of the Project is estimated at $6,618,751. Sources and uses of funds for the Project are as follows:

SOURCES

Series 1997 A Bonds	$ 450,000
Series 1997 B Bonds	2,163,971
Series 1997 C Bonds	450,000
Infrastructure Council Grant	2,014,780
Small Cities Block Grant	1,500,000
EPA Advance Assistance	40,000
Total Sources	$ 6,618,751

USES

Construction	$5,058,764.50
Technical Services	784,620.00
Legal and Fiscal	76,673.80
Administrative	117,800.00
Site and Other Lands	30,000.00

Contingency	426,048.70
Costs of Issuance	124,844.00
Total Uses	$6,618,751

The amount of Project costs is estimated to be at least equal to the gross proceeds of the Original Bonds and the above-noted grants (the "Grant Receipts"). Except for the proceeds of the Original Bonds and Grant Receipts and as otherwise provided in the Resolution, no other funds of the Issuer will be available to meet costs of the Project, and no balances are available to meet such costs in any account which may, without legislative or judicial action, be invaded to pay such expenditures without a legislative, judicial or contractual requirement that such account be reimbursed.

10. Pursuant to Article V of the Resolution, the following special funds or accounts have been continued or created:

The following special funds or accounts are created with and shall be held by the Depository Bank:

(1) Revenue Fund;

(2) Renewal and Replacement Fund;

(3) Series 1997 A Bond Construction Trust Fund;

(4) Series 1997 B Bond Construction Trust Fund; and

(5) Series 1997 C Bond Construction Trust Fund.

The following special funds or accounts are hereby established with the Commission for each series of Original Bonds:

(1) Sinking Fund; and

(a) Within the Sinking Fund, the Reserve Account.

11. The proceeds of the Original Bonds will be deposited as follows:

(1) From the proceeds of the Original Bonds, there shall be deposited with the Commission in the respective reserve account the sum, if any, set forth in the Supplemental Resolution for funding of the respective Reserve Accounts.

(2) The remaining moneys derived from the sale of the Original Bonds shall be deposited by the Issuer, as received from time to time, in the respective Bond

Construction Trust Funds and applied solely to payment of Costs of the Project, including but not limited to payment of cost of issuance.

Except for "preliminary expenditures" as defined in Treas. Reg. 1.150-2(f)(2), none of the proceeds of the Series 1997 C Bonds will be used to reimburse the Issuer for costs of the Project previously incurred and paid by the Issuer with its own or other funds.

12. Moneys held in the Series 1997 C Bonds Sinking Fund will be used solely to pay principal of and interest on the Series 1997 C Bonds as the same shall become due. Moneys in the Reserve Account in the Series 1997 C Bonds Sinking Fund shall be used only for the purpose of paying principal of and interest on the Series 1997 C Bonds, as the same shall become due, when other moneys in the Series 1997 C Bonds Sinking Fund are insufficient therefor, and for no other purpose. All investment earnings on moneys in the Series 1997 C Bonds Sinking Fund and the Reserve Account therein shall be transferred, not less than once each year to the Series 1997 C Bond Construction Trust Fund prior to completion of the Project, and thereafter into the Revenue Fund.

13. Except for the Series 1997 C Bonds Sinking Fund and the Reserve Account therein, there are no other funds or accounts established or held by the Issuer which are reasonably expected to be used to pay debt service on the Series 1997 C Bonds, or which are pledged as collateral for Series 1997 C Bonds, and for which there is a reasonable assurance that amounts therein will be available to pay debt service on the Series 1997 C Bonds if the Issuer encounters financial difficulties. The Issuer does not expect that moneys in the Renewal and Replacement Fund will be used or needed for payments upon the Series 1997 C Bonds. Except as provided herein, no funds which have been or will be used to acquire directly or indirectly securities, obligations, annuity contracts or other investment-type property producing a yield in excess of the yield on the Series 1997 C Bonds, have been or will be pledged to payment of the Series 1997 C Bonds. Less than 10% of the proceeds of the Series 1997 C Bonds will be deposited in the Series 1997 C Bonds Reserve Account or any other reserve or replacement fund. The amounts deposited in the Series 1997 C Bonds Reserve Account from time to time by the Issuer will not exceed the maximum annual principal and interest on the Series 1997 C Bonds and will not exceed 125% of average annual principal and interest on the Series 1997 C Bonds. Amounts in the Series 1997 C Bonds Reserve Account, not to exceed 10% of the proceeds of the Series 1997 C Bonds, if invested, will be invested without yield limitation. The establishment of the Series 1997 C Bonds Reserve Account is required by the Authority, is vital to its purchase of the Series 1997 C Bonds and is reasonably required to assure payments of debt service on the Series 1997 C Bonds.

14. The Issuer expects within 30 days hereof to enter into contracts for the construction of the Project, and the amount to be expended pursuant to such contracts exceeds the lesser of 2 1/2% of the estimated total Project cost financed with proceeds from the sale of the Series 1997 C Bonds or $100,000.

15. Work with respect to the construction of the Project will proceed with due diligence to completion. Construction is expected to be completed within fourteen months.

16. The Issuer will comply with the provisions of the Code, for which the effective date precedes the date of delivery of its Series 1997 C Bonds to the Authority.

17. All of the proceeds of the Series 1997 C Bonds will be expended on the Project within two years from the date of issuance thereof.

18. Any money deposited in the Sinking Fund for payment of the principal and interest on the Series 1997 C Bonds (other than the Reserve Account therein) will be spent within a 13-month period beginning on the date of receipt and any moneys received from the investment of amounts held in the Series 1997 C Bonds Sinking Fund (other than in the Reserve Account therein) will be spent within a one-year period beginning the date of receipt.

19. The amount designated as cost of issuance of the Series 1997 C Bonds consists only of costs which are directly related to and necessary for the issuance of the Series 1997 C Bonds.

20. All property financed with the proceeds of the Series 1997 C Bonds will be held for Federal income tax purposes by (or on behalf of) a qualified governmental unit.

21. The Issuer shall file Form 8038-G with respect to the Series 1997 C Bonds in a timely fashion with the Internal Revenue Service Center, Philadelphia, Pennsylvania 19255.

22. No more than 10% of the proceeds of the Series 1997 C Bonds will be used (directly or indirectly) in any trade or business carried on by, and less than 5% of the proceeds of the Series 1997 C Bonds have been or will be used to make or finance loans to, any person who is not a governmental unit.

23. The original proceeds of the Series 1997 C Bonds will not exceed the amount necessary for the purposes of the issue.

24. The Issuer shall use the proceeds of the Series 1997 C Bonds solely for the Project, and the Project will be operated solely for a public purpose as a local governmental activity of the Issuer.

25. The Issuer shall not permit at any time or times any of the proceeds of the Series 1997 C Bonds, or any other funds of the Issuer, to be used directly or indirectly in a manner which would result in the exclusion of Series 1997 C Bonds from treatment afforded by Section 103(a) of the Code by reason of classification of the Series 1997 C Bonds as "private activity bonds" within the meaning of the Code. The Issuer will take all actions and refrain from taking such actions as shall be necessary to comply with the Code

in order to ensure the interest on the Series 1997 C Bonds is excludable from gross income for federal income tax purposes.

26. The Series 1997 C Bonds, in whole or in part, are not and will not be, directly or indirectly, federally guaranteed within the meaning of Section 149(b) of the Code.

27. The Issuer will rebate to the United States the amount, if any, required by the Code and to take all steps necessary to make such rebates. In the event the Issuer fails to make such rebates as required, the Issuer shall pay any and all penalties and obtain a waiver from the Internal Revenue Service in order to maintain the exclusion from gross income for federal income tax purposes of the interest on the Series 1997 C Bonds.

28. The Issuer has retained the right to amend or supplement its authorizing documents if such amendment or supplement is necessary to preserve the exclusion of the interest on the Series 1997 C Bonds from gross income for federal income tax purposes.

29. The Issuer shall comply with the yield restriction on the proceeds of the Series 1997 C Bonds as set forth in the Code.

30. The Issuer has either (a) funded the Series 1997 C Bonds Reserve Account at the maximum amount of principal and interest which will mature and become due on the Series 1997 C Bonds in the then current or any succeeding year with the proceeds of the Series 1997 C Bonds, or (b) created the Series 1997 C Bonds Reserve Account which will be funded with equal payments on a monthly basis over a 10 year period until such Series 1997 C Bonds Reserve Account holds an amount equal to the maximum amount of principal and interest which will mature and become due on the Series 1997 C Bonds in the then current or any succeeding year. Moneys in the Series 1997 C Bonds Reserve Account and the Sinking Fund therein (established for the annual payment of principal and interest) will be used solely to pay principal of and interest on the Series 1997 C Bonds and will not be available to pay costs of the Project.

31. The Issuer shall submit to the Authority within thirty (30) days following the end of the Issuer's bond year a certified copy of its rebate calculation, or, if the Issuer qualifies for an exception to rebate, then the Issuer shall submit to the Authority a certificate stating that it is exempt from the rebate provisions and that no event has occurred to its knowledge during the bond year which would make the Series 1997 C Bonds subject to rebate. The Issuer covenants and agrees to comply with the rebate requirements of the Code if not exempted therefrom, and with all other requirements of the Code necessary, proper or desirable to maintain the tax-exempt status of the Series 1997 C Bonds.

32. The Issuer expects that no part of the Project financed by the Series 1997 C Bonds will be sold or otherwise disposed of prior to the last maturity date of the Series 1997 C Bonds.

33. Jackson & Kelly is entitled to rely upon the representations, expectations, covenants, certifications and statements contained herein in rendering its opinions regarding the tax-exempt status of interest on the Series 1997 C Bonds.

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

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

IN WITNESS WHEREOF, I have set my hand this 9th day of December, 1997.

BROOKE COUNTY PUBLIC SERVICE DISTRICT

By William Lipscomb
Chairman

CHASFS3:107484

Form 8038-G (Rev. May 1995)
Department of the Treasury Internal Revenue Service

Information Return for Tax-Exempt Governmental Obligations

▶ Under Internal Revenue Code section 149(e)
▶ See separate instructions.
(Note: *Use Form 8038-GC if the issue price is under $100,000.*)

OMB No. 1545-0720

Part I Reporting Authority — If Amended Return, check here ▶ ☐

1 Issuer's name: Brooke County Public Service District	2 Issuer's employer identification number: 55 6000302
3 Number and street (or P.O. box if mail is not delivered to street address): R.D. 2, Box 45-A	Room/suite:	4 Report number: G19 97 - 1
5 City, town, or post office, state, and ZIP code: Wellsburg, West Virginia 26070	6 Date of issue: December 9, 1997
7 Name of issue: $450,000 Brooke County Public Service District Sewer System Revenue Bonds, Series 1997 C	8 CUSIP number: N/A

Part II Type of Issue (check applicable box(es) and enter the issue price)

9	☐ Education (attach schedule-see instructions)	9	$
10	☐ Health and hospital (attach schedule-see instructions)	10	
11	☐ Transportation	11	
12	☐ Public safety	12	
13	☒ Environment (including sewage bonds) . (Sewer Bonds)	13	$ 450,000
14	☐ Housing	14	
15	☐ Utilities	15	
16	☐ Other. Describe (see instructions) ▶	16	
17	If obligations are tax or other revenue anticipation bonds, check box ▶ ☐		
18	If obligations are in the form of a lease or installment sale, check box ▶ ☐		

Part III Description of Obligations

	(a) Maturity date	(b) Interest rate	(c) Issue price	(d) Stated redemption price at maturity	(e) Weighted average maturity	(f) Yield	(g) Net interest cost
19 Final maturity.	12/1/2037	1.00 %	$6,571.12	$6,571.12			
20 Entire issue			$450,000	$450,000	9.792 years	1.0012495 %	.9999994 %

Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)

21	Proceeds used for accrued interest		21	-0-
22	Issue price of entire issue (enter amount from line 20, column (c))		22	450,000.00
23	Proceeds used for bond issuance costs (including underwriters' discount)	23 -0-		
24	Proceeds used for credit enhancement	24 -0-		
25	Proceeds allocated to reasonably required reserve or replacement fund	25 -0-		
26	Proceeds used to currently refund prior issues	26 -0-		
27	Proceeds used to advance refund prior issues	27 -0-		
28	Total (add lines 23 through 27)		28	-0-
29	Nonrefunding proceeds of the issue (subtract line 28 from line 22 and enter amount here)		29	450,000.00

Part V Description of Refunded Bonds (Complete this part only for refunding bonds.)

30	Enter the remaining weighted average maturity of the bonds to be currently refunded ▶	N/A	years
31	Enter the remaining weighted average maturity of the bonds to be advance refunded ▶	N/A	years
32	Enter the last date on which the refunded bonds will be called ▶		
33	Enter the date(s) the refunded bonds were issued ▶		

Part VI Miscellaneous

34	Enter the amount of the state volume cap allocated to the issue under section 141(b)(5)	34	-0-
35	Enter the amount of the bonds designated by the issuer under section 265(b)(3)(B)(i)(III) (small issuer exception)	35	-0-
36a	Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (see instructions)	36a	-0-
b	Enter the final maturity date of the guaranteed investment contract ▶		
37	Pooled financings: a Proceeds of this issue that are to be used to make loans to other governmental units	37a	-0-

b If this issue is a loan made from the proceeds of another tax-exempt issue, check box ▶ ☒ and enter the name of the issuer ▶ West Virginia Infrastructure & Jobs* and the date of the issue ▶ December 19, 1996

38 If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box ▶ ☐

39 If the issuer has identified a hedge, check box ▶ ☐

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete.

Please Sign Here

William Liposchak 12/9/97
Signature of issuer's authorized representative — Date

William Liposchak, Chairman
Type or print name and title

For Paperwork Reduction Act Notice, see page 1 of the instructions. Cat. No. 63773S Form 8038-G (Rev. 5-95)

*Development Council
(State of West Virginia Infrastructure General Obligation Bonds, 1996 Series

Printed on recycled paper

BROOKE COUNTY PUBLIC SERVICE DISTRICT
SEWER SYSTEM REVENUE BONDS
SERIES 1997 A, SERIES 1997 B AND SERIES 1997 C

CERTIFICATE OF CONSULTING ENGINEER

I, Craig Richards, Registered Professional Engineer, West Virginia License No. 10358, of Burgess & Niple, Ltd., Consulting Engineers, Parkersburg, West Virginia, hereby certify that my firm is engineer for the acquisition and construction of the extensions, additions, betterments and improvements to the existing sanitary sewer system (herein called the "Project") of the Brooke County Public Service District (the "Issuer") to be constructed primarily in Brooke County, West Virginia, which acquisition and construction is being permanently financed, in part, by the above-captioned bonds (the "Bonds") of the Issuer. Capitalized words not defined herein shall have the meaning set forth in the Bond Resolution adopted by the Public Service Board (the "Board") of the Issuer on November 12, 1997; the Loan Agreement by and among the Issuer, the West Virginia Water Development Authority (the "Authority"), and the West Virginia Division of Environmental Protection ("DEP") dated November 6, 1997, for the Series 1997 A Bonds; and the Loan Agreements by and between the Issuer and the Authority, dated December 9, 1997, for the Series 1997 B Bonds and the Series 1997 C Bonds, respectively.

1. The Bonds are being issued for the purpose of (i) paying costs of acquisition and construction of the Project, (ii) funding the Reserve Accounts for each series of Bonds, and (iii) paying certain costs of issuance thereof and related costs.

2. The undersigned hereby certifies that to the best of my knowledge and belief (i) the Project will be constructed in accordance with the approved plans, specifications and designs prepared by my firm and as described in the applications submitted to the Authority, DEP and the West Virginia Infrastructure and Jobs Development Council (the "Infrastructure Council") requesting the Authority to purchase the Bonds (the "Applications") and approved by all necessary governmental bodies; (ii) the Project is adequate for the purpose for which it was designed and has an estimated useful life of at least forty years; (iii) the Issuer has received bids for the construction of the Project which are in an amount and otherwise compatible with the plan of financing described in the Applications and my firm has ascertained that all contractors have made required provisions for all insurance and payment and performance bonds and that such insurance policies or binders and such bonds have been verified by my firm for accuracy; (iv) the Issuer has obtained all permits required by the laws of the State and the federal government necessary for the construction of the Project; (v) the rates and charges for the System as adopted by the Board of the Issuer are sufficient to comply with the provisions of Subsection 4.1(b) of the Loan Agreements; (vi) the net proceeds of the Bonds, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants

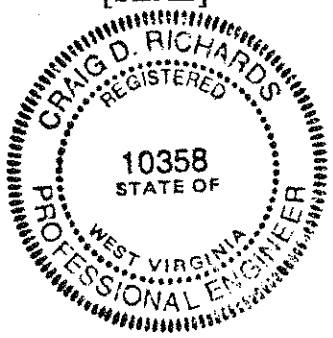
irrevocably committed therefor, are sufficient to pay the costs of construction and acquisition of the Project as set forth in the Applications; and (vii) attached hereto as Exhibit A is the final amended "Schedule B - Total Cost of Project and Sources of Funds" for the Project.

WITNESS my signature on this 9th day of December, 1997.

BURGESS & NIPLE, LTD.

By _____
Craig Richards
West Virginia License No. 10358

[SEAL]



CHASFS4:107582

REVISED SCHEDULE B
Brooke County PSD - Windsor Heights
Wastewater Collection System Project 96S-222
Final Total Cost of Project, Sources of Funds and Costs of Financing

A. Cost of Project	Total	IJDC Loan	IJDC DefLoan	IJDC Grant	SRF	SCBG	EPA Advance
1. Construction (Based on Actual Bids)	5,058,764.50	1,760,877.20	450,000.00	1,588,731.30	325,156.00	934,000.00	
2. Technical Services	784,620.00	358,325.00				412,000.00	14,295.00
3. Legal & Fiscal	76,673.80	10,287.50				55,500.00	10,886.30
4. Administrative	117,800.00	27,589.67				90,000.00	210.33
5. Sites and Other Lands	30,000.00	6,891.63				8,500.00	14,608.37
6. Step I or II or Other Loan Repayment	0.00						
7. Interim Financing Costs	0.00						
8. Contingency	426,048.70			426,048.70			
9. Total of Lines 1 through 8	6,493,907.00						
B. Sources of Funds							
10. Federal Grants:							
a. SCBG	1,500,000.00						
b.							
11. State Grants:							
a.							
b.							
12. Other Grants:							
13. Any Other Source: (1)							
a. SRF	450,000.00						
b. EPA Advance Assistance	40,000.00						
c. IJDC Deferred Loan	450,000.00						
14. Infrastructure Fund Grant	2,014,780.00						
15. Total of Lines 10 through 14	4,454,780.00						
16. Net Proceeds Required from Bond Issue (Line 9 minus Line 15)	2,039,127.00						
C. Cost of Financing							
17. Funded Reserve Account (2)	105,344.00				105,344.00		
18. Other Costs (3)							
a. Bond Counsel	19,500.00				19,500.00		
b.							
19. Total Cost of Financing	124,844.00						
20. Size of Bond Issue (Line 16 plus Line 19)	2,163,971.00	2,163,971.00	450,000.00	2,014,780.00	450,000.00	1,500,000.00	40,000.00

William Lipscomb
GOVERNMENTAL AGENCY

DATE: 12/9/97

Craig Richards
CONSULTING ENGINEER

DATE: 12/9/97

(1) Include the proceeds of any parity or subordinate bond issue to be used for such purpose and attach supporting documentation.
(2) Consult with bond counsel and the Council before assuming a funded reserve. ($22,785 + 56,208 + 26,351)
(3) For example, fees of accountants, bond counsel and local counsel for the Governmental Agency.

Wiseman Hutzell & Co.
CERTIFIED PUBLIC ACCOUNTANTS

SUITE 710 HAWLEY BUILDING
WHEELING, W. VA. 26003
PHONE: (304) 233-7600
FAX: (304) 233-7604

BROOKE COUNTY PUBLIC SERVICE DISTRICT
SEWER SYSTEM REVENUE BONDS
SERIES 1997 A, SERIES 1997 B AND SERIES 1997 C

CERTIFICATE OF ACCOUNTANT AS TO COVERAGE

Wiseman, Hutzell & Co., Certified Public Accountants, has reviewed the sewer service rates of the Brooke County Public Service District, Brooke County, West Virginia (the "Issuer") established by the Public Service Commission of West Virginia in Case No. 4-1061-PSD-19A, the Issuer's operation and maintenance expenses, and the estimated customer usage. It is our opinion that those rates are adequate to pay operation and maintenance expenses, and to meet the debt service coverage requirements of the Sewer System Revenue Bonds, Series 1997 A,' the Sewer System Revenue Bonds, Series 1997 B and the Sewer System Revenue Bonds, Series 1997 C (collectively, the "Bonds"), issued pursuant to the Bond Resolution adopted by the Public Service Board (the "Board") of the Issuer on November 12, 1997 (the "Bond Resolution"), and a Supplemental Resolution adopted by the Board on November 12, 1997, and are sufficient to comply with the provisions of the Loan Agreement entered into by and among the Issuer, the West Virginia Division of Environmental Protection, and the West Virginia Water Development Authority (the "Authority") on November 6, 1997, for the Series 1997 A Bonds and the Loan Agreements entered into by and among the City and the Authority on December 9, 1997, for the Series 1997 B Bonds and Series 1997 C Bonds. The Issuer intends to deposit simultaneously with the issuance of the Bonds in the Reserve Account established for each series of Bonds an amount equal to the applicable Reserve Requirement for such series of Bonds, and therefore that the debt service coverage requirement required by Section 7.04 of the Bond Resolution is 110%. The rates and charges provide debt service coverage in excess of 110%.

WITNESS my signature as of this 9th day of December, 1997.

Very truly yours,

Robert J. Prezkop
WISEMAN HUTZELL & CO.
CERTIFIED PUBLIC ACCOUNTANTS

BROOKE COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 1997 C

REGISTRAR'S AGREEMENT

THIS REGISTRAR'S AGREEMENT, dated as of the 9th day of December, 1997, by and between the BROOKE COUNTY PUBLIC SERVICE DISTRICT, BROOKE COUNTY, WEST VIRGINIA, a public corporation (the "Governmental Agency"), and ONE VALLEY BANK, NATIONAL ASSOCIATION, Charleston, West Virginia (the "Registrar").

WHEREAS, the Governmental Agency has, contemporaneously with the execution hereof, issued and sold its $450,000 Brooke County Public Service District Sewer System Revenue Bonds, Series 1997 A (the "Series 1997 A Bonds"), in the form of one bond, numbered AR-1; its $2,163,971 Brooke County Public Service District Sewer System Revenue Bonds, Series 1997 B (the "Series 1997 B Bonds"), in the form of one bond, numbered BR-1; and its $450,000 Brooke County Public Service District Sewer System Revenue Bonds, Series 1997 C (the "Series 1997 C Bonds," together with the Series 1997 A Bonds and the Series 1997 B Bonds, the "Bonds"), in the form of one bond, numbered CR-1, in fully registered form pursuant to a Bond Resolution duly adopted November 12, 1997, and a Supplemental Resolution adopted November 12, 1997 (collectively, the "Resolution");

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

WHEREAS, the Resolution provides for an appointment by the Governmental Agency of a Registrar for the Bonds; and

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

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

1. Upon the execution of this Registrar's Agreement by the Governmental Agency and the Registrar and during the term hereof, the Registrar does accept and shall have and carry out the powers and duties of Registrar, for the Bonds, all as set forth in the Resolution, such duties including, among other things, the duties to authenticate, register and

deliver Bonds upon original issuance and when properly presented for exchange or transfer, and shall do so with the intention of maintaining the exclusion of interest on the Bonds from gross income for federal income tax purposes, in accordance with any rules and regulations promulgated by the United States Treasury Department or by the Municipal Securities Rulemaking Board or similar regulatory bodies as the Governmental Agency advises it of and with generally accepted industry standards.

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

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

4. As compensation for acting as Registrar pursuant to this Registrar's Agreement, the Governmental Agency hereby agrees to pay to the Registrar, from time to time, the compensation for services rendered as provided in the annexed schedule and reimbursement for reasonable expenses incurred in connection with this Registrar's Agreement.

5. It is intended that this Registrar's Agreement shall carry out and implement provisions of the Resolution with respect to the Registrar. In the event of any conflict between the terms of this Registrar's Agreement and the Resolution, the terms of the Resolution shall govern.

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

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

GOVERNMENTAL AGENCY:

Brooke County Public Service District
RD 2, Box 45-a
Wellsburg, WV 26070
Attention: William M. Liposchak, Chairman

REGISTRAR:

One Valley Bank, National Association
P. O. Box 1793
Charleston, WV 25326
Attention: Corporate Trust

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

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

IN WITNESS WHEREOF, the BROOKE COUNTY PUBLIC SERVICE DISTRICT and ONE VALLEY BANK, NATIONAL ASSOCIATION, have respectively caused this Registrar's Agreement to be signed in their names and on their behalf, all as of the day and year first above-written.

BROOKE COUNTY PUBLIC SERVICE DISTRICT

By _____
Chairman

ONE VALLEY BANK, NATIONAL ASSOCIATION

By: _____
Charlotte S. Morgan, Assistant Vice President

CHASFS3:107550

EXHIBIT A

See Bond Resolution (Tab No. 7)
See Supplemental Resolution (Tab No. 8)

BROOKE COUNTY PUBLIC SERVICE DISTRICT
SEWER SYSTEM REVENUE BONDS
SERIES 1997 A, SERIES 1997 B AND SERIES 1997 C

ACCEPTANCE OF DUTIES OF DEPOSITORY BANK

Advance Financial Savings Bank, with its office in Wellsburg, West Virginia, hereby accepts appointment as Depository Bank in connection with a Bond Resolution of the Brooke County Public Service District, duly adopted on November 12, 1997, and the Supplemental Resolution adopted November 12, 1997 (collectively, the "Resolution"), authorizing issuance of the Brooke County Public Service District Sewer Revenue Bonds, Series 1997A, in the aggregate principal amount of $450,000, the Brooke County Public Service District Sewer Revenue Bonds, Series 1997 B, in the aggregate principal amount of $2,163,971, and the Brooke County Public Service District Sewer Revenue Bonds, Series 1997 C, in the aggregate principal amount of $450,000, each dated December 9, 1997 (collectively, the "Bonds") and agrees to perform all duties of Depository Bank, all as set forth in said Resolution.

Witness my signature as of the 9th day of December, 1997.

ADVANCE FINANCIAL SAVINGS BANK

By Steve D. Martino SVP
Its Authorized Officer

CHASFS3:107568

BROOKE COUNTY PUBLIC SERVICE DISTRICT
SEWER SYSTEM REVENUE BONDS
SERIES 1997 A, SERIES 1997 B AND SERIES 1997 C

REQUEST AND AUTHORIZATION AS TO AUTHENTICATION AND DELIVERY OF THE BONDS

December 9, 1997

One Valley Bank, National Association
P. O. Box 1793
Charleston, WV 25326
Attention: Corporate Trust

Ladies and Gentlemen:

We herewith hand to you, duly executed, the $450,000 Brooke County Public Service District Sewer System Revenue Bonds, Series 1997 A, in the form of one bond numbered AR-1, the $2,163,971 Brooke County Public Service District Sewer System Revenue Bonds, Series 1997 B, in the form of one bond numbered BR-1 and the $450,000 Brooke County Public Service District Sewer System Revenue Bonds, Series 1997 C, in the form of one bond numbered CR-1 (collectively, the "Bonds") of the Brooke County Public Service District (the "Issuer"), authorized to be issued under and pursuant to the Bond Resolution, duly adopted by the Public Service Board (the "Board") of the Issuer on November 12, 1997, and a Supplemental Resolution adopted by the Board on November 12, 1997 (collectively, the "Resolution").

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

BROOKE COUNTY PUBLIC SERVICE DISTRICT

By _____
Chairman

(SEAL)

Attest:

_____
Secretary

CHASFS3:107583

BROOKE COUNTY PUBLIC SERVICE DISTRICT
SEWER SYSTEM REVENUE BONDS
SERIES 1997 A, SERIES 1997 B AND SERIES 1997 C

CERTIFICATE OF REGISTRATION OF BONDS

I, Charlotte S. Morgan, Assistant Vice President of One Valley Bank, National Association, Charleston, West Virginia, as Registrar (the "Registrar"), hereby certify that on the 9th day of December, 1997, the bonds of the Brooke County Public Service District, Brooke County, West Virginia, in the principal amount of: $450,000, designated the "Brooke County Public Service District Sewer System Revenue Bonds, Series 1997 A" (the "Series 1997 A Bonds"), and numbered AR-1, dated as of the date hereof; $2,163,971, designated the "Brooke County Public Service District Sewer System Revenue Bonds, Series 1997 B" (the "Series 1997 B Bonds"), and numbered BR-1, dated as of the date hereof; and $450,000, designated the "Brooke County Public Service District Sewer System Revenue Bonds, Series 1997 C" (the "Series 1997 C Bonds"), and numbered CR-1, dated as of the date hereof, were registered as to principal and interest in the name of "West Virginia Water Development Authority" in the books of the Brooke County Public Service District kept for that purpose at our office, by a duly authorized officer on behalf of One Valley Bank, National Association, as Registrar.

WITNESS my signature as of the 9th day of December, 1997.

ONE VALLEY BANK, NATIONAL ASSOCIATION
as Registrar

By: Charlotte S. Morgan
Charlotte S. Morgan, Assistant Vice President

CHASFS3:107580

BROOKE COUNTY PUBLIC SERVICE DISTRICT
SEWER SYSTEM REVENUE BONDS
SERIES 1997 A, SERIES 1997 B AND SERIES 1997 C

RECEIPT FOR BONDS

The undersigned, Daniel B. Yonkosky, Director of the West Virginia Water Development Authority, for and on behalf of the West Virginia Water Development Authority (the "Authority"), hereby certifies as follows:

1. On the 9th day of December, 1997, in Charleston, West Virginia, the Authority received the entire original issue of $450,000 in aggregate principal amount of the Brooke County Public Service District Sewer Revenue Bonds, Series 1997 A (the "Series 1997 A Bonds"), said Bond being dated the 9th day of December, 1997; and issued in the form of one bond, fully registered to the Authority, and numbered AR-1.

2. On the 9th day of December, 1997, in Charleston, West Virginia, the Authority received the entire original issue of $2,163,971 in aggregate principal amount of the Brooke County Public Service District Sewer Revenue Bonds, Series 1997 B (the "Series 1997 B Bonds"), said Bond being dated the 9th day of December, 1997; and issued in the form of one bond, fully registered to the Authority, and numbered BR-1.

3. On the 9th day of December, 1997, in Charleston, West Virginia, the Authority received the entire original issue of $450,000 in aggregate principal amount of the Brooke County Public Service District Sewer Revenue Bonds, Series 1997 C (the "Series 1997 C Bonds"), said Bond being dated the 9th day of December, 1997; and issued in the form of one bond, fully registered to the Authority, and numbered CR-1.

4. At the time of receipt of each series of Bonds, they had been executed by William M. Liposchak, as Chairman of the Brooke County Public Service District (the "District"), by manual signature, and attested by Robert W. Butts, Jr., as Secretary of the District, by manual signature, and the official seal of said District had been impressed upon each Bond.

IN WITNESS WHEREOF, Daniel B. Yonkosky duly signed and delivered this receipt on behalf of the West Virginia Water Development Authority on the 9th day of December, 1997.

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

By _____
Director

CHASFS3:107585

BROOKE COUNTY PUBLIC SERVICE DISTRICT
SEWER SYSTEM REVENUE BONDS
SERIES 1997 A, SERIES 1997 B AND SERIES 1997 C

RECEIPT FOR BOND PROCEEDS

The undersigned William M. Liposchak, Chairman of the Brooke County Public Service District (the "District"), hereby certifies as follows:

1. The District has received and hereby acknowledges receipt from the West Virginia Water Development Authority (the "Authority"), as original purchaser of the $450,000 Brooke County Public Service District Sewer Revenue Bonds, Series 1997 A (the "Series 1997 A Bonds"), of $128,510 being more than a de minimis portion of the purchase price of the Series 1997 A Bonds. The District understands that the remaining proceeds will be advanced to the District from time to time as construction proceeds to completion.

2. The District has received and hereby acknowledges receipt from the Authority, as original purchaser of the $2,163,971 Brooke County Public Service District Sewer Revenue Bonds, Series 1997 B (the "Series 1997 B Bonds"), of $67,747 being more than a de minimis portion of the purchase price of the Series 1997 B Bonds. The District understands that the remaining proceeds will be advanced to the District from time to time as construction proceeds to completion.

3. The District has received and hereby acknowledges receipt from the Authority, as original purchaser of the $450,000 Brooke County Public Service District Sewer Revenue Bonds, Series 1997 C (the "Series 1997 C Bonds"), of $22,500 being more than a de minimis portion of the purchase price of the Series 1997 C Bonds. The District understands that the remaining proceeds will be advanced to the District from time to time as construction proceeds to completion.

IN WITNESS WHEREOF, the Brooke County Public Service District has caused this receipt to be executed by its Chairman on this 9th day of December, 1997.

BROOKE COUNTY PUBLIC SERVICE DISTRICT

By William Liposchak
CHAIRMAN

CHASFS3:107589

DIVISION OF ENVIRONMENTAL PROTECTION
1201 Greenbrier Street
Charleston, WV 25311-1088

CECIL H. UNDERWOOD
GOVERNOR

LAIDLEY ELI MCCOY, Ph.D.
DIRECTOR

February 18, 1997

William Liposchak, Chairman
Brooke County Public Service District
P.O. Box 396
Follansbee, WV 26037

Re: WV/NPDES Permit No. WV0084182
Brooke County PSD

Dear Mr. Liposchak:

Your forms for Permit Application No. WV0084182 for a WV/NPDES Water Pollution Control Permit have been found to be complete.

For your information, the public notice period prescribed in Title 47, Series 10, Section 12.1.b of the West Virginia Legislative Rules issued pursuant to Chapter 22, Article 11 commences on the 27th day of February 1997 in the Brooke County Review.

Within twenty (20) days after publication of the public notice, you are required to send to the Office a certificate of publication. This should be sent to:

Chief, Office of Water Resources, DEP
1201 Greenbrier Street
Charleston, WV 25311-1088
Attention: James Waycaster,
Information Specialist

Enclosed are copies of your draft permit, any required fact sheet and the public notice. If you have any questions, please do not hesitate to contact this office at 304-558-4086, or our Public Information Office at 304-558-3614, or either by TDD at 304-558-2751.

Very truly yours,

OFFICE OF WATER RESOURCES

Maris L Lucas for

Robert A. Bates
Permits

md
Enclosures
cc: Environmental Inspector Supervisor
Environmental Inspector

WV MUNICIPAL BOND COMMISSION
Suite 300 - L & S Building
812 Quarrier Street, Charleston, WV 25301
(304) 348-3971

NEW ISSUE REPORT FORM
Date of Report: December 9, 1997

ISSUE: $450,000 Brooke County Public Service District Sewer Revenue Bonds, Series 1997A
ADDRESS: RD2, Box 45-A, Wellsburg, WV 25070 COUNTY: Brooke
PURPOSE OF ISSUE: New Money X
Refunding _____ Refunds issue(s) dated: _____

ISSUE DATE: December 9, 1997 CLOSING DATE: December 9, 1997
ISSUE AMOUNT: $450,000 RATE: 0%
1st DEBT SERVICE DUE: September 1, 1999 1st PRINCIPAL DUE: September 1, 1999
1st DEBT SERVICE AMOUNT: $5,696.21 PAYING AGENT: WV Municipal Bond Commission

ISSUERS
BOND COUNSEL: Jackson & Kelly
Contact Person: Christopher Callas, Esquire
Phone: (304) 340-1251

UNDERWRITERS
BOND COUNSEL: _____
Contact Person: _____
Phone: _____

(DEPOSITORY)
CLOSING BANK: Advance Financial Saving
Contact Person: Stephen Gagliardi
Phone: (304) 737-3531

ESCROW TRUSTEE: _____
Contact Person : _____
Phone: _____

KNOWLEDGEABLE ISSUER CONTACT:
Contact Person: William Liposchak
Position: Chairman
Phone: (304) 394-1282

OTHER: Brooke-Hancock-Jefferson Met. Planning Comm.
Contact Person: Suzanne Gad
Function: Project Administrator
Phone: (304) 797-9666

DEPOSITS TO MBC AT CLOSE:
By _____ Wire
X Check(s)

_____ Accrued Interest: $_____
_____ Capitalized Interest: $_____
X Reserve Account: $ 22,785.00
_____ Other: _____ $_____

REFUNDS & TRANSFERS BY MBC AT CLOSE:
By _____ Wire
_____ Check
_____ IGT

_____ To Escrow Trustee: $_____
_____ To Issuer: $_____
_____ To Cons.Invest.Fund $_____
_____ To Other: _____ $_____

NOTES: _____

FOR MUNICIPAL BOND COMMISSION USE ONLY:
Documents Required: _____
Transfers Required: _____

60560

WV MUNICIPAL BOND COMMISSION
Suite 300 - L & S Building
812 Quarrier Street, Charleston, WV 25301
(304) 348-3971

NEW ISSUE REPORT FORM
Date of Report: December 9, 1997

ISSUE: $2,163,971 Brooke County Public Service District Sewer Revenue Bonds, Series 1997B
ADDRESS: RD2, Box 45-A, Wellsburg, WV 25070 COUNTY: Brooke
PURPOSE OF ISSUE: New Money X
Refunding _____ Refunds issue(s) dated: _____

ISSUE DATE: December 9, 1997 CLOSING DATE: December 9, 1997
ISSUE AMOUNT: $2,163,971 RATE: 0%
1st DEBT SERVICE DUE: September 1, 1999 1st PRINCIPAL DUE: September 1, 1999
1st DEBT SERVICE AMOUNT: $14,051.76 PAYING AGENT: WV Municipal Bond Commission

ISSUERS
BOND COUNSEL: Jackson & Kelly
Contact Person: Christopher Callas, Esquire
Phone: (304) 340-1251

UNDERWRITERS
BOND COUNSEL: _____
Contact Person: _____
Phone: _____

(DEPOSITORY)
CLOSING BANK: Advance Financial Saving
Contact Person: Stephen Gagliardi
Phone: (304) 737-3531

ESCROW TRUSTEE: _____
Contact Person : _____
Phone: _____

KNOWLEDGEABLE ISSUER CONTACT:
Contact Person: William Liposchak
Position: Chairman
Phone: (304) 394-1282

OTHER: Brooke-Hancock-Jefferson Met. Planning Comm.
Contact Person: Suzanne Gad
Function: Project Administrator
Phone: (304) 797-9666

DEPOSITS TO MBC AT CLOSE:
By _____ Wire
X Check(s)

_____ Accrued Interest: $_____
_____ Capitalized Interest: $_____
X Reserve Account: $56,208.00
_____ Other: _____ $_____

REFUNDS & TRANSFERS BY MBC AT CLOSE:
By _____ Wire
_____ Check
_____ IGT

_____ To Escrow Trustee: $_____
_____ To Issuer: $_____
_____ To Cons.Invest.Fund $_____
_____ To Other: _____ $_____

NOTES: _____

FOR MUNICIPAL BOND COMMISSION USE ONLY:
Documents Required: _____
Transfers Required: _____

60560

WV MUNICIPAL BOND COMMISSION
Suite 300 - L & S Building
812 Quarrier Street, Charleston, WV 25301
(304) 348-3971

NEW ISSUE REPORT FORM
Date of Report: December 9, 1997

ISSUE: $450,000 Brooke County Public Service District Sewer Revenue Bonds, Series 1997C
ADDRESS: RD2, Box 45-A, Wellsburg, WV 25070 COUNTY: Brooke
PURPOSE OF ISSUE: New Money X
Refunding _____ Refunds issue(s) dated: _____

ISSUE DATE: December 9, 1997 CLOSING DATE: December 9, 1997
ISSUE AMOUNT: $450,000 RATE: 1%
st DEBT SERVICE DUE: June 1, 2019* 1st PRINCIPAL DUE: June 1, 2019*
1st DEBT SERVICE AMOUNT: $6,587.54 PAYING AGENT: WV Municipal Bond Commission

ISSUERS
BOND COUNSEL: Jackson & Kelly
Contact Person: Christopher Callas, Esquire
Phone: (304) 340-1251

UNDERWRITERS
BOND COUNSEL: _____
Contact Person: _____
Phone: _____

(DEPOSITORY)
CLOSING BANK: Advance Financial Saving
Contact Person: Stephen Gagliardi
Phone: (304) 737-3531

ESCROW TRUSTEE: _____
Contact Person : _____
Phone: _____

KNOWLEDGEABLE ISSUER CONTACT:
Contact Person: William Liposchak
Position: Chairman
Phone: (304) 394-1282

OTHER: Brooke-Hancock-Jefferson Met. Planning Comm.
Contact Person: _____
Function: Project Administrator
Phone: (304) 797-9666

DEPOSITS TO MBC AT CLOSE:
By _____ Wire
X Check(s)

_____ Accrued Interest: $_____
_____ Capitalized Interest: $_____
X Reserve Account: $ 26,351.00
_____ Other: _____ $_____

REFUNDS & TRANSFERS BY MBC AT CLOSE:
By _____ Wire
_____ Check
_____ IGT

_____ To Escrow Trustee: $_____
_____ To Issuer: $_____
_____ To Cons.Invest.Fund $_____
_____ To Other: _____ $_____

NOTES: * or such earlier or later date as provided for in Section 5.03A(2) of the Bond Resolution.

FOR MUNICIPAL BOND COMMISSION USE ONLY:
Documents Required: _____
Transfers Required: _____

JACKSON & KELLY
ATTORNEYS AT LAW
1600 LAIDLEY TOWER
P. O. BOX 553
CHARLESTON, WEST VIRGINIA 25322

TELEPHONE 304-340-1000 TELECOPIER 304-340-1130

WRITER'S DIRECT DIAL NO.

300 FOXCROFT AVENUE
MARTINSBURG, WEST VIRGINIA 25402
TELEPHONE 304-263-8800

258 RUSSELL AVENUE
NEW MARTINSVILLE, WEST VIRGINIA 26155
TELEPHONE 304-455-1751

6000 HAMPTON CENTER
MORGANTOWN, WEST VIRGINIA 26505
TELEPHONE 304-599-3000

412 MARKET STREET
PARKERSBURG, WEST VIRGINIA 26101
TELEPHONE 304-424-3490

1000 TECHNOLOGY DRIVE
FAIRMONT, WEST VIRGINIA 26554
TELEPHONE 304-368-2000

1144 MARKET STREET
WHEELING, WEST VIRGINIA 26003
TELEPHONE 304-233-4000

1660 LINCOLN STREET
DENVER, COLORADO 80264
TELEPHONE 303-390-0003

175 EAST MAIN STREET
LEXINGTON, KENTUCKY 40595
TELEPHONE 606-255-9500

2401 PENNSYLVANIA AVENUE N.W.
WASHINGTON, D.C. 20037
TELEPHONE 202-973-0200

Jackson & Kelly is a member of Lex Mundi, a global association of more than 120 independent law firms

3.1(A)

December 9, 1997

West Virginia Division of Environmental
Protection
Division of Water Resources
617 Broad Street
Charleston, WV 25301

West Virginia Water Development Authority
180 Association Drive
Charleston, WV 25311-1571

Re: Brooke County Public Service District Sewer Revenue Bonds, Series 1997 A

Ladies and Gentlemen:

We are bond counsel to the Brooke County Public Service District (the "Local Government"), a public corporation and political subdivision of the State of West Virginia.

We have examined a certified copy of proceedings and other papers relating to (i) the authorization of a loan agreement dated November 6, 1997, including all schedules and exhibits attached thereto, by and among the Local Government, the West Virginia Division of Environmental Protection and the West Virginia Water Development Authority (the "Authority") for the Series 1997 A Bonds (the "Loan Agreement") and (ii) the issue of a series of revenue bonds of the Local Government, dated December 9, 1997 (the "Local Bonds"), to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Series 1997 A Bonds are in the principal amount of $450,000, issued in the form of one bond registered as to principal to the Authority, with the principal payable March 1, June 1, September 1, and December 1 of each year, beginning September 1, 1998, and shall bear no interest as set forth in "Schedule Y," attached to the Loan Agreement and incorporated in and made a part of the Local Bonds.

The Local Bonds are issued for the purpose of paying a portion of the costs of the acquisition and construction of the extensions, additions, betterments, and improvements to the existing sanitary sewer system of the Local Government (the "Project"), funding a Reserve Account for the Local Bonds, and paying certain issuance and other costs in connection therewith.

We have also examined the applicable provisions of Chapter 16, Article 13A and Chapter 22C, Article 2 of the Code of West Virginia, 1931, as amended (collectively, the "Local Statute"), and the bond resolution duly adopted by the Local Government on November 12, 1997, as supplemented on November 12, 1997 (collectively, the "Local Act"), pursuant to and under which Local Statute and Local Act the Local Bonds are authorized and issued, and the Loan Agreement has been undertaken. The Local Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Local Act and the Loan Agreement.

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

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

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

3. The Local Government is a duly organized and presently existing public corporation and political subdivision of the State of West Virginia, with full power and authority to construct and acquire the Project and to operate and maintain the System referred to in the Loan Agreement and to issue and sell the Local Bonds, all under the Local Statute and other applicable provisions of law.

4. The Local Government has legally and effectively enacted the Local Act and all other necessary resolutions in connection with the issuance and sale of the Local Bonds. The Local Act contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

5. The Local Bonds are valid and legally enforceable special obligations of the Local Government, payable from the Net Revenues of the System referred to in the

Local Act on a parity with the Local Government's Series 1997 B Bonds and Series 1997 C Bonds issued simultaneously herewith and secured by a first parity lien on and pledge of the Net Revenues of said System, all in accordance with the terms of the Local Bonds and the Local Act, and have been duly issued and delivered to the Authority.

6. The Local Government has reserved the right to issue additional bonds ranking on a parity with the Local Bonds, as provided in the Local Statute and pursuant to the Local Act.

7. The Local Bonds are, under the Act, exempt from taxation by the State of West Virginia and the other taxing bodies of the State.

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

We have examined executed and authenticated Local Bond numbered AR-1 and in our opinion the form of said bond and its execution and authentication is regular and proper.

Very truly yours,

Jackson & Kelly

JACKSON & KELLY
ATTORNEYS AT LAW
1600 LAIDLEY TOWER
P. O. BOX 553
CHARLESTON, WEST VIRGINIA 25322

TELEPHONE 304-340-1000 TELECOPIER 304-340-1130
WRITER'S DIRECT DIAL NO.

300 FOXCROFT AVENUE
MARTINSBURG, WEST VIRGINIA 25402
TELEPHONE 304-263-8800

256 RUSSELL AVENUE
NEW MARTINSVILLE, WEST VIRGINIA 26155
TELEPHONE 304-455-1751

6000 HAMPTON CENTER
MORGANTOWN, WEST VIRGINIA 26505
TELEPHONE 304-599-3000

412 MARKET STREET
PARKERSBURG, WEST VIRGINIA 26101
TELEPHONE 304-424-3490

1000 TECHNOLOGY DRIVE
FAIRMONT, WEST VIRGINIA 26554
TELEPHONE 304-368-2000

1144 MARKET STREET
WHEELING, WEST VIRGINIA 26003
TELEPHONE 304-233-4000

1660 LINCOLN STREET
DENVER, COLORADO 80264
TELEPHONE 303-390-0003

175 EAST MAIN STREET
LEXINGTON, KENTUCKY 40595
TELEPHONE 606-255-9500

2401 PENNSYLVANIA AVENUE N W
WASHINGTON, D.C 20037
TELEPHONE 202-973-0200

Jackson & Kelly is a member of Lex Mundi, a global association of more than 120 independent law firms

December 9, 1997

3.1(B)

West Virginia Infrastructure and Jobs
Development Council
980 One Valley Square
Charleston, WV 25301

West Virginia Water Development Authority
180 Association Drive
Charleston, WV 25311-1571

Re: Brooke County Public Service District Sewer Revenue Bonds, Series 1997 B

Ladies and Gentlemen:

We are bond counsel to the Brooke County Public Service District (the "Local Government"), a public corporation and political subdivision of the State of West Virginia.

We have examined a certified copy of proceedings and other papers relating to (i) the authorization of a loan agreement dated December 9, 1997, including all schedules and exhibits attached thereto, by and between the Local Government and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Infrastructure Council") (the "Loan Agreement"), and (ii) the issue of a series of revenue bonds of the Local Government, dated December 9, 1997 (the "Local Bonds"), to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Local Bonds are in the principal amount of $2,163,971, issued in the form of one bond registered as to principal to the Authority, with principal payable March 1, June 1, September 1 and December 1 of each year, beginning September 1, 1999, and shall bear no interest and are as set forth in "Schedule Y," attached to the Loan Agreement and incorporated in and made a part of the Local Bonds.

The Local Bonds are issued for the purpose of paying a portion of the costs of the acquisition and construction of the extensions, additions, betterments, and improvements to the existing sanitary sewer of the Local Government (the "Project") and paying certain issuance and other costs in connection therewith.

We have also examined the applicable provisions of Chapter 16, Article 13A and Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended (the "Local Statute"), and the bond resolution duly adopted by the Local Government on November 12, 1997, as supplemented on November 12, 1997 (collectively, the "Local Act"), pursuant to and under which Local Statute and Local Act the Local Bonds are authorized and issued, and the Loan Agreement has been undertaken. The Local Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Local Act and the Loan Agreement.

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

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

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

3. The Local Government is a duly organized and presently existing public corporation and political subdivision of the State of West Virginia, with full power and authority to construct and acquire the Project and to operate and maintain the System referred to in the Loan Agreement and to issue and sell the Local Bonds, all under the Local Statute and other applicable provisions of law.

4. The Local Government has legally and effectively enacted the Local Act and all other necessary resolutions in connection with the issuance and sale of the Local Bonds. The Local Act contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

5. The Local Bonds are valid and legally enforceable special obligations of the Local Government, payable from the Net Revenues of the System referred to in the Local Act on a parity with the Local Government's Series 1997 A Bonds and Series 1997 C Bonds issued simultaneously herewith and secured by a first parity lien on and pledge of the Net Revenues of said System, all in accordance with the terms of the Local Bonds and the Local Act, and have been duly issued and delivered to the Authority.

6. The Local Government has reserved the right to issue additional bonds ranking on a parity with the Local Bonds, as provided in the Local Statute and pursuant to the Local Act.

7. The Local Bonds are, under the Act, exempt from taxation by the State of West Virginia and the other taxing bodies of the State.

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

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

Very truly yours,

Jackson & Kelly

JACKSON & KELLY
ATTORNEYS AT LAW
1600 LAIDLEY TOWER
P. O. BOX 553
CHARLESTON, WEST VIRGINIA 25322

TELEPHONE 304-340-1000 TELECOPIER 304-340-1130

WRITER'S DIRECT DIAL NO.

300 FOXCROFT AVENUE
MARTINSBURG, WEST VIRGINIA 25402
TELEPHONE 304-263-8800

256 RUSSELL AVENUE
NEW MARTINSVILLE, WEST VIRGINIA 26155
TELEPHONE 304-455-1751

6000 HAMPTON CENTER
MORGANTOWN, WEST VIRGINIA 26505
TELEPHONE 304-599-3000

412 MARKET STREET
PARKERSBURG, WEST VIRGINIA 26101
TELEPHONE 304-424-3490

1000 TECHNOLOGY DRIVE
FAIRMONT, WEST VIRGINIA 26554
TELEPHONE 304-368-2000

1144 MARKET STREET
WHEELING, WEST VIRGINIA 26003
TELEPHONE 304-233-4000

1660 LINCOLN STREET
DENVER, COLORADO 80264
TELEPHONE 303-390-0003

175 EAST MAIN STREET
LEXINGTON, KENTUCKY 40595
TELEPHONE 606-255-9500

2401 PENNSYLVANIA AVENUE N W
WASHINGTON, D C 20037
TELEPHONE 202-973-0200

Jackson & Kelly is a member of Lex Mundi, a global association of more than 120 independent law firms

December 9, 1997

3.1(C)

West Virginia Infrastructure and Jobs
Development Council
980 One Valley Square
Charleston, WV 25301

West Virginia Water Development Authority
180 Association Drive
Charleston, WV 25311-1571

Re: Brooke County Public Service District Sewer Revenue Bonds, Series 1997 C

Ladies and Gentlemen:

We are bond counsel to the Brooke County Public Service District (the "Local Government"), a public corporation and political subdivision of the State of West Virginia.

We have examined a certified copy of proceedings and other papers relating to (i) the authorization of the loan agreement dated December 9, 1997, including all schedules and exhibits attached thereto, by and between the Local Government and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Infrastructure Council") (the "Loan Agreement"), and (ii) the issue of a series of revenue bonds of the Local Government, dated December 9, 1997 (the "Local Bonds"), to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Local Bonds are in the principal amount of $450,000, issued in the form of one bond registered as to principal and interest to the Authority, with both principal and interest payable March 1, June 1, September 1 and December 1 of each year, beginning June 1, 2019, or such earlier or later date as provided for in Section 5.03A(2) of the hereinafter-defined Local Resolution, and shall bear interest at the rate of one percent (1%) per annum, as set forth in "Schedule Y," attached to the Loan Agreement and incorporated in and made a part of the Local Bonds.

The Local Bonds are issued for the purpose of paying a portion of the costs of the acquisition and construction of the extensions, additions, betterments, and improvements to the existing of the sanitary sewer collection system of the Local Government (the "Project") and paying certain issuance and other costs in connection therewith.

We have also examined the applicable provisions of Chapter 16, Article 13A and Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended (the "Local Statute"), and the bond resolution duly adopted by the Local Government on November 12, 1997 (the "Local Resolution"), as supplemented by a supplemental resolution adopted on November 12, 1997 (together with the Local Resolution, the "Local Act"), pursuant to and under which Local Statute and Local Act the Local Bonds are authorized and issued, and the Loan Agreement has been undertaken. The Local Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Local Act and the Loan Agreement.

In connection with the issuance of the Local Bonds, the Local Government has executed a Certificate as to Non-Arbitrage, dated as of the date hereof (the "Certificate as to Non-Arbitrage"), which, among other things, sets forth restrictions on the investment and expenditure of the Local Bond proceeds and earnings thereon, to ensure that the arbitrage requirements of the Internal Revenue Code of 1986, as amended, and regulations thereunder (collectively, the "Code"), necessary to establish and maintain the excludability of interest on the Local Bonds from gross income for federal income tax purposes, are and will continue to be met.

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

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

2. The Loan Agreement inures to the benefit of the Authority, acting on behalf of the Infrastructure Council, and cannot be amended so as to affect adversely the rights of the Authority or the Infrastructure Council or diminish the obligations of the Local Government without the consent of the Authority and the Infrastructure Council.

3. The Local Government is a duly organized and presently existing public corporation and political subdivision of the State of West Virginia, with full power and

authority to construct and acquire the Project and to operate and maintain the System referred to in the Loan Agreement and to issue and sell the Local Bonds, all under the Local Statute and other applicable provisions of law.

4. The Local Government has legally and effectively enacted the Local Act and all other necessary resolutions in connection with the issuance and sale of the Local Bonds. The Local Act contains provisions and covenants substantially in the form of those set forth in the Loan Agreement.

5. The Local Bonds are valid and legally enforceable special obligations of the Local Government, payable from the Net Revenues of the System referred to in the Local Act on a parity with the Local Government's Series 1997 A and Series 1997 B Bonds issued simultaneously herewith, and secured by a first parity lien on and pledge of the Net Revenues of said System, all in accordance with the terms of the Local Bonds and the Local Act, and have been duly issued and delivered to the Authority.

6. The Local Government has reserved the right to issue additional bonds ranking on a parity with the Local Bonds, as provided in the Local Statute and pursuant to the Local Act.

7. Under existing laws, regulations, public rulings, and judicial decisions, interest on the Local Bonds is excludable from the gross income of the owners thereof for federal income tax purposes and is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations. It should be noted, however, that, for the purpose of computing the alternative minimum tax imposed on corporations (as defined for federal income tax purposes), such interest is taken into account in determining the adjusted current earnings. The opinions set forth above are subject to the condition that the Local Government comply, on a continuing basis, with all covenants, certifications, expectations and representations set forth in the Local Act, the Certificate as to Non-Arbitrage, and other certificates relating to tax-exemption and all requirements of Code that must be satisfied subsequent to the issuance of the Local Bonds in order that interest thereon be, or continue to be, excludable from gross income for federal income tax purposes. Failure to comply with certain of such Code provisions or covenants, certifications, expectations, or representations may cause the interest on the Local Bonds to be includable in gross income for federal income tax purposes retroactive to the date of issuance of the Local Bonds. We express no opinion regarding other federal tax consequences arising with respect to the Local Bonds.

8. The Local Bonds are, under the Act, exempt from taxation by the State of West Virginia and the other taxing bodies of the State.

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

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

Very truly yours,

Jackson & Kelly

CHASFS3:107600

WAYNE R. MIELKE
ATTORNEY AT LAW
801 CHARLES STREET
WELLSBURG, W.VA. 26070

304-737-1770

December 9, 1997

West Virginia Infrastructure and Jobs
Development Council
980 One Valley Square
Charleston, WV 25301

West Virginia Division of Environmental
Protection
617 Broad Street
Charleston, WV 25301

West Virginia Water Development Authority
180 Association Drive
Charleston, WV 25311-1571

Jackson & Kelly
P.O. Box 553
Charleston, WV 25322

Re: Brooke County Public Service District
$450,000 Sewer Revenue Bonds, Series 1997 A
$2,163,971 Sewer Revenue Bonds, Series 1997 B
$450,000 Sewer Revenue Bonds, Series 1997 C

Ladies and Gentlemen:

I am counsel to the Brooke County Public Service District, Brooke County, West Virginia (the "Issuer"). As such counsel, I have examined copies of the approving opinions of Jackson & Kelly, as bond counsel, relating to the above-captioned bonds of the the Issuer (the "Bonds"), the Loan Agreement by and among the West Virginia Water Development Authority (the "Authority"), the West Virginia Division of Environmental Protection (the "DEP") and the Issuer, dated November 6, 1997, for the Series 1997 A Bonds; the Loan Agreements by and between the Issuer and the Authority each dated December 9, 1997, for the Series 1997 B Bonds and Series 1997 C Bonds

(collectively, the "Loan Agreements")' a Bond Resolution duly adopted by the Public Service Board (the "Board") of the Issuer on November 12, 1997, as supplemented by a Supplemental Resolution adopted on November 12, 1997, (collectively, the "Resolution"); and other documents relating to the Bonds. Terms used and not otherwise defined in this opinion shall have the same meanings assigned to such terms in the Resolution.

I am of the opinon that:

1. The Loan Agreements have each been duly authorized, executed and delivered by the Issuer and, assuming due authorization, execution and delivery by the Authority, constitute valid and binding agreements of the Issuer in accordance with their terms.

2. The Officers and members of the Board were duly and properly elected or appointed and are thereby authorized to act on behalf of the Issuer.

3. The Resolution has been duly enacted by the Board of the Issuer and is in full force and effect.

4. The execution and delivery of the Bonds and the Loan Agreements and the consummation of the transactions contemplated by the Loan Agreements, and the carrying out of the terms thereof, do not and will not in any material respect conflict with or constitute on the part of the Issuer a breach of or default under any agreement or other instrument to which the Issuer is a party of any existing law, regulation, court order or consent decree to which the Issuer is subject.

5. The Issuer has received all the necessary permits, licenses, approvals and authorizations regarding the construction of the Project.

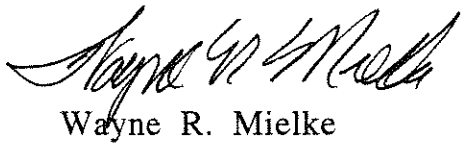
6. The Issuer has received from the Public Service Commission (the "PSC") a Recommended Decision dated September 16, 1997, which became the Final Order on October 6, 1997, in Case No. 97-0333-PSD-CN, granting the Issuer a Certificate of Convenience and Necessity and approval of financing.

7. The Issuer's rates as approved by the PSC are in full force and effect.

8. The Issuer has the authority to pledge the Net Revenues to pay the debt service on the Bonds and to pay the operation and maintenance costs of the System.

9. To the best of my knowledge, there is no action, suit, proceeding or investigation at law or in equity before or by any court, public council or body, pending or threatened, wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by or the validity of the Bonds or the collection or pledge of the Revenues therefor.

Very truly yours,



Wayne R. Mielke
Attorney for the Issuer

CERTIFICATE OF PROJECT SITE ACQUISITIONS

I, WAYNE R. MIELKE, Attorney at Law, representing the Brooke County Public Service District, Brooke County, West Virginia, as Title Counsel, do hereby certify:

1. That I have investigated and ascertained the location of, and am familiar with the legal description of the necessary sites (including easements and/or rights of way) being provided by the Grantee for all of the water pollution control facilities involved in this project.

2. That I have examined the deed records of Brooke County, being the county in which this project is located and, in my opinion, the Grantee has, or will have prior to the start of actual construction, a legal and valid fee simple title or such other estate or interest in the necessary site components for the project, including easements and/or rights-of-ways, sufficient to assure undisturbed use and possession for the purpose of construction, operation and maintenance for the estimated life of the facilities.

That there are, at this time, as reported to me, the following outstanding properties for which easements are required:

a.	Frances Jennings	Sht. 8, Map and Parcel No. 10K x 13
b.	Leo Falcon	Sht. 35, Map and Parcel No. 6P x 2
c.	George Barnhart	Sht. 7, Map and Parcel No. 10F x 5.1.2
d.	Peter Carbasho	Sht. 13, Map and Parcel No. 10 x 3
e.	Mary Carbasho	Sht. 13, Map and Parcel No. 10 x 3.1
f.	Dennis White	Sht. 14, Map and Parcel No. 19D x 15

In addition, we are still awaiting a signed agreement from Bell Atlantic, but we are advised that this agreeement will definitely be signed. See letter of Bell Atlantic attached hereto.

3. That the Grantee will intitiate formal condemnation proceedings, if necessary, or or before February 1, 1997, which is the anticipated construction start date, to acquire any remaining necessary site components for the project to assure undisturbed use and posssession for the purpose of construction, operation and maintenance for the estimated life of the facilities.

4. That any deeds or documents required to be recorded in order to protect the title of the owner and interest of the Grantee will

be duly recorded and filed for record whenever necessary, or in the case where condemnation proceedings are necessary, such deeds or documents will be recorded prior to the beginning of construction.

5. That all necessary permits as may be required by governing authorization have been or will be acquired without delay to the construction.

DATED this 8th day of December, 1997.

Wayne R. Mielke
Attorney at Law
801 Charles Street
Wellsburg, W.Va. 26070

BELL ATLANTIC

Memo

To: Susan Gadd Fax: 614 282-1621

From: Charlene Hoback
Assistant Manager-Real Estate

Date: December 5, 1997

Re: Right of Way for Sanitary Sewer Line

Bell Atlantic feels a sanitary sewer line will be an improvement to this area and will definitely sign a right of way agreement. The Right of Way Agreement received today has been forwarded to our Real Estate attorney for approval. Based on the language that was added to the agreement, I don't feel there will be a problem getting his approval. I will fax a signed document to you as soon as I hear from him. If you have any questions, please don't hesitate to contact me on 304 344-6339.

Charlene Hoback