

HANCOCK COUNTY PUBLIC SERVICE DISTRICT

**Sewer Revenue Bonds, Series 1999
(West Virginia SRF Program)**

BOND TRANSCRIPT

Table of Contents

BASIC DOCUMENTS

1. Bond Resolution
2. Supplemental Resolution
3. Loan Agreement
4. Public Service Commission Orders
5. Infrastructure and Jobs Development Council Approval
6. Cross-Receipt for Bonds and Bond Proceeds
7. Direction to Authenticate and Deliver Bonds
8. Specimen Bond

OPINIONS OF COUNSEL

9. Approving Opinion of Steptoe & Johnson, Bond Counsel
- 10A. Opinion of Counsel to Issuer
- 10B. Litigation Opinion of Special Counsel to Issuer
11. Title Opinion

CERTIFICATES

12. General Certificate of Issuer and Attorney
13. Certificate of Engineer, with Schedule A Attached

14. Certificate of Certified Public Accountant

DOCUMENTS OF THE ISSUER

15. County Commission Orders on Creation of District
16. County Commission Orders Appointing Current Boardmembers
17. Oaths of Office of Current Boardmembers
18. Rules of Procedure
19. Affidavit of Publication on Borrowing
20. [RESERVED]
21. Minutes of Current Year Organizational Meeting and on Adoption of Bond Resolution and Supplemental Resolution
22. Municipal Bond Commission New Issue Report

MISCELLANEOUS DOCUMENTS

23. Acceptance by United National Bank of Appointment as Depository Bank
24. Acceptance by One Valley Bank, National Association, of Duties as Registrar
25. Certificate of Registration of Bonds
26. Registrar's Agreement
27. Series 1995 A and Series 1995 B Bond Resolution and Supplemental Resolution
28. Series 1995 C Bond Resolution and Supplemental Resolution
29. Consent of 1995 A, 1995 B and 1995 C Bondholder
30. Sewer Facilities User Agreement between Issuer and Mountaineer Park, Inc.
31. NPDES Permit
32. DEP Letter on Source of Funds

HANCOCK COUNTY PUBLIC SERVICE DISTRICT

**SEWER REVENUE BONDS, SERIES 1999
(WEST VIRGINIA SRF PROGRAM)**

BOND RESOLUTION

Table of Contents

Subject		Page
ARTICLE I		
STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS		
Section 1.01	Authority for this Resolution	1
Section 1.02	Findings	1
Section 1.03	Bond Legislation Constitutes Contract	4
Section 1.04	Definitions	4
ARTICLE II		
AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF THE PROJECT		
Section 2.01	Authorization of Acquisition and Construction of the Project	12
ARTICLE III		
AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND SALE OF BONDS; AUTHORIZATION AND EXECUTION OF LOAN AGREEMENT		
Section 3.01	Authorization of Bonds	13
Section 3.02	Terms of Bonds	13
Section 3.03	Execution of Bonds	14
Section 3.04	Authentication and Registration	14
Section 3.05	Negotiability, Transfer and Registration	14
Section 3.06	Bonds Mutilated, Destroyed, Stolen or Lost	15

Section 3.07	Bonds not to be Indebtedness of the Issuer	15
Section 3.08	Bonds Secured by Pledge of Net Revenues; Lien Position with respect to Prior Bonds	16
Section 3.09	Delivery of Bonds	16
Section 3.10	Form of Bonds	16
	FORM OF BOND	17
Section 3.11	Sale of Bonds; Approval and Ratification of Execution of Loan Agreement	25
Section 3.12	"Amended Schedule" Filing	25

**ARTICLE IV
[RESERVED]** 26

**ARTICLE V
FUNDS AND ACCOUNTS; SYSTEM REVENUES AND APPLICATION
THEREOF**

Section 5.01	Establishment of Funds and Accounts with Depository Bank	27
Section 5.02	Establishment of Funds and Accounts with Commission	27
Section 5.03	System Revenues; Flow of Funds	28

**ARTICLE VI
BOND PROCEEDS; CONSTRUCTION DISBURSEMENTS**

Section 6.01	Application of Bond Proceeds; Pledge of Unexpended Bond Proceeds	33
Section 6.02	Disbursements From the Bond Construction Trust Fund	33

**ARTICLE VII
ADDITIONAL COVENANTS OF THE ISSUER**

Section 7.01	General Covenants of the Issuer	35
Section 7.02	Bonds not to be Indebtedness of the Issuer	35
Section 7.03	Bonds Secured by Pledge of Net Revenues; Lien Position with respect to Prior Bonds	35
Section 7.04	Initial Schedule of Rates and Charges	35
Section 7.05	Sale of the System	36
Section 7.06	Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances	37
Section 7.07	Parity Bonds	37
Section 7.08	Books; Records and Audit	39
Section 7.09	Rates	41

Section 7.10	Operating Budget and Monthly Financial Report	41
Section 7.11	Engineering Services and Operating Personnel	42
Section 7.12	No Competing Franchise	43
Section 7.13	Enforcement of Collections	43
Section 7.14	No Free Services	43
Section 7.15	Insurance and Construction Bonds	44
Section 7.16	Mandatory Connections	45
Section 7.17	Completion, Operation and Maintenance of Project; Permits and Orders	46
Section 7.18	Statutory Mortgage Lien	46
Section 7.19	Compliance with Loan Agreement and Law	46
Section 7.20	Securities Laws Compliance	46
Section 7.21	Contracts; Public Releases	47

**ARTICLE VIII
INVESTMENT OF FUNDS**

Section 8.01	Investments	48
--------------	-------------	----

**ARTICLE IX
DEFAULT AND REMEDIES**

Section 9.01	Events of Default	49
Section 9.02	Remedies	49
Section 9.03	Appointment of Receiver	49

**ARTICLE X
PAYMENT OF BONDS**

Section 10.01	Payment of Bonds	52
---------------	------------------	----

**ARTICLE XI
MISCELLANEOUS**

Section 11.01	Amendment or Modification of Bond Legislation	53
Section 11.02	Bond Legislation Constitutes Contract	53
Section 11.03	Severability of Invalid Provisions	53
Section 11.04	Headings, Etc.	53
Section 11.05	Notices	53
Section 11.06	Conflicting Provisions Repealed; Prior Resolutions	54
Section 11.07	Covenant of Due Procedure, Etc.	54

Section 11.08	Public Notice of Proposed Financing	54
Section 11.09	Effective Date	55
	SIGNATURES	55
	CERTIFICATION	56
	EXHIBIT A	57

HANCOCK COUNTY PUBLIC SERVICE DISTRICT

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF IMPROVEMENTS AND EXTENSIONS TO THE EXISTING PUBLIC SEWERAGE FACILITIES OF HANCOCK COUNTY PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN \$4,996,347 IN ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 1999 (WEST VIRGINIA SRF PROGRAM); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED 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 RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

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

ARTICLE I

STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01. Authority for this Resolution. This Resolution (together with any order or resolution supplemental hereto or amendatory hereof, the "Bond Legislation"), is adopted pursuant to the provisions of Chapter 16, Article 13A and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"), and other applicable provisions of law.

Section 1.02. Findings. It is hereby found, determined and declared that:

A. Hancock County Public Service District (the "Issuer") is a public service district and a public corporation and political subdivision of the State of West Virginia in Hancock County of said State.

B. The Issuer presently owns and operates a public sewerage system. However, it is deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer that there be acquired and constructed certain improvements and extensions to the existing public sewerage facilities of the Issuer, consisting of a 300,000 gallons per day sequencing batch reactor plant, approximately 3,902 linear feet of two-inch diameter force main, 2,970 linear feet of three-inch diameter force main, 15,540 linear feet of four-inch diameter force main, 14,500 linear feet of eight-inch diameter gravity sewer, two lift stations, and six grinder pumps, together with all appurtenant facilities (collectively, the "Project"), which constitute properties for the collection, treatment, purification or disposal of liquid or solid wastes, sewage or industrial wastes (the Project and any further improvements or extensions thereto are herein called the "System") in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have heretofore been filed with the Issuer.

C. The Issuer intends to permanently finance a portion of the costs of acquisition and construction of the Project through the issuance of its revenue bonds to the West Virginia Water Development Authority (the "Authority"), in connection with the West Virginia Water Pollution Control Revolving Fund which the Authority administers pursuant to the Act.

D. It is deemed necessary for the Issuer to issue its Sewer Revenue Bonds, Series 1999 (West Virginia SRF Program), in the aggregate principal amount of not more than \$4,996,347 (the "Series 1999 Bonds"), to permanently finance a portion of the costs of acquisition and construction of the Project. The remaining costs of the Project shall be funded from the sources set forth in Section 2.01 hereof. Said costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor; interest, if any, upon the Series 1999 Bonds prior to and during acquisition and construction of the Project and for a period not exceeding 6 months after completion of acquisition and construction of the Project; amounts which may be deposited in the Reserve Accounts (as hereinafter defined); engineering and legal expenses; expenses for estimates of costs and revenues, expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense, commitment fees, fees and expenses of the Authority, including the SRF Administrative Fee (as hereinafter defined), discount, initial fees for the services of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Series 1999 Bonds and such other expenses as may be necessary or incidental to the financing herein authorized, the acquisition or construction of the Project and the placing of same in operation, and the performance of the things herein required or permitted, in connection with any thereof; provided, that reimbursement to the Issuer for any amounts

expended by it for allowable costs prior to the issuance of the Series 1999 Bonds or the repayment of indebtedness incurred by the Issuer for such purposes shall be deemed Costs of the Project, as hereinafter defined.

E. The period of usefulness of the System after completion of the Project is not less than 25 years.

F. It is in the best interests of the Issuer that its Series 1999 Bonds be sold to the Authority pursuant to the terms and provisions of the loan agreement by and among the Issuer, the Authority, and the West Virginia Department of Environmental Protection, a division of the West Virginia Bureau of the Environment (the "DEP"), in form satisfactory to the respective parties (the "Loan Agreement"), approved hereby if not previously approved by resolution of the Issuer.

G. There are outstanding obligations of the Issuer which will rank on a parity with the Series 1999 Bonds as to liens, pledge and source of and security for payment, being (i) the Sewer Revenue Bonds, Series 1995 A (West Virginia Water Development Authority), dated December 7, 1995, issued in the original aggregate principal amount of \$289,532 (the "Series 1995 A Bonds"), (ii) the Sewer Revenue Bonds, Series 1995 B (West Virginia Water Development Authority), dated January 9, 1996, issued in the original aggregate principal amount of \$1,080,088 (the "Series 1995 B Bonds"), and (iii) the Sewer Revenue Bonds, Series 1995 C (West Virginia SRF Program), dated December 7, 1995, issued in the original aggregate principal amount of \$883,974 (the "Series 1995 C Bonds") (collectively, the "Prior Bonds").

The Series 1999 Bonds shall be issued on a parity with the Prior Bonds with respect to liens, pledge and source of and security for payment and in all other respects. Prior to the issuance of the Series 1999 Bonds, the Issuer will obtain a certificate of an Independent Certified Public Accountant stating that the parity test of the Prior Bonds is met and the written consent of the Holders of the Prior Bonds to the issuance of the Series 1999 Bonds on a parity with the Prior Bonds. Other than the Prior Bonds, there are no outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System. The Issuer is in compliance with all the covenants of the Prior Bonds and the Prior Resolutions.

There is an outstanding obligation of the Issuer which does not have a lien on any revenues of the System, nor is it payable from Net Revenues, being the Issuer's Promissory Note to WesBanco Bank Wheeling dated August 4, 1999, issued in the original principal amount of \$80,000.

H. The estimated revenues to be derived in each year following completion of the project from the operation of the System will be sufficient to pay all costs of operation and maintenance of the System, to pay the principal of and interest on the Series 1999 Bonds and the Prior Bonds, and to make payments into all funds and accounts and other payments provided for herein.

I. The Issuer has complied with all requirements of West Virginia law and the Loan Agreement relating to authorization of the acquisition, construction and operation of the Project and the System and issuance of the Series 1999 Bonds, or will have so complied prior to issuance of any thereof, including, among other things and without limitation, the obtaining of a certificate of public convenience and necessity and approval of this financing and necessary user rates and charges described herein from the Public Service Commission of West Virginia by final order, the time for rehearing and appeal of which will either have expired prior to the issuance of the Series 1999 Bonds or such final order will not be subject to appeal or rehearing.

J. The Project has been reviewed and determined to be technically and financially feasible by the Council as required under Chapter 31, Article 15A of the West Virginia Code of 1931, as amended.

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Series 1999 Bonds by those who shall be the Registered Owners of the same from time to time, this Bond Legislation shall be deemed to be and shall constitute a contract between the Issuer and such Registered Owners, and the covenants and agreements herein set forth to be performed by the Issuer shall be for the equal benefit, protection and security of the Registered Owners of any and all of such Series 1999 Bonds, all which shall be of equal rank and without preference, priority or distinction between any one Bond of a series and any other Bonds of the same series, by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

Section 1.04. Definitions. The following terms shall have the following meanings herein unless the context expressly requires otherwise:

"Act" means, collectively, Chapter 16, Article 13A and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended and in effect on the date of adoption hereof.

"Authority" means the West Virginia Water Development Authority, which is expected to be the original purchaser and Registered Owner of the Series 1999 Bonds, or any other agency, board or department of the State of West Virginia that succeeds to the functions of the Authority.

"Authorized Officer" means the Chairman of the Governing Body of the Issuer or any temporary Chairman duly selected by the Governing Body.

"Bondholder," "Holder of the Bonds," "Holder," "Registered Owner" or any similar term whenever used herein with respect to an outstanding Bond or Bonds, means the person in whose name such Bond is registered.

"Bond Legislation," "Resolution," "Bond Resolution" or "Local Act" means this Bond Resolution and all orders and resolutions supplemental hereto or amendatory hereof.

"Bond Registrar" means the bank or other entity to be designated as such in the Supplemental Resolution and its successors and assigns.

"Bonds" means, collectively, the Series 1999 Bonds, the Prior Bonds and any bonds on a parity therewith subsequently authorized to be issued hereunder or by another resolution of the Issuer.

"Bond Year" means the 12-month period beginning on the anniversary of the Closing Date in each year and ending on the day prior to the anniversary date of the Closing Date in the following year, except that the first Bond Year shall begin on the Closing Date.

"Chairman" means the Chairman of the Governing Body of the Issuer.

"Closing Date" means the date upon which there is an exchange of the Series 1999 Bonds for the proceeds or at least a de minimis portion thereof representing the purchase price of the Series 1999 Bonds from the Authority.

"Commission" means the West Virginia Municipal Bond Commission or any other agency of the State of West Virginia that succeeds to the functions of the Commission.

"Consulting Engineers" means L. Robert Kimball & Associates, Inc. of Moon Township, Pennsylvania, or any qualified engineer or firm of engineers, licensed by the State, that shall at any time hereafter be procured by the Issuer as Consulting Engineers for the System or portion thereof in accordance with Chapter 5G, Article 1 of the West Virginia Code of 1931, as amended; provided however, that the Consulting Engineers shall not be a regular, full-time employee of the State or any of its agencies, commissions, or political subdivisions.

"Costs" or "Costs of the Project" means those costs described in Section 1.02D hereof to be a part of the cost of acquisition and construction of the Project.

"DEP" means the 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 to the functions of the DEP.

"Depository Bank" means the bank designated as such in the Supplemental Resolution, and its successors and assigns, which shall be a member of FDIC.

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

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

"Governing Body" or "Board" means the public service board of the Issuer, as it may now or hereafter be constituted.

"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.

"Grants" means all moneys received by the Issuer on account of any Grant for the Project.

"Gross Revenues" means the aggregate gross operating and non-operating revenues of the System, as hereinafter defined, 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, purchased pursuant to Article 8.01 hereof) or any Tap Fees, as hereinafter defined.

"Herein," "hereto" and similar words shall refer to this entire Bond Legislation.

"Independent Certified Public Accountants" means any certified public accountant or firm of certified public accountants that shall at any time hereafter be retained by the Issuer to prepare an independent annual or special audit of the accounts of the System or for any other purpose except keeping the accounts of the System in the normal operation of its business and affairs.

"Issuer" means Hancock County Public Service District, a public service district, public corporation and political subdivision of the State of West Virginia in Hancock

County, West Virginia, and, unless the context clearly indicates otherwise, includes the Governing Body of the Issuer.

"Loan Agreement" means the Loan Agreement heretofore entered, or to be entered, into by and among the Issuer, the Authority, and the DEP providing for the purchase of the Series 1999 Bonds from the Issuer by the Authority, the form of which shall be approved, and the execution and delivery by the Issuer authorized and directed or ratified, by the Supplemental Resolution.

"Net Proceeds" means the face amount of the Series 1999 Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds, if any, deposited in the Reserve Accounts.

"Net Revenues" means the balance of the Gross Revenues, remaining after deduction of Operating Expenses, as hereinafter defined.

"Operating Expenses" means 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, the SRF Administrative Fee, fees and expenses of the Authority, fiscal agents, the Depository Bank, the Registrar and the Paying Agent (all as herein defined), 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 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, amortization of debt discount or such miscellaneous deductions as are applicable to prior accounting periods.

"Outstanding," when used with reference to Bonds or the Prior Bonds and as of any particular date, describes all Bonds or Prior Bonds theretofore and thereupon being authenticated and delivered, except (i) any Bond or Prior Bond cancelled by the Bond Registrar or Registrar for Prior Bonds, at or prior to said date; (ii) any Bond or Prior Bonds, for the payment of which moneys, equal to its principal amount and redemption premium, if applicable, with interest to the date of maturity or redemption shall be in trust hereunder, and set aside for such payment (whether upon or prior to maturity); (iii) any Bond deemed to have been paid as provided in Article X hereof; (iv) any Prior Bond deemed to have been paid; and (v) for purposes of consents or other action by a specified percentage of Bondholders, or holders of Prior Bonds, any Bonds or Prior Bonds registered to the Issuer.

"Parity Bonds" means additional Bonds issued under the provisions and within the limitations prescribed by Section 7.07 hereof.

"Paying Agent" means the Commission or other entity designated as such for the Series 1999 Bonds in the Supplemental Resolution.

"Prior Bonds" means collectively, the Series 1995 A Bonds, Series 1995 B Bonds, and the Series 1995 C Bonds described in Section 1.02G hereof.

"Prior Resolutions" means, collectively, the resolution of the Issuer duly adopted December 6, 1995, as supplemented by the supplemental resolution of the Issuer duly adopted December 6, 1995, authorizing issuance of the Series 1995 A Bonds, the resolution of the Issuer duly adopted December 6, 1995, as supplemented by the supplemental resolutions of the Issuer duly adopted December 6, 1995 and January 3, 1996, authorizing issuance of the Series 1995 B Bonds, and the resolution of the Issuer duly adopted December 6, 1995, as supplemented by the supplemental resolution of the Issuer duly adopted December 6, 1995, authorizing issuance of the Series 1995 C Bonds.

"Project" means the Project as described in Section 1.02B hereof.

"Qualified Investments" means and includes 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; Tennessee Valley Authority; or Washington Metropolitan Area Transit Authority;
- (d) Any bond, debenture, note, participation certificate or other similar obligations 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 FDIC or Federal Savings and Loan

Insurance Corporation, 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 holder 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 West Virginia "consolidated fund" managed by the West Virginia Investment Management Board pursuant to Chapter 12, Article 6 of the West Virginia Code of 1931, as amended; and

(i) Obligations of states or political subdivisions or agencies thereof, the interest on which is excluded from gross income for federal income tax purposes, and which are rated at least "A" by Moody's Investors Service, Inc. or Standard & Poor's Corporation.

"Registrar" means the Bond Registrar.

"Renewal and Replacement Fund" means the Renewal and Replacement Fund established by the Prior Resolutions and continued hereby.

"Reserve Accounts" means, collectively, the respective reserve accounts established for the Series 1999 Bonds and the Prior Bonds.

"Revenue Fund" means the Revenue Fund established by the Prior Resolutions and continued hereby.

"Secretary" means the Secretary of the Governing Body of the Issuer.

"Series 1999 Bonds" means the Sewer Revenue Bonds, Series 1999 (West Virginia SRF Program) of the Issuer, authorized by this Resolution.

"Series 1999 Bonds Construction Trust Fund" means the Series 1999 Bonds Construction Trust Fund established by Section 5.01 hereof.

"Series 1999 Bonds Reserve Account" means the Series 1999 Bonds Reserve Account established in the Series 1999 Bonds Sinking Fund pursuant to Section 5.02 hereof.

"Series 1999 Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 1999 Bonds in the then current or any succeeding year.

"Series 1999 Bonds Sinking Fund" means the Series 1999 Bonds Sinking Fund established by Section 5.02 hereof.

"Series 1995 A Bonds" means the Sewer Revenue Bonds, Series 1995 A (West Virginia Water Development Authority), of the Issuer, dated December 7, 1995, issued in the original aggregate principal amount of \$289,532.

"Series 1995 B Bonds" means the Sewer Revenue Bonds, Series 1995 B (West Virginia Water Development Authority), of the Issuer, dated January 9, 1996, issued in the original aggregate principal amount of \$1,080,088.

"Series 1995 C Bonds" means the Sewer Revenue Bonds, Series 1995 C (West Virginia SRF Program), of the Issuer, dated December 7, 1995, issued in the original aggregate principal amount of \$883,974.

"Sewer Facilities User Agreement" means the Sewer Facilities User Agreement between the Issuer and Mountaineer Park, Inc., dated July 9, 1999, under which the Issuer provides and Mountaineer Park, Inc. receives sewage collection, treatment and disposal services at Mountaineer Park, Inc.'s facilities at Mountaineer Race Track and Resort.

"Sinking Funds" means, collectively, the respective sinking funds established for the Series 1999 Bonds and the Prior Bonds.

"SRF Administrative Fee" means any administrative fee required to be paid under the Loan Agreement for the Series 1999 Bonds.

"SRF Program" means the State's Water Pollution Control Revolving Fund Program, under which the Authority purchases the water pollution control revenue bonds of local governmental entities satisfying certain legal and other requirements with the proceeds

of a capitalization grant award from the United States Environmental Protection Agency and funds of the State.

"SRF Regulations" means the regulations set forth in Title 47, Series 31 of the West Virginia Code of State Regulations.

"State" means the State of West Virginia.

"Supplemental Resolution" means any resolution or order of the Issuer supplementing or amending this Resolution and, when preceded by the article "the," refers specifically to the supplemental resolution or resolutions authorizing the sale of the Series 1999 Bonds; provided, that any matter intended by this Resolution to be included in the Supplemental Resolution with respect to the Series 1999 Bonds, and not so included, may be included in another Supplemental Resolution.

"Surplus Revenues" means the Net Revenues not required by the Bond Legislation to be set aside and held for the payment of or security for the Bonds or any other obligations of the Issuer, including, without limitation, the Renewal and Replacement Fund and the Reserve Accounts.

"System" means the complete properties of the Issuer for the collection, treatment, purification or disposal of liquid or solid wastes, sewage or industrial wastes, as presently existing in its entirety or any integral part thereof, and shall include the Project and any additions, improvements and extensions thereto hereafter constructed or acquired for said system from any sources whatsoever.

"Tap Fees" means the fees, if any, paid by prospective customers of the System in order to connect thereto.

Additional terms and phrases are defined in this Resolution as they are used. Words importing singular number shall include the plural number in each case and vice versa; words importing persons shall include firms and corporations; and words importing the masculine, feminine or neuter gender shall include any other gender; and any requirement for execution or attestation of the Bonds or any certificate or other document by the Chairman or the Secretary shall mean that such Bonds, certificate or other document may be executed or attested by an Acting Chairman or Acting Secretary.

ARTICLE II

AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF THE PROJECT

Section 2.01. Authorization of Acquisition and Construction of the Project.

There is hereby authorized and ordered the acquisition and construction of the Project, at an estimated cost of \$5,005,347, in accordance with the plans and specifications which have been prepared by the Consulting Engineers, heretofore filed in the office of the Governing Body. The proceeds of the Series 1999 Bonds hereby authorized shall be applied as provided in Article VI hereof. The Issuer has received bids and has entered into or will enter into contracts for the acquisition and construction of the Project, compatible with the financing plan submitted to the Authority and the DEP.

The cost of the Project is estimated to be \$5,005,347, of which \$4,996,347 will be obtained from proceeds of the Series 1999 Bonds and \$9,000 will be obtained initially from general funds of the Issuer, to be subsequently reimbursed from the Tap Fees from the Project.

ARTICLE III

AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND SALE OF BONDS; AUTHORIZATION AND EXECUTION OF LOAN AGREEMENT

Section 3.01. Authorization of Bonds. For the purposes of capitalizing interest on the Series 1999 Bonds, funding a reserve account for the Series 1999 Bonds, paying Costs of the Project not otherwise provided for and paying certain costs of issuance of the Series 1999 Bonds and related costs, or any or all of such purposes, as determined by the Supplemental Resolution, there shall be and hereby are authorized to be issued the Series 1999 Bonds of the Issuer. The Series 1999 Bonds shall be issued as a single bond, designated "Sewer Revenue Bonds, Series 1999 (West Virginia SRF Program)," in the principal amount of not more than \$4,996,347, and shall have such terms as set forth hereinafter and in the Supplemental Resolution. The proceeds of the Series 1999 Bonds remaining after funding of the Series 1999 Bonds Reserve Account (if funded from bond proceeds) and capitalizing interest on the Series 1999 Bonds, if any, shall be deposited in or credited to the Series 1999 Bonds Construction Trust Fund established by Section 5.01 hereof and applied as set forth in Article VI hereof.

Section 3.02. Terms of Bonds. The Series 1999 Bonds shall be issued in such principal amounts; shall bear interest, if any, at such rate or rates, not exceeding the then legal maximum rate, payable quarterly on such dates; shall mature on such dates and in such amounts; and shall be redeemable, in whole or in part, all as the Issuer shall prescribe in a Supplemental Resolution or as specifically provided in the Loan Agreement. The Series 1999 Bonds shall be payable as to principal at the 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 Series 1999 Bonds, if any, shall be paid by check or draft of the Paying Agent mailed to the Registered Owner thereof at the address as it appears on the books of the Bond Registrar, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner thereof.

Unless otherwise provided by the Supplemental Resolution, the Series 1999 Bonds shall be issued in the form of a single bond, fully registered to the Authority, with a record of advances and a debt service schedule attached, representing the aggregate principal amount of the Series 1999 Bonds. The Series 1999 Bonds shall be exchangeable at the option and expense of the Registered Owner for another fully registered Bond or Bonds of the same series in aggregate principal amount equal to the amount of said Bonds then Outstanding and being exchanged, 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, if any, shall be issued in fully registered form and in denominations as determined by a Supplemental Resolution. Such Bonds shall be dated and shall bear interest, if any, as set forth in a Supplemental Resolution.

Section 3.03. Execution of Bonds. The Series 1999 Bonds shall be executed in the name of the Issuer by the Chairman, and the seal of the Issuer shall be affixed thereto or imprinted thereon and attested by the Secretary. In case any one or more of the officers who shall have signed or sealed the Series 1999 Bonds shall cease to be such officer of the Issuer before the Series 1999 Bonds so signed and sealed have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Series 1999 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 3.04. Authentication and Registration. No Series 1999 Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Bond Legislation unless and until the Certificate of Authentication and Registration on such Bond, substantially in the form set forth in Section 3.10 shall have been manually executed by the Bond 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 Bond Legislation. The Certificate of Authentication and Registration on any Series 1999 Bond shall be deemed to have been executed by the Bond Registrar if manually signed by an authorized officer of the Bond 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 3.05. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Series 1999 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 Holder, in accepting the Series 1999 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 Holder shall further be conclusively deemed to have agreed that such Bonds shall be incontestable in the hands of a bona fide holder for value.

So long as the Series 1999 Bonds remain outstanding, the Issuer, through the Bond Registrar as its agent, shall keep and maintain books for the registration and transfer of the Bonds.

The registered Series 1999 Bonds shall be transferable only upon the books of the Bond Registrar, by the registered owner thereof in person or by his attorney duly authorized in writing, upon surrender thereto together with a written instrument of transfer satisfactory to the Bond Registrar duly executed by the registered owner or his duly authorized attorney.

In all cases in which the privilege of exchanging Series 1999 Bonds or transferring the registered Bonds are exercised, Bonds shall be delivered in accordance with the provisions of this Bond Legislation. All Bonds surrendered in any such exchanges or transfers shall forthwith be cancelled by the Bond Registrar. For every such exchange or transfer of Bonds, the Bond 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 Bond Registrar incurred in connection therewith, which sum or sums shall be paid by the Issuer. The Bond Registrar shall not be obliged to make any such exchange or transfer of Bonds during the period commencing on the 15th day of the month next 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, and ending on such interest payment date or redemption date.

Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Series 1999 Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue, and the Bond Registrar shall, if so advised by the Issuer, authenticate and deliver, a new Bond of the same series and of like tenor as the Bonds so mutilated, destroyed, stolen or lost, 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 Holder's furnishing satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer and the Bond Registrar may incur. All Bonds so surrendered shall be cancelled by the Bond Registrar and held for the account of the Issuer. If any 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 thereof.

Section 3.07. Bonds not to be Indebtedness of the Issuer. The Series 1999 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 Net Revenues derived from the operation of the System as herein provided. No holder or holders of the Series 1999 Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer, if any, to pay the Series 1999 Bonds or the interest, if any, thereon.

Section 3.08. Bonds Secured by Pledge of Net Revenues; Lien Position with respect to Prior Bonds. The payment of the debt service of the Series 1999 Bonds shall be secured by a first lien on the Net Revenues derived from the System, on a parity with the lien on such Net Revenues in favor of the Holder of the Prior Bonds. Such Net Revenues in an amount sufficient to pay the principal of and interest on and other payments for the Series 1999 Bonds and the Prior Bonds and to make all other payments provided for in the Bond Legislation, are hereby irrevocably pledged to such payments as they become due.

Section 3.09. Delivery of Bonds. The Issuer shall execute and deliver the Series 1999 Bonds to the Bond Registrar, and the Bond Registrar shall authenticate, register and deliver the Series 1999 Bonds to the original purchasers upon receipt of the documents set forth below:

- A. If other than the Authority, a list of the names in which the Series 1999 Bonds are to be registered upon original issuance, together with such taxpayer identification and other information as the Bond Registrar may reasonably require;
- B. A request and authorization to the Bond Registrar on behalf of the Issuer, signed by an Authorized Officer, to authenticate and deliver the Series 1999 Bonds to the original purchasers;
- C. An executed and certified copy of the Bond Legislation;
- D. An executed copy of the Loan Agreement;
- E. An executed copy of the Sewer Facilities User Agreement; and
- F. The unqualified approving opinion of bond counsel on the Series 1999 Bonds.

Section 3.10. Form of Bonds. The text of the Series 1999 Bonds shall be in substantially the following form, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted hereby, or by any Supplemental Resolution adopted prior to the issuance thereof:

(FORM OF BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
HANCOCK COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 1999
(WEST VIRGINIA SRF PROGRAM)

No. R- _____

\$ _____

KNOW ALL MEN BY THESE PRESENTS: That HANCOCK COUNTY PUBLIC SERVICE DISTRICT, a public corporation and political subdivision of the State of West Virginia in Hancock 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 the West Virginia Water Development Authority (the "Authority") or registered assigns the sum of _____ DOLLARS (\$ _____), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing _____ 1, _____, as set forth on the "Schedule of Annual Debt Service" attached as EXHIBIT B hereto and incorporated herein by reference, with no interest. The SRF Administrative Fee (as defined in the hereinafter described Bond Legislation) shall also be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing _____ 1, _____, as set forth on EXHIBIT B attached hereto.

This Bond shall bear no interest. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, 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, Charleston, West Virginia (the "Paying Agent").

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 the West Virginia Department of Environmental Protection (the "DEP"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement by and among the Issuer, the Authority and the DEP, dated _____, 1999.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain improvements and extensions to the existing public sewerage facilities of the Issuer (the "Project"); (ii) to fund a reserve account for the Bonds of this Series (the "Bonds"); and (iii) to pay certain costs of issuance for the Bonds and related costs. The existing public sewerage facilities of the Issuer, the Project and any further improvements or extensions thereto are herein called the "System." 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 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (the "Act"), and a Bond Resolution duly adopted by the Issuer on _____, 1999, and a Supplemental Resolution duly adopted by the Issuer on _____, 1999 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation 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 Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL OTHER RESPECTS, WITH THE ISSUER'S (i) SEWER REVENUE BONDS, SERIES 1995 A (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY), DATED DECEMBER 7, 1995, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$289,532, (ii) THE SEWER REVENUE BONDS, SERIES 1995 B (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY), DATED JANUARY 9, 1996, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$1,080,088, AND (iii) THE SEWER REVENUE BONDS, SERIES 1995 C (WEST VIRGINIA SRF PROGRAM), DATED DECEMBER 7, 1995, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$883,974 (COLLECTIVELY, THE "PRIOR BONDS").

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on a parity with the pledge of Net Revenues in favor of the holders of the Prior Bonds, unexpended proceeds of the Bonds, and from moneys in the reserve account created under the Bond Legislation for the Bonds (the "Series 1999 Bonds Reserve Account"). Such Net Revenues shall be sufficient to pay the principal of and interest, if any, on all bonds which may be issued pursuant to the Act and shall be set aside as a special fund hereby pledged for such purpose. 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, except from said special fund provided from the Net Revenues, the moneys in the Series 1999 Bonds Reserve Account, and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and

to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Bonds, including the Prior Bonds; provided however, that so long as there exists in the Series 1999 Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with the Bonds, including the Prior Bonds, an amount at least 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 Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Bond Legislation, only upon the books of the Registrar by the registered owner, or by 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.

Subject to the registration requirements set forth herein, this Bond, under the provision of the Act is, and has all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law and the Bond Legislation, shall be applied solely to payment of the costs of the Project and costs of issuance hereof described in the Bond Legislation, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the registered 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 at the issuance of this Bond do exist, 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 Net 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 this Bond.

All provisions of the Bond Legislation, resolutions and 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, HANCOCK COUNTY PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairman and its corporate seal to be hereunto affixed and attested by its Secretary, and has caused this Bond to be dated _____, 1999.

[SEAL]

Chairman

ATTEST:

Secretary

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 1999 Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: _____, 1999.

ONE VALLEY BANK, NATIONAL
ASSOCIATION, as Registrar

Authorized Officer

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 3.11. Sale of Bonds; Approval and Ratification of Execution of Loan Agreement. The Series 1999 Bonds shall be sold to the Authority, pursuant to the terms and conditions of the Loan Agreement. If not so authorized by previous resolution, the Chairman is specifically authorized and directed to execute the Loan Agreement in the form attached hereto as "EXHIBIT A" and made a part hereof, and the Secretary is directed to affix the seal of the Issuer, attest the same and deliver the Loan Agreement to the Authority, and any such prior execution and delivery is hereby authorized, approved, ratified and confirmed.

Section 3.12. "Amended Schedule" Filing. Upon completion of the acquisition and construction of the Project, the Issuer will file with the Authority and the DEP a schedule in substantially the form attached to the Loan Agreement, setting forth the actual costs of the Project and sources of funds therefor.

ARTICLE IV

[RESERVED]

ARTICLE V

FUNDS AND ACCOUNTS; SYSTEM REVENUES AND APPLICATION THEREOF

Section 5.01. Establishment of Funds and Accounts with Depository Bank. The following special funds or accounts are hereby created with (or continued if previously established by the Prior Resolutions) and shall be held by the Depository Bank separate and apart from all other funds or accounts of the Depository Bank and the Issuer and from each other:

- (1) Revenue Fund (established by the Prior Resolutions and continued hereby);
- (2) Renewal and Replacement Fund (established by the Prior Resolutions and continued hereby);
- (3) Series 1999 Bonds Construction Trust Fund; and
- (4) Rebate Fund (established by the Prior Resolution and continued hereby).

Section 5.02. Establishment of Funds and Accounts with Commission. The following special funds or accounts are hereby created with (or continued if previously established by the Prior Resolutions) and shall be held by the Commission separate and apart from all other funds or accounts of the Commission and the Issuer and from each other:

- (1) Series 1995 A Bonds Sinking Fund (established by the Prior Resolutions);
- (2) Within the Series 1995 A Bonds Sinking Fund, the Series 1995 A Bonds Reserve Account (established by the Prior Resolutions);
- (3) Series 1995 B Bonds Sinking Fund (established by the Prior Resolutions);
- (4) Within the Series 1995 B Bonds Sinking Fund, the Series 1995 B Bonds Reserve Account (established by the Prior Resolutions);
- (5) Series 1995 C Bonds Sinking Fund (established by the Prior Resolutions);

(6) Within the Series 1995 C Bonds Sinking Fund, the Series 1995 C Bonds Reserve Account (established by the Prior Resolutions);

(7) Series 1999 Bonds Sinking Fund; and

(8) Within the Series 1999 Bonds Sinking Fund, the Series 1999 Bonds 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 Bond Legislation 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 herein provided in this Bond Legislation. All revenues at any time on deposit in the Revenue Fund shall be disposed of only in the following order and priority:

(1) The Issuer shall first, each month, pay from the Revenue Fund all Operating Expenses of the System.

(2) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Commission for deposit in the Series 1995 A Bonds Sinking Fund, the Series 1995 B Bonds Sinking Fund and the Series 1995 C Bonds Sinking Fund, the amounts required by the Prior Resolutions to pay interest, if any, on the Prior Bonds.

(3) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Commission (i) for deposit in the Series 1995 A Bonds Sinking Fund, the Series 1995 B Bonds Sinking Fund and the Series 1995 C Bonds Sinking Fund, the amounts required by the Prior Resolutions to pay the principal of the Prior Bonds; and (ii) commencing 3 months prior to the first date of payment of principal of the Series 1999 Bonds, for deposit in the Series 1999 Bonds Sinking Fund, an amount equal to 1/3rd of the amount of principal which will mature and become due on the Series 1999 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 Series 1999 Bonds Sinking Fund and the next quarterly principal payment date is less than 3 months, then such monthly payments shall be increased proportionately to provide, 1 month prior to the next quarterly

principal payment date, the required amount of principal coming due on such date.

(4) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Commission (i) for deposit in the Series 1995 A Bonds Reserve Account, the Series 1995 B Bonds Reserve Account and the Series 1995 C Bonds Reserve Account, the amounts, if any, required by the Prior Resolutions; and (ii) commencing 3 months prior to the first date of payment of principal of the Series 1999 Bonds, if not fully funded upon issuance of the Series 1999 Bonds, for deposit in the Series 1999 Bonds Reserve Account, an amount equal to 1/120th of the Series 1999 Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 1999 Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 1999 Bonds Reserve Requirement.

(5) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and remit to the Depository Bank for deposit in the Renewal and Replacement Fund a sum equal to 2 1/2% of the Gross Revenues each month (as previously set forth in the Prior Resolutions and not in addition thereto), 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 any Reserve Account (except to the extent such deficiency exists because the required payments into such account have not, as of the date of determination of a deficiency, funded such account to the maximum extent required hereof) shall be promptly eliminated with moneys from the Renewal and Replacement Fund.

Moneys in the Series 1999 Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest, if any, on the Series 1999 Bonds, as the same shall become due. Moneys in the Series 1999 Bonds Reserve Account shall be used only for the purpose of paying principal and interest, if any, on the Series 1999 Bonds, as the same

shall become due, when other moneys in the Series 1999 Bonds Sinking Fund are insufficient therefor, and for no other purpose.

All investment earnings on moneys in the Series 1999 Bonds Sinking Fund and the Series 1999 Bonds Reserve Account shall be returned, not less than once each year, by the Commission to the Issuer, and such amounts shall, during construction of the Project, be deposited in the Series 1999 Bonds Construction Trust Fund, and following completion of construction of the Project, shall be deposited in the Revenue Fund and applied in full, first to the next ensuing interest payment, if any, due on the Series 1999 Bonds and then to the next ensuing principal payment due thereon.

Any withdrawals from the Series 1999 Bonds Reserve Account which result in a reduction in the balance therein to below the Series 1999 Bonds Reserve Requirement shall be subsequently restored from the first Net Revenues available after all required payments have been made in full in the order set forth above.

As and when additional Bonds ranking on a parity with the Series 1999 Bonds are issued, provision shall be made for additional payments into the respective sinking funds sufficient to pay the interest on such additional parity Bonds and accomplish retirement thereof at maturity and to accumulate a balance in the appropriate reserve account in an amount equal to the maximum amount of principal and interest which will become due in any year for account of the Bonds of such series, including such additional parity Bonds.

The Issuer shall not be required to make any further payments into the Series 1999 Bonds Sinking Fund and Series 1999 Bonds Reserve Account when the aggregate amount of funds therein are at least equal to the aggregate principal amount of the Series 1999 Bonds issued pursuant to this Bond Legislation then Outstanding and all interest, if any, to accrue until the maturity thereof.

Principal, interest or reserve payments, whether made for a deficiency or otherwise, shall be made on a parity and pro rata, with respect to the Prior Bonds and the Series 1999 Bonds, in accordance with the respective principal amounts then Outstanding.

The Commission is hereby designated as the fiscal agent for the administration of the Series 1999 Bonds Sinking Fund and the Series 1999 Bonds Reserve Account created hereunder, and all amounts required for said accounts shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein. If required by the Authority at anytime, the Issuer shall make the necessary arrangements whereby required payments into said accounts shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required hereunder.

Moneys in the Series 1999 Bonds Sinking Fund and the Series 1999 Bonds Reserve Account shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

The Series 1999 Bonds Sinking Fund and the Series 1999 Bonds Reserve Account shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Series 1999 Bonds under the conditions and restrictions set forth herein.

B. The Issuer shall on the first day of each month (if such day is not a business day, then the next succeeding business day) deposit with the Commission the required principal, interest and reserve payments with respect to the Series 1999 Bonds 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 Bond Legislation. The Issuer shall also on the first day of each month (if such day is not a business day, then the next succeeding business day) deposit with the Commission the SRF Administrative Fee as set forth in Schedule Y attached to the Loan Agreement for the Series 1999 Bonds.

C. The Issuer shall complete the "Monthly Payment Form," a form of which is attached to the Loan Agreement for the Series 1999 Bonds, and submit a copy of said form along with a copy of its payment check to the Authority by the 5th day of such calendar month.

D. Whenever all of the required and provided transfers and payments from the Revenue Fund into the several special funds, as hereinbefore provided, are current and there remains in the Revenue Fund a balance in excess of the estimated amounts required to be so transferred and paid into such funds during the following month or such other period as required by law, such excess shall be considered Surplus Revenues. Surplus Revenues may be used for any lawful purpose of the System.

E. The Issuer shall remit from the Revenue Fund to the Commission, the Registrar, the Paying Agent or the Depository Bank, on such dates as the Commission, the Registrar, the Paying Agent or the Depository Bank, as the case may be, shall require, such additional sums as shall be necessary to pay their respective charges and fees then due. In the case of payments to the Commission under this paragraph, the Issuer shall, if required by the Authority at anytime, make the necessary arrangements whereby such required payments shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required.

F. The moneys in excess of the sum insured by the maximum amounts insured by FDIC in all funds and accounts 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.

G. 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; provided, however, that the priority of curing deficiencies in the funds and accounts herein shall be in the same order as payments are to be made pursuant to this Section 5.03, and the Net Revenues shall be applied to such deficiencies before being applied to any other payments hereunder.

H. All remittances made by the Issuer to the Commission shall clearly identify the fund or account into which each amount is to be deposited.

I. The Gross Revenues of the System shall only be used for purposes of the System.

J. All Tap Fees shall be deposited by the Issuer, as received, in the Bond Construction Trust Fund, and following completion of the Project, shall be deposited in the Revenue Fund and may be used for any lawful purpose of the System.

ARTICLE VI

BOND PROCEEDS; CONSTRUCTION DISBURSEMENTS

Section 6.01. Application of Bond Proceeds; Pledge of Unexpended Bond Proceeds. From the moneys received from the sale of the Series 1999 Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. From the proceeds of the Series 1999 Bonds, there shall first be deposited with the Commission in the Series 1999 Bonds Sinking Fund, the amount, if any, set forth in the Supplemental Resolution as capitalized interest; provided, that such amount may not exceed the amount necessary to pay interest on the Series 1999 Bonds for the period commencing on the date of issuance of the Series 1999 Bonds and ending 6 months after the estimated date of completion of construction of the Project.

B. Next, from the proceeds of the Series 1999 Bonds, there shall be deposited with the Commission in the Series 1999 Bonds Reserve Account, the amount, if any, set forth in the Supplemental Resolution for funding the Series 1999 Bonds Reserve Account.

C. As the Issuer receives advances of the remaining moneys derived from the sale of the Series 1999 Bonds, such moneys shall be deposited with the Depository Bank in the Series 1999 Bonds Construction Trust Fund and applied solely to payment of costs of the Project in the manner set forth in Section 6.02 and until so expended, are hereby pledged as additional security for the Series 1999 Bonds.

D. After completion of construction of the Project, as certified by the Consulting Engineers, and all costs have been paid, any remaining proceeds of the Series 1999 Bonds shall be applied as directed by the DEP.

Section 6.02. Disbursements From the Bond Construction Trust Fund.

A. On or before the Closing Date, the Issuer shall have delivered to the DEP and the Authority a report listing the specific purposes for which the proceeds of the Series 1999 Bonds will be expended and the disbursement procedures for such proceeds, including an estimated monthly draw schedule. Payments of all Costs of the Project shall be made monthly.

Except as provided in Section 6.01 hereof, disbursements from the Series 1999 Bonds Construction Trust Fund (except for the costs of issuance of the Series 1999 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 completed and signed "Payment Requisition Form," a form of which is attached to the Loan Agreement for the Series 1999 Bonds, and

(2) a certificate, signed by an Authorized Officer and the Consulting Engineers, stating that:

(a) None of the items for which the payment is proposed to be made has formed the basis for any disbursement theretofore made;

(b) 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) Each of such costs has been otherwise properly incurred; and

(d) Payment for each of the items proposed is then due and owing.

Pending such application, moneys in the Series 1999 Bonds Construction Trust Fund 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 of this Bond Legislation shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any Holder or Holders of the Series 1999 Bonds. In addition to the other covenants, agreements and provisions of this Bond Legislation, the Issuer hereby covenants and agrees with the Holders of the Series 1999 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 the Series 1999 Bonds or the interest thereon is Outstanding and unpaid.

Section 7.02. Bonds not to be Indebtedness of the Issuer. The Series 1999 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 Bond Legislation. No Holder or Holders of the Series 1999 Bonds, shall ever have the right to compel the exercise of the taxing power of the Issuer, if any, to pay the Series 1999 Bonds or the interest, if any, thereon.

Section 7.03. Bonds Secured by Pledge of Net Revenues; Lien Position with respect to Prior Bonds. The payment of the debt service of the Series 1999 Bonds shall be secured by a first lien on the Net Revenues derived from the System, on a parity with the lien on such Net Revenues in favor of the Holder of the Prior Bonds. The Net Revenues in an amount sufficient to pay the principal of and interest on the Series 1999 Bonds and the Prior Bonds and to make the payments into all funds and accounts and all other payments provided for in the Bond Legislation are hereby irrevocably pledged, in the manner provided herein, to such payments as they become due, and for the other purposes provided in the Bond Legislation.

Section 7.04. Initial Schedule of Rates and Charges. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth and approved and described in the Final Order of the Public Service Commission of West Virginia entered as a Recommended Decision on July 13, 1999, made Final on July 25, 1999, by a Commission Order Waiving Exception Period entered on July 20, 1999, in Case No. 99-0001-PWD-19A, and such rates are hereby adopted.

In the event the schedule of rates and charges initially established for the System in connection with the Series 1999 Bonds shall prove to be insufficient to produce the amounts required by this Bond Legislation and the Loan Agreement, the Issuer hereby covenants and agrees that it will, to the extent or in the manner authorized by law,

immediately adjust and increase such schedule of rates and charges so as to provide funds sufficient to produce the amounts required by this Bond Legislation and the Loan Agreement.

Section 7.05. Sale of the System. So long as the Prior Bonds are outstanding, the Issuer shall not sell, mortgage, lease or otherwise dispose of the System, or any part thereof, except as provided in the Prior Resolutions. Additionally, so long as the Series 1999 Bonds are outstanding and except as otherwise required by law or with the written consent of the Authority and the DEP, 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 fully pay all the Bonds Outstanding in accordance with Article X hereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall, with respect to the Series 1999 Bonds, immediately be remitted to the Commission for deposit in the Series 1999 Bonds Sinking Fund, and, with the written permission of the Authority and the DEP, or in the event the Authority is no longer a Bondholder, the Issuer shall direct the Commission to apply such proceeds to the payment of principal of and interest, if any, on the Series 1999 Bonds. Any balance remaining after the payment of the Series 1999 Bonds and interest, if any, 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. Prior to any such sale, lease or other disposition of such property, if the amount to be received therefor, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, is not in excess of \$10,000, the Issuer shall, by resolution duly adopted, determine that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then provide for the sale of such property. The proceeds of any such sale shall be deposited in the Renewal and Replacement Fund. If the amount to be received from such sale, lease or other disposition of said property, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, shall be in excess of \$10,000 but not in excess of \$50,000, the Issuer shall first, determine upon consultation with the Consulting Engineers that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then, if it be so advised, by resolution duly adopted, authorize such sale, lease or other disposition of such property upon public bidding in accordance with the laws of the State. The proceeds derived from any such sale, lease or other disposition of such property shall be, with the written consent of the Authority, be remitted by the Issuer to the Commission for deposit in the Sinking Funds and shall be applied only to the purchase of the Bonds of the last maturities then outstanding at prices not greater than the par value thereof. The payment of such proceeds into the Renewal and Replacement Fund and the Sinking Funds shall not reduce the amounts required to be paid into such funds by other provisions of this Bond Legislation.

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, together with all other amounts received during the same Fiscal Year for such sales, leases, or other dispositions of such properties, shall be in excess of \$50,000 and insufficient to pay all Bonds then Outstanding without the prior approval and consent in writing of the Holders of the Bonds then Outstanding. The Issuer shall prepare the form of such approval and consent for execution by the then Holders of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 7.06. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. Except as provided in this Section 7.06 and Section 7.07 hereof, the Issuer shall not issue any obligations whatsoever 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 Series 1999 Bonds. All obligations issued by the Issuer after the issuance of the Series 1999 Bonds and 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, pledge and source of and security for payment from such revenues and in all other respects, to the Series 1999 Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into all funds and accounts set forth herein have been made and are current at the time of the issuance of such subordinate obligations.

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 being on a parity with the lien of the Series 1999 Bonds, and the interest thereon, if any, upon any or all of the income and revenues of the System pledged for payment of the Series 1999 Bonds and the interest thereon, if any, in this Bond Legislation, 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 System, payable from the revenues of the System or from any grants, or any other obligations related to the Project or the System.

Section 7.07. Parity Bonds. So long as the Prior Bonds are outstanding, the limitations on the issuance of parity obligations set forth in the Prior Resolutions shall be applicable. Additionally, no Parity Bonds, payable out of the revenues of the System, shall be issued after the issuance of the Series 1999 Bonds, except with the prior written consent of the Authority and the DEP (unless less restrictive than the provisions of the Prior Resolution).

All Parity Bonds issued hereunder shall be on a parity in all respects with the Series 1999 Bonds.

No such Parity Bonds shall be issued except for the purpose of financing the costs of the acquisition or construction of extensions and improvements to the System or refunding any outstanding Bonds, or both such purposes.

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

- (1) The 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 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 (a) the improvements to be financed by such Parity Bonds and (b) any increase in rates adopted by the Issuer, the period for appeal of which has expired prior to the date of issuance of such Parity Bonds, and shall not exceed the amount to be stated in a certificate of the Independent Certified Public Accountants, which shall be filed in the office of the Secretary prior to the issuance of such Parity Bonds.

The Net Revenues actually derived from the System during the 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 Independent Certified Public Accountants, on account of increased rates, rentals, fees and charges for the System adopted by the Issuer, the period for appeal of which has expired prior to issuance of such Parity Bonds.

All covenants and other provisions of this Bond Legislation (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the Holders of the Bonds and the Holders of any Parity Bonds theretofore or subsequently issued from time to time within the limitations of and in compliance with this section. Bonds issued on a parity, regardless of the time or times of their issuance, shall rank equally with respect to their lien on the revenues of the System and their source of and

security for payment from said revenues, without preference of any Bond of one series over any other Bond of the same series. The Issuer shall comply fully with all the increased payments into the various funds and accounts created in this Bond Legislation required for and on account of such Parity Bonds, in addition to the payments required for Bonds theretofore issued pursuant to this Bond Legislation.

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on revenues of the System is subject to the prior and superior liens of the Series 1999 Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from 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 Series 1999 Bonds.

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

Section 7.08. Books; Records and Audit. 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 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 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 or any grants or other sources of financing for the Project.

The Issuer shall permit the Authority 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 shall keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Issuer, in which complete and correct entries shall be made of all transactions relating to the System, and any Holder of a Bond or Bonds issued pursuant to this Bond Legislation shall have the right at all reasonable times to inspect the System and all parts thereof and all records, accounts and data of the Issuer relating thereto.

The accounting system for the System shall follow current generally accepted accounting principles and safeguards to the extent allowed and as prescribed by the Public Service Commission of West Virginia. Separate control accounting records shall be maintained by the Issuer. Subsidiary records as may be required shall be kept in the manner and on the forms, books and other bookkeeping records as prescribed by the Governing Body. The Governing Body 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 Governing Body shall be reported to such agent of the Issuer as the Governing Body shall direct.

The Issuer shall file with the DEP, the Authority, or any other original purchaser of the Series 1999 Bonds, and shall mail in each year to any Holder or Holders of the Series 1999 Bonds and the Consulting Engineer, 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 Bond Legislation, and the status of all said funds and accounts.
- (C) The amount of any Bonds, notes or other obligations outstanding.

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be audited by Independent Certified Public Accountants in compliance with the applicable OMB Circular, or any successor thereto, and the Single Audit Act, or any successor thereto, to the extent legally required, and shall mail upon request, and make available generally, the report of said Independent Certified Public Accountants, or a summary thereof, to any Holder or Holders of the Series 1999 Bonds, and shall submit said report to the DEP and the Authority, or any other original purchaser of the Series 1999 Bonds. Such audit report submitted to the Authority and the DEP shall include a statement that the Issuer is in compliance with the terms and provisions of the Act, the Loan Agreement and this Bond Legislation and that the revenues of the System are adequate to meet the Issuer's Operating Expenses and debt service and reserve requirements.

Subject to the terms, conditions and provisions of the Loan Agreement and the Act, the Issuer 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 by the Consulting Engineers. 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 Issuer.

The Issuer shall permit the Authority and 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 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 and the DEP with respect to the System pursuant to the Act.

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 for the Series 1999 A Bonds or as promulgated from time to time.

Section 7.09. Rates. Prior to the issuance of the Series 1999 Bonds, equitable rates or charges for the use of and service rendered by the System shall be established all 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 the 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 reduction 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 Operating Expenses of the System and (ii) to leave a balance each year equal to at least 115% of the maximum amount required in any year for payment of principal of and interest, if any, on the Series 1999 Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 1999 Bonds, including the Prior Bonds; provided that, in the event that amounts equal to or in excess of the reserve requirements are on deposit respectively in the Series 1999 Bonds Reserve Account, the Prior Bonds reserve accounts as established by the Prior Resolutions, and the reserve accounts for obligations on a parity with the Series 1999 Bonds are funded at least at the requirement therefor, such balance each year need only equal at least 110% of the maximum amount required in any year for payment of principal of and interest, if any, on the Series 1999 Bonds and all other obligations secured by a lien on or payable from such revenues as a parity with the Series 1999 Bonds. In any event, the Issuer shall not reduce the rates or charges for services described in Section 7.04.

Section 7.10. Operating Budget and Monthly Financial Report. 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 and the DEP within 30 days of

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 a professional engineer, 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 Issuer 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 a professional engineer 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 the DEP and to any Holder of any Bonds, within 30 days of adoption thereof, and shall make available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to the Authority and the DEP and to any Holder of any Bonds, or anyone acting for and in behalf of such Holder of any Bonds.

Commencing on the date contracts are executed for the acquisition and construction of the Project and for two years following the completion of the Project, the Issuer shall each month complete a "Monthly Financial Report," a form of which is attached to the Loan Agreement, and forward a copy of such report to the Authority and the DEP by the 10th day of each month.

Section 7.11. Engineering Services and Operating Personnel. The Issuer will obtain a certificate of the Consulting Engineers in the form attached to the Loan Agreement, stating, among other things, that the Project has been or will be constructed in accordance with the approved plans, specifications and designs as submitted to the Authority and the DEP, the Project is adequate for the purposes for which it was designed, the funding plan as submitted to the Authority and the DEP is sufficient to pay the costs of acquisition and construction of the Project, and all permits required by federal and state laws for construction of the Project have been obtained.

The Issuer shall provide and maintain competent and adequate resident engineering services satisfactory to the Authority 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, which have been approved by all necessary governmental bodies. Such resident engineer shall certify to the Authority, the DEP and the Issuer at the completion of construction that construction of the Project 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," a form of which is attached to the Loan Agreement for the Series 1999 Bonds as Exhibit A, 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 shall employ qualified operating personnel properly certified by the State before the Project is 50% complete and shall retain such a certified operator(s) to operate the System during the entire term of the Loan Agreement. The Issuer shall notify the DEP in writing of the certified operator employed at the 50% completion stage.

Section 7.12. No Competing Franchise. To the extent legally allowable, the Issuer will not grant or cause, consent to or allow the granting of, any franchise or permit to any person, firm, corporation, body, agency or instrumentality whatsoever for the providing of any services which would compete with services provided by the System.

Section 7.13. Enforcement of Collections. The Issuer will diligently enforce and collect all fees, rentals or other charges for the services and facilities of the System, and take all steps, actions and proceedings for the enforcement and collection of such fees, rentals or other charges which shall become delinquent to the full extent permitted or authorized by the Act, the rules and regulations of the Public Service Commission of West Virginia and other laws of the State of West Virginia.

Whenever any fees, rates, rentals or other charges for the services and facilities of the System shall remain unpaid for a period of 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. To the extent authorized by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, rates, rentals and other charges, if not paid, when due, shall become a lien on the premises served by the System. The Issuer further covenants and agrees that, it will, to the full extent permitted by law and the rules and regulations promulgated by the Public Service Commission of West Virginia, discontinue and shut off the services of the System to all users of the services of the System delinquent in payment of charges for the services of the System and will not restore such services until all delinquent charges for the services of the System, plus reasonable interest and penalty charges for the restoration of service, have been fully paid and shall take all further actions to enforce collections to the maximum extent permitted by law.

Section 7.14. No Free Services. The Issuer will not render or cause to be rendered any free services of any nature by the System, nor will any preferential rates be established for users of the same class; and in the event the Issuer, or any department,

agency, instrumentality, officer or employee of the Issuer shall avail itself or themselves 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. 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 7.15. Insurance and Construction Bonds. A. The Issuer hereby covenants and agrees that so long as the Series 1999 Bonds remain Outstanding, the Issuer will, as an Operating Expense, procure, carry and maintain insurance with a reputable insurance carrier or carriers as is customarily covered with respect to works and properties similar to the System. Such insurance shall initially cover the following risks and be in the following amounts:

(1) FIRE, LIGHTNING, VANDALISM, MALICIOUS MISCHIEF AND EXTENDED COVERAGE INSURANCE, on all above-ground insurable portions of the System in an amount equal to the actual cost thereof. In time of war the Issuer will also carry and maintain insurance to the extent available against the risks and hazards of war. The proceeds of all such insurance policies shall be placed in the Renewal and Replacement Fund and used only for the repairs and restoration of the damaged or destroyed properties or for the other purposes provided herein for the Renewal and Replacement Fund. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance (fire and extended coverage) to protect the interests of the Issuer, the Authority, the prime contractor and all subcontractors as their respective interests may appear, in accordance with the Loan Agreement, during construction of the Project on a 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 Issuer, the contractors and subcontractors, as their interests may appear.

(2) PUBLIC LIABILITY INSURANCE, with limits of not less than \$1,000,000 per occurrence to protect the Issuer from claims for bodily injury and/or death and not less than \$500,000 per occurrence from claims for damage to property of others which may arise from the operation of the System, and insurance with the same limits to protect the Issuer from claims arising out of operation or ownership of motor vehicles of or for the System.

(3) WORKER'S COMPENSATION COVERAGE FOR ALL EMPLOYEES OF OR FOR THE SYSTEM ELIGIBLE THEREFOR; AND PERFORMANCE AND PAYMENT BONDS, such bonds to be in the amounts of 100% of the construction contract and to be required of each contractor contracting directly with the Issuer, and such payment bonds will be filed with the Clerk of The County Commission of the County in which such work is to be performed prior to commencement of construction

of the Project in compliance with West Virginia Code, Chapter 38, Article 2, Section 39.

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

(5) BUSINESS INTERRUPTION INSURANCE, to the extent available at reasonable cost to the Issuer.

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

B. 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.

The Issuer shall also require all contractors engaged in the construction of the Project to carry such worker's compensation coverage for all employees working on the Project and public liability insurance, vehicular liability insurance and property damage insurance in amounts adequate for such purposes and as is customarily carried with respect to works and properties similar to the Project; provided that the amounts and terms of such coverage are satisfactory to the Authority and the DEP. In the event the Loan Agreement so requires, such insurance shall be made payable to the order of the Authority, the Issuer, the prime contractor and all subcontractors, as their interests may appear.

Section 7.16. Mandatory Connections. The mandatory use of the System is essential and necessary for the protection and preservation of the public health, comfort, safety, convenience and welfare of the inhabitants and residents of, and the economy of, the Issuer and in order to assure the rendering harmless of sewage and 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 Division 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 Public Service Commission of West Virginia, 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 matters from such house, dwelling or building where there is such gravity flow or transportation by such other method approved by the State Division 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 7.17. Completion, Operation and Maintenance of Project; Permits and Orders. The Issuer shall complete the Project as promptly as possible and operate and maintain the System as a revenue-producing utility in good condition and in compliance with all federal and state requirements and standards. The Issuer shall take all steps to properly operate and maintain the System and make the necessary replacements due to normal wear and tear so long as the Series 1999 Bonds are outstanding.

The Issuer shall obtain all permits required by state and federal laws for the acquisition and construction of the Project and all orders and approvals from the Public Service Commission of West Virginia necessary for the acquisition and construction of the Project and the operation of the System.

Section 7.18. Statutory Mortgage Lien. For the further protection of the Holders of the Series 1999 Bonds, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding, shall take effect immediately upon delivery of the Series 1999 Bonds and shall be on a parity with the statutory mortgage lien in favor of the Holder of the Prior Bonds.

Section 7.19. Compliance with Loan Agreement and Law. The Issuer shall comply with all the terms and conditions of the Loan Agreement and the Act. Notwithstanding anything herein to the contrary, the Issuer shall provide the DEP with copies of all documents submitted to the Authority.

The Issuer shall also to comply with all applicable laws, rules and regulations issued by the DEP, the Authority or other state, federal or local bodies in regard to the acquisition and construction of the Project and the operation, maintenance and use of the System.

Section 7.20. Securities Laws Compliance. The Issuer shall 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).

Section 7.21. Contracts; Public Releases. A. The Issuer shall, simultaneously with the delivery of the Series 1999 Bonds or immediately thereafter, enter into written contracts for the immediate acquisition or construction of the Project.

B. The Issuer shall submit all proposed change orders to the DEP for written approval. The Issuer shall obtain the written approval of the DEP before expending any proceeds of the Series 1999 Bonds held in "contingency" as set forth in the schedule attached to the Loan Agreement. The Issuer shall also obtain the written approval of the DEP before expending any proceeds of the Series 1999 Bonds made available due to bid or construction or project underruns.

C. The Issuer shall list the funding provided by the DEP and Authority in any press release, publication, program bulletin, sign or other public communication that references the Project, including but not limited to any program document distributed in conjunction with any ground breaking or dedication of the Project.

ARTICLE VIII

INVESTMENT OF FUNDS

Section 8.01. Investments. Any moneys held as a part of the funds and accounts created by this Bond Legislation other than the Revenue Fund, shall be invested and reinvested by the Commission, the Depository Bank, or such other bank or national banking association holding such fund or account, 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 Bond Legislation, the need for such moneys for the purposes set forth herein and the specific restrictions and provisions set forth in this Section 8.01.

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, and the interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. The 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 holder, including the value of accrued interest and giving effect to the amortization of discount, or at par if such investment is held in the "Consolidated Fund." The Commission shall sell and reduce to cash a sufficient amount of such investments whenever the cash balance in any fund or account is insufficient to make the payments required from such fund or account, regardless of the loss on such liquidation. The 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.

The Depository Bank shall keep complete and accurate records of all funds, accounts and investments, and shall distribute to the Issuer, at least once each year, or more often as reasonably requested by the Issuer, a summary of such funds, accounts and investment earnings. The Issuer shall retain all such records and any additional records with respect to such funds, accounts and investment earnings so long as any of the Series 1999 Bonds are Outstanding.

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 Series 1999 Bonds:

(1) If default occurs in the due and punctual payment of the principal of or interest, if any, on the Series 1999 Bonds; or

(2) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part relating to the Series 1999 Bonds set forth in this Bond Legislation, any supplemental resolution or in the Series 1999 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 the Commission, the Depository Bank, Registrar or any other Paying Agent or a Holder of a Bond; or

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

(4) If default occurs with respect to the Prior Bonds or the Prior Resolution.

Section 9.02. Remedies. Upon the happening and continuance of any Event of Default, any Registered Owner of a Series 1999 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 Bond Legislation 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 the Series 1999 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 the Series 1999 Bonds, and (v) by action or bill in equity enjoin any acts in violation of the Bond Legislation with respect to the Series 1999 Bonds, or the rights of such Registered Owners; provided that, all rights and remedies of the Holder of the Series 1999 Bonds shall be on a parity with the Holder of the Prior Bonds.

Section 9.03. Appointment of Receiver. Any Registered Owner of a Series 1999 Bond may, by proper legal action, compel the performance of the duties of the

Issuer under the Bond Legislation and the Act, including, the completion of the Project and after commencement of operation of the System, 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 Event of Default with respect to such Bonds, any Registered Owner of a Series 1999 Bond 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 or to complete the acquisition and construction of the Project on behalf of the Issuer, with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of Operating Expenses of the System, the payment of the Series 1999 Bonds and interest and the deposits into the funds and accounts hereby established, and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of this Bond Legislation and the Act.

The receiver so appointed shall forthwith, directly or by his or her or its agents and attorneys, enter into and upon and take possession of all facilities of said System and shall hold, operate and 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 exercise.

Whenever all that is due upon the Series 1999 Bonds and interest thereon and under any covenants of this Bond Legislation 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 Bond Legislation 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 Registered Owner of any Bonds 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 or it, 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 may be 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 Registered Owners of the Series 1999 Bonds. 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 completion of the Project and the possession, operation and maintenance of the System for the sole purpose of the protection of both the Issuer and Registered Owners of such Bonds and the curing and making good of any Event of Default with respect thereto under the provisions of this Bond

Legislation, and the title to and ownership of the 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, assign, mortgage or otherwise dispose of any assets of the System.

ARTICLE X

PAYMENT OF BONDS

Section 10.01. Payment of Bonds. If the Issuer shall pay or there shall otherwise be paid to the Holders of the Series 1999 Bonds, the principal of and interest, if any, due or to become due thereon, at the times and in the manner stipulated therein and in this Bond Legislation, then the pledge of Net Revenues and other moneys and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series 1999 Bonds shall thereupon cease, terminate and become void and be discharged and satisfied.

ARTICLE XI

MISCELLANEOUS

Section 11.01. Amendment or Modification of Bond Legislation. Prior to issuance of the Series 1999 Bonds, this Resolution may be amended or supplemented in any way by the Supplemental Resolution. Following issuance of the Series 1999 Bonds, no material modification or amendment of this Resolution, or of any resolution amendatory or supplemental hereto, that would materially and adversely affect the rights of Registered Owners of the Series 1999 Bonds shall be made without the consent in writing of the Registered Owners of the Series 1999 Bonds so affected and then Outstanding; provided, 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, if any, out of the funds herein respectively pledged therefor without the consent of the Registered Owner thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of the Series 1999 Bonds, required for consent to the above-permitted amendments or modifications.

Section 11.02. Bond Legislation Constitutes Contract. The provisions of the Bond Legislation shall constitute a contract between the Issuer and the Registered Owners of the Series 1999 Bonds, and no change, variation or alteration of any kind of the provisions of the Bond Legislation shall be made in any manner, except as in this Bond Legislation provided.

Section 11.03. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Resolution should be held invalid by any court of competent jurisdiction, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution, the Supplemental Resolution, or the Series 1999 Bonds.

Section 11.04. Headings, Etc. The headings and catchlines of the articles, sections and subsections hereof are for convenience of reference only, and shall not affect in any way the meaning or interpretation of any provision hereof.

Section 11.05. Notices. All notices to be sent to the Issuer, the Authority or the DEP shall be in writing and shall be deemed to have been given when delivered in person or mailed by first class mail, postage prepaid, addressed as follows:

ISSUER:

Hancock County Public Service District
Post Office Box 485
New Cumberland, West Virginia 26047
Attention: Chairman

AUTHORITY:

Water Development Authority
180 Association Drive
Charleston, West Virginia 25311-1571
Attention: Executive Director

DEP:

Division of Environmental Protection
617 Broad Street
Charleston, WV 25301

All notices to be sent to the DEP hereunder, shall also be sent to the Authority.

Section 11.06. Conflicting Provisions Repealed; Prior Resolutions. All orders or resolutions, or parts thereof, in conflict with the provisions of this Resolution are, to the extent of such conflict, hereby repealed, provided that, in the event of any conflict between this Resolution and the Prior Resolutions, the Prior Resolutions shall control, unless less restrictive, so long as the Prior Bonds are outstanding.

Section 11.07. Covenant of Due Procedure, Etc. 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 adoption 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, Secretary and members of the Governing Body 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 11.08. Public Notice of Proposed Financing. Prior to making formal application to the Public Service Commission of West Virginia for a Certificate of Public Convenience and Necessity and adoption of this Resolution, the Secretary of the Governing Body shall have caused to be published in a newspaper of general circulation in each municipality in Hancock County Public Service District and within the boundaries of the District, a Class II legal advertisement stating:

(a) The maximum amount of the Series 1999 Bonds to be issued;

(b) The maximum interest rate and terms of the Series 1999 Bonds authorized hereby;

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

(d) The maximum anticipated rates which will be charged by the Issuer; 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 of West Virginia.

Section 11.09. Effective Date. This Resolution shall take effect immediately upon adoption.

Adopted this 18th day of November, 1999.



Chairman

CERTIFICATION

I hereby certify that the foregoing action of Hancock County Public Service Board remains in full force and effect and has not been amended, rescinded, superseded, repealed or changed.

WITNESS my signature on this 2nd day of December, 1999.


Secretary

HANCOCK COUNTY PUBLIC SERVICE DISTRICT

Sewer Revenue Bonds, Series 1999
(West Virginia SRF Program)

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNT, DATE, MATURITY DATE, REDEMPTION PROVISION, INTEREST RATE, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICE AND OTHER TERMS OF THE SEWER REVENUE BONDS, SERIES 1999 (WEST VIRGINIA SRF PROGRAM), OF HANCOCK COUNTY PUBLIC SERVICE DISTRICT; AUTHORIZING AND APPROVING THE LOAN AGREEMENT RELATING TO SUCH BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the Public Service Board (the "Governing Body") of Hancock County Public Service District (the "Issuer"), has duly and officially adopted a bond resolution, effective November 18, 1999 (the "Resolution") entitled:

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF IMPROVEMENTS AND EXTENSIONS TO THE EXISTING PUBLIC SEWERAGE FACILITIES OF HANCOCK COUNTY PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN \$4,996,347 IN ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 1999 (WEST VIRGINIA SRF PROGRAM); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED 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 RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

WHEREAS, capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Resolution when used herein;

WHEREAS, the Resolution provides for the issuance of Sewer Revenue Bonds, Series 1999 (West Virginia SRF Program), of the Issuer, in the original aggregate principal amount not to exceed \$4,996,347 (the "Bonds" or the "Series 1999 Bonds"), and has authorized the execution and delivery of the loan agreement relating to the Bonds (the "Loan Agreement"), by and among the Issuer, the West Virginia Water Development Authority (the "Authority") and the West Virginia Division of Environmental Protection (the "DEP"), all in accordance with Chapter 16, Article 13A and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"); and in the Resolution it is provided that the form of the Loan Agreement and the exact principal amount, date, maturity date, redemption provision, interest rate, interest and principal payment dates, sale price 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 Loan Agreement has been presented to the Issuer at this meeting;

WHEREAS, the Bonds are proposed to be purchased by the Authority pursuant to the Loan Agreement; and

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted, that the Loan Agreement be approved and entered into by the Issuer, that the exact principal amount, the date, the maturity date, the redemption provision, the interest rate, the interest and principal payment dates and the sale price of the Bonds be fixed hereby in the manner stated herein, and that other matters relating to the Bonds be herein provided for;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF HANCOCK COUNTY PUBLIC SERVICE DISTRICT:

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 Sewer Revenue Bonds, Series 1999 (West Virginia SRF Program), of the Issuer, originally represented by a single Bond, numbered R-1, in the principal amount of \$4,996,347. The Series 1999 Bonds shall be dated the date of delivery thereof, shall finally mature March 1, 2021, and shall bear no interest. The principal of the Series 1999 Bonds shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing June 1, 2001, and ending March 1, 2021, and in the amounts as set forth in "Schedule Y" attached to the Loan Agreement and incorporated in and made a part of the Series 1999 Bonds. The Series 1999 Bonds shall be subject to redemption upon the written consent of the Authority and the DEP, and upon payment of the redemption premium, if any, and otherwise in compliance with the Loan Agreement, as long as the Authority shall be the registered owner of the Series 1999 Bonds. The Issuer does hereby approve and shall pay the SRF Administrative Fee equal to 1% of the principal amount of the Series 1999 Bonds set forth in "Schedule Y" attached to the Loan Agreement.

Section 2. All other provisions relating to the Bonds and the text of the Bonds shall be in substantially the form provided in the Resolution.

Section 3. The Issuer does hereby authorize, ratify, approve and accept the Loan Agreement, a copy of which is incorporated herein by reference, and the execution and delivery of the Loan Agreement by the Chairman, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, directed, ratified and approved. The Issuer hereby affirms all covenants and representations made in the Loan Agreement and in the application to the 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 of the Bonds will be advanced from time to time as requisitioned by the Issuer.

Section 4. The Issuer does hereby appoint and designate One Valley Bank, National Association, Charleston, West Virginia, a national banking association, to serve as Registrar (the "Registrar") for the Bonds under the Resolution and does approve and accept the Registrar's Agreement to be dated the date of delivery of the Bonds, by and between the Issuer and the Registrar, and the execution and delivery of the Registrar's Agreement by the Chairman, and the performance of the obligations contained therein, on behalf of the Issuer are hereby authorized, approved and directed.

Section 5. The Issuer does hereby appoint and designate the West Virginia Municipal Bond Commission, Charleston, West Virginia, to serve as Paying Agent for the Bonds under the Resolution.

Section 6. The Issuer does hereby appoint and designate United National Bank, Weirton, West Virginia, a national banking association, to serve as Depository Bank under the Resolution.

Section 7. Series 1999 Bonds proceeds in the amount of \$-0- shall be deposited in the Series 1999 Bonds Sinking Fund, as capitalized interest.

Section 8. Series 1999 Bonds proceeds in the amount of \$249,820 shall be deposited in the Series 1999 Bonds Reserve Account.

Section 9. The balance of the proceeds of the Series 1999 Bonds shall be deposited in the Series 1999 Bonds Construction Trust Fund as received from time to time for payment of Costs of the Project, including, without limitation, costs of issuance of the Series 1999 Bonds and related costs.

Section 10. The Chairman and Secretary are hereby authorized and directed to execute and deliver such other documents, agreements, instruments 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 to the Authority pursuant to the Loan Agreement on or about December 2, 1999.

Section 11. The acquisition and construction of the Project and the financing thereof in part with proceeds of the Bonds are in the public interest, serve a public purpose of the Issuer and will promote the health, welfare and safety of the residents of the Issuer.

Section 12. The Issuer hereby determines that it is in the best interest of the Issuer to invest all moneys in the funds and accounts established by the Resolution held by the Depository Bank until expended, in repurchase agreements or time accounts, secured by a pledge of Government Obligations, and therefore, the Issuer hereby directs the Depository Bank to take such actions as may be necessary to cause such moneys to be invested in such repurchase agreements or time accounts, until further directed by the Issuer. Moneys in the Series 1999 Bonds Sinking Fund shall be invested by the West Virginia Municipal Bond Commission in the West Virginia Consolidated Fund.

Section 13. The Issuer does hereby authorize, approve, ratify and accept the Sewer Facilities User Agreement by and between the Issuer and Mountaineer Park, Inc. --

Section 14. This Supplemental Resolution shall be effective immediately following adoption hereof.

Adopted this 18th day of November, 1999.



Chairman

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Public Service Board of HANCOCK COUNTY PUBLIC SERVICE DISTRICT on the 18th day of November, 1999.

Dated: December 2, 1999.

[SEAL]

John M. Lemaster
Secretary

SRF-LP-1
(August 1998)

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").

HANCOCK COUNTY PUBLIC SERVICE DISTRICT
(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 22C, Article 2, 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 (U.S. General Services Administration; Catalog of Federal Domestic Assistance, 32nd Edition § 66.458 (1998)) 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 disposition 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 or of 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.

Hancock County Public Service District
[Proper Name of Local Government]

(SEAL)

By: [Signature]
Its: Chairman

Attest:

Date: 11/1/99

[Signature]
Its Secretary

WEST VIRGINIA DIVISION OF ENVIRONMENTAL PROTECTION

By: [Signature]
Its: Chief

Date: 11/8/99

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

(SEAL)

By: [Signature]
Its: Director

Attest:

Date: October 21, 1999

[Signature]
Secretary-Treasurer

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: _____

<u>ITEM</u>	<u>CURRENT MONTH</u>	<u>YEAR TO DATE</u>	<u>BUDGET YEAR TO DATE</u>	<u>BUDGET DIFFERENCE</u>
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 \$300,000 or more in a fiscal year must obtain audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular A-133 or any appropriate successor. Financial statement audits are required once all funds have been received by the loan recipient.

EXHIBIT F

[Monthly Payment Form]

West Virginia Water Development
Authority
180 Association Drive
Charleston WV 25311-1571

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
180 Association Drive
Charleston WV 25311-1571

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:

<u>Year</u>	<u>Installment</u>	<u>Interest Rate</u>
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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.

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 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.

3. The Local Government 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 Local Government 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 Local Government, 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. 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,

SCHEDULE X

DESCRIPTION OF BONDS

Principal Amount of Bonds	\$ 4,996,347
Purchase Price of Bonds	\$ 4,996,347

Interest on the Bonds shall be zero percent from the date of delivery to and including ~~-----~~. Principal ~~and interest~~ on the Bonds is payable quarterly, commencing June 1, 2001, at a rate of 0 % 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. As of the date of this Loan Agreement, it is the Authority's and DEP's understanding that the Local Government has [other obligations outstanding which have a lien as to the source of and security for payment equal to or superior to the lien being granted by the Bonds] or [provide list of outstanding debt]. (See attached schedule)*

The Local Government shall submit its payments monthly to the West Virginia Municipal Bond Commission with instructions that the West Virginia Municipal Bond Commission will make quarterly payments to the West Virginia Water Development Authority at such address as is given to the Bond Commission in writing by the Authority. If the Reserve Fund is not fully funded at closing, the Local Government shall commence the payment of the 1/120 of the maximum annual debt service on the first day of the month it makes its first monthly payment to the Bond Commission. The Local Government shall instruct the Bond Commission to notify the Authority of any monthly payments which are not received by the 20th day of the month in which the payment was due.

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 lien on the net revenues of the Local Government's system.

The Local Government may prepay the Bonds in full at any time at the price of par upon 30 days' written notice to the Authority and DEP. The Local Government shall request approval from the Authority and DEP in writing of any proposed debt which will be issued by the Local Government on a parity with the Bonds which request must be filed at least 60 days prior to the intended date of issuance.

*Water Development Authority - Sewer Revenue Bond, Series 1995A, issued December 7, 1995, in the original principal amount of \$289,532; Sewer Revenue Bond, Series 1995B, issued December 7, 1995, in the original principal amount of \$1,080,088; and Sewer Revenue Bond, Series 1995C, issued December 7, 1995, in the original principal amount of \$883,974 (SRF Program).

SCHEDULE Y

Hancock County Public Service District (West Virginia)

Loan of \$4,996,347

20 Years, 0% Interest Rate, 1% Administrative Fee

Closing Date: November 23, 1999

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Total P+I
12/01/1999	-	-	-
3/01/2000	-	-	-
6/01/2000	-	-	-
9/01/2000	-	-	-
12/01/2000	-	-	-
3/01/2001	-	-	-
6/01/2001	62,455.00	-	62,455.00
9/01/2001	62,455.00	-	62,455.00
12/01/2001	62,455.00	-	62,455.00
3/01/2002	62,455.00	-	62,455.00
6/01/2002	62,455.00	-	62,455.00
9/01/2002	62,455.00	-	62,455.00
12/01/2002	62,455.00	-	62,455.00
3/01/2003	62,455.00	-	62,455.00
6/01/2003	62,455.00	-	62,455.00
9/01/2003	62,455.00	-	62,455.00
12/01/2003	62,455.00	-	62,455.00
3/01/2004	62,455.00	-	62,455.00
6/01/2004	62,455.00	-	62,455.00
9/01/2004	62,455.00	-	62,455.00
12/01/2004	62,455.00	-	62,455.00
3/01/2005	62,455.00	-	62,455.00
6/01/2005	62,455.00	-	62,455.00
9/01/2005	62,455.00	-	62,455.00
12/01/2005	62,455.00	-	62,455.00
3/01/2006	62,455.00	-	62,455.00
6/01/2006	62,455.00	-	62,455.00
9/01/2006	62,455.00	-	62,455.00
12/01/2006	62,455.00	-	62,455.00
3/01/2007	62,455.00	-	62,455.00
6/01/2007	62,455.00	-	62,455.00
9/01/2007	62,455.00	-	62,455.00
12/01/2007	62,455.00	-	62,455.00
3/01/2008	62,454.00	-	62,454.00
6/01/2008	62,454.00	-	62,454.00
9/01/2008	62,454.00	-	62,454.00
12/01/2008	62,454.00	-	62,454.00
3/01/2009	62,454.00	-	62,454.00
6/01/2009	62,454.00	-	62,454.00
9/01/2009	62,454.00	-	62,454.00
12/01/2009	62,454.00	-	62,454.00
3/01/2010	62,454.00	-	62,454.00
6/01/2010	62,454.00	-	62,454.00
9/01/2010	62,454.00	-	62,454.00
12/01/2010	62,454.00	-	62,454.00
3/01/2011	62,454.00	-	62,454.00
6/01/2011	62,454.00	-	62,454.00

Hancock County Public Service District (West Virginia)

Loan of \$4,996,347

20 Years, 0% Interest Rate, 1% Administrative Fee

Closing Date: November 23, 1999

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Total P+I
9/01/2011	62,454.00	-	62,454.00
12/01/2011	62,454.00	-	62,454.00
3/01/2012	62,454.00	-	62,454.00
6/01/2012	62,454.00	-	62,454.00
9/01/2012	62,454.00	-	62,454.00
12/01/2012	62,454.00	-	62,454.00
3/01/2013	62,454.00	-	62,454.00
6/01/2013	62,454.00	-	62,454.00
9/01/2013	62,454.00	-	62,454.00
12/01/2013	62,454.00	-	62,454.00
3/01/2014	62,454.00	-	62,454.00
6/01/2014	62,454.00	-	62,454.00
9/01/2014	62,454.00	-	62,454.00
12/01/2014	62,454.00	-	62,454.00
3/01/2015	62,454.00	-	62,454.00
6/01/2015	62,454.00	-	62,454.00
9/01/2015	62,454.00	-	62,454.00
12/01/2015	62,454.00	-	62,454.00
3/01/2016	62,454.00	-	62,454.00
6/01/2016	62,454.00	-	62,454.00
9/01/2016	62,454.00	-	62,454.00
12/01/2016	62,454.00	-	62,454.00
3/01/2017	62,454.00	-	62,454.00
6/01/2017	62,454.00	-	62,454.00
9/01/2017	62,454.00	-	62,454.00
12/01/2017	62,454.00	-	62,454.00
3/01/2018	62,454.00	-	62,454.00
6/01/2018	62,454.00	-	62,454.00
9/01/2018	62,454.00	-	62,454.00
12/01/2018	62,454.00	-	62,454.00
3/01/2019	62,454.00	-	62,454.00
6/01/2019	62,454.00	-	62,454.00
9/01/2019	62,454.00	-	62,454.00
12/01/2019	62,454.00	-	62,454.00
3/01/2020	62,454.00	-	62,454.00
6/01/2020	62,454.00	-	62,454.00
9/01/2020	62,454.00	-	62,454.00
12/01/2020	62,454.00	-	62,454.00
3/01/2021	62,454.00	-	62,454.00
Total	4,996,347.00	-	4,996,347.00*

*Plus \$6,323.48 one-percent administrative fee paid quarterly. Total fee paid over the life of the loan is \$505,878.40.

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PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

At a session of the Public Service Commission of West Virginia, in the City of Charleston, on the 8th day of November, 1999.

CASE NO. 98-0824-PSD-CN

HANCOCK COUNTY PUBLIC SERVICE
DISTRICT, a public utility.

Application for a certificate of convenience
and necessity to construct Mountaineer Park/
Route 2 Sanitary Sewer Project.

COMMISSION ORDER

PROCEDURE AND DISCUSSION

On July 27, 1999, the Hancock County Public Service District (District) filed an application for a certificate of convenience and necessity to construct a wastewater collection system to serve the area along Route 2 south of Newell, West Virginia and Route 208 area; Mountaineer Race Track and Resort area; and along Route 2 south of Route 208 to Nessly Chapel. The District proposes to construct a 300,000 gallons per day sequencing batch reactor plant to be built on the south end of the existing parking lot for the Mountaineer Park Race Track. The collection system will consist of approximately 3,902 linear feet of two-inch diameter force main, 2,970 linear feet of three-inch diameter force main, 15,540 linear feet of four-inch force main, 14,500 linear feet of eight-inch gravity sewer, two (2) lift stations and six (6) grinder pumps.

The District estimates that construction will cost approximately \$4,996,347.00, to be financed by a West Virginia State Revolving Fund loan in the amount of \$4,996,347.00, at an annual interest rate of zero percent (0%), plus an annual administrative fee of one percent (1%), for a term not to exceed twenty (20) years.

The District intends to charge the project customers its existing rate and charges, which were approved in Case No. 99-0001-PWD-19A and which became effective July 25, 1999.

As part of this filing, the District also seeks Commission approval of a sewer facilities user agreement (agreement), which it has entered into with Mountaineer Park, Inc. The agreement outlines, among other things, various provisions related to operations, user fees, maintenance and modifications, indemnification, defaults and remedies. The agreement was modified at the request of Staff and the modified agreement was filed with the Water and Wastewater Division on July 12, 1999, and with the Executive Secretary on October 29, 1999. See Final Joint Staff Memorandum, November 1, 1999.

In a Final Joint Staff Memorandum filed November 1, 1999, Staff recommended that the Commission grant the District's application for a certificate of convenience and necessity, including the proposed financing, the charging of the District's existing rates and charges and the modified sewer facilities user agreement between the District and Mountaineer Park.

Pursuant to the Notice of Filing entered on July 27, 1999, the District filed a certificate of publication, on November 4, 1999, indicating that notice of the filing of the certificate application was published on August 10, 1999, in The Daily Times, a newspaper of general circulation in Hancock County. No protests to the application were received within the thirty-day protest period.

The Commission will grant the District's application, as recommended by Staff.

FINDINGS OF FACT

1. On July 27, 1999, the Hancock County Public Service District (District) filed an application for a certificate of convenience and necessity to construct a wastewater collection system to serve the area along Route 2 south of Newell, West Virginia and Route 208 area; Mountaineer Race Track and Resort area; and along Route 2 south of Route 208 to Nessly Chapel. The District proposes to construct a 300,000 gallons per day sequencing batch reactor plant to be built on the south end of the existing parking lot for the Mountaineer Park Race Track. The collection system will consist of approximately 3,902 linear feet of two-inch diameter force main, 2,970 linear feet of three-inch diameter force main, 15,540 linear feet of four-inch force main, 14,500 linear feet of eight-inch gravity sewer, two (2) lift stations and six (6) grinder pumps.
2. The District estimates that construction will cost approximately \$4,996,347.00, to be financed by a West Virginia State Revolving Fund loan in the amount of \$4,996,347.00, at an annual interest rate of zero percent (0%), plus an annual administrative fee of one percent (1%), for a term not to exceed twenty (20) years.

3. The District intends to charge the project customers its existing rate and charges, which were approved in Case No. 99-0001-PWD-19A and which became effective July 25, 1999.

4. As part of this filing, the District also seeks Commission approval of a sewer facilities user agreement (agreement), which it has entered into with Mountaineer Park, Inc. The agreement outlines, among other things, various provisions related to operations, user fees, maintenance and modifications, indemnification, defaults and remedies. The agreement was modified at the request of Staff and the modified agreement was filed with the Water and Wastewater Division on July 12, 1999, and with the Executive Secretary on October 29, 1999. See Final Joint Staff Memorandum, November 1, 1999.

5. In a Final Joint Staff Memorandum filed November 1, 1999, Staff recommended that the Commission grant the District's application for a certificate of convenience and necessity, including the proposed financing, the charging of the District's existing rates and charges and the modified sewer facilities user agreement between the District and Mountaineer Park.

6. Pursuant to the Notice of Filing entered on July 27, 1999, the District filed a certificate of publication, on November 4, 1999, indicating that notice of the filing of the certificate application was published on August 10, 1999, in The Daily Times, a newspaper of general circulation in Hancock County. No protests to the application were received within the thirty-day protest period.

CONCLUSIONS OF LAW

1. The Commission will grant the application for a certificate of convenience and necessity filed by the District on July 27, 1999.

2. In granting the certificate application, the Commission will also approve the West Virginia State Revolving Fund loan in the amount of \$4,996,347.00, at an annual interest rate 0% and an annual administrative fee of 1%, for a term not to exceed 20 years.

3. In granting the certificate application, the Commission will also authorize the District to charge the project customers the District's existing rates and charges, which were approved in Case No. 99-0001-PWD-19A.

4. In granting the certificate application, the Commission will also approve the modified Sewer Facilities User Agreement between the District and Mountaineer Park.

ORDER

IT IS THEREFORE ORDERED that the application for a certificate of convenience and necessity filed by the Hancock County Public Service District on July 27, 1999, including the financing associated therewith, is hereby granted.

IT IS FURTHER ORDERED that the Hancock County Public Service District shall be permitted to charge the project customers the District's existing rates and charges, which were approved in Case No. 99-0001-PSD-19A.

IT IS FURTHER ORDERED that the modified Sewer Facilities User Agreement between the Hancock County Public Service District and Mountaineer Park, Inc. is hereby approved.

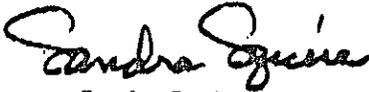
IT IS FURTHER ORDERED that, in the event there is any future change in the scope, costs or financing of the project, the Hancock County Public Service District shall seek Commission approval before proceeding further with the project.

IT IS FURTHER ORDERED that this case is hereby closed and removed from the Commission's docket of open cases.

IT IS FURTHER ORDERED that the Commission's Executive Secretary shall serve a copy of this order upon all parties of record by United States First Class Mail, and upon the Commission by hand delivery.

A. True Copy, Text.

ARC
MSB/lfg
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Sandra Squire
Executive Secretary

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 20th day of July, 1999.

CASE NO. 99-0001-PSD-19A

HANCOCK COUNTY PUBLIC SERVICE DISTRICT,
a public utility, Weirton, Hancock County
Rule 19A application to increase sewer
rates and charges including an increase
in the minimum charge.

COMMISSION ORDER
WAIVING EXCEPTION PERIOD

On July 13, 1999, Administrative Law Judge Miles C. Cary entered a Recommended Decision which, among other things, approved revised Staff-recommended rates and charges for Hancock County Public Service District for all services rendered on and after the date that said decision becomes final.

On July 16, 1999, Dan E. Wilson, Chairman for the District, filed a letter requesting a waiver of the fifteen day period of time in which a party may file exceptions to the Recommended Decision. Commission Staff has indicated it has no objection to granting said waiver.

West Virginia Code §24-1-9 provides a time period of at least twenty (20) days from the date of a recommended order until it becomes effective. According to West Virginia Code §24-1-9(c), at least fifteen (15) days must be afforded the parties within which to file exceptions. In addition, §24-1-9(e) provides that when no exceptions are filed within the specified time period, the Commission shall have an additional five (5) days within which to stay or postpone the order.

The Commission is of the opinion and belief that said requests of waiver received by the Commission on July 16, 1999, should be granted.

IT IS, THEREFORE, ORDERED that the requested waiver be, and the same hereby is granted.

IT IS FURTHER ORDERED that the Administrative Law Judge's Recommended Decision in this matter becomes final (5) days after the date of this order.

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

FINAL
7-25-99
By Commission Order

Entered: July 13, 1999

CASE NO. 99-0001-PSD-19A

HANCOCK COUNTY PUBLIC SERVICE DISTRICT,
a public utility, Weirton, Hancock County
Rule 19A application to increase sewer
rates and charges including an increase
in the minimum charge.

RECOMMENDED DECISION

PROCEDURE

On January 4, 1999, the Hancock County Public Service District (Applicant or District) filed an application with the Public Service Commission, pursuant to Rule 19A of the Commission's Rules and Regulations for the Government of the Construction and Filing of Tariffs of Public Utilities and Common Carriers by Motor Vehicle (Tariff Rules), requesting an increase in sewer rates and charges for its customers in Hancock County, West Virginia.

On January 25, 1999, the Public Service Commission issued a Referral Order in this matter, referring this proceeding to the Division of Administrative Law Judges for a decision to be rendered on or before September 1, 1999. It was further ordered that Commission Staff file its report on or before April 14, 1999.

On April 7, 1999, Staff Attorney Cecelia G. Jarrell filed the Staff 19A Report in this proceeding, prepared by Joseph A. Marakovits, Technical Analyst, Engineering Division, and William A. Nelson, Utilities Analyst, Water and Wastewater Division, recommending approval of the "unconnected customer charge" of \$30.08 and an across-the-board percentage increase of 56% to the District's current rates and charges.

By Order entered on April 21, 1999, the District was directed to give notice to its customers of Staff's recommended rates and charges.

On May 10 and 12, 1999, the Commission received protests to the Staff proposed increased rates and charges.

By Order entered May 13, 1999, this matter was set for hearing to be held on Wednesday, June 23, 1999, at 9:30 a.m., in Conference Room 201,

for increased grant funding for the construction of this project, because this system was cheaper to build than a conventional gravity-type system. As a result of the grants that the District received due to this new technology, it had to borrow less money. (Tr., p. 36).

According to Staff, the City of Weirton had been operating and maintaining the District's system. Weirton had been performing routine daily operation and maintenance inspections on the vacuum stations and on the individual services and had been conducting new inspections for new customers. As already noted, the City of Weirton also treated the sewage from Hancock County. Mr. Marakovits testified that the City of Weirton has terminated these services and the City of New Cumberland is now doing the operation and maintenance for the District. Staff noted that Weirton terminated its service due to a large unpaid bill. (Tr., pp. 37-38). The District is not generating enough revenue to pay all of its debt service and all of its operation and maintenance and treatment expenses. (Tr., p. 39). Mr. Marakovits testified that, in his review of the District's application, he made three adjustments: 1) Account No. 1705, where he recommended a decrease of \$8,556 for labor and materials charged by the Weirton Sanitary Board; 2) Account No. 1723, pumping expenses, which increased to \$9,608 for purchase of power, which is more reflective of today's operations; and 3) treatment expenses were increased to \$6,591, to reflect what the City of Weirton is charging the District for sewage treatment. (Tr., pp. 40-41). Mr. Marakovits testified that the originally anticipated revenue has not occurred and the District had overestimated customer usage. (Tr., pp. 44-45).

Mr. Bill Nelson was called as a witness on behalf of Commission Staff. Mr. Nelson is a Utilities Analyst in the Water and Wastewater Division of the Public Service Commission where he reviews and analyzes cases involving financial issues. Mr. Nelson has been employed by the Commission for nine years and has a degree in finance. Mr. Nelson testified that the Oakland Public Service District (Oakland) handles the billing and collecting for the Hancock County Public Service District. Oakland rents some office space and the District utilizes Oakland's secretary and billing clerk. The District pays \$900 a month for these services. (Tr., pp. 46-47). Mr. Nelson testified that approximately 70 customers have not connected to the system. (Tr., p. 48). The District's financial problems exist due to the District's inability to pay current expenses. These expenses include payment to the City of Weirton, payment to the Oakland Public Service District, monthly bills such as phone and power, and insurance and debt payments. Mr. Nelson testified that, when Staff recommended its rates, it only took into consideration the gallons usage, and omitted the customer charge. For the unmetered customers and those who may be subject to the unconnected customer charge, the rate will be \$10.16 higher per month. Staff had recommended a rate for unmetered customers of \$45.72, but \$10.16 should be added to that figure, for a total of \$55.88, and, if approved, the unconnected customer charge based on 3,000 gallons would be \$30.48, plus the customer charge of \$10.16, for a total of \$40.64. (Tr., pp. 48-52). When this project was initially proposed, it was projected that the unconnected customers would pay an average bill based on 4,500 gallons, or \$35.75; however, by not connecting, they are only being billed the current minimum bill of \$6.50 per month, generating a significant shortfall in revenue. Under the Staff proposal, the people that are not

FINDINGS OF FACT

1. Mr. Wilson, Chairman of the Hancock County Public Service District, testified that the factors that have led to the District's increased costs are the cost to obtain easements, the cost of treatment being higher than expected and the fact that as many as 70 customers have refused to connect to the system. (Tr., pp. 18-19).

2. Mr. Marakovits of the Public Service Commission testified that the District is not generating enough revenue to pay all of its debt service, operation and maintenance expenses and treatment expenses. (Tr., p. 39).

3. Mr. Marakovits noted that the District's originally anticipated revenues have not occurred and the District has overestimated customer usage. (Tr., pp. 44-45).

4. Mr. Nelson of the Public Service Commission testified that the District's financial problems exist due to the District's inability to pay current expenses. (Tr., p. 48).

CONCLUSION OF LAW

Given the various factors which have increased the District's costs and the lower than anticipated revenues, Staff's revised recommendations are reasonable and necessary to maintain the District's system.

ORDER

IT IS, THEREFORE, ORDERED that the revised Staff-recommended rates and charges for Hancock County Public Service District, be, and hereby are, approved, for all services rendered on and after the date that this Order becomes final. Said rates and charges are as follows:

APPLICABILITY

Applicable in entire territory served.

AVAILABILITY OF SERVICE

Available for general domestic, commercial and industrial service.

RATES

Customer Charge	\$ 8.93 per month
Usage Charge	\$ 8.93 per 1,000 gallons
Unconnected Customer Charges	\$35.72 per month
Unmetered Customer Charge	\$49.12 per month
(Flat rate equivalent to 4,500 gallons of water usage per month)	
Connection Charge:	
Subsequent to construction adjacent to the Customer's property	\$300.00

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.

Miles C. Cary

Miles C. Cary
Administrative Law Judge

MCC:mal
990001ab.wpd



West Virginia Infrastructure & Jobs Development Council

Public Members:

James D. Williams, Chairman

St. Albans

James L. Harrison, Sr., Vice Chairman

Princeton

Lloyd P. Adams, P.E.

Wheeling

Sheirl L. Fletcher

Morgantown

980 One Valley Square
Charleston, West Virginia 25301
Telephone: (304) 558-4607
Facsimile: (304) 558-4609

Susan J. Riggs, Esquire
Executive Secretary

December 8, 1997

Suzann S. Gad, Executive Director
Region XI Planning & Development Council
814 Adams Street
Steubenville, WV 43952

Re: Hancock County Public Service District
Wastewater System Extension Project 97S-366

Dear Ms. Gad:

The West Virginia Infrastructure and Jobs Development Council (Council) has reviewed the Hancock County Public Service District's (District) preliminary application regarding the District's proposed project to construct a wastewater treatment and collection system to serve 10 commercial customers, 85 residential customers and Mountaineer Park (Project). Based on the findings of the Sewer Technical Review Committee, the Council has determined that the Project is technically feasible within the guidelines of the Infrastructure and Jobs Development Act. The District should carefully review the enclosed comments of the Sewer Technical Review Committee. The District may need to address certain issues raised in said comments as it proceeds with the Project.

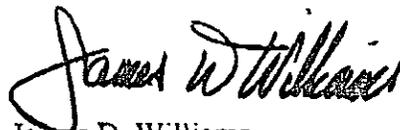
Pursuant to its review of the preliminary application, the Council recommends the District pursue State Revolving Fund loan assistance of \$602,023. Please contact the Division of Environmental Protection (DEP) at 558-0641 for specific information on the steps the District needs to follow to apply for these funds. The District may also be eligible for Infrastructure Fund assistance of approximately \$3,100,000. The Council's final decision as to the Project's specific funding is being deferred pending final determination of the Project's eligibility and readiness to proceed, and availability of funds in the Infrastructure Fund. Currently, no funds are available in the Infrastructure Fund. **Please note that this letter does not constitute funding approval from these funding agencies.**

Suzann S. Gad
December 8, 1997
Page 2

Please immediately notify the Council upon the District's receipt of either a commitment or denial of funding from DEP. Upon such notification, the Council will review the status of the District's Project and the District's need for funding from the Infrastructure Fund.

If you have any questions regarding this matter, please contact Susan J. Riggs at the above telephone number.

Sincerely,



James D. Williams

JDW/bjh
Enclosure
cc: Mike Johnson, P.E. (w/o enc)

HANCOCK COUNTY PUBLIC SERVICE DISTRICT

Sewer Revenue Bonds, Series 1999
(West Virginia SRF Program)

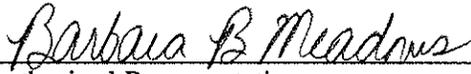
CROSS-RECEIPT FOR BONDS AND BOND PROCEEDS

The undersigned authorized representative of the West Virginia Water Development Authority (the "Authority"), for and on behalf of the Authority, and the undersigned Chairman of Hancock County Public Service District (the "Issuer"), for and on behalf of the Issuer, hereby certify as follows:

1. On the 2nd day of December, 1999, the Authority received the Sewer Revenue Bonds, Series 1999 (West Virginia SRF Program), of the Issuer, in the principal amount of \$4,996,347, numbered R-1 (the "Series 1999 Bonds") issued as a single, fully registered Bond, and dated December 2, 1999.
2. At the time of such receipt, all the Series 1999 Bonds had been executed by the Chairman and the Secretary of the Issuer by their respective manual signatures, and the official seal of the Issuer had been affixed upon the Bonds.
3. The Issuer has received and hereby acknowledges receipt from the Authority, as the original purchaser of the Series 1999 Bonds, of \$667,254, being a portion of the principal amount of the Series 1999 Bonds. The balance of the principal amount of the Series 1999 Bonds will be advanced by the Authority and the West Virginia Division of Environmental Protection to the Issuer as acquisition and construction of the Project progresses.

WITNESS our respective signatures on this 2nd day of December, 1999.

WEST VIRGINIA WATER DEVELOPMENT
AUTHORITY



Authorized Representative

HANCOCK COUNTY PUBLIC SERVICE DISTRICT



Chairman

HANCOCK COUNTY PUBLIC SERVICE DISTRICT

Sewer Revenue Bonds, Series 1999
(West Virginia SRF Program)

DIRECTION TO AUTHENTICATE AND DELIVER BONDS

One Valley Bank, National Association,
as Bond Registrar
Charleston, West Virginia

Ladies and Gentlemen:

There are delivered to you herewith on this 2nd day of December, 1999:

(1) Bond No. R-1, constituting the entire original issue of Hancock County Public Service District Sewer Revenue Bonds, Series 1999 (West Virginia SRF Program), in the principal amount of \$4,996,347 (the "Series 1999 Bonds"), dated December 2, 1999 (the "Bonds"), executed by the Chairman and Secretary of Hancock County Public Service District (the "Issuer") and bearing the official seal of the Issuer, respectively authorized to be issued under and pursuant to a Bond Resolution duly adopted by the Issuer on November 18, 1999, and a Supplemental Resolution duly adopted by the Issuer on November 18, 1999 (collectively, the "Bond Legislation");

(2) A copy of the Bond Legislation authorizing the above-captioned Bonds, duly certified by the Secretary of the Issuer;

(3) Executed counterparts of a loan agreement for the Series 1999 Bonds, dated October 21, 1999, by and among the Issuer, the West Virginia Water Development Authority (the "Authority") and the West Virginia Division of Environmental Protection (the "Loan Agreement"); and

(4) Executed opinions of nationally recognized bond counsel regarding the validity of the Loan Agreement and the Bonds.

You are hereby requested and authorized to deliver the Series 1999 Bonds to the Authority upon payment to the Issuer of the sum of \$667,254, representing a portion of the principal amount of the Series 1999 Bonds. Prior to such delivery of the Bonds, you will please cause the Bonds to be authenticated and registered by an authorized officer, as Bond Registrar, in accordance with the forms of Certificate of Authentication and Registration.

Dated as of the day and year first written above.

HANCOCK COUNTY PUBLIC SERVICE
DISTRICT



Chairman

11/17/99
373520/98001

SPECIMEN

**UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
HANCOCK COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 1999
(WEST VIRGINIA SRF PROGRAM)**

No. R-1

\$4,996,347

KNOW ALL MEN BY THESE PRESENTS: That HANCOCK COUNTY PUBLIC SERVICE DISTRICT, a public corporation and political subdivision of the State of West Virginia in Hancock 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 the West Virginia Water Development Authority (the "Authority") or registered assigns the sum of FOUR MILLION NINE HUNDRED NINETY SIX THOUSAND THREE HUNDRED FORTY SEVEN DOLLARS (\$4,996,347), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing June 1, 2001, as set forth on the "Schedule of Annual Debt Service" attached as EXHIBIT B hereto and incorporated herein by reference, with no interest. The SRF Administrative Fee (as defined in the hereinafter described Bond Legislation) shall also be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing June 1, 2001, as set forth on EXHIBIT B attached hereto.

This Bond shall bear no interest. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, 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, Charleston, West Virginia (the "Paying Agent").

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 the West Virginia Department of Environmental Protection (the "DEP"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement by and among the Issuer, the Authority and the DEP, dated October 21, 1999.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain improvements and extensions to the existing public sewerage facilities of the Issuer (the "Project"); (ii) to fund a reserve account for the Bonds of this Series (the

"Bonds"); and (iii) to pay certain costs of issuance for the Bonds of this Series (the "Bonds") and related costs. The existing public sewerage facilities of the Issuer, the Project and any further improvements or extensions thereto are herein called the "System." 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 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (the "Act"), and a Bond Resolution duly adopted by the Issuer on November 18, 1999, and a Supplemental Resolution duly adopted by the Issuer on November 18, 1999, (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation 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 Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL OTHER RESPECTS, WITH THE ISSUER'S (i) SEWER REVENUE BONDS, SERIES 1995 A (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY), DATED DECEMBER 7, 1995, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$289,532, (ii) THE SEWER REVENUE BONDS, SERIES 1995 B (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY), DATED JANUARY 9, 1996, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$1,080,088, AND (iii) THE SEWER REVENUE BONDS, SERIES 1995 C (WEST VIRGINIA SRF PROGRAM), DATED DECEMBER 7, 1995, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$883,974 (COLLECTIVELY, THE "PRIOR BONDS").

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on a parity with the pledge of Net Revenues in favor of the holders of the Prior Bonds, unexpended proceeds of the Bonds, and from moneys in the reserve account created under the Bond Legislation for the Bonds (the "Series 1999 Bonds Reserve Account"). Such Net Revenues shall be sufficient to pay the principal of and interest, if any, on all bonds which may be issued pursuant to the Act and shall be set aside as a special fund hereby pledged for such purpose. 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, except from said special fund provided from the Net Revenues, the moneys in the Series 1999 Bonds Reserve Account, and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Bonds, including the Prior

Bonds; provided however, that so long as there exists in the Series 1999 Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with the Bonds, including the Prior Bonds, an amount at least 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 Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Bond Legislation, only upon the books of the Registrar by the registered owner, or by 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.

Subject to the registration requirements set forth herein, this Bond, under the provision of the Act is, and has all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law and the Bond Legislation, shall be applied solely to payment of the costs of the Project and costs of issuance hereof described in the Bond Legislation, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the registered 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 at the issuance of this Bond do exist, 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 Net 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 this Bond.

All provisions of the Bond Legislation, resolutions and 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, HANCOCK COUNTY PUBLIC SERVICE DISTRICT
has caused this Bond to be signed by its Chairman and its corporate seal to be hereunto affixed and
attested by its Secretary, and has caused this Bond to be dated December 2, 1999.

[SEAL]


Chairman

ATTEST:


Secretary

SPECIMEN

SPECIMEN

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 1999 Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: December 2, 1999.

ONE VALLEY BANK NATIONAL
ASSOCIATION, as Registrar

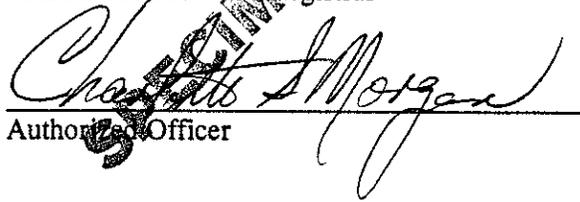

Authorized Officer

EXHIBIT A
RECORD OF ADVANCES

	AMOUNT	DATE		AMOUNT	DATE
(1)	\$ 667,254	12/2/99	(19)	\$	
(2)	\$		(20)	\$	
(3)	\$		(21)	\$	
(4)	\$		(22)	\$	
(5)	\$		(23)	\$	
(6)	\$		(24)	\$	
(7)	\$		(25)	\$	
(8)	\$		(26)	\$	
(9)	\$		(27)	\$	
(10)	\$		(28)	\$	
(11)	\$		(29)	\$	
(12)	\$		(30)	\$	
(13)	\$		(31)	\$	
(14)	\$		(32)	\$	
(15)	\$		(33)	\$	
(16)	\$		(34)	\$	
(17)	\$		(35)	\$	
(18)	\$		(36)	\$	

TOTAL \$ _____

EXHIBIT B

Hancock County Public Service District (West Virginia)

Loan of \$4,996,347

20 Years, 0% Interest Rate, 1% Administrative Fee

Closing Date: November 23, 1999

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Total P+i
12/01/1999	-	-	-
3/01/2000	-	-	-
6/01/2000	-	-	-
9/01/2000	-	-	-
12/01/2000	-	-	-
3/01/2001	-	-	-
6/01/2001	62,455.00	-	62,455.00
9/01/2001	62,455.00	-	62,455.00
12/01/2001	62,455.00	-	62,455.00
3/01/2002	62,455.00	-	62,455.00
6/01/2002	62,455.00	-	62,455.00
9/01/2002	62,455.00	-	62,455.00
12/01/2002	62,455.00	-	62,455.00
3/01/2003	62,455.00	-	62,455.00
6/01/2003	62,455.00	-	62,455.00
9/01/2003	62,455.00	-	62,455.00
12/01/2003	62,455.00	-	62,455.00
3/01/2004	62,455.00	-	62,455.00
6/01/2004	62,455.00	-	62,455.00
9/01/2004	62,455.00	-	62,455.00
12/01/2004	62,455.00	-	62,455.00
3/01/2005	62,455.00	-	62,455.00
6/01/2005	62,455.00	-	62,455.00
9/01/2005	62,455.00	-	62,455.00
12/01/2005	62,455.00	-	62,455.00
3/01/2006	62,455.00	-	62,455.00
6/01/2006	62,455.00	-	62,455.00
9/01/2006	62,455.00	-	62,455.00
12/01/2006	62,455.00	-	62,455.00
3/01/2007	62,455.00	-	62,455.00
6/01/2007	62,455.00	-	62,455.00
9/01/2007	62,455.00	-	62,455.00
12/01/2007	62,455.00	-	62,455.00
3/01/2008	62,454.00	-	62,454.00
6/01/2008	62,454.00	-	62,454.00
9/01/2008	62,454.00	-	62,454.00
12/01/2008	62,454.00	-	62,454.00
3/01/2009	62,454.00	-	62,454.00
6/01/2009	62,454.00	-	62,454.00
9/01/2009	62,454.00	-	62,454.00
12/01/2009	62,454.00	-	62,454.00
3/01/2010	62,454.00	-	62,454.00
6/01/2010	62,454.00	-	62,454.00
9/01/2010	62,454.00	-	62,454.00
12/01/2010	62,454.00	-	62,454.00
3/01/2011	62,454.00	-	62,454.00
6/01/2011	62,454.00	-	62,454.00

Hancock County Public Service District (West Virginia)

Loan of \$4,996,347

20 Years, 0% Interest Rate, 1% Administrative Fee

Closing Date: November 23, 1999

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Total P+I
9/01/2011	62,454.00	-	62,454.00
12/01/2011	62,454.00	-	62,454.00
3/01/2012	62,454.00	-	62,454.00
6/01/2012	62,454.00	-	62,454.00
9/01/2012	62,454.00	-	62,454.00
12/01/2012	62,454.00	-	62,454.00
3/01/2013	62,454.00	-	62,454.00
6/01/2013	62,454.00	-	62,454.00
9/01/2013	62,454.00	-	62,454.00
12/01/2013	62,454.00	-	62,454.00
3/01/2014	62,454.00	-	62,454.00
6/01/2014	62,454.00	-	62,454.00
9/01/2014	62,454.00	-	62,454.00
12/01/2014	62,454.00	-	62,454.00
3/01/2015	62,454.00	-	62,454.00
6/01/2015	62,454.00	-	62,454.00
9/01/2015	62,454.00	-	62,454.00
12/01/2015	62,454.00	-	62,454.00
3/01/2016	62,454.00	-	62,454.00
6/01/2016	62,454.00	-	62,454.00
9/01/2016	62,454.00	-	62,454.00
12/01/2016	62,454.00	-	62,454.00
3/01/2017	62,454.00	-	62,454.00
6/01/2017	62,454.00	-	62,454.00
9/01/2017	62,454.00	-	62,454.00
12/01/2017	62,454.00	-	62,454.00
3/01/2018	62,454.00	-	62,454.00
6/01/2018	62,454.00	-	62,454.00
9/01/2018	62,454.00	-	62,454.00
12/01/2018	62,454.00	-	62,454.00
3/01/2019	62,454.00	-	62,454.00
6/01/2019	62,454.00	-	62,454.00
9/01/2019	62,454.00	-	62,454.00
12/01/2019	62,454.00	-	62,454.00
3/01/2020	62,454.00	-	62,454.00
6/01/2020	62,454.00	-	62,454.00
9/01/2020	62,454.00	-	62,454.00
12/01/2020	62,454.00	-	62,454.00
3/01/2021	62,454.00	-	62,454.00
Total	4,996,347.00	-	4,996,347.00 *

*Plus \$6,323.48 one-percent administrative fee paid quarterly. Total fee paid over the life of the loan is \$505,878.40.

Hancock County Public Service District (West Virginia)

Loan of \$4,996,347

20 Years, 0% Interest Rate, 1% Administrative Fee

Closing Date: November 23, 1999

DEBT SERVICE SCHEDULE

YIELD STATISTICS

Bond Year Dollars.....	\$56,944.30
Average Life.....	11.397 Years
Average Coupon.....	-
Net Interest Cost (NIC).....	-
True Interest Cost (TIC).....	-5.53E-10
Bond Yield for Arbitrage Purposes.....	-5.53E-10
All Inclusive Cost (AIC).....	0.8828574%
IRS FORM 8038	
Net Interest Cost.....	-
Weighted Average Maturity.....	11.397 Years

Ferris, Baker Watts, Inc.
West Virginia Public Finance Department

File = srfhancock.sf-10 14 99- SINGLE PURPOSE
10/14/1999 11:20 AM

(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:

STEPTOE & JOHNSON

ATTORNEYS AT LAW

BANK ONE CENTER

SEVENTH FLOOR

P. O. BOX 1588

CHARLESTON, W. VA. 25326-1588

(304) 353-8000

FACSIMILE (304) 353-8180

December 2, 1999

Hancock County Public Service District
Sewer Revenue Bonds, Series 1999
(West Virginia SRF Program)

BANK ONE CENTER, SIXTH FLOOR
P. O. BOX 2190
CLARKSBURG, W. VA. 26302-2190
(304) 624-8000
FACSIMILE (304) 624-8183

1000 HAMPTON CENTER
P. O. BOX 1616
MORGANTOWN, W. VA. 26507-1616
(304) 598-8000
FACSIMILE (304) 598-8116

126 EAST BURKE STREET
P. O. BOX 2629
MARTINSBURG, W. VA. 25402-2629
(304) 263-6991
FACSIMILE (304) 262-3541

RILEY BUILDING, FOURTH FLOOR
14TH AND CHAPLINE STREETS
P. O. BOX 150
WHEELING, W. VA. 26003-0020
(304) 233-0000
FACSIMILE (304) 233-0014

THE RIVERS OFFICE PARK
200 STAR AVENUE, SUITE 220
P. O. BOX 628
PARKERSBURG, W. VA. 26102-0628
(304) 422-6463
FACSIMILE (304) 422-6462

ALAN B. MOLLOHAN INNOVATION CENTER
1000 TECHNOLOGY DRIVE
P. O. BOX 2210
FAIRMONT, W. VA. 26554-8824
(304) 368-8000
FACSIMILE (304) 368-6413

WRITER'S DIRECT DIAL NUMBER

Hancock County Public Service District
New Cumberland, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

West Virginia Division of
Environmental Protection
Charleston, West Virginia

Ladies and Gentlemen:

We have served as bond counsel in connection with the issuance by Hancock County Public Service District (the "Issuer"), a public service district, public corporation and political subdivision created and existing under the laws of the State of West Virginia, of its \$4,996,347 Sewer Revenue Bonds, Series 1999 (West Virginia SRF Program), dated the date hereof (the "Bonds").

We have examined the law and certified copies of proceedings and other papers relating to a loan agreement dated October 21, 1999, including all schedules and exhibits attached thereto (the "Loan Agreement"), by and among the Issuer, the West Virginia Water Development Authority (the "Authority") and the West Virginia Division of Environmental Protection (the "DEP"), and the Bonds, which are to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Bonds are originally issued in the form of one Bond, registered as to principal only to the Authority, bearing no interest, with principal payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing June 1, 2001, and ending March 1, 2021, all as set forth in "Schedule Y" attached to the Loan Agreement and incorporated in and made a part of the Bonds.

The Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly, Chapter 16, Article 13A and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"), for the purposes of (i) paying a portion of the costs of acquisition and construction of certain improvements and

extensions to the existing public sewerage facilities of the Issuer (the "Project"); (ii) funding a reserve account for the Bonds; and (iii) paying certain costs of issuance and related costs.

We have also examined the applicable provisions of the Act, the Bond Resolution duly adopted by the Issuer on November 18, 1999, as supplemented by a Supplemental Resolution duly adopted by the Issuer on November 18, 1999 (collectively, the "Bond Legislation"), pursuant to and under which Act and Bond Legislation the Bonds are authorized and issued, and the Loan Agreement has been entered into. The 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 Bond Legislation and the Loan Agreement. All capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Bond Legislation and the Loan Agreement when used herein.

Based upon the foregoing, and upon our examination of such other documents as we have deemed necessary, we are of the opinion, under existing law, as follows:

1. The Issuer is a duly created and validly existing public service district, public corporation and political subdivision of the State of West Virginia, with full power and authority to acquire and construct the Project, to operate and maintain the System referred to in the Loan Agreement and to issue and sell the Bonds, all under the Act and other applicable provisions of law.

2. The Loan Agreement has been duly authorized by and executed on behalf of the Issuer, is a valid and binding special obligation of the Issuer enforceable in accordance with the terms thereof, and inures to the benefit of the Authority and the DEP and cannot be amended by the Issuer so as to affect adversely the rights of the Authority or the DEP or diminish the obligations of the Issuer without the written consent of the Authority and the DEP.

3. The Bond Legislation and all other necessary orders and resolutions have been duly and effectively adopted by the Issuer and constitute valid and binding obligations of the Issuer enforceable against the Issuer in accordance with their terms. The Bond Legislation contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

4. The Bonds have been duly authorized, issued, executed and delivered by the Issuer to the Authority and are valid, legally enforceable and binding special obligations of the Issuer, payable from the Net Revenues of the System referred to in the Bond Legislation and secured by a first lien on and pledge of the Net Revenues of the System, on a parity with respect to liens, pledge and source of and security for payment with

the Issuer's Sewer Revenue Bonds, Series 1995 A (West Virginia Water Development Authority), issued in the original aggregate principal amount of \$289,532, Sewer Revenue Bonds, Series 1995 B (West Virginia Water Development Authority), issued in the original aggregate principal amount of \$1,080,088, and Sewer Revenue Bonds, Series 1995 C (West Virginia SRF Program), issued in the original aggregate principal amount of \$883,974 (collectively, the "Prior Bonds"), all in accordance with the terms of the Bonds and the Bond Legislation.

5. The Bonds are, under the Act, exempt from taxation by the State of West Virginia and the other taxing bodies of the State, and the interest on the Bonds, if any, is exempt from personal and corporate net income taxes imposed directly thereon by the State of West Virginia.

6. The Bonds have not been issued on the basis that the interest thereon is or will be excluded from gross income for federal income tax purposes, therefore, the interest, if any, on the Bonds is not excluded from gross income for federal income tax purposes. We express no opinion regarding other federal tax consequences arising with respect to the Bonds.

It is to be understood that the rights of the holders of the Bonds and the enforceability of the Bonds, the Loan Agreement and the Bond Legislation, and the liens and pledges set forth therein, may be subject to and limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted to the extent constitutionally applicable and that their enforcement may also be subject to the exercise of judicial discretion and the application of equitable remedies in appropriate cases.

We have examined the executed and authenticated 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,



STEPTOE & JOHNSON

11/17/99
373520/98001

FRANKOVITCH, ANETAKIS, COLANTONIO & SIMON

ATTORNEYS AT LAW

GEORGE J. ANETAKIS*
CARL N. FRANKOVITCH**
JOHN J. ANETAKIS*†
M. ERIC FRANKOVITCH**
MARK A. COLANTONIO**
MICHAEL G. SIMON**
THOMAS J. DECAPIO*
J. GEORGE (JACK) ANETAKIS*†

337 PENCO ROAD
WEIRTON, WEST VIRGINIA 26062-3828
TELEPHONE: 304-723-4400
FACSIMILE: 304-723-5892

PITTSBURGH, PENNSYLVANIA
(412) 391-5281
WHEELING, WEST VIRGINIA
(304) 233-1212
CHESTER, WEST VIRGINIA
(304) 387-4400

OF COUNSEL
CARL FRANKOVITCH
JOHN H. KAMLOWSKY

December 2, 1999

ADMITTED TO PRACTICE IN
* WEST VIRGINIA
† PENNSYLVANIA
‡ OHIO

Hancock County Public Service District
Sewer Revenue Bonds, Series 1999
(West Virginia SRF Program)

Hancock County Public Service District
New Cumberland, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

West Virginia Division of
Environmental Protection
Charleston, West Virginia

Steptoe & Johnson
Charleston, West Virginia

Ladies and Gentlemen:

We are counsel to Hancock County Public Service District, a public service district, in Hancock County, West Virginia (the "Issuer"). As such counsel, we have examined copies of the approving opinions of Steptoe & Johnson, as bond counsel, a loan agreement for the Series 1999 Bonds dated October 21, 1999, including all schedules and exhibits attached thereto, by and among the Issuer, the West Virginia Water Development Authority (the "Authority") and the West Virginia Division of Environmental Protection ("DEP") (the "Loan Agreement"), the Bond Resolution duly adopted by the Issuer on November 18, 1999, as supplemented by the Supplemental Resolution duly adopted by the Issuer on November 18, 1999 (collectively, the "Bond Legislation"), orders of The County Commission of Hancock County relating to the Issuer and the appointment of members of the Public Service Board of the Issuer, the Sewer Facilities User Agreement by and between the Issuer and Mountaineer Park, Inc., and other documents, papers, agreements, instruments and certificates relating to the above-captioned Bonds of the Issuer (collectively, the "Bonds"). All capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Bond Legislation and the Loan Agreement when used herein.

We are of the opinion that:

1. The Issuer is duly created and validly existing as a public service district and as a public corporation and political subdivision of the State of West Virginia.
2. The Loan Agreement has been duly authorized, executed and delivered by the Issuer and, assuming due authorization, execution and delivery by the other parties thereto, constitutes a valid and binding agreement of the Issuer enforceable in accordance with its terms.
3. The members and officers of the Public Service Board of the Issuer have been duly, lawfully and properly appointed and elected, have taken the requisite oaths, and are authorized to act in their respective capacities on behalf of the Issuer.
4. The Bond Legislation has been duly adopted by the Issuer and is in full force and effect.
5. The execution and delivery of the Bonds and the Loan Agreement and the consummation of the transactions contemplated by the Bonds, the Loan Agreement and the Bond Legislation 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 ordinance, order, resolution, agreement or other instrument to which the Issuer is a party or by which the Issuer or its properties are bound or any existing law, regulation, court order or consent decree to which the Issuer is subject.
6. The Issuer has received all permits, licenses, approvals, consents, exemptions, orders, certificates and authorizations necessary for the creation and existence of the Issuer, the issuance of the Bonds, the acquisition and construction of the Project, the operation of the System and the imposition of rates and charges for use of the System, including, without limitation, the receipt of all requisite orders, certificates and approvals from The County Commission of Hancock County, the West Virginia Infrastructure and Jobs Development Council and the Public Service Commission of West Virginia, and has taken any other action required for the imposition of such rates and charges, including, without limitation, the adoption of a resolution prescribing such rates and charges. The Issuer has received the Final Order of the Public Service Commission of West Virginia entered as a Recommended Decision on July 13, 1999, made Final on July 25, 1999, by a Commission Order Waiving Exception Period entered on July 20, 1999, in Case No. 99-0001-PSD-19A (collectively the "Final Order"), and the Commission Order of the Public Service Commission of West Virginia entered on November 8, 1999, in Case No. 98-0824-PSD-CN, among other things, granting to the Issuer a certificate of public convenience and necessity for the Project and approving the financing for the Project. The time for appeal of such Final Order has expired prior to the date hereof without any appeal. The time for appeal of such Commission Order has not expired prior to the date hereof. However, the parties to such Commission Order have stated that they do not intend to appeal such Commission Order. The Commission Order is not subject to any appeal, further hearing,

reopening or rehearing by any customer, protestant, intervenor or other person not a party to the original application.

7. The Issuer has duly published a notice of the acquisition and construction of the Project, the issuance of the Bonds and related matters, as required under Chapter 16, Article 13A, Section 25 of the West Virginia Code of 1931, as amended, and has duly complied with the provisions thereof.

8. To the best of our knowledge, other than easement acquisition and the litigation threatened by Honey Creek Contracting Company, Inc. and threatened litigation by Barbara Owens, a homeowner who claims her property was damaged during installation of the sewer system, to which no opinions are expressed herein, there is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body, pending or threatened, wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by the Loan Agreement, the Bond Legislation, the acquisition and construction of the Project, the operation of the System, the validity of the Bonds or the collection or pledge of the Net Revenues therefor.

9. Based upon our review of the contracts, the surety bonds and the policies or other evidence of insurance coverage in connection with the Project, we are of the opinion that such surety bonds and policies (1) are in compliance with the contracts; (2) are adequate in form, substance and amount to protect the various interests of the Issuer; (3) have been executed by duly authorized representatives of the proper parties; (4) meet the requirements of the Act, the Bond Legislation and the Loan Agreement; and (5) all such documents constitute valid and legally binding obligations of the parties thereto in accordance with the terms, conditions and provisions thereof.

All counsel to this transaction may rely upon this opinion as if specifically addressed to them.

Very truly yours,



FRANKOVITCH, ANETAKIS,
COLANTONIO & SIMON

Route 2 Sewer Project
Right-of-Way Easements

EASEMENT #	Drawing #	Property Owner	Address	Deed Book	Pg.	Map	Parcel	Length	Comments
1	C1.1	Quaker State Oil Refining Corp Ergon WV	P.O. Box 1639, Jackson, MS 39215	140	229	G6	1	1676	
2	C1.2	Quaker State Oil Refining Corp Ergon WV	P.O. Box 1639, Jackson, MS 39215	139	292	G5H	29	480	
3	C1.3	Quaker State Oil Refining Corp Ergon WV	P.O. Box 1639, Jackson, MS 39215	140	97	G5H	5	700	
4	C1.3	Trustees of the Congo Church of Nazarene	2550 Congo Arroyo Road, Newell, WV 26050	221	177	G5H	11	100	
5	C1.3	DTC Environmental Services, Inc.	2450 Congo Arroyo Road, Newell, WV 26050	232	392	G5H	10	80	
6	C1.3	Trustees of the Congo Church of Nazarene	2550 Congo Arroyo Road, Newell, WV 26050	135	495	G5H	2	GP2	
7	C1.2 & C1.4	Quaker State Oil Refining Corp Ergon WV	2550 Congo Arroyo Road, Newell, WV 26050			G5H	5	1480	
9		DELETED							
10	C1.4	Summers, Carol L.	Midway Trailer Court, Newell, WV 26050	242	353	G5H	4	Bore	
11	C1.4	Summers, Carol L.	Midway Trailer Court, Newell, WV 26050	242	353	G5H	4	220	
12	C1.4	J & T River Services	3963 Patterson Road, Aliquippa, PA 15001	181	489	G5H	2	560	
13	C1.5, C1.6 & C1.7	Hazel, Lester E. et ux	13401 Y-Camp Road, Lisbon, OH 44432	240	172	G5H	1	2760	
14	C1.7, C1.8, C1.9 & C1.10	Smith, Natalie P.	5810 Lingelstown Road, Harrisburg, PA 17112	229	126	G9	10	4460	
15	C1.10	Smith, Natalie P.	5810 Lingelstown Road, Harrisburg, PA 17112	229	126	G9	14	380	
16	C1.5, C1.6 & C1.7	Summers, Carol L.	Midway Trailer Court, Newell, WV 26050	242	353	G5H	4	425	
17	C1.1	Quaker State Oil Refining Corp Ergon WV	P.O. Box 1639, Jackson, MS 39215	140	229	G6	1	GP1	
18	C1.4	Summers, Carol L.	Midway Trailer Court, Newell, WV 26050	242	353	G5H	4	GP3	
21	C3.1	Morrow, Eleanor E. et ux	Rd#2 Box 184, New Cumberland, WV 26047	159	277	G13	10	1150	
22	C3.1	Morrow, Eleanor E. et ux	Rd#2 Box 184, New Cumberland, WV 26047	159	277	G13	10	Bore	
23	C3.1	Morrow, Eleanor E. et ux	Rd#2 Box 184, New Cumberland, WV 26047	159	277	G13	10	Bore	
24	C3.1 & C3.2	Shippingport Sand & Gravel	6715 Tippecanoe Rd #C, Canfield, OH 44406	149	497	G13	19	1500	
26	C3.2 & C3.3	Shippingport Sand & Gravel	6715 Tippecanoe Rd #C, Canfield, OH 44406	164	157	G13	15	750	
27	C3.3 & C3.4	Shippingport Sand & Gravel	6715 Tippecanoe Rd #C, Canfield, OH 44406	164	157	G13	15	1100	
28	C3.4	Newchem, Inc.	RR2 Box 3000, New Cumberland, WV 26047	239	532	G9	28	440	
29	C3.4	Newchem, Inc.	RR2 Box 3000, New Cumberland, WV 26047	130	197	G9	27	600	
30	C3.4	State Road Commission (Permit)	RR2 Box 3000, New Cumberland, WV 26047	239	532	G9	28	2600	
32	C3.4	Newchem, Inc.	RR2 Box 3000, New Cumberland, WV 26047	239	532	G9	28	Bore	
33	C3.4	Realm Inc.	P.O. Box 386, Chester, WV 26034	233	108	G9	6	Bore	
34	C3.5	State Road Commission (Permit)	RR2 Box 3000, New Cumberland, WV 26047	129	463	G9	16	200	
36	C3.6 & C3.7	Breneman, Richard (DAVID)	445 Vanvoorths Road, #116, Morgantown, WV 26505	WB6	488	G13	5	1650	
37	C3.7	Mervin, Paul	Rd#2 Box 417, New Cumberland, WV 26047	224	764	G13	6	550	
38	C3.7	Trustees of Nessley Chapel & Cemetery	Box 72, New Cumberland, WV 26047	108	226	G13	1	60	
39	C3.7	Sargent, Charles Edward	Box 72, New Cumberland, WV 26047	154	265	G13	3	250	
40	C3.7	Cargill	2108 Demerese Ave, Prescott, AZ 86301	154	265	G13	3	Bore	
41	C3.2 & C3.3	Shippingport Sand & Gravel				G13	15	Bore	
42	C3.3	Shippingport Sand & Gravel				G9	25	Bore	

Right of Way Easements Route 2

Route 2 Sewer Project
Right-of-Way Easements

43	C3.3	Shippingport Sand & Gravel	6715 Tippecanoe Rd.#C, Canfield, OH 44406	141	182	G9	25	Bore
44	C3.3	Swartzmiller, Clair O. & Michael	RD#2 Box 15, New Cumberland, WV 26047	216	728	G9	3	Bore
45	C3.3	Durst, Robert K. et ux	P.O. Box 386, Chester, WV 26034	219	367	G9	4	Bore
46		Marrow, Eleanor E. et ux						
47		BOC Group Inc. (aka Air Reduction Inc.)						
50	C2.1, C2.2, C2.3, C2.4 C2.5, C2.7, C2.8, C2.9							
	C2.10 & C2.11	Mountaineer Park Inc.	P.O. Box 358, Chester, WV 26034	204	150	G9	7	10,410
60	C2.5& C2.6	Air Reduction Co. Inc.	575 Mountain Ave., Murray Hill, NJ 07964	204	150	G9	19	2009
63	C2.6	Turrell Corp./Desco Corp	150 E. Campus View Blvd., Columbus, OH 43235	205	171	G9	17	480
64	C2.3	Mountaineer Park Inc.	P.O. Box 358, Chester, WV 26034	204	150	G9	7	Bore
65	C2.11	BOC Group Inc. (aka Air Reduction Inc.)	575 Mountain Ave., Murray Hill, NJ 07964	205	171	G9	22	880
66	C2.7	Mountaineer Park Inc.	P.O. Box 358, Chester, WV 26034	204	150	G9	7	GP-4
70		Brenneman, Richard						
71		Bwaters, Mary M.						
		Conrail (2)						

cfme

Right of Way Easements Route 2

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ATTORNEYS AT LAW

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ROBERT A HOGUE

* ALSO ADMITTED IN KENTUCKY

December 1, 1999

Brooke, Hancock Jefferson
Metro Planning Commission
c/o Bill Owings
814 Adams Street
Steubenville, Ohio 43952-2796

West Virginia Water Development Authority
180 Association Drive
Charleston, West Virginia 253111571

West Virginia Division of Environmental Protection
1201 Greenbrier Street
Charleston, West Virginia 25311

Hancock County Public Service District
Rd #1, Box 166R
Weirton, WV 26062

RE: Hancock County PSD Bid Opening Dispute

Dear Gentlemen:

In response to your request, I have reviewed the documents that you provided for me, researched the issue, and prepared a Memorandum of Fact and Law addressing the following question:

Was the PSD's action in rejecting Honey Creek Contracting Company, Inc.'s bid appropriate under the circumstances?

My response to this question is explained in greater detail in the attached Memorandum of Fact and Law. However, I have concluded that the PSD was within its discretion in rejecting Honey Creek's bid. I do not believe that Honey Creek has a strong basis for protest.

After you have had an opportunity to review the attached Memorandum, please call me to discuss the matter if you have any questions and let me know what additional assistance may be needed.

10B

December 1, 1999

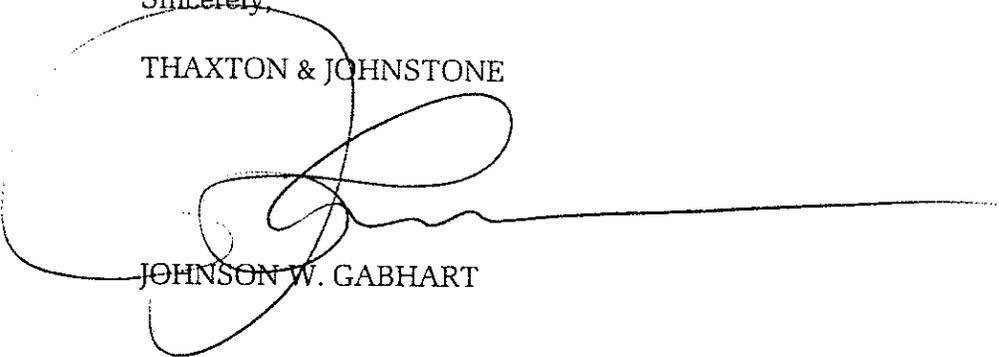
Page 2

I look forward to hearing from you.

My kindest regards.

Sincerely,

THAXTON & JOHNSTONE



JOHNSON W. GABHART

JWG/am

Enclosure

G:\DOCUMENT\B400.000\L-PlanningCommission.11.18.99.wpd

MEMORANDUM

TO: Brooke-Hancock-Jefferson Metropolitan Planning Commission
c/o Bill Owings

The West Virginia Water Development Authority, Charleston, West Virginia;
The West Virginia Division of Environmental Protection, and
The Hancock County Public Service District

FROM: Johnson W. Gabhart - Thaxton & Johnstone

DATE: November 18, 1999

RE: The Hancock County PSD Bid Opening Dispute

ISSUE

Did the Hancock County Public Service District properly reject and refuse to open Honey Creek Contracting Company, Inc.'s Bid for failure to submit a "Certificate of Nonsegregated Facilities"?

BRIEF ANSWER

The Hancock County Public Service District acted within its discretion to reject the bid for failure to comply with all technical requirements contained in the Information for Bidders. Therefore, the rejection was appropriate.

FACTUAL BACKGROUND

During the summer of 1999, the Hancock County Public Service District published a solicitation for bidders for the Route 2 Sanitary Sewer System. Bidders were invited to bid on two contracts, Contract I, "Sanitary Sewer Collection System", and Contract II, "Waste

Water Treatment Plant". Bids were to be submitted using a two envelope system. The first envelope was to contain all required documentation set out in the Information of Bidders. The second envelope was to contain the bid proposal.

Bid opening took place as scheduled, at four o'clock (4:00) p.m. on August 25, 1999. On Contract I, two of seven bidders were found to have submitted incomplete or defective documentation in envelope "one". On Contract II, two of eight bidders failed to submit all required documentation in envelope "one". All four of these bids were rejected and each rejected proposal was returned unopened. (Bid Tabulation attached hereto as Exhibit A).

Among the bidders whose proposals were rejected was Honey Creek Contracting Company, Inc. (hereinafter "Honey Creek"). Honey Creek appears to have complied in all respects with requirements stated in the Information for Bidders except that it failed to submit a "Certificate of Non-Segregated Facilities". (Copy of blank "Certificate of Non-Segregated Facilities" attached as Exhibit B). By letter dated October 29, 1999, counsel for Honey Creek asserted that the company's bid was improperly rejected and advised that an action was being prepared to "overturn the bidding process". (Copy of Honey Creek protest letter attached as Exhibit C).

The Hancock County Public Service District has requested an opinion regarding the propriety of its rejection of Honey Creek's bid and the merit of any ultimate legal action that might be taken by Honey Creek in protest thereof.

DISCUSSION

Since the Hancock County Public Service District is a Public Corporation and a Political Subdivision of the State of West Virginia it is subject to the same competitive bidding rules that apply to the State and its subdivisions. *West Virginia Code §16-13A-3*. The West

Virginia Code provides in §5-22-1 that any contracting agency soliciting bids for the construction of a project exceeding Twenty-Five Thousand Dollars (\$25,000.00) in total cost “shall” solicit competitive bids and that following the solicitation of such bids the construction contract “shall be awarded to the lowest qualified responsible bidder.”

This requirement that all public contracts be competitively bid is designed to promote the public interest by ensuring maximum competition among contractors. Lawmakers have recognized that the maximum competition is obtained where contractors prepare their bids knowing that uniform and fair bidding procedures are in place and will be followed. Where bidding rules are unclear or inconsistently applied competition will be restrained and the opportunity for fraud, collusion and favoritism will be increased to the detriment of the tax paying public. It is for this reason that the Courts should support any effort on the part of a contracting agency to uniformly and strictly adhere to the requirements of competitive bidding.

When soliciting bids for public construction only responsive bids may be considered. A responsive bid is one that responds in every material respect to the bidding requirements stated in the information for bidders. Where a bid is non-responsive, that is it fails to respond in every material way, it must be rejected. Neither the Owner nor a Contracting Officer has discretion to invite, accept, or consider a non-responsive bid. Where it appears that a non-responsive bid has been opened, the contracting officer has a nondiscretionary duty to reject the bid proposal. McCarty Corp. v. United States, 409 F.2d 633 (Ct. Cl. 1974); Pace Co. Division of Ambee Industries, Inc., v. Dept. of the Army, 344 F.Supp. 987, cert. denied, 405 US 974 (1972). If, however, a bid contains any irregularity or informality that is not “material” that is a variance that gives a better and substantial advantage or benefit not enjoyed by other bidders, it is universally recognized that a contracting authority may waive that irregularity.

The contract in this case expressly reserves the right in the District to waive informalities and also reserves a right to reject any and all bids. Section 00100 "Instructions to Bidders" Paragraph 1.c. provides that "*the Owner may consider informal any bid not prepared and submitted in accordance with the provisions hereof and may waive any informalities or reject any and all bids*". (Emphasis added)

A reservation of the right to waive informalities gives a contracting agency the ability to waive technical irregularities that do not affect competition where a waiver would further the public interest. This does not, however, create a positive duty to waive irregularities. In fact, the contracting agency is vested with wide discretion in determining whether to reject bids. Excavation Construction, Inc., v. Richie, 159 W.Va. 888, 230 S.E.2d 822 (1976) (attached as Exhibit D).

It has long been recognized that where a public officer or agency is required to award a contract to a "lowest responsible bidder" wide discretion is vested those officials. Pioneer Company v. Hutchinson, 220 S.E.2d 894 (W.Va. 1975) (Attached as Exhibit E). In Pioneer Company v. Hutchinson, the Court stated that "a Court will not ordinarily interfere with the action of a public officer or tribunal clothed with discretion, in the absence of a clear showing of fraud, collusion or palpable abusive discretion." Id. State, ex rel. Printing-Litho, Inc., v. Wilson, 147 W.Va. 415, 128 S.E.2d 449 (1962).

Additionally, while there is some authority to the effect that a contracting agency can not reject all bids arbitrarily and without reason, West Virginia Code §5A-3-14 provides that "any or all bids may be rejected." Thus, an unsuccessful bidder that brings an action in an effort to challenge the contract award must overcome a heavy presumption against him. The contracting agency will be presumed to have properly exercised this discretion in the absence

of fraud, collusion, or palpable (clear) abuse of discretion. State, ex rel E.D.S. Federal Court v. Ginsberg, 259 S.E.2d 618 (W.Va. 1979).

While there are no West Virginia cases dealing directly with the failure to supply a Certificate of Non-Segregated Facilities, there are cases where the Contracting Agency or officer has refused to waive a technical irregularity. In Excavation Construction, Inc. v. Ritchie, 159 W.Va. 888, 230 S.E.2d 822 (1976) (See Exhibit D), an apparent low bidder whose bid was rejected at a Department of Highways letting brought an action for writ of mandamus in an effort to compel the Commissioner to award it the contract. In that case the unsuccessful low bidder had failed to supply an Affidavit of Free Competitive Bidding with its bid package, although it did supply the affidavit on the day following bid opening. The Commissioner refused to waive this irregularity. The Supreme Court of Appeals of West Virginia refused to reverse the Commissioners rejection of the irregular bid, holding as follows:

“When the Commissioner of the Department of Highways is required to award a contract to the lowest responsible bidder, he has wide discretion in determining whether to waive any technicalities in the requirements of properly promulgated regulations governing bidding procedures, and there is no palpable abuse of discretion when it appears from the evidence that his refusal to waive any such technicality is reasonably related to the preservation of the integrity of the bidding procedures.”

Id. at 822-823. In that case the rejection of the apparent low bid was upheld despite the fact that it was Eight Hundred Twenty-Five Thousand Dollars (\$825,000.00) lower than the second low bidder.

In this case, while the District reserved the right to waive immaterial informalities, it also reserved the right to reject *any* and all bids. As has been noted by West Virginia's highest Court, the contracting agency, in this case the Hancock County Public Service District, has

wide discretion in determining whether the irregularities, such as the failure to submit a Certificate of Non-Segregated Facilities, may be waived. If, in its discretion, the District determines that it will not waive such an irregularity and reject the irregular bid, it is clothed with a heavy presumption that the bid was properly rejected. In order to prevail in an effort to challenge the rejection of its bid, Honey Creek must demonstrate that there has been some fraud, collusion, or palpable abuse of discretion on the District in its decision to reject the bid. In this case, the District adopted a position requiring strict conformance with the requirements stated in the Information for Bidders. Honey Creek's bid was treated in the same manner as were three other bidders whose bids contained some irregularity. There is no hint of any fraud or collusion, nor could there have been due to the District's strict and uniformly applied position. The District's decision was based upon an effort to preserve the unquestioned integrity of the bidding process, and the Court should not find any abuse of discretion that would warrant a challenge to the District's decision to reject Honey Creek's bid.

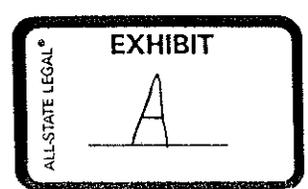
CONCLUSION

The Hancock Public Service District is vested with wide discretion in determining whether to waive irregularities when opening bids for public work. Its refusal in this case to waive Honey Creek's failure to supply a Certificate of Non-Segregated Facilities was not an abuse of its wide discretion and should not subject the District to a successful challenge by the disappointed bidder.

HANCOCK COUNTY PUBLIC SERVICE DISTRICT
 ROUTE 2 SANITARY SEWER SYSTEM
 CONTRACT I
 SANITARY SEWER COLLECTION SYSTEM

CONTRACTOR NAME	BID ON TIME	BID BOND	#5-NON-SECREGATED FACILITIES	#1 MBE & WBE DOCUMENT	EEO CERTIFICATION	ADDENDUM NO. 1	ADDENDUM NO. 2	ADDENDUM NO. 3	NON-COLLISION AFFIDAVIT	BID AMOUNT
Alex E. Paris Contracting Co.	✓	✓	✓	✓	✓	✓	✓	✓	✓	2,426,540.00
Glen Johnston, Inc.	✓	✓	✓	✓	✓	✓	✓	✓	✓	1,872,630.00
Holley Brothers Construction Co., Inc.	✓	✓	✓	✓	✓	✓	✓	✓	✓	1,735,325.00 BID NOT OPEN
Honey Creek Contracting Company, Inc.	✓	✓	✓	✓	✓	✓	✓	✓	✓	1,677,235.00
The James White Construction Co.	✓	✓	✓	✓	✓	✓	✓	✓	✓	1,841,617.50
W.G. Tomko & Son, Inc.	✓	✓	✓	✓	✓	✓	✓	✓	✓	BID NOT OPEN
United Welding, Inc.	✓	✓	✓	not started	not started	✓	✓	✓	✓	

John Klein, Co. Robert Kimball (engineer firm)



HANCOCK COUNTY PUBLIC SERVICE DISTRICT
 ROUTE 2 SANITARY SEWER SYSTEM

CONTRACT II
 WASTEWATER TREATMENT PLANT

CONTRACTOR NAME	BID ON TIME	BID BOND	MS-NON-SEGREGATED FACILITIES	#7 SBE & WBE DOCUMENT	FFD PARTICIPATION	ADDENDUM NO. 1	ADDENDUM NO. 2	ADDENDUM NO. 3	NON-COLLISION AFFIDAVIT	BID AMOUNT	ALTERNATE NO. 1
Alex E. Paris Contracting Co.											
Carroll Companies, Inc.	NOT		SUBMITTED	7/22/10	2	ENVELOPE					
The Conti Corporation	✓	✓	✓	✓	✓	✓	✓	✓	✓	2,182,000.00	200,000
Holley Brothers Construction Co., Inc.	✓	✓	✓	✓	✓	✓	✓	✓	✓	3,580,000.00	100,000
The James White Construction Co.	✓	✓	✓	✓	✓	✓	✓	✓	✓	2,197,740.00	100,000
Kranick Environmental Contractors, Inc. (K.E.C.)	✓	✓	✓	✓	✓	✓	✓	✓	✓	1,960,000.00	200,000
Lone Pine Construction, Inc.											
Meatt Contracting, Inc.	✓		✓	✓	✓	✓	✓	✓	✓	BID NOT OPEN	
W. G. Tomko & Son, Inc.	✓	✓	✓	✓	✓	✓	✓	✓	✓	2,379,519.00	
United Environmental, Inc.	✓	✓	✓	✓	✓	✓	✓	✓	✓	2,043,000.00	25,000

John Klein, L. Robert Kimball (engineer's firm)

HANCOCK COUNTY PUBLIC SERVICE DISTRICT
 ROUTE 2 SANITARY SEWER SYSTEM
 CONTRACT 1
 SANITARY SEWER COLLECTION SYSTEM

CONTRACTOR NAME	BID ON TIME	BID BOND	#5 - NON-SEGREGATED FACILITIES	#7 MBE & WBE DOCUMENT	EEO CERTIFICATION	ADDENDUM NO. 1	ADDENDUM NO. 2	ADDENDUM NO. 3	NON-COLLUSION AFFIDAVIT	BID AMOUNT
Alex E. Paris Contracting Co.	/	/	/	/	/	/	/	/	/	2,426,540
Clair Johnson, Inc.	/	/	/	/	/	/	/	/	/	1,873,630 ⁰⁴
Holley Brothers Construction Co., Inc.	/	/	/	/	/	/	/	/	/	1,735,375 ⁰⁰
Honey Creek Contracting Company, Inc.	/	X	0	X	X	/	/	/	X	
The James White Construction Co.	/	/	/	/	/	/	/	/	/	1,699,239 ⁰⁰
W. G. Tomko & Son, Inc.	/	/	/	/	/	/	/	/	/	1,841,617 ⁵⁰
United Welding, Inc.	/	/	2	0	0	/	/	/	0	

Completed by Elbert Mathis (WVDCP)

HANCOCK COUNTY PUBLIC SERVICE DISTRICT
 ROUTE 2 SANITARY SEWER SYSTEM

CONTRACT II
 WASTEWATER TREATMENT PLANT

CONTRACTOR NAME	BID ON TIER	BID BOND	\$5-NON-PAGE/FILES	77 VBE & VBE DOCUMENT	EEO CERTIFICATION	ADDENDUM NO. 1	ADDENDUM NO. 2	ADDENDUM NO. 3	NON-COLLISION AFFIDAVIT	BID AMOUNT	ALTERNATE NO. 1
Alex E. Paris Contracting Co.	0					Pro Bid Submitted					
Central Computers Inc.	Not Submitted	2	Exclude								
The Conit Corporation	1	1	1	1	1	1	1	1	1	2,182,000.00	200,000 (Add)
Holley Brothers Construction Co., Inc.	1	1	1	1	1	1	1	1	1	3,580,000	100,000 (Add)
The James White Construction Co.	1	1	1	1	1	1	1	1	1	2,197,946	100,000
Kernick Environmental Contractors, Inc. (K.E.C.)	1	1	1	1	1	1	1	1	1	1,960,000.00	20,000
Lone Pine Construction, Inc.	(No. 6.1)	Submittal									
Merit Contracting, Inc.	1	1	1	1	1	1	1	1	1		
W. G. Tomko & Son, Inc.	1	1	1	1	1	1	1	1	1	2,379,540	-
United Environmental, Inc.	1	1	1	1	1	1	1	1	1	3,043,000	25,000.00

Completely Elscel Quals (w/DCB)

HANCOCK COUNTY PUBLIC SERVICE DISTRICT
 ROUTE 2 SANITARY SEWER SYSTEM

CONTRACT 1
 SANITARY SEWER COLLECTION SYSTEM

CONTRACTOR NAME	BID ON TIME	BID BOND	#5-NON-SEGREGATED FACILITIES	#7 MBE & WBE DOCUMENT	EEO CERTIFICATION	ADDENDUM NO. 1	ADDENDUM NO. 2	ADDENDUM NO. 3	NON-COLLUSION AFFIDAVIT	BID AMOUNT
Alex E. Paris Contracting Co.	✓	✓	✓	✓	✓	✓	✓	✓	✓	2,426,540.00
Glen Johnson, Inc.	✓	✓	✓	✓	✓	✓	✓	✓	✓	1,872,630.04
Holley Brothers Construction Co., Inc.	✓	✓	✓	✓	✓	✓	✓	✓	✓	1,735,375.00
Honey Creek Contracting Company, Inc.	✓	✓	⊗	✓	✓	✓	✓	✓	✓	—
The James White Construction Co.	✓	✓	✓	✓	✓	✓	✓	✓	✓	1,699,239.00
W.G. Tomko & Son, Inc.	✓	✓	✓	✓	✓	✓	✓	✓	✓	1,841,617.50
United Welding, Inc.	✓	✓	⊗	MT signed	MT signed	✓	✓	✓	⊗	—

W.G. Tomko & Son, Inc.
 11/15/15

HANCOCK COUNTY PUBLIC SERVICE DISTRICT
 ROUTE 2 SANITARY SEWER SYSTEM

CONTRACT II
 WASTEWATER TREATMENT PLANT

CONTRACTOR NAME	BID ON TIME	BID BOND	#5 - NON-SEGREGATED FACILITIES	#7 MBE & WBE DOCUMENT CERTIFICATION	EEO	ADDENDUM NO. 1	ADDENDUM NO. 2	ADDENDUM NO. 3	NON-COLLUSION AFFIDAVIT	BID AMOUNT	ALTERNATE NO. 1
Alex E. Paris Contracting Co. <i>No bid</i>											
Cattrell Companies, Inc. <i>No 2-Envelope System</i>											
The Conti Corporation										2,182,000.00	200,000
Holley Brothers Construction Co., Inc.										3,580,000.00	100,000
The James White Construction Co.										2,197,740.00	100,000
Kranick Environmental Contractors, Inc. (K.E.C.)										1,960,000.00	20,000
Lone Pine Construction, Inc. <i>No bid</i>											
Merit Contracting, Inc.											
W. G. Tomko & Son, Inc.										2,579,514.00	<i>No bid</i>
United Environmental, Inc.										2,043,000.00	25,000

Handwritten signature and initials: W. G. Tomko & Son, Inc. (BTS)

CERTIFICATION OF NON-SEGREGATED FACILITIES

(Applicable to contracts, subcontracts, and agreements with Applicants who are themselves performing federally assisted construction contracts, exceeding \$10,000.00 which are not exempt from the provisions of the Equal Opportunity clause.)

By the submission of this bid, the bidder, offeror, applicant, or subcontractor certifies that he does not maintain or provide for his employees any segregated facilities at any of his establishments, and that he does not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. He certifies further that he will not maintain or provide for his employees any segregated facilities at any of his establishments, and that he will not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. The bidder, offeror, applicant, or subcontractor agrees that a breach of this certification is a violation of the Equal Opportunity clause in this contract. As used in this certificate, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation and entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, creed, color or national origin, because of habit, local custom or otherwise. He further agrees that (except where he has obtained identical certifications from proposed subcontractors for specific time periods), he will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000.00 which are not exempt from the provisions of the Equal Opportunity clause; that he will retain such certifications in his files, and that he will forward the following notice to such proposed subcontractors (except where the proposed subcontractors have submitted identical certifications for specific time periods).

(Signature)

(Date)

(Name and Title of Signer - Please Type)

NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.



RECEIVED

NOV 02 1999

PLANNING COMMISSION

Lawrence L. Manypenny

ATTORNEY AT LAW

(304) 564-5151

FAX (304) 564-3130

106 COURT STREET, P.O. BOX 638, NEW CUMBERLAND, WV 26047



October 29, 1999

Elbert Morton
WV Dept. Environmental Protection
#10 McJunkin Road
Nitro, West Virginia 25143-2506

Hancock County Commission
PO Box 485
New Cumberland, WV 26047

Brooke Hancock Jefferson Planning Commission
814 Adams Street
Steubenville, Oh 43952

L. Robert Kimball & Associates
415 Moon Clinton Road
Moon Township, Pa 15108

To whom it may concern:

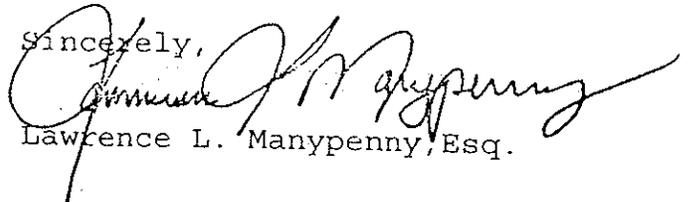
I have been retained by the Honey Creek Contracting Company, Inc. regarding the bidding process for the Route 2 Sanitary Sewer System.

After reviewing the Specifications, Contract Documents, and Bidding Process, my client asserts its bid was improperly rejected.

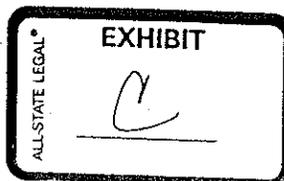
I am presently preparing an action to overturn the bidding process and will request a preliminary restraining order. However, it is my client's desire this matter be resolved without litigation if possible.

Therefore, my client is available for a meeting the week of November 1, 1999. If you are agreeable, let's set a day and time. Otherwise my client will proceed as indicated.

Sincerely,


Lawrence L. Manypenny, Esq.

LLM:tlb
cc: Mark Colantonio, Esq.
Dave Sugar



*822 230 S.E.2d 822

159 W.Va. 888

EXCAVATION CONSTRUCTION, INC., and
Shenandoah Quarry, Inc.

v.

William S. RITCHIE, Jr., Commissioner of the
West Virginia
Department of Highways.

No. 13767.

Supreme Court of Appeals of West Virginia.
Dec. 7, 1976.

Dissenting Opinion Dec. 23, 1976.

Low bidder and corporate taxpayer petitioned for a writ of mandamus either to compel commissioner of Department of Highways to award construction contract to such bidder or to compel Commissioner to rebid the project. The Circuit Court, Kanawha County, Thomas E. McHugh, Chief Judge, dismissed petition, and low bidder and taxpayer appealed. The Supreme Court of Appeals, Wilson, J., held that refusal by Commissioner to waive requirement that a free competitive bidding affidavit be submitted with a bid after low bidder filed such an affidavit on the day following opening of bids was not a palpable abuse of discretion.

Affirmed.

Flowers, J., dissented and filed opinion.

- 1. APPEAL AND ERROR ⇨ 1078(1)
30 ---
30XVI Review
30XVI(K) Error Waived in Appellate Court
30k1078 Failure to Urge Objections
30k1078(1) In general.

W.Va. 1976.

Issue whether trial court erred in certain ruling was waived, where, though petitioners objected and excepted to the ruling, they neither briefed nor argued such issue.

- 2. HIGHWAYS ⇨ 113(1)
200 ---
200VII Construction, Improvement, and Repair
200k111 Work of Construction or Repair
200k113 Contracts
200k113(1) In general.

W.Va. 1976.

When Commissioner of Department of Highways is required to award a contract to lowest responsible bidder, Commissioner has wide discretion in determining whether to waive any technicalities in the requirements of properly promulgated regulations governing bidding procedures.

- 3. HIGHWAYS ⇨ 113(1)
200 ---

- 200VII Construction, Improvement, and Repair
- 200k111 Work of Construction or Repair
- 200k113 Contracts
- 200k113(1) In general.

W.Va. 1976.

Refusal by Commissioner of Department of Highways to waive requirement that a free competitive bidding affidavit be submitted with a bid after bidder, whose bid for construction job was \$825,000 lower than that of any other responsible bidder, filed such an affidavit on the day following opening of bids was not a palpable abuse of discretion, in view of indication that the refusal to waive was reasonably related to preservation of integrity of the bidding procedures. Code, 17-2A-8(24, 27, 28), 17-4-19.

Syllabus by the Court

When the Commissioner of the Department of Highways is required to award a contract to the lowest responsible bidder, he has wide discretion in determining whether to waive any technicalities in the requirements of properly promulgated regulations governing bidding procedures, and there is no palpable abuse of discretion when it appears from the evidence that his refusal to waive any such technicality is reasonably *823 related to the preservation of the integrity of the bidding procedures.

Loy, Shingleton & Caryl, William H. Loy, Martinsburg, for appellants.

Anthony G. Halkias, Legal Division, Dept. of Highways, Charleston, for appellee.

WILSON, Justice:

The appellants, Excavation Construction, Inc., and Shenandoah Quarry, Inc., appeal from the order of the [159 W.Va. 889] Circuit Court of Kanawha County dismissing their petition for a writ of mandamus either to compel appellee, the



Commissioner of the Department of Highways, to award a construction contract to Excavation Construction, Inc., or in the alternative to compel the Commissioner to rebid the project.

On appeal, it is basically appellants' contention that the Commissioner abused his discretion: (a) in declaring Excavation Construction, Inc.'s bid irregular because of the omission of a free competitive bidding affidavit; and (b) in refusing, when the affidavit was submitted the day following the opening of the bids, to waive as a minor technicality the requirement that the affidavit be submitted with the bid.

We find that appellants failed to demonstrate that appellee abused his discretion and accordingly affirm the order of the Circuit Court of Kanawha County.

[1] In the original proceeding in the Circuit Court of Kanawha County, Excavation Construction, Inc., was dismissed on the grounds that it was a Maryland corporation and, having failed to show that it was qualified to do business in the State of West Virginia, was thereby precluded from maintaining this action by reason of the provisions of W.Va.Code, 31-1-66. Although petitioners objected and excepted to the court's ruling in this respect, they neither briefed nor argued the issue and it is accordingly deemed waived. However, Shenandoah Quarry, Inc., a West Virginia corporation, participated in this proceeding as a West Virginia taxpayer, has the necessary standing to present the issues which are fundamental to a proper disposition of this case and hereinafter will be treated as the sole appellant.

The factual background of this dispute concerns a road construction project in Jefferson County, West Virginia. Excavation Construction, Inc., submitted a bid proposal pursuant to the advertisement for the submission of contract bids under the authority of W.Va.Code, [159 W.Va. 890] 17-2A-8(27). On the day scheduled for the opening of said bids, namely July 13, 1976, it was determined that Excavation's bid proposal was irregular by reason of the omission of a free competitive bidding affidavit in the bid packet. Consequently, its bid proposal was not considered, and the lowest responsible bidder was determined to be Richard F. Kline, Inc., whose bid proposal was approximately \$825,000 higher than that of Excavation.

Excavation did submit the free competitive bidding affidavit on July 14, 1976. Nonetheless, an award conference with Kline was held on July 15, 1976, and the contract was officially awarded to Kline on July 19, 1976, that being subsequent to the submission of letters dated July 14, 1976, addressed to the Commissioner on behalf of Excavation requesting that its bid be accepted, or in the alternative that the contract be rebid.

The controlling principles of law in this case are set forth in Syllabi Nos. 5 and 6 in *Pioneer Co. v. Hutchinson*, W.Va., 220 S.E.2d 894 (1975), as follows:

'5. Statutes and ordinances which require public officers or a public tribunal to award a contract to the 'lowest responsible bidder' vest wide discretion in officials.

'6. A court will not ordinarily interfere with the action of a public officer or tribunal clothed with discretion, in the absence of a clear showing of fraud, collusion or palpable abuse of discretion.'

In the instant case, the Commissioner was required by statute to award the contract, if let, to the lowest responsible bidder. See W.Va.Code, 17-4-19. Since this was a contract *824 in which Federal funds were to be made available, the Commissioner had the authority to comply with applicable Federal aid statutes and regulations. See W.Va.Code, 17-2A-8(28).

Pursuant to his statutory authority, See W.Va.Code 17-2A-8(24), the Commissioner had made and promulgated [159 W.Va. 891] rules and regulations which required, in connection with Federal aid contracts, that a free competitive bidding affidavit be submitted in duplicate with the bid proposal. (FN1) See West Virginia Department of Highways Standard Specifications, Roads and Bridges, 1972, Section 102.15.

However, appellant contends that Section 4.11 of the Rules and Regulations of the Department of Highways gave the Commissioner the right to waive technicalities if he determined it to be in the best interests of the State of West Virginia so to do (FN2). Appellant argues that the free competitive bidding affidavit was just such a technicality and should have been waived particularly since

Excavation's bid was \$825,000 lower than the bid of Kline. The appellant further argues, and appellee [159 W.Va. 892] agrees, that the applicable Federal regulation regarding a free competitive bidding affidavit provides merely that such affidavit should be filed prior to the award of the contract, See C.F.R., s 635.107(i)(1), and that there was no Federal requirement that it be filed with the bid.

The appellant concludes from all this that the Commissioner ignored the more liberal Federal requirement and instead of exercising his power to waive such a technicality, insisted upon a blind, arbitrary, capricious and abusive adherence to an administrative regulation which served no useful purpose in protecting the State of West Virginia and its taxpayers.

The evidence on this issue was principally that of William S. Ritchie, Jr., the Commissioner of the West Virginia Department of Highways. His testimony is critical and was so considered by the court below.

The Commissioner testified that the preservation of the integrity of the bidding process in the Department of Highways required rigid enforcement of bid requirements which were governed by regulations which were known or should have been known by bidders in general and by Excavation in particular.

While acknowledging that \$825,000 was a substantial sum of money, he established that the amount of Excavation's bid was not known at the time of declaring its bid irregular.

The Commissioner further testified that the free competitive bidding affidavit required by departmental specifications was a material document, the waiver of the timely submission of which could encourage dangerous personal interference by the Commissioner, sharp and questionable bidding practices by contractors and irresponsible changes in well-defined and uniformly followed procedures, all of which would imperil the integrity of the Department of Highways in its bidding procedures.

[159 W.Va. 893] The trial court found this testimony most persuasive in overcoming the charge of arbitrary, capricious and abusive action on the part of the Commissioner.

*825. We will not disturb this finding by the trial court which heard the case without a jury, it being impossible for us to say that the evidence plainly and decidedly preponderates against such finding. See Syllabus No. 6, A. W. Cox Department Store Co. v. Cox's, Inc., W.Va., 221 S.E.2d 539 (1976).

[2] [3] In view of the wide discretion which is admittedly vested in the Commissioner of the Department of Highways and in view of the persuasive rationale advanced by the Commissioner for his refusal to waive the requirement of the submission of the document in question, and in the absence of any contention that there was fraud or collusion, we perceive no error by the lower court in specifically finding that the appellant failed to show a palpable abuse of discretion.

Accordingly, we affirm the order of the Circuit Court of Kanawha County dismissing the petition for a writ of mandamus.

Affirmed.

FLOWERS, Justice (dissenting):

I respectfully dissent from the conclusion reached by the majority of the Court in this matter.

The clear legal duty of the Commissioner is to award all contracts to the lowest responsible bidder. W.Va.Code, 17-4-19. The bidding process is designed to achieve the best price advantage for the people of the State consistent with high quality performance. The Commissioner's regulations must fulfill this purpose and are not an end in themselves.

Here the bid was not awarded to the lowest responsible bidder but to a bidder who exceeded the lowest bid by almost \$825,000. The bid accepted was 25.1796 percent higher than the low bid on this project. The Highway [159 W.Va. 894] Department attempted to justify its rejection by enforcement and nonwaiver of one of the very regulations by which such advantageous bids were to be sought and exploited. That regulation required, among the 300 estimated documents at the time the bids were opened, an affidavit of noncollusive bidding. The bidder supplied that document one day after the bids were opened and four days before the contract was awarded but failed to include it with his original submission. The Commissioner refused to waive

the low bidder's initial tardiness and this refusal must be judged as to whether it is within or beyond the allowable discretion afforded the Commissioner. The range of that discretion is set forth in Pioneer Co. v. Hutchinson, W.Va., 220 S.E.2d 894 (1975), cited by the majority. In my judgment the Commissioner has exceeded the allowances of Pioneer. I have some familiarity with the rationale of that opinion.

The Commissioner's regulations permitted the waiver of bidding documents. Here, the only waiver required in order to gain the advantage of the low bid was the indulgence of one day. The federal government, which requires the State to secure the bidding affidavit from bidders, allows its submission at any time before the award of the contract. The bidder had thus complied with the federal requirements but the Commissioner refused to be satisfied with the same standards. Ordinarily this would be commendable, to insist on higher than minimum standards to 'insure integrity in the bidding process.' But here the one day delay had nothing to do with assuring integrity in the bidding process else we must assume that the federal process does not incorporate sufficient integrity.

The Commissioner is to be commended for assuring over his tenure of office that the award of contracts which have been made in historic proportions and amounts have been untainted by bidding irregularities. Here, however, he was poorly advised by staff members who stubbornly refused to consider and properly weigh the merits of following a course by which he would have [159 W.Va. 895] carried out the law which required the award of this contract to the lowest bidder. FN1. The free competitive bidding affidavit required to be submitted is as follows:

"FREE COMPETITIVE BIDDING AFFIDAVIT

State of _____

County of _____

I, _____
(Contractor) by

(name and title of authorized representative), being duly sworn do depose, say and certify: That said contractor has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the contract for Project No. _____ in _____ County.

Contractor

Name and

Title of
*825_
Authorized Representative

Taken, subscribed and sworn to before me this ____ day of _____, 19__.

Notarial Seal if executed outside West Virginia

Notary

Public

FN2. 'The State Road Commissioner reserves the right to reject any and all proposals or bids, and to waive technicalities, when he deems it to be in the best interests of the State of West Virginia to do so.'

*894 220 S.E.2d 894

159 W.Va. 276

The PIONEER COMPANY, a corporation,
v.
The Honorable John G. HUTCHINSON, Mayor
of the City of
Charleston, West Virginia.

No. 13561.

Supreme Court of Appeals of West Virginia.
Dec. 19, 1975.

City council awarded sewer construction contract to second lowest bidder, and the lowest bidder brought action to compel the mayor to execute the construction contract with it. The Circuit Court, Kanawha County, Patrick Casey, J., granted mandatory and prohibitory injunctive relief, and the mayor appealed. The Supreme Court of Appeals, Flowers, J., held that the trial court's error in refusing to dismiss the first count of the complaint, which set forth a cause of action in plaintiff's capacity as the lowest bidder, was harmless; that the city was an indispensable party to the action, and that the trial court had committed reversible error in refusing to grant the motion to dismiss for failure to join an indispensable party; that the successful bidder was not an indispensable party; that the city council had not abused discretion in awarding the contract to the second lowest bidder; that plaintiff was not exempt from the statutory requirement that it furnish an injunction bond; and that the mayor had not been prejudiced by fact that trial court permitted intervention of a party plaintiff after the case was substantially concluded.

Judgment reversed.

1. PUBLIC CONTRACTS ⇨11

316A ---

316AI In General

316Ak5 Proposals or Bids

316Ak11 Award to lowest bidder; bidders' qualifications.

W.Va. 1975.

Statutes and ordinances which require that contracts be awarded to the lowest responsible bidder are enacted for the benefit of the public, to protect public coffers, and confer no rights upon individual contractors.

2. MUNICIPAL CORPORATIONS ⇨993(2)

268 ---

268XIV Taxpayers' Suits and Other Remedies

268k991 Restraining Action by Municipality or Officers

268k993 Unauthorized or Illegal Acts

268k993(2) Making and performance of unauthorized or illegal contracts.

W.Va. 1975.

Action to enjoin city from awarding contract may be prosecuted at the instance of a taxpayer.

3. MUNICIPAL CORPORATIONS ⇨336(5)

268 ---

268IX Public Improvements

268IX(C) Contracts

268k334 Acceptance or Rejection of Proposals or Bids

268k336 Award to Lowest Bidder

268k336(5) Operation and effect of award.

W.Va. 1975.

Unsuccessful bidder for municipal sewer construction contract had no standing in its capacity as lowest bidder to prosecute action to enjoin proposed violation of statute or ordinance requiring that contracts be awarded to lowest responsible bidder.

4. APPEAL AND ERROR ⇨1170.3

30 ---

30XVII Determination and Disposition of Cause

30XVII(D) Reversal

30k1170 Technical, Formal, or Trivial Defects or Errors

30k1170.3 Pleadings in general.

W.Va. 1975.

Where first count of complaint by unsuccessful bidder for sewer construction contract set forth cause of action in plaintiff's capacity as lowest bidder, and second count was prosecuted by plaintiff as a taxpayer, error of circuit court in refusing to dismiss first count of complaint was harmless, since plaintiff had standing as taxpayer to prosecute second count. R.C.P. rule 61; Code, 58-1-2.

5. APPEAL AND ERROR ⇨1170.1

30 ---

30XVII Determination and Disposition of Cause

30XVII(D) Reversal

30k1170 Technical, Formal, or Trivial Defects or Errors

30k1170.1 In general.

W.Va. 1975.



Court must regard as harmless any error, defect or irregularity in trial court proceeding which does not affect substantial rights of parties. R.C.P. rule 61; Code, 58-1-2.

6. PARTIES ⇨18

287 ---
287I Plaintiffs
287I(B) Joinder
287k17 Persons Who Must Join
287k18 In general.

[See headnote text below]

6. PARTIES ⇨29

287 ---
287II Defendants
287II(B) Joinder
287k28 Persons Who Must Be Joined
287k29 In general.

W.Va. 1975.

Whether party is indispensable under Rules of Civil Procedure is determination to be made in sound discretion of trial court. R.C.P. rule 19(a).

7. PARTIES ⇨18

287 ---
287I Plaintiffs
287I(B) Joinder
287k17 Persons Who Must Join
287k18 In general.

[See headnote text below]

7. PARTIES ⇨29

287 ---
287II Defendants
287II(B) Joinder
287k28 Persons Who Must Be Joined
287k29 In general.

W.Va. 1975.

In determining whether party is indispensable, court must consider whether: (1) interest of absent party is distinct and severable; (2) in absence of such party, court can render justice between parties before it; (3) decree made will have injurious effect on interest of absent party; (4) final determination will be consistent with equity and good conscience.

8. PARTIES ⇨18

287 ---
287I Plaintiffs
287I(B) Joinder

287k17 Persons Who Must Join
287k18 In general.

[See headnote text below]

8. PARTIES ⇨29

287 ---
287II Defendants
287II(B) Joinder
287k28 Persons Who Must Be Joined
287k29 In general.

W.Va. 1975.

Principal limitation on court's discretion in determining whether party is indispensable is whether, under particular facts of case, absent party will be adversely affected by nonjoinder. R.C.P. rule 19(a).

9. APPEAL AND ERROR ⇨1170.1

30 ---
30XVII Determination and Disposition of Cause
30XVII(D) Reversal
30k1170 Technical, Formal, or Trivial
Defects or Errors
30k1170.1 In general.

[See headnote text below]

9. INJUNCTION ⇨114(3)

212 ---
212III Actions for Injunctions
212k114 Parties
212k114(3) Defendants.

[See headnote text below]

9. INJUNCTION ⇨129(1)

212 ---
212III Actions for Injunctions
212k129 Dismissal Before Hearing
212k129(1) In general.

W.Va. 1975.

Where city, acting through council, had awarded sewer construction contract to other than the lowest bidder, city was indispensable party to unsuccessful bidder's action for injunctive relief, and it was reversible error for trial court to refuse to grant motion to dismiss for failure to join indispensable party. R.C.P. rules 19(a), 61.

10. INJUNCTION ⇨114(3)

212 ---
212III Actions for Injunctions

212k114 Parties
212k114(3) Defendants.
W.Va. 1975.

Successful bidder for sewer construction contract was not an indispensable party to unsuccessful bidder's action against mayor for injunctive relief, where no contractual rights had vested in the successful bidder.

11. PUBLIC CONTRACTS ⇨ 11

316A ---
316AI In General
316Ak5 Proposals or Bids
316Ak11 Award to lowest bidder; bidders' qualifications.

W.Va. 1975.

Statutes and ordinances which require public officers or a public tribunal to award a contract to the "lowest responsible bidder" vest wide discretion in officials.

12. CONSTITUTIONAL LAW ⇨ 73

92 ---
92III Distribution of Governmental Powers and Functions
92III(B) Judicial Powers and Functions
92k71 Encroachment on Executive
92k73 Interference with executive action.

W.Va. 1975.

Court will not ordinarily interfere *894 with action of a public officer or tribunal clothed with discretion, in the absence of a clear showing of fraud, collusion or palpable abuse of discretion.

13. MUNICIPAL CORPORATIONS ⇨ 241

268 ---
268VII Contracts in General
268k234 Proposals or Bids
268k241 Award to lowest bidder.

W.Va. 1975.

Discretion in awarding a municipal contract is not abused when it is predicated upon "good faith and honesty."--

14. RECEIVERS ⇨ 90

323 ---
323IV Management and Disposition of Property
323IV(A) Administration in General
323k90 Assumption and performance of obligations.

W.Va. 1975.

Receiver has power to repudiate an executory

contract if, in his opinion, it is unprofitable or its performance is undesirable.

15. MUNICIPAL CORPORATIONS ⇨ 336(3)

268 ---
268IX Public Improvements
268IX(C) Contracts
268k334 Acceptance or Rejection of Proposals or Bids
268k336 Award to Lowest Bidder
268k336(3) Consideration of reliability and responsibility of bidders.

W.Va. 1975.

Where city council's decision awarding sewer construction contract to second lowest bidder was based on concern that serious questions had been raised about ownership of lowest bidder, and on desire to avoid administrative problems and performance delays which were not in the best interest of the public, city council did not abuse discretion in awarding contract to second lowest bidder.

16. STATUTES ⇨ 194

361 ---
361VI Construction and Operation
361VI(A) General Rules of Construction
361k187 Meaning of Language
361k194 General and specific words.

W.Va. 1975.

In construction of statutes, where general words follow the enumeration of particular classes of persons or things, the general words, under rule of construction known as ejusdem generis, will be construed as applicable only to persons or things of same general nature or class as those enumerated, unless intention to contrary is clearly shown.

17. INJUNCTION ⇨ 189

212 ---
212V Permanent Injunction and Other Relief
212k189 Nature and scope of relief.

W.Va. 1975.

Phrase "other person" in statute which requires that plaintiff in injunction action furnish bond "except in the case of any personal representative, or other person from whom, in the opinion of the court or judge awarding the same, it may be improper to require bond," means such "other person" as may be in a familiar fiduciary capacity as a "personal representative." Code, 53-5-9.

See publication Words and Phrases for other judicial

constructions and definitions.

18. INJUNCTION ⇨ 189

212 ---

212V Permanent Injunction and Other Relief

212k189 Nature and scope of relief.

W.Va. 1975.

Unsuccessful bidder for sewer construction contract was not exempt from requirement of furnishing injunction bond, in suit to compel mayor to execute construction contract with it and to enjoin him from entering into contract with any other bidder. Code, 53-5-9.

19. INJUNCTION ⇨ 189

212 ---

212V Permanent Injunction and Other Relief

212k189 Nature and scope of relief.

W.Va. 1975.

Fact that bidder on sewer construction contract would furnish a bid bond or performance bond under its construction contract did not exempt it from statutory requirement that it furnish an injunction bond, in suit to compel mayor to execute construction contract. Code, 53-5-9.

20. INJUNCTION ⇨ 189

212 ---

212V Permanent Injunction and Other Relief

212k189 Nature and scope of relief.

W.Va. 1975.

When an injunction is awarded which is final in nature, bond is required until time for appeal has expired or appellate process is concluded. Code, 53-5-9.

21. PARTIES ⇨ 42

287 ---

287IV New Parties and Change of Parties

287k37 Intervention

287k42 Time for intervention.

W.Va. 1975.

While Rules of Civil Procedure require timely application for intervention of parties, timeliness of any intervention is a matter of discretion with trial court. R.C.P. rule 24.

22. APPEAL AND ERROR ⇨ 1170.1

30 ----

30XVII Determination and Disposition of Cause

30XVII(D) Reversal

30k1170 Technical, Formal, or Trivial
Defects or Errors

30k1170.1 In general.

W.Va. 1975.

Defendant mayor was not prejudiced by trial court's action permitting intervention of party plaintiff after case was substantially concluded, in action for injunctive relief by unsuccessful bidder for construction contract. R.C.P. rules 24, 61.

*896 Syllabus by the Court

1. Statutes and ordinances which require contracts to be awarded to the lowest responsible bidder are enacted for the benefit of the public, to protect public coffers, and confer no rights upon individual contractors.

2. An unsuccessful bidder has no standing to prosecute an action for an injunction to enjoin a proposed violation of a [159 W.Va. 277] statute or ordinance requiring contracts to be awarded to the lowest responsible bidder, except where he seeks such relief as a taxpayer.

3. 'On appeal of a case involving an action covered by the Rules of Civil Procedure, this Court will disregard and regard as harmless any error, defect or irregularity in the proceedings in the trial court which does not affect the substantial rights of the parties.' Point 2, Syllabus, Boggs v. Settle, 150 W.Va. 330, 145 S.E.2d 446 (1965).

4. 'The determination of whether a party is indispensable under the provisions of Rule 19(a) of the West Virginia Rules of *897 Civil Procedure is in the sound discretion of the trial court. Generally, a court must consider whether: (1) The interest of the absent party is distinct and severable; (2) in the absence of such party, the court can render justice between the parties before it; (3) the decree made will, in the absence of such party, have no injurious effect on the interest of such absent party; (4) the final determination will, in the absence of such party, be consistent with equity and good conscience, but each case must be considered on the basis of its peculiar facts, and the principal limitation on the court's discretion is whether, under the particular facts of each case, absent parties will be adversely affected by nonjoinder.' Point 1, Syllabus, Dixon v. American Industrial Leasing Co., W.Va., 205 S.E.2d 4 (1974).

5. Statutes and ordinances which require public officers or a public tribunal to award a contract to

the 'lowest responsible bidder' vest wide discretion in officials.

6. A court will not ordinarily interfere with the action of a public officer or tribunal clothed with discretion, in the absence of a clear showing of fraud, collusion or palpable abuse of discretion.

7. 'In the construction of statutes, where general words follow the enumeration of particular classes of persons or things, the general words, under the rule of construction known as Ejusdem generis, will be construed as applicable only to persons or things of the same general nature or class as those enumerated, [159 W.Va. 278] unless an intention to the contrary is clearly shown.' Point 2, Syllabus, Parkins v. Londeree, 146 W.Va. 1051, 124 S.E.2d 471 (1962).

8. Only personal representatives or persons serving in a similar fiduciary capacity are exempt from the bond requirements of W.Va.Code, 53-5-9.

9. When an injunction is awarded which is final in nature, bond is required under the provisions of W.Va.Code, 53-5-9, until the time for appeal has expired or the appellate process is concluded.

10. While Rule 24 of the West Virginia Rules of Civil Procedure provides for the intervention of parties upon a timely application, the timeliness of any intervention is a matter of discretion with the trial court.

Jackson, Kelly, Holt & O'Farrell, Forrest H. Roles and Roger A. Wolfe, Charleston, for appellant.

Stephoe & Johnson, Charles W. Yeager, Charleston, for appellee.

FLOWERS, Justice:

The Pioneer Company, a corporation, was the low bidder on a sewer construction contract advertised by the City of Charleston. When the city council voted to award the contract to Lester Construction Company, the second lowest bidder, Pioneer filed a civil action in the Circuit Court of Kanawha County against John G. Hutchinson, Mayor of the City of Charleston. Pioneer sought to compel the mayor to execute the construction [159 W.Va. 275] contract with it and to enjoin him from entering into such a

contract with any other bidder. The trial court defined the issues as whether the plaintiff was a 'responsible bidder' and was a taxpayer with standing to maintain the action. The court refused to consider the City of Charleston and Lester Construction Company as indispensable parties and found that the plaintiff was a 'responsible bidder' with standing to bring the action. Having found Pioneer to be a 'responsible bidder,' the court held that the city was guilty of a palpable abuse of discretion in awarding the contract to other than the lowest bidder, Pioneer.

From an order granting Pioneer the mandatory and prohibitory injunctive relief prayed for, the mayor prosecutes this appeal. The mayor's assignments of error are predicated upon the foregoing rulings and additionally upon the action of the trial court in permitting I. V. Cunningham to intervene and in refusing to require an injunction bond.

After the appeal to this Court was granted, the appellant was further granted leave *898 to move to reverse the judgment of the circuit court, pursuant to the provisions of W.Va.Code, 58-5-25, and Rule IX of the Rules of this Court.

The dispute here began in October, 1974, when the City of Charleston advertised for bids on a storm sewer construction project in the Garrison Avenue area of the city. On November 15, 1974, the bids were opened and the results certified by a firm of consulting engineers. The plaintiff corporation's bid was \$1,392,200. The next lowest bidder was Lester Construction Company at \$1,400,440. The two bids differed by \$8,240 or approximately six-tenths of one percent.

After the bids had been opened and the results certified, it came to the attention of city officials that the ownership of Pioneer had been placed in issue by an action filed in the Circuit Court of Kanawha County on November 20, 1974, styled I. V. Cunningham v. Dean [159 W.Va. 280] Lewis, et al. The verified complaint in considerable detail alleged that Lewis had defrauded Cunningham of his interest in the stock of Mountain State Construction Company, Black, Inc., The Pioneer Company and Concrete Supply Company. These corporations were a part of a complicated corporate structure owned jointly by Lewis and Cunningham and operated principally by Lewis. Both Lewis and Pioneer were made parties defendant. The

complaint prayed for injunctive relief and the appointment of a receiver. On November 20, 1974, the Circuit Court of Kanawha County issued a temporary injunction. The injunction effectively restrained Lewis from operating the companies whose ownership was in question, including The Pioneer Company. That injunction was dissolved on December 6, 1974, for failure of the plaintiff Cunningham to post the requisite \$1,000,000 bond.

In addition to the litigation concerning the ownership of The Pioneer Company, the city had information concerning the possible default on a dam construction project in Virginia by Mountain State Construction Company, a company of which Mr. Lewis was also the president and which used equipment owned by The Pioneer Company.

As a consequence of the city's uncertainty about Pioneer, a 30-day extension of the bid period was requested. Within 10 days both Pioneer and Lester notified the city of their approval of the extension. This extended the award deadline to February 14, 1975.

From November 20, 1974, until February 3, 1975, the city attempted to obtain information which would clarify the status of The Pioneer Company. Tom Blair, a consulting engineer on the project, talked with Lewis concerning the problems raised by the law suit. Blair recommended that city officials award the contract to the low bidder 'because he really wasn't in a position to do anything else.'

The information gleaned by city officials was presented to the finance committee of the city council on February [159 W.Va. 281] 3, 1975. The committee after about thirty minutes discussion voted unanimously to recommend the bid of Lester Construction Company. Upon the recommendation of the finance committee, the city council, with both bids before it, and after some questioning of the finance chairman about the recommendation, voted unanimously to award the contract to Lester and authorized the mayor to execute the contract.

On February 5, 1975, The Pioneer Company filed a civil action in the Circuit Court of Kanawha County, alleging it was the lowest responsible bidder and that the city council had acted in violation of the governing ordinance, Code of Charleston, West Virginia, Article 35, Sections 1 and 9. (FN1) An amended complaint was subsequently filed by

Pioneer in its capacity as a taxpayer and in behalf of other taxpayers similarly situated.

The mayor sought dismissal of the complaint on the grounds that the complaint failed to state a cause of action, failed to *899 join the City of Charleston and Lester Construction Company as indispensable parties, and was prosecuted by a plaintiff who had no standing to sue. The motion to dismiss was overruled by the trial court.

A hearing on the application for the injunction was subsequently held. The evidence presented by the plaintiff established that the company was qualified by experience, personnel, equipment, and financial stability to perform the duties under the contract. The evidence further established that the corporation was qualified and able to furnish a performance bond to secure performance of its contractual duties. The plaintiff presented evidence that it had completed all of its contracts on schedule or ahead of schedule.

It was uncontested by the mayor that Pioneer was a taxpayer in the City of Charleston and that, except for the doubts about Pioneer's responsibility created by the [159 W.Va. 282] I. V. Cunningham litigation, Pioneer was otherwise a qualified bidder.

In defense of the position that Pioneer was not a 'responsible' bidder, the mayor presented the testimony of Hugh Bosely, city manager, and Joe S. Smith, chairman of the finance committee of the city council of Charleston. According to Bosely's testimony, the mayor had received some phone calls, indicating that the city should carefully examine the status of Pioneer Company before awarding the contract. These rumors were practically all linked to the institution of the litigation against Lewis and were a matter of public record. The evidence established that there was no direct communication by the city with Pioneer which indicated that its bid was not the only bid being considered.

Bosely testified that he exercised care and tried to obtain as much information as he could about Pioneer to relate to the finance committee and to the city council. According to Bosely's testimony, the city was troubled by the uncertain ownership and control of Pioneer and by the possibility that a change of management could result in a delay of the project and unresponsiveness to public complaints

about access to residences, disruption of utilities, dirt and noise.

Bosely stated that the city would feel 'uncomfortable in dealing with a person who had nothing to do with preparing the bid and may be opposed to the policy of the company that we start out with.' He testified that, in view of severe traffic problems in the Garrison Avenue project, the council did not want to take a chance of having any disruption which might keep the project from progressing.

The city's concern, regarding the uncertainty of the management and ownership of Pioneer and the possibility of resultant delay from the situation, was substantiated by Joe S. Smith, chairman of the finance committee of the city council.

[159 W.Va. 283] At the commencement of the hearing on February 13, 1975, I. V. Cunningham, Sr., the plaintiff in the civil action against Pioneer and others, was granted permission to intervene as a party plaintiff in the action against the mayor. Immediately thereafter, the circuit court announced its decision and entered an order enjoining the defendant mayor from entering into a contract for the construction of the Garrison Avenue storm sewers with any other bidder and ordering the mayor to execute the contract with the plaintiff, Pioneer Company.

I

The mayor moved to dismiss count one of the amended complaint on the ground that Pioneer had no standing to prosecute an action for injunctive relief. The first count set forth a cause of action in Pioneer's capacity as the lowest bidder. The second count, however, was prosecuted by Pioneer as a taxpayer and in behalf of other taxpayers similarly situated.

[1] [2] Sections 1 and 9 of Article 35 of the Code of Charleston (FN2) empower the council *90¢ to reject any and all bids, but require that the contract shall be let to the lowest responsible bidder. Statutes and ordinances of this type are enacted for the benefit of the public, to protect public coffers, and confer no rights upon individual contractors. *Colorado Paving Co. v. Murphy*, 78 F. 28 (8th Cir.), Aff'd 166 U.S. 719, 17 S.Ct. 997, 41 L.Ed. 1188 (1897); *Joseph Rugo, Inc. v. Henson*, 190

F.Supp. 281 (D.C.Conn.1960); *Malan Construction Corp. v. Board of County Road Commissioners*, 187 F.Supp. 937 (E.D.Mich.1960). See *Butler v. Printing Commissioners*, 68 W.Va. 493, 70 S.E. 119 (1911). An action to enjoin the awarding of a contract, however, may be prosecuted at the instance of a taxpayer. *Budd v. Board of Commissioners*, 216 Ind. 35, 22 N.E.2d 973 (1939); 10 E. McQuillin, *Municipal Corporations*, s 29.85, p. 451 (3rd ed. 1966).

[159 W.Va. 284] [3] [4] [5] Since the plaintiff had standing as a taxpayer to prosecute the second count of the complaint, the error of the circuit court in refusing to dismiss the first count of the complaint is harmless. Rule 61 of the West Virginia Rules of Civil Procedure and W.Va.Code, 58-1-2, as amended, provide that a court must regard as harmless any error, defect or irregularity in the proceeding in the trial court which does not affect the substantial rights of the parties. *Boggs v. Settle*, 150 W.Va. 330, 145 S.E.2d 446 (1965).

II

[6] It is the position of the mayor that both the City of Charleston and Lester were indispensable parties, and that this action should have been dismissed because of the failure of Pioneer to join them as parties defendant. Rule 19(a) of the West Virginia Rules of Civil Procedure states that persons having 'a joint interest' shall be made parties. Whether a party is indispensable under the provisions of Rule 19(a) of the West Virginia Rules of Civil Procedure is a determination to be made in the sound discretion of the trial court. *Dixon v. American Industrial Leasing Co.*, W.Va., 205 S.E.2d 4 (1974).

[7] [8] The Dixon case established criteria by which a trial court is to be guided in making such a determination. In the first point of the syllabus of Dixon the Court stated:

* * * Generally, a court must consider whether: (1) The interest of the absent party is distinct and severable; (2) in the absence of such party, the court can render justice between the parties before it; (3) the decree made will, in the absence of such party, have no injurious effect on the interest of such absent party; (4) the final determination will, in the absence of such party, be consistent with equity and good conscience, but each case must be considered on the basis of its peculiar facts, and

the principal limitation on the court's discretion is whether, under the particular facts of each case, absent parties will be adversely affected by nonjoinder.'

[159 W.Va. 285] To determine whether the trial court abused its discretion in finding that the City of Charleston and Lester were not indispensable parties, it is necessary to examine in more detail the nature of the action, the issues to be determined, and the respective interests of Lester and the city.

The broad issue in this case is whether the mayor should be restrained from executing a particular contract with Lester Construction Company and compelled to execute that contract with Pioneer. Resolution of the issue is contingent upon the legality of the action of the city council, the governmental body having the requisite authority to award the contract.

Section 1 of Article 35 of the Code of Charleston (FN3) reserves to the council 'the right to reject Any and All bids.' Section 9 permits the council or manager to reject 'all bids.' Both sections of the code mandate that the contract shall be awarded to *901 the 'lowest responsible bidder.' The mayor has no discretion whether to award a contract. His action in executing a contract is purely ministerial. The city, acting through its council, awarded the contract here to other than the lowest bidder. Its exercise of discretion in this regard is the basis of this litigation.

[9] We do not believe that the interest of the city was distinct and severable from that of the mayor or that justice could be rendered between the parties before the court, without having an injurious effect on the interests of the city. The City of Charleston was an indispensable party to the action, and the trial court abused its discretion in finding to the contrary. In refusing to grant the motion to dismiss on this ground, therefore, the trial court committed reversible error.

[10] The same reason, however, is not applicable to Lester Construction Company. While the contract had been awarded by the city council to Lester, no contractual [159 W.Va. 286] rights had vested. Moreover, as we noted previously, no rights are vested in a bidder by virtue of the provisions of Sections 1 and 9 of Article 35 of the Code of Charleston.. (FN4) Lester would have had

no standing to maintain an action in its capacity as a bidder. While it may be said that Lester's interest in the litigation is substantial, it is not an interest sufficient to make Lester an indispensable party.

III

The third assignment of error raises the legality of the action of the city council in awarding the contract to Lester. The council's authority is derived from the following provisions of Article 35 of the Code of Charleston:

Section 1: 'The council shall reserve the right to reject any and all bids, but the contract, if let, must be let to the lowest responsible bidder. The council shall take from the person to whom the work is let a written contract.'

Section 9: 'As soon as the announcement of the several bids shall have been completed and the necessary calculations made, the contract shall be awarded to the lowest responsible bidder; provided, that the council or manager shall have the power to reject all bids.'

[11] Statutes and ordinances which require public officers or a public tribunal to award a contract to the 'lowest responsible bidder' vest wide discretion in officials. 64 Am.Jur.2d Public Works and Contracts s 68, p. 925; 10 E. McQuillin, Municipal Corporations, s 29.72, pp. 414-19 (3rd ed. 1966). Such discretion has been recognized by this Court in the interpretation of statutes and ordinances containing a 'lowest responsible bidder' provision. State ex rel. Printing-Litho, Inc. v. Wilson, 147 W.Va. 415, 128 S.E.2d 449 (1962); Wysong v. Walden, 120 W.Va. 122, 196 S.E. 573 (1938); Butler v. Printing Commissioners, supra.

[159 W.Va. 287] [12] [13] A court will not ordinarily interfere with the action of a public officer or tribunal clothed with discretion, in the absence of a clear showing of fraud, collusion or palpable abuse of discretion. State ex rel. Printing-Litho, Inc. v. Wilson, supra. Discretion in awarding a municipal contract is not abused when it is predicated upon 'good faith and honesty.' Harrison v. City of Huntington, 141 W.Va. 774, 93 S.E.2d 221 (1956).

In the instant case, no accusation of fraud, collusion, lack of good faith or dishonesty is made.

The trial court attempted in the short time before the bid period expired to determine whether Pioneer was a 'responsible bidder.' This was the function of the council, not the court. It was not within the authority of the court to substitute its judgment for that of the council. 10 E. McQuillin, *Municipal Corporations*, s 29.83, pp. 447-48 (3rd ed. 1966). *Budd v. Board of Commissioners*, supra. Judge Brannon sternly counseled us more than half a century ago that courts were accused of being 'usurpatory of power, and *902 inclined to dominate over other branches of government. The courts should not justify this charge.' *Butler v. Printing Commissioners*, supra, 68 W.Va. at 494, 70 S.E. at 120.

The trial court found the council 'guilty of a palpable abuse of discretion' essentially because the court reached a different conclusion than did the council. The court's test thus went to the result rather than the process. While the result may be evidence of a faulty process, a finding of abuse of the discretion vested by law in the council must be predicated upon more than a difference in judgment.

The record established that Pioneer had the requisite skill, personnel, equipment, and financial ability to perform the duties arising under the contract. Pioneer was qualified and able to furnish a performance bond. But the term 'responsible' is not limited to financial and moral responsibility. The officer or tribunal, having the authority to award the contract, must be satisfied that it can and will be completed in a competent and efficient [159 W.Va. 288] manner. *State ex rel. Printing-Litho, Inc. v. Wilson*, supra. 'What the public desires is a well-constructed work, for which a lawsuit even against a responsible defendant is a poor substitute; * * *.' 64 Am.Jur.2d *Public Works and Contracts* s 70, p. 927.

[14] In the instant case, the judgment of the council was based upon a concern that the Cunningham litigation raised serious questions about the ownership of Pioneer. This uncertainty of ownership, the city contends, might result in administrative problems and performance delays, which were not in the best interests of the public. Admittedly, the injunction, which effectively restrained Lewis from operating Pioneer, was dissolved on December 6, 1974, for failure of plaintiff Cunningham to post the requisite bond. A more diligent investigation by the city would have

revealed this information. There were, however, other factors justifying the city's concern and its decision. A final determination of the lawsuit might result in a change of ownership of the company. In the interim, there remained the possibility that a receiver would be appointed. A receiver has the power to repudiate an executory contract if, in his opinion, it is unprofitable or its performance is undesirable. *Waddell v. Shelton Gasoline Co.*, 101 W.Va. 468, 133 S.E. 75 (1926); *Griffith v. Blackwater Boom & Lumber Co.*, 46 W.Va. 56, 33 S.E. 125 (1899).

[15] The city by delaying award of the contract beyond the original deadline attempted to gain facts upon which it could act responsibly and in the public interest. While a better record might have been made by the council to illustrate more clearly the basis of its award to the second lowest bidder, the record made upon review in the trial court is more than adequate to sustain the action taken.

IV

The fourth assignment of error is based upon the refusal of the trial court to require the plaintiff to post bond on the awarding of the injunction.

[159 W.Va. 289] The court explained its refusal as:

'Actually, there is a mandamus granted in this case and as I review the authorities you are talking about a pure injunction.'

'* * * In any event, it appears to me that the City of Charleston would have adequate protection in this case by virtue of the fact that the contract in question itself requires and the City ordinances require that a performance bond and bond of other indemnification be made, that the protection is adequate in this case, so the motion you make is denied, sir.'

The action was not brought as a mandamus proceeding; neither was it heard nor decided as one. The amended complaint asked the court to 'enjoin, restrain and prohibit the defendant * * * from entering into a contract with any bidder other than the plaintiff herein, * * *.' The *903 court's final order recites that the plaintiff was 'asking for an injunction.' There was no mention of mandamus until the court had granted the injunction and

counsel for the defendant pressed the matter of a bond. The question cannot be disposed of by belatedly changing the name of the action.

W.Va.Code, 53-5-9, provides:

'An injunction (except in the case of any personal representative, or other person from whom, in the opinion of the court or judge awarding the same, it may be improper to require bond) shall not take effect until bond be given in such penalty as the court or judge awarding it may direct, with condition to pay the judgment or decree (proceedings on which are enjoined) and all such costs as may be awarded against the party obtaining the injunction, and also such damages as shall be incurred or sustained by the person enjoined, in case the injunction be dissolved, * * *.'

[16] The statute plainly commands that bond be furnished 'except in the case of any personal representative, or [159 W.Va. 290] other person from whom, in the opinion of the court or judge awarding the same, it may be improper to require bond.' To determine whether the plaintiff contractor is such 'other person from whom, * * * it may be improper to require bond,' we must employ a rule long adhered to by this Court--the rule of *Ejusdem generis*.

'In the construction of statutes, where general words follow the enumeration of particular classes of persons or things, the general words, under the rule of construction known as *Ejusdem generis*, will be construed as applicable only to persons or things of the same general nature or class as those enumerated, unless an intention to the contrary is clearly shown.' Point 2, Syllabus, *Parkins v. Londeree*, 146 W.Va. 1051, 124 S.E.2d 471 (1962); Point 2, Syllabus, *Vector Company v. Board of Zoning Appeals*, 155 W.Va. 362, 184 S.E.2d 301 (1971).

[17] [18] Thus the exempting language of the statute is deemed to mean such 'other person' as may be in a similar fiduciary capacity as a 'personal representative.' The plaintiff bidder is not 'of the same general nature or class' as a 'personal representative', and hence is not exempt from the requirement of furnishing a bond.

[19] The fact that the plaintiff will furnish a bid

bond or performance bond under its construction contract does not exempt it from furnishing an injunction bond. The security which the respective bonds furnish arises from entirely distinct causes and provides totally different indemnity. *Board of Education v. Allender*, 206 Md. 466, 112 A.2d 455 (1955).

The purpose of an injunction bond is to require the party initiating the injunctive process to protect persons whose rights are prejudicially affected from loss occasioned by damages or injury. In the absence of an injunction bond, recovery for an improperly issued injunction consists only of court costs, unless an action for malicious prosecution can be sustained. *Meyers v. Washington Heights Land Co.*, 107 W.Va. 632, 149 S.E. 815 [159 W.Va. 291] (1929); *Glen Jean, Lower Loup & D.R. Co. v. Kanawha, Glen Jean & E.R. Co.*, 47 W.Va. 725, 35 S.E. 978 (1900).

[20] This it was error for the court to fail to require the plaintiff to furnish an injunction bond as required by the statute notwithstanding the final nature of its order. Even on the award of an injunction that is final in nature, bond should be required until the time for appeal has expired or the appellate process is concluded.

V

Finally, the mayor contends that he was prejudiced by the action of the trial court in permitting I. V. Cunningham to intervene as a party plaintiff after the case was substantially concluded. The motion for intervention was granted at the commencement of the hearing on February 13, 1975, immediately prior to announcement by the court of its decision in the case. *Cunningham #904*. presented no evidence and filed no brief. The sole basis of the intervention was to show that Cunningham, the adversary of Pioneer in the separate lawsuit, had studied the Pioneer bid and approved of it.

[21] Rule 24 of the West Virginia Rules of Civil Procedure authorizes the intervention of parties as a matter of right and by permission of the court. That rule requires a timely application in both instances. Timeliness, however, is a matter of discretion with the trial court and abuse of discretion must be shown to reverse. 3B J. Moore, *Federal Practice*, 24.13(1), p. 24-521.

[22] In the circumstances of this case it cannot be said that the adjudication of rights was delayed or that the defendant was prejudiced by the intervention of I. V. Cunningham. 3B J. Moore, Federal Practice, 24.13(1), p. 24-521.

For reasons stated in this opinion the judgment of the Circuit Court of Kanawha County is reversed.

Reversed.

FN1. See p. 901 Infra.

FN2. See p. 901 Infra.

FN3. See p. 901 Infra.

FN4. See text below.

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December 1, 1999

ADMITTED TO PRACTICE IN
* WEST VIRGINIA
† PENNSYLVANIA
‡ OHIO

West Virginia Division of
Environmental Protection
617 Broad Street
Charleston, WV 25301

Attn: Bernie Yonkosky
West Virginia Water
Development Authority
180 Association Drive
Charleston, WV 25301

Re: Hancock County Public Service District
Mountaineer Park Extension Project

Dear Gentilepersons:

We have been retained by the Hancock County Public Service District ("HCPSD") to determine whether or not they have obtained the necessary easements for the construction of the Route 2 Mountaineer Park Extension Project (the "Project"). In that regard, we have been provided, and relied upon, the list of easements, attached hereto, identifying the easements necessary for the construction of the Project.

We have, in the preparation hereof, examined the records on file in the Office of the Clerk of the County Commission of Hancock County, West Virginia, and have relied upon the same in rendering our opinion.

We are of the opinion that the HCPSD is a duly created and existing public service district possessed with all the powers and authority granted to public service districts under the laws of the State of West Virginia and has the full power and authority to construct, operate and maintain the Project as approved by the Division of Environmental Protection.

We have confirmed with the Project engineer that the HCPSD has obtained approval for all necessary permits and approvals for the construction of the Project.

The Project engineer, L. Robert Kimball and Associates has established a list of all easements necessary for the construction of the Project which is attached hereto. For each property owned on the easement list, we have traced the chain of title for the properties for sixty (60) years, to help ensure that the District has obtained easements from the correct property owners.

December 1, 1999

Page 2

Subject to the following, the HCPSD has acquired valid easements to the properties identified in the attached list as disclosed by the properly indexed records of the aforesaid Clerk's office:

1. Easements # 24, 26, 27, 36, 37, 41, 42, 43, and 70, are easements which have not yet been obtained from the owners, but for which a right of entry proceeding will be initiated on December 2, 1999;
2. Easements # 1, 2, 3, 5, 7, 17, 47, 60, and 71 have incorrect deed references mentioned in the easement signed by the owners. It is our opinion that this does not constitute a cloud which adversely affects the validity of the HCPSD easements obtained;
3. Easement # 37 is a parcel of property which is currently being purchased on a land contract. The owner of the property signed the easement, but the person purchasing the property on land contract has not yet signed the easement. The District should obtain the signature of the purchaser of the property for a valid easement and this is the reason easement # 37 is identified above as an easement which has not yet been obtained;
4. The property owner of easement # 29 has a judgment of record against him. We do not believe that this constitutes a cloud which adversely affects the validity of the easement obtained by the HCPSD;
5. Easements # 12, 38, 39, 40, and 71 have unadministered estates in the chain of title. We do not believe that this constitutes a cloud which adversely affects the validity of the easements obtained by the HCPSD;
6. The property owners of easements # 1, 2, 3, 7, 10, 11, 13, 14, 15, 16, 17, 18, 21, 22, 23, 24, 26, 27, 28, 29, 32, 33, 36, 37, 39, 40, 41, 42, 43, 44, 45, 46, 47, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 63, 64, 66, 70, and 71 have also conveyed right of ways, oil and gas leases, and easements to various utilities. We do not believe that this constitutes a cloud which adversely affects the easements obtained by the HCPSD so long as the easements conveyed to other utilities do not expressly restrict or otherwise limit another utility, such as the HCPSD, from placing a line in the location identified by the HCPSD; and,
7. Easements # 47 and 65 have a recorded hazardous waste disclosure. We do not believe that this constitutes a cloud which adversely affects the validity of the easements obtained by the HCPSD.

December 1, 1999

Page 3

The District must obtain easements # 24, 26, 27, 36, 37, 41, 42, 43, and 70 in order to acquire title to all necessary easements. We have no reason to believe that these easements cannot be obtained through condemnation proceedings and the District will obtain a right of entry for purposes of construction which will allow the District the right to begin construction while the condemnation proceeding is pending. Condemnation proceedings will be filed for these easements on December 2, 1999 together with a motion seeking right of entry for each easement. A hearing on the motion seeking right of entry is scheduled to be heard on December 13, 1999 at 1:30 pm.

Accordingly, in our opinion, the HCPSD has acquired, or will acquire, prior to construction, by way of right of entry and condemnation proceedings, easements sufficient to assure undisturbed use and possession for the purpose of construction, operation and maintenance for the estimated life of the facilities to be constructed.

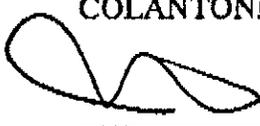
We do not guarantee the accuracy of descriptions, plats, maps, surveys, interlocking lines, encroachments, location of buildings, roads, streets, alleys, rights of way, easements, marital status of persons, (except to so report when not stated in any instrument) and matters not of record and permanently and properly indexed as aforesaid.

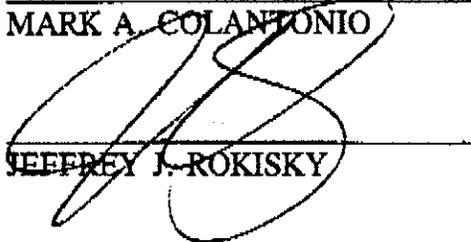
Any easements which have been acquired to date by the HCPSD have been duly recorded in the Clerk's Office for the County Commission of Hancock County in order to protect the legal title to and interest of the District.

Should you have any questions regarding the above, please do not hesitate to contact me.

Sincerely,

FRANKOVITCH, ANETAKIS,
COLANTONIO & SIMON



MARK A. COLANTONIO

JEFFREY J. ROKISKY

MAC/lmk
Enclosures
Via Overnight Mail to Bernie Yonkosky

Route 2 Sewer Project
Right-of-Way Easements

SEMENT #	Drawing #	Property Owner	Address	Deed Book	Pg.	Map	Parcel	Length	Comments
1	C1.1	Quaker State Oil Refining Corp Ergon WV	P.O. Box 1639, Jackson, MS 39215	140	228	G5	1	1676	
2	C1.2	Quaker State Oil Refining Corp Ergon WV	P.O. Box 1639, Jackson, MS 39215	139	292	G5H	29	480	
3	C1.3	Quaker State Oil Refining Corp Ergon WV	P.O. Box 1639, Jackson, MS 39215	140	97	G5H	5	700	
4	C1.3	Trustees of the Congo Church of Nazarene	2550 Congo Arroyo Road, Newell, WV 26050	221	177	G5H	11	100	
5	C1.3	DTC Environmental Services, Inc.	2450 Congo Arroyo Road, Newell, WV 26050	232	392	G5H	10	80	
6	C1.3	Trustees of the Congo Church of Nazarene	2550 Congo Arroyo Road, Newell, WV 26050	135	485	G5H	2	GP2	
7	C1.2 & C1.4	Quaker State Oil Refining Corp Ergon WV	2550 Congo Arroyo Road, Newell, WV 26050			G5H	5	1480	
9		DELETED							
10	C1.4	Summers, Carol L.	Midway Trailer Court, Newell, WV 26050	242	333	G5H	4	Bore	
11	C1.4	Summers, Carol L.	Midway Trailer Court, Newell, WV 26050	242	333	G5H	4	220	
12	C1.4	J & T River Services	3983 Patterson Road, Aliquippa, PA 15001	181	489	G5H	2	560	
13	C1.5, C1.6 & C1.7	Hazel, Lester E, et ux	13401 Y-Camp Road, Lisbon, OH 44432	240	172	G5H	1	2760	
14	C1.7, C1.8, C1.9&C.10	Smith, Natalie P.	5810 Lingelstown Road, Harrisburg, PA 17112	229	126	G9	10	4480	
15	C1.10	Smith, Natalie P.	5810 Lingelstown Road, Harrisburg, PA 17112	229	126	G9	14	380	
16	C1.5, C1.6 & C1.7	Summers, Carol L.	Midway Trailer Court, Newell, WV 26050	242	333	G5H	4	425	
17	C1.1	Quaker State Oil Refining Corp Ergon WV	P.O. Box 1639, Jackson, MS 39215	140	229	G6	1	GP1	
18	C1.4	Summers, Carol L.	Midway Trailer Court, Newell, WV 26050	242	333	G5H	4	GP3	
21	C3.1	Morrow, Eleanor E, et ux	Rd#2 Box 184, New Cumberland, WV 26047	159	277	G13	10	1150	
22	C3.1	Morrow, Eleanor E, et ux	Rd#2 Box 184, New Cumberland, WV 26047	159	277	G13	10	Bore	
23	C3.1	Morrow, Eleanor E, et ux	Rd#2 Box 184, New Cumberland, WV 26047	159	277	G13	10	Bore	
24	C3.1 & C3.2	Shippingport Sand & Gravel	6715 Tippecanoe Rd.#C, Canfield, OH 44408	149	497	G13	19	1500	
26	C3.2&C3.3	Shippingport Sand & Gravel	6715 Tippecanoe Rd.#C, Canfield, OH 44408	154	157	G13	15	750	
27	C3.3 & C3.4	Shippingport Sand & Gravel	6715 Tippecanoe Rd.#C, Canfield, OH 44408	164	161	G9	25	1100	
28	C3.4	Newchem, Inc.	RR2 Box 3000, New Cumberland, WV 26047	239	532	G9	28	440	
29	C3.4	Newchem, Inc.	RR2 Box 3000, New Cumberland, WV 26047			G9	27	600	
30	C3.4	State Road Commission (Permit)		130	197	G9	28	2800	
32	C3.4	Newchem, Inc.	RR2 Box 3000, New Cumberland, WV 26047	239	532	G9	28	Bore	
33	C3.4	Realm Inc.	P.O.Box 386, Chester, WV 26034	233	108	G9	6	Bore	
34	C3.5	State Road Commission (Permit)		129	463	G9	16	200	
36	C3.6 & C3.7	Brenneman, Richard (John) SVD	445 VanVorhis Road #116, Morgantown, WV 26505	WB6	488	G13	5	1650	
37	C3.7	Mervin, Paul	Rd#2 Box 417, New Cumberland, WV 26047	224	764	G13	6	550	
38	C3.7	Trustees of Nessley Chapel & Cemetery		108	226	G13	1	60	
39	C3.7	Sargent, Charles Edward	Box 72, New Cumberland, WV 26047	154	265	G13	3	250	
40	C3.7	Caugli	2108 Demerese Ave. Prescott, AZ 86301	154	265	G13	3	Bore	
41	C3.2&C3.3	Shippingport Sand & Gravel				G13	15	Bore	
42	C3.3	Shippingport Sand & Gravel				G9	25	Bore	

HANCOCK COUNTY PUBLIC SERVICE DISTRICT

Sewer Revenue Bonds, Series 1999
(West Virginia SRF Program)

GENERAL CERTIFICATE OF ISSUER AND ATTORNEY ON:

1. TERMS
2. NO LITIGATION
3. GOVERNMENTAL APPROVALS AND BIDDING
4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS
5. CERTIFICATION OF COPIES OF DOCUMENTS
6. INCUMBENCY AND OFFICIAL NAME
7. LAND AND RIGHTS-OF-WAY
8. MEETINGS, ETC.
9. CONTRACTORS' INSURANCE, ETC.
10. LOAN AGREEMENT
11. RATES
12. PUBLIC SERVICE COMMISSION ORDERS
13. SIGNATURES AND DELIVERY
14. BOND PROCEEDS
15. PUBLICATION OF NOTICE OF BORROWING AND PSC FILING
16. SPECIMEN BOND
17. CONFLICT OF INTEREST
18. CLEAN WATER ACT
19. YEAR 2000 COMPLIANCE
20. OTHER FUNDING
21. EXECUTION OF COUNTERPARTS

We, the undersigned CHAIRMAN and the undersigned SECRETARY of the Public Service Board of Hancock County Public Service District in Hancock County, West Virginia (the "Issuer"), and the undersigned COUNSEL TO THE ISSUER, hereby certify in connection with the Issuer's Sewer Revenue Bonds, Series 1999 (West Virginia SRF Program), dated the date hereof (the "Bonds"), as follows:

1. TERMS: All capitalized words and terms used in this General Certificate and not otherwise defined herein shall have the same meaning as set forth in the Bond Resolution of the Issuer duly adopted November 18, 1999, and the Supplemental Resolution duly adopted November 18, 1999 (collectively, the "Bond Legislation").

2. NO LITIGATION: Other than easement acquisition, litigation threatened by Honey Creek Contracting Company, Inc. and litigation threatened by Barbara Owens, a homeowner who claims her property was damaged during installation of the sewer system, to which no certification is given herein, no controversy or litigation of any nature is now pending or threatened, restraining, enjoining or affecting in any manner the issuance, sale or delivery of the Bonds, the acquisition or construction of the Project, the operation of the System, the receipt of the Net Revenues, or in any way contesting or affecting the validity of the Bonds or any proceedings of the Issuer taken with respect to the issuance or sale of the Bonds, the pledge or application of the Net Revenues or any other moneys or security provided for the payment of the Bonds or the existence or the powers of the Issuer insofar as they relate to the authorization, sale and issuance of the Bonds, the acquisition and construction of the Project, the operation of the System, the pledge or application of moneys and security or the collection of the Gross Revenues or the pledge of the Net Revenues as security for the Bonds.

3. GOVERNMENTAL APPROVALS AND BIDDING: All applicable and necessary approvals, permits, exemptions, consents, authorizations, registrations and certificates required by law for the acquisition and construction of the Project, the operation of the System, including, without limitation, the imposition of rates and charges, and the issuance of the Bonds have been duly and timely obtained and remain in full force and effect. Competitive bids for the acquisition and construction of the Project have been solicited in accordance with Chapter 5, Article 22, Section 1 of the West Virginia Code of 1931, as amended, which bids remain in full force and effect.

4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS: There has been no adverse change in the financial condition of the Issuer since the approval, execution and delivery by the Issuer of the Loan Agreement, and the Issuer has met all conditions prescribed in the Loan Agreement. The Issuer has or can provide the financial, institutional, legal and managerial capabilities necessary to complete the Project.

There are outstanding obligations of the Issuer which will rank on a parity with the Series 1999 Bonds as to liens, pledge and source of and security for payment, being (i) the Sewer Revenue Bonds, Series 1995 A (West Virginia Water Development Authority), dated December 7, 1995, issued in the original aggregate principal amount of \$289,532 (the "Series 1995 A Bonds"), (ii) the Sewer Revenue Bonds, Series 1995 B (West Virginia Water Development Authority), dated January 9, 1996, issued in the original aggregate principal amount of \$1,080,088 (the "Series 1995 B Bonds"), and (iii) the Sewer Revenue Bonds, Series 1995 C (West Virginia SRF Program), dated December 7, 1995, issued in the original aggregate principal amount of \$883,974 (the "Series 1995 C Bonds") (collectively, the "Prior Bonds").

The Series 1999 Bonds shall be issued on a parity with the Prior Bonds with respect to liens, pledge and source of and security for payment and in all other respects. The

Issuer has obtained a certificate of an Independent Certified Public Accountant stating that the parity test of the Prior Bonds is met and the written consent of the Holders of the Prior Bonds to the issuance of the Series 1999 Bonds on a parity with the Prior Bonds. Other than the Prior Bonds and the Series 1999 Bonds, there are no outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System. The Issuer is in compliance with all the covenants of the Prior Bonds and the Prior Resolutions.

There is an outstanding obligation of the Issuer which does not have a lien on any revenues of the System, nor is it payable from Net Revenues, being the Issuer's Promissory Note to WesBanco Bank Wheeling dated August 4, 1999, issued in the original principal amount of \$80,000.

5. CERTIFICATION OF COPIES OF DOCUMENTS: The copies of the below-listed documents hereto attached or delivered herewith or heretofore delivered are true, correct and complete copies of the originals of the documents of which they purport to be copies, and such original documents are in full force and effect and have not been repealed, rescinded, amended, supplemented or changed in any way unless modification appears from later documents also listed below:

Bond Resolution

Supplemental Resolution

Series 1999 Bond Loan Agreement

Public Service Commission Orders

Infrastructure and Jobs Development Council Approval

County Commission Orders Creating the District

County Commission Orders Appointing Current Boardmembers

Oaths of Office of Current Boardmembers

Rules of Procedure

Affidavit of Publication on Borrowing

Minutes of Current Year Organizational Meeting

Minutes on Adoption of Bond Resolution and Supplemental Resolution

Sewer Facilities User Agreement

Series 1995 A and Series 1995 B Bond Resolution and Supplemental Resolution

Series 1995 C Bond Resolution and Supplemental Resolution

Consent of 1995 A, 1995 B and 1995 C Bondholder

NPDES Permit

6. INCUMBENCY AND OFFICIAL NAME: The proper corporate title of the Issuer is "Hancock County Public Service District." The Issuer is a public service district and public corporation duly created by The County Commission of Hancock County and presently existing under the laws of, and a public corporation and political subdivision of, the State of West Virginia. The governing body of the Issuer is its Public Service Board consisting of 3 duly appointed, qualified and acting members whose names and dates of commencement and termination of current terms of office are as follows:

<u>Name</u>	<u>Date of Commencement of Office</u>	<u>Date of Termination of Office</u>
Vito Riggi	November 6, 1997	November 30, 2000
Don Lemasters	January 10, 1996	January 10, 2002
Dan Wilson	July 6, 1995	February 17, 2000

The names of the duly elected and/or appointed, qualified and acting officers of the Public Service Board of the Issuer for the calendar year 1999 are as follows:

Chairperson	-	Don Wilson
Secretary	-	Don Lemasters
Treasurer	-	Vito Riggi

The duly appointed and acting counsel to the Issuer is Frankovitch & Anetakis, in Weirton, West Virginia.

7. LAND AND RIGHTS-OF-WAY: All land in fee simple and all rights-of-way and easements necessary for the acquisition and 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 which would adversely affect or interfere in any way with the use thereof for such purposes. The costs thereof, including costs of any properties which 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.

8. MEETINGS, ETC.: All actions, ordinances, resolutions, orders and agreements taken by and entered into by or on behalf of the Issuer in any way connected with the issuance of the Bonds and the acquisition, construction, operation and financing of the Project and the System were authorized or adopted at regular or special meetings of the Governing Body of the Issuer duly and regularly called and held pursuant to the Rules of Procedure of the Governing Body and all applicable statutes, including, particularly and without limitation, Chapter 6, Article 9A of the West Virginia Code of 1931, as amended, and a quorum of duly elected or appointed, as applicable, qualified and acting members of the Governing Body 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.

9. CONTRACTORS' INSURANCE, ETC.: All contractors have been required to maintain Worker's Compensation, public liability and property damage insurance, and builder's risk insurance where applicable, in accordance with the Bond Legislation. All insurance for the System required by the Bond Legislation and Loan Agreement is in full force and effect.

10. LOAN AGREEMENT: As of the date hereof, (i) the representations of the Issuer contained in the Loan Agreement are true and correct in all material respects as if made on the date hereof; (ii) the Loan Agreement does not contain any untrue statement of a 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 the date of the Loan Agreement 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 in the Loan Agreement not misleading; and (iv) the Issuer is in compliance with all covenants, terms and representations in the Loan Agreement.

11. RATES: The Issuer has received the Final Order of the Public Service Commission of West Virginia entered as a Recommended Decision on July 13, 1999, made Final on July 25, 1999, by a Commission Order Waiving Exception Period entered on July 20, 1999, in Case No. 90-0001-PSD-19A (collectively, the "Final Order"), approving the rates and charges for the services of the System, and has adopted a resolution prescribing such rates and charges. The time for appeal of such Final Order has expired prior to the date hereof without any appeal, and such rates and charges are currently in effect.

12. PUBLIC SERVICE COMMISSION ORDERS: The Issuer has received the Final Order and the Commission Order of the Public Service Commission of West Virginia entered on November 8, 1999, in Case No. 98-0824-PSD-CN, among other things, granting to the Issuer a certificate of public convenience and necessity for the Project

and approving the financing for the Project. The time for appeal of the Final Order has expired prior to the date hereof without any appeal. The time for appeal of such Commission Order has not expired prior to the date hereof. However, the parties to such Commission Order have stated, and the Issuer hereby states, that they do not intend to appeal such Commission Order. The Commission Order is not subject to any appeal, further hearing, reopening or rehearing by any customer, protestant, intervenor or other person not a party to the original application.

13. SIGNATURES AND DELIVERY: On the date hereof, the undersigned Chairman did officially sign all of the Bonds of the aforesaid issue, consisting upon original issuance of a single Bond for the series numbered R-1, all dated the date hereof, by his or her manual signature, and the undersigned Secretary did officially cause the official seal of the Issuer to be affixed upon said Bonds and to be attested by his or her manual signature, and the Registrar did officially authenticate and deliver the Bonds to a representative of the Authority as the original purchaser of the Bonds under the Loan Agreements. Said official seal is also impressed above the signatures appearing on this certificate.

14. BOND PROCEEDS: On the date hereof, the Issuer received \$667,254 from the Authority and the DEP, being a portion of the principal amount of the Series 1999 Bonds. The balance of the principal amount of the Bonds will be advanced to the Issuer as acquisition and construction of the Project progresses.

15. PUBLICATION OF NOTICE OF BORROWING AND PSC FILING: The Issuer has published any required notice with respect to, among other things, the acquisition and construction of the Project, anticipated user rates and charges, the issuance of the Bonds and filing of a formal application for a certificate of public convenience and necessity with the Public Service Commission of West Virginia, in accordance with Chapter 16, Article 13A, Section 25 of the Official West Virginia Code of 1931, as amended.

16. SPECIMEN BOND: Delivered concurrently herewith is a true and accurate specimen of the Bond.

17. CONFLICT OF INTEREST: No member, 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 Bond Legislation 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.

18. CLEAN WATER ACT: The Project as described in the Bond Resolution complies with Sections 208 and 303(e) of the Clean Water Act.

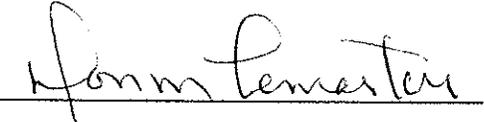
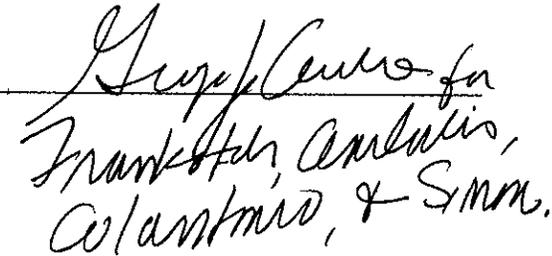
19. YEAR 2000 COMPLIANCE: The Issuer represents that it has undertaken or will undertake an investigation to determine whether the operations of the System, including but not limited to any billing, collection and inventory computer programs of the System and any electronic or mechanical components of the System are Year 2000 Compliant. The Issuer further represents that if it determines as a result of this investigation that any Mission-Critical Component of the System is not Year 2000 Compliant, the Issuer (i) will take timely and affirmative action to repair or replace any such component, and (ii) will perform adequate testing to ensure the sound operation and Year 2000 Compliant status of the repaired or replaced component. For purposes of this paragraph, "Year 2000 Compliant" means, with respect to the information technology the Issuer uses or will use in the operation of the System (including any date-sensitive microprocessors embedded in electronic or mechanical components of the System), the information technology is designed to be used prior to, during and after calendar Year 2000 A.D., and the information technology used during each such time period will accurately receive, provide and process date-time data (including, but not limited to, calculating, comparing and sequencing) from, into and between the twentieth and twenty-first centuries, including the years 1999 and 2000, and leap-year calculations, and will not malfunction, cease to function, or provide invalid or incorrect results as a result of date-time data. For purposes of this paragraph, "Mission-Critical Component" means any component of the System that would be critical to (a) the System's continued operation after January 1, 2000; (b) the Issuer's ability to continue to bill its customers and collect amounts billed from those customers after January 1, 2000; or (c) the Issuer's ability to make all principal and interest payments for the Bonds as and when they become due.

20. OTHER FUNDING: The Issuer will use \$9,000 from its general funds to pay Costs of the Project, which monies will be reimbursed from Tap Fees received.

21. EXECUTION OF COUNTERPARTS: This document may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same document.

WITNESS our signatures and the official seal of HANCOCK COUNTY PUBLIC SERVICE DISTRICT on this 2nd day of December, 1999.

[CORPORATE SEAL]

<u>SIGNATURE</u>	<u>OFFICIAL TITLE</u>
	Chairman
	Secretary
	Counsel to Issuer



L. Robert Kimball & Associates

415 Moon Clinton Road, Coraopolis, PA 15108-3886 Phone: 412/262-5400 Fax: 412/262-3036
www.lrkimball.com E-Mail: pitrgn@lrkimball.com

HANCOCK COUNTY PUBLIC SERVICE DISTRICT

Sewer Revenue Bonds, Series 1999
(West Virginia SRF Program)

CERTIFICATE OF ENGINEER

I, Joseph F. Moon, Jr., Registered Professional Engineer, West Virginia License No. 8518, of L. Robert Kimball & Associates, Inc., in Moon Township, Pennsylvania, hereby certify as follows:

1. My firm is engineer for the acquisition and construction of certain improvements and extensions (the "Project") to the existing public sewerage facilities (the "System") of Hancock County Public Service District (the "Issuer") to be constructed primarily in Hancock County, West Virginia, which acquisition and construction are being financed in part by the proceeds of the above-captioned bonds (collectively, the "Bonds") of the Issuer. Capitalized terms used herein and not defined herein shall have the same meaning set forth in the Bond Resolution adopted by the Issuer on November 18, 1999, the Loan Agreement for the Bonds, by and among the Issuer, the West Virginia Water Development Authority (the "Authority") and the West Virginia Division of Environmental Protection (the "DEP"), dated October 21, 1999.

2. The Bonds are being issued for the purposes of (i) paying a portion of the costs of acquisition and construction of the Project; (ii) funding a reserve account for the Bonds; and (iii) paying costs of issuance and related costs.

3. To the best of my knowledge, information and belief, (i) within the limits and in accordance with the applicable and governing contractual requirements relating to the Project, the Project will be constructed in general accordance with the approved plans, specifications and designs prepared by my firm and approved by the DEP and the Authority and any change orders approved by the Issuer, the Authority, the DEP and all necessary governmental bodies; (ii) the Project, as designed, is adequate for its intended purpose and has a useful life of at least twenty five years, if properly constructed, operated and maintained, excepting anticipated replacements due to normal wear and tear; (iii) the Issuer has received bids for the acquisition and construction of the Project which are in an amount and otherwise compatible with the plan of financing set forth in Schedule A attached hereto as Exhibit A and the Issuer's counsel, Frankovitch & Anetakis, has ascertained that all successful bidders 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 for accuracy; (iv) the successful bidders received any and all addenda to the original bid documents; (v) the bid documents relating to the Project reflect the Project as approved by the DEP and the bid forms provided to the bidders contain the critical

H:\PROJ98-0230\ENGINEER\DOCS\ENG.CERT.

Ebensburg, PA
Charleston, WV

Harrisburg, PA
Weirton, WV

West Chester, PA
Washington, D.C.

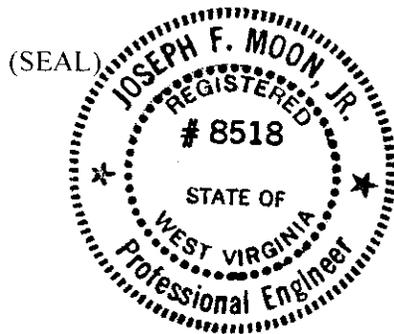
State College, PA
Cranford, NJ

Richmond, VA
Raleigh, NC

operational components of the Project; (vi) the successful bids include prices for every item on such bid forms; (vii) the uniform bid procedures were followed; (viii) the Issuer has obtained all permits required by the laws of the State of West Virginia and the United States necessary for the acquisition and construction of the Project and the operation of the System; (ix) in reliance upon the certificate of the Issuer's certified public accountant, Michael DiDomenico, CPA, as of the effective date thereof, the rates and charges for the System as adopted by the Issuer will be sufficient to comply with the provisions of the Loan Agreement; (x) 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, if any, irrevocably committed therefor, are sufficient to pay the costs of acquisition and construction of the Project approved by the DEP; and (xi) attached hereto as Exhibit A is the final amended "Schedule A - Estimated Total Cost of Project, Sources of Funds and Cost of Financing" for the Project.

WITNESS my signature and seal on this 2nd day of December, 1999.

L. ROBERT KIMBALL & ASSOCIATES, INC.



A handwritten signature in black ink, appearing to read "Joseph F. Moon, Jr.", written in a cursive style.

Joseph F. Moon, Jr., P.E.
West Virginia License No. 8518

11/17/99
373520/98001

SCHEDULE A

NAME OF GOVERNMENT AGENCY: Hancock Co. PSD - Route 2

ESTIMATED TOTAL COST OF PROJECT, SOURCES OF FUNDS AND COST OF FINANCING

A. Cost of Project

1 Construction		\$	3,779,239	
2 Technical Services		\$	653,587	
3 Legal & Fiscal		\$	30,000	
4 Administrative		\$	30,000	
5 Site & Other Lands		\$	14,000	
6 Fac. Plan/Design or Other Loan Repayment (Specify Type <u>A/E Interest</u>)		\$	38,100	
7 Accountant		\$	5,000	
8 Contingency ()		\$	188,101	
9 Total of Lines 1 though 8		\$		<u>4,738,027</u>

B. Sources of Funds

10 Federal Grants: (Specify Sources)		\$	-	
11 State Grants: (Specify Sources)		\$	-	
12 Other Grants:		\$	-	
13 Any Other Source (Specify)	PSD contribution to be reimbursed from tap fees collected	\$	9,000	
14 Total of Lines 10 Thourgh 13		\$		<u>9,000</u>
15 Net Proceeds Required from Bond Issue (Line 9 minus Line 14)		\$		<u>4,729,027</u>

C. Cost of Financing

16 Capitalized Interest (Construction Period plus six months)		\$	-	
17 Funded Reserve Account		\$	249,820	
18 Other Costs: Bond Counsel		\$	17,500	
19 Total of Cost of Financing (Line 15 plus Line 19)		\$		<u>267,320</u>
20 Size of Bond Issue (Line 15 plus Line 19)		\$		<u>4,996,347</u>

 11/18/99
Signature of Applicant Date

 11-18-99
Signature of Consulting Engineer Date



MICHAEL G. DiDOMENICO *Certified Public Accountant*

December 2, 1999

*1008 Main Street
Follansbee, West Virginia 26037*

Hancock County Public Service District
Sewer Revenue Bonds, Series 1999
(West Virginia SRF Program)

*(304) 527-1830
FAX (304) 527-1835*

Hancock County Public Service District
New Cumberland, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

West Virginia Division of Environmental Protection
Charleston, West Virginia

Ladies and Gentlemen:

Based upon the sewer rates and charges set forth in the Final Order of the Public Service Commission of West Virginia in Case No. 99-0001-PSD-19A, entered as a Recommended Decision on July 13, 1999, made Final on July 25, 1999, by a Commission Order Waiving Exception Period entered on July 20, 1999, and projected operation and maintenance expenses and anticipated customer usage as furnished to me by L. Robert Kimball & Associates, Inc., Consulting Engineer, it is my opinion that such rates and charges will be sufficient to provide revenues which, together with other revenues of the sewerage system of the Issuer (the "System"), will pay all repair, operation and maintenance expenses of the System and leave a balance each year equal to at least 115% of the maximum amount required in any year for debt service on the Sewer Revenue Bonds, Series 1999 (West Virginia SRF Program), to be issued by Hancock County Public Service District (the "Issuer") to the West Virginia Water Development Authority on the date hereof, and all other obligations secured by or payable from the revenues of the System, on a parity with the Bonds, including all Prior Bonds of the Issuer as defined and described in the Bond Resolution of the Issuer adopted on November 18, 1999, authorizing the Bonds. It is my further opinion that the Net Revenues actually derived from the System during any 12 consecutive months within the 18 months immediately preceding the date of the actual issuance of the Bonds, plus the estimated average increased annual Net Revenues to be received in each of the 3 succeeding years after the completion of the improvements to be financed by the Bonds, are not less than 115% of the largest aggregate amount that will mature and become due in any succeeding fiscal year for the principal of and interest on the Prior Bonds and the Bonds.

Very truly yours,

Michael G. DiDomenico, CPA

The County Commission met in regular session with President Joseph Manypenny presiding and Commissioner Edward Nogay in attendance. County Clerk George Koncahr, Executive Director of BH, Lowery Bailey, Chief Joseph Apeffine, Hancock County Extension Agent, John L. Lewis, Detective Thomas Matthews, Equitable Insurance representative Wilma Cross, Attorneys Thomas Hagg and Vito Catenaro, and Court Reporter Steve Yurko were also present for the meeting.

The following reports were noted, accepted, and ordered to be filed:

Cemetery Report--Three Springs Cemetery 2 burials for the month of August.
Sheriff's Report--Office monthly report for August--Car repairs, oil, and miscellaneous expense.
Report from Dan Tabler notified the Commission that the Flying Hooves 4-H club would no longer be using the 4-H House Show Ring located on the Children's Home property and the 4-H Foundation would dismantle the ring. The report also stated that the 4-H Foundation sincerely appreciated the cooperation of the commissioners in this matter and are also grateful for the use of the property in the past.

Upon the proper motion and second, the Petition by Ruth Cox Turner, Administratrix, CTA of the Estate of Golda Reaser Oliver to re-open the estate for the purpose of cashing a check received after the estate had been closed on May 7, 1975 was approved. Motion carried.

Commissioner Nogay made the motion that the bills submitted by Hancock County Bicentennial Chairman John L. Lewis for various Bicentennial Commissions be approved for payment from their county allotments. Second Commissioner Manypenny.

Upon the proper motion and second, the certificate of payment to Harry W. Trushel Construction Company in the amount of \$18,270.00 for Renovation of the Health Department was approved. Motion carried.

Commissioner Nogay made the motion that the Sheriff's request to advertise for bids for a new cruiser to replace Car #72 which will be used for a trade-in be tabled till specifications are received from the Sheriff. Second Commissioner Manypenny.

Commissioner Nogay made the motion to table the Sheriff's request to advertise for bids for an unmarked cruiser to be used by the detective. Second Commissioner Manypenny.

Wilma Cross, Representative of Equitable Insurance Co. at this time approached the Commission concerning installing a salary allotment program for additional insurance purchased by employees. Commissioner Nogay made the motion that the Commission would go along with the request to approach individuals for salary allotment program subject to approval of legal counsel and each department head giving approval before Mrs. Cross contacts the department employees. Second Commissioner Manypenny.

Commissioner Nogay made the motion to approve the Sheriff's request to purchase a identification mug camera thru the L.E.A.A. Grant at a purchase price of \$625.00.00 Second Commissioner Manypenny.

Commissioner Nogay made the motion that the following order proposing creation of a Public Service District for the purpose of providing sewage service for the general public within Hancock County, West Virginia, as authorized by Chapter 16, Article 13A, to be known as the Hancock County Public Service District be entered. Second Commissioner Manypenny.
(Photocopy on page 36.)

ORDER

That the County Commission of Hancock County, West Virginia, is of the opinion that in order to preserve the public health, comfort, and convenience of the general public of Hancock County, West Virginia, do hereby propose the creation of a public service district for the purpose of providing sewage service for the general public within Hancock County, West Virginia, as authorized by Chapter 16, Article 13A, to be known as the Hancock County Public Service District;

That the territory to be embraced by the proposed District shall be all land within the boundaries of Hancock County, West Virginia, less however, those sewage authorities within the Cities of Weirton, New Cumberland and Chester, and those areas covered by the existing public service district of Grant Public Service District, Thomlinson Public Service District, Lawrenceville Public Service District, and the Oakland Public Service District presently authorized to operate sewage service in Hancock County; provided however, that any of the public sewage service districts presently authorized to operate in Hancock County, but not presently furnishing sewage services may and do hereby become a part of the area to be serviced by this proposed Public Sewage Service District.

Further it is the desire of the Hancock County Commission to proceed as soon as possible to comply with the laws of the State of West Virginia in establishing the Hancock County Public Service District, and the same is so ORDERED.

ENTER:

S/ JOSEPH MANYPENNY
PRESIDENT

Commissioner Nogay made the motion that the hearing for the Public Service District for sewage be set for Monday, October 6th at 7:00 p.m. Second Commissioner Manypenny.

Hancock County Extension Agent John L. Lewis at this time presented to the Commission a final report on the Clean Streams Program and files kept by him as Director of the Clean Streams Program.

Commissioner Nogay made the motion to approve bills submitted by Mr. Lewis for the Clean Streams Program. Second Commissioner Manypenny.

Mr. Lewis also presented to the Commission files kept by him as Chairman of the Hancock County American Bicentennial Commission to be turned over to the new chairman.

Commissioner Nogay made the motion to reappoint Charles Padden as a member of the Hancock County Board of Health with the term retroactive to July 1, 1975 and expire July 1, 1980. Second Commissioner Manypenny.

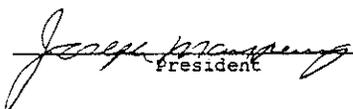
Requisitions #d 37 supplies for the County Clerk's Office, 1393 warning slips and 1394 letters for Car # 74 for the Sheriff's Office, 1650 renewal service & maintenance agreement for Royal typewriter, 1651 renewal subscription to the Weirton Daily Times, 1652 - 1654 for office supplies, 1655 Bicentennial Table Top Exhibit, and 1662 office supplies for the WVU Extension Office were approved by the Commission.

All bills properly signed and submitted were approved by the Commission for payment.

Commissioner Nogay made the motion that the Hearing for the Committee appointment for John W. Archer be continued till Tuesday, September 9th at 4:30 p.m. Second Commissioner Manypenny.

Upon the proper motion and second, the Commission adjourned.

It is hereby ordered and decreed that the above be and they are hereby declared to be the legal transactions of the Commission on this the 8th day of September, 1975.


President


Clerk

September 9, 1975 -- 4:30 P.M.
Tape 30 - Side 1
425 thru 546

The County Commission met in a recessed session with President Joseph Manypenny presiding for the session and Commissioner Edward Nogay in attendance. Others present for the meeting were Mr. Vito Catenaro, Attorney for Wayne V. Archer, Charles W. Archer, Dr. Thomas J. Beynon, Norman Ferrari, Jr., and Attorney Thomas Hagg representing Mr. John Wesley Archer.

The Commission took up the matter of Committee appointment for Mr. John Wesley Archer as requested upon the Petition of Charles W. Archer, Wayne V. Archer and Pauline Swain, children of John Wesley Archer.

Attorney Thomas Hagg objected to proceeding with the hearing because Mr. John Wesley Archer was not present. It was ascertained that he had been duly and properly notified and had refused to appear and Attorney Catenaro stated that the Commission was within its rights to proceed. Commissioner Nogay made the motion that the Commission proceed with the hearing.

A motion by Attorney Hagg to dismiss the hearing because of not enough facts set forth to predicate was over-ruled upon the motion of Commissioner Nogay and second by Commissioner Manypenny.

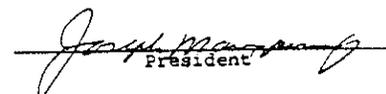
After hearing testimony from Dr. Thomas J. Beynon regarding the condition of Mr. John Wesley Archer and testimony from the children regarding Mr. Archers condition, Commissioner Nogay made the motion that the petition for appointment of Committee be granted because the man is not able to take care of himself physically and that the bond be set at \$10,000. Commissioner Manypenny second the motion which carried.

Commissioner Nogay moved the appointment of Wayne V. Archer and Charles Archer as Co-committee for John Wesley Archer. Commissioner Manypenny gave a second to the motion which carried.

Upon the proper motion and second, President Manypenny was authorized to go to Charleston on September 17th and September 18th on County Business.

Upon the proper motion and second, the Commission adjourned.

It is hereby ordered and decreed that the above be and they are hereby declared to be the legal transactions of the Commission on this the 9th day of September 1975.


President


Clerk

September 15, 1975 -- 4:15 P.M.
Tape 30 - Side 1
546 thru 598

The Commission held its regular session with President Joseph Manypenny presiding and Commissioner Edward Nogay and George Naymick in attendance. Residents of Cameron, Ross, and Chapman Roads Robert Wildman, Paula Patterson, and Noreen Barnhart, Jail Purchasing Agent and Maintenance Supervisor Steve Psaros, Executive Director of BH, Lowery Bailey, and Hancock County Health Board Member Charles Padden were also present for the meeting.

ORDER

That the County Commission of Hancock County, West Virginia, is of the opinion that in order to preserve the public health, comfort, and convenience of the general public of Hancock County, West Virginia, do hereby propose the creation of a public service district for the purpose of providing sewage service for the general public within Hancock County, West Virginia, as authorized by Chapter 16, Article 13A, to be known as the Hancock County Public Service District;

That the territory to be embraced by the proposed District shall be all land within the boundaries of Hancock County, West Virginia, less however, those sewage authorities within the Cities of Weirton, New Cumberland and Chester, and those areas covered by the existing public service district of Grant Public Service District, Tomlinson Public Service District, Lawrenceville Public Service District, and the Oakland Public Service District presently authorized to operate sewage service in Hancock County; provided however, that any of the public sewage service districts presently authorized to operate in Hancock County, but not presently furnishing sewage services may and do hereby become a part of the area to be serviced by this proposed Public Sewage Service District.

Further it is the desire of the Hancock County Commission to proceed as soon as possible to comply with the laws of the State of West Virginia in establishing the Hancock County Public Service District, and the same is so ORDERED.

ENTER:


President

ORDER

That the County Commission of Hancock County, West Virginia, on this day, October 14, 1975, in order to promote and preserve the public health, comfort and convenience, of the general public of Hancock 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 Hancock County, West Virginia, as authorized by Chapter 16, Article 13A of the West Virginia State Code, as amended, to be known as the Hancock County Public Service District;

That such district is created subsequent to a public hearing, properly advertised, having been held on the 6th day of October 1975, at 7:00 p.m. in the Hancock County Courthouse, wherein a discussion by all present was held concerning the formation of the proposed Hancock County Public Service District as required by Statute.

Further, be it ordered that the territory to be embraced by the Hancock County Public Service District shall be all land within the boundaries of Hancock County, West Virginia, less however, those sewage authorities operating within the Cities of Chester, New Cumberland, and Weirton;

Further, it is ordered that those sewage rights previously granted to the public service districts of Lawrenceville Public Service District, Oakland Public Service District, and Tomlinson Public Service District, by this Commission are hereby rescinded and shall become a part of the Hancock County Public Service District, in that none of these districts,

Lawrenceville Public Service District, Oakland Public Service District, and Tomlinson Public Service District, are presently furnishing sewage services as authorized.

ENTERED THIS 14th DAY OF OCTOBER 1975.

S/ Joseph Manvpenny
PRESIDENT

RURAL ID

Discussion. Public Hearing to be held July 20, 1995.

UNION CEMETARY REPORT-DATE FOR FILING CLAIM EXTENDED

After a discussion and on a motion by John Sorrenti and seconded by George Kource, the Commission moved to extend the filing date three weeks for submitting claims for Union Cemetery.

UNION CEMETERY PROJECT-PATTY FISHER-CONTRACT FOR TYPING

On a motion by John Sorrenti and seconded by George Kource, the Commission moved to contract Patty Fisher to type information needed to complete the Union Cemetery project. Commission Cline added that this will be completed on her own time.

ANIMAL SHELTER CONSTRUCTION REPORT

Commissioner Kource gave a report on the construction of the new animal shelter. He stated that he and Commissioner Sorrenti attended a walk through tour on June 30, 1995 with the architect, Mark Viola and Mark Trushel of Trushel Construction. He added that the Commission received correspondence that day stating that some parts of the construction would take an additional two weeks. He added that a beautiful counter had been installed in the lobby of the building.

EMPLOYEE POLICY

Notice of approval has been given to all employees.

HANCOCK INVENTORY DISCUSSION

The Commission will present a form to the Elected officials by August concerning the items for inventory.

LEASH LAW

Commissioner Kource reported on the meeting held in Newell on 6-20-95. Approximately seventeen people attended. He stated that the majority of people that have contacted him were in favor of implementing the Leash Law. The Commission will move toward having a public hearing on the matter.

NEW BUSINESS

COAL SEVERANCE BUDGET REVISION #1

On a motion by John Sorrenti and seconded by George Kource, the Commission moved to submit to the WV State Tax Department, the Coal Severance Budget Revision #1. Estimates & Levies Book 6 page _____.

OVERTIME-DOG WARDEN

On a motion by John Sorrenti and seconded by George Kource the Commission moved to approve the overtime for the Dog Warden in the amount of \$66.44.

SALE OF DODGE DIPLOMAT

On a motion by John Sorrenti and seconded by George Kource, the Commission moved to advertise the sale of a 1985 Dodge Diplomat.

HANCOCK COUNTY PUBLIC SERVICE DISTRICT-RE-APPOINTMENT OF DAN WILSON TO BOARD

On a motion by John Sorrenti and seconded by George Kource, the Commission moved to re-appoint Dan Wilson to a six year term to the Hancock County Public Service District with his term expiring on February 17, 2000.

TOMLINSON PUBLIC SERVICE DISTRICT-ADVERTISE FOR VACANCY ON BOARD

On a motion by John Sorrenti and seconded by George Kource, the Commission moved to advertise for the vacancy on the Tomlinson Public Service District with a term to expire May 21, 2001.

LAWRENCEVILLE PUBLIC SERVICE DISTRICT

On a motion by John Sorrenti and seconded by George Kource, the Commission moved to appoint Randall Roach for the Lawrenceville Public Service District to serve until September 8, 1995. This action was done because the Judge has until September 8, 1995 to make a ruling on the consolidation with the City of Chester.

COUNTY CLERK'S OFFICE

The County Clerk reported that all 7-7-7 positions and salary lists have been submitted and copies have been given to Cindy Jones, Administrative Assistant.

PROSECUTING ATTORNEY'S OFFICE

The Commission acknowledged receipt of correspondence sent from the Prosecutor's Office to Wachovia Bank of North Carolina have the Certificate of Resolution and of the Bond of United national Bank executed in triplicate and return the original to the Hancock County Commission. This correspondence was made a matter of record.

SHERIFF'S DEPARTMENT

The Sheriff appeared before the Commission with four signs to be approved. After a discussion and on a motion by John Sorrenti and seconded by George Kource, the Commission moved to approve three of the four signs submitted.

SHERIFF'S DEPARTMENT-DEPUTY HAWKINGBERRY-HUMANE OFFICER

The Commission received announcement of the appointment of Deputy Hawkingberry as the Humane Officer.

*State of West Virginia,
County of Hancock*

*I, ELEANOR STRAIGHT, Clerk of the County Commission of Hancock
County, having the custody of the Files, Journals and Records of said Commission,
do hereby certify that the foregoing is a true and accurate copy of:*

MINUTES OF HANCOCK COUNTY COMMISSION

*as the same appears of record in my office, in ORDER Book No. 2B
Page 300, and I further certify that the same is a full and correct transcript
thereof.*

*In Witness Whereof, I have set my hand and affixed the seal of said
commission at New Cumberland, Hancock County, West Virginia, this 16TH day
of NOVEMBER, 1999.*

Eleanor Straight

*Eleanor Straight, County Clerk
Hancock County, West Virginia*

CORRESPONDENCE

REGIONAL JAIL AUTHORITY-JACK ROOP

The Commission was in receipt of correspondence from Jack Roop, Executive Director of the Regional Jail Authority with submission of an outline of the policy used by the Regional jail Authority staff in the transportation of inmates to court appearances. A discussion was held on this matter.

BHJ PLANNING COMMISSION SUZANN GADD

The Commission was in receipt of correspondence from Suzann Gadd, Executive Director of the Brooke, Hancock Jefferson Metropolitan Planning Commission requesting joint discussions relating to development of a two state regional port authority. A discussion was held on this matter and the Commission will participate in the discussion providing that the WVS Port Authority will agree to this type of collaboration.

HONORABLE MARTIN GAUGHAN-FIRST JUDICIAL CIRCUIT COURT JUDGE-OFFICE USE

The Commission was in receipt of correspondence from the Honorable Judge Martin Gaughan requesting the use of an office located at the rear of the courtroom to be used for office space for the Court Reporter. The Commission will honor this request.

GLASS SCHOOL ROAD-CAROL STEVENS-CITIZEN

The Commission was in receipt of correspondence from Carol Stevens, Citizen requesting the dirt road off of Glass School Road be named Johnny's Lane. This was the second request from Carol Stevens concerning this matter. After a discussion, the commission agreed to start the procedure to consider this request.

WV ASSOCIATION OF COUNTIES-JOHN HOFF

The Commission was in receipt of correspondence from John Hoff, President of the WV Assoc of Counties with submission of developments in the Mercer County case of the Deputy Sheriff's vs. County Commission for supplemental pay.

WV STATE TAX DEPARTMENT-LISA STANLEY SPECIAL EXCESS LEVIES

The Commission was in receipt of correspondence with submission of information regarding Special Excess Levies. Commissioner Sorrenti stated that one levy request had previously been made and the County Clerk will report back to the Commission at the next meeting concerning the availability of space on the ballot and the time lines for the Commission to either approve or deny a request to place a levy on the ballot. Commissioner Cline stated that anyone interested in any information concerning filing fees, salaries etc, can obtain this information at the County Clerks Office.

NEW BUSINESS

DON LEMASTERS HANCOCK COUNTY PUBLIC SERVICE DISTRICT BOARD

✓ On a motion by John Sorrenti and seconded by George Kource, the Commission moved to approve Don LeMasters to the Hancock County PSD with his term expiring on January 10, 2002. Commissioner Cline asked that Mr. LeMasters be sent a letter informing him of his appointment and instructing him to appear in the County Clerks Office to be sworn to his office.

HANCOCK-BROOKE BEHAVIORIAL HEALTH BOARD

The Commission received correspondence from the Hancock County Behavioral Health Board informing the Commission that a name would be submitted by the next County Commission meeting to replace Norman D Wine on the Board.

HOLIDAY SCHEDULE

A Holiday schedule was presented which included 1/2 day for December 24, 1996 and December 31, 1996. After a discussion, the Commission amended the schedule by eliminating those 1/2 days and on a motion by John Sorrenti and seconded by George Kource, the Commission moved to approve the amended Holiday schedule. Commissioner Sorrenti plans to discuss December 24 and December 31, with the other County Commissioners at the WV Association of Commissioners meeting in February.

COUNTY COMMISSION MEETING CHANGE

On a motion by John Sorrenti and seconded by George Kource, the Commission moved to change the County Commission meeting date from July 4, 1996 to July 2, 1996 and From June 20, 1996 to June 18, 1996.

PART TIME PAYROLL-COUNTY COMMISSION

On a motion by John Sorrenti and seconded by George Kource, the Commission moved to approve the Part Time Payroll for week ending December 23, 1995. On a motion by John Sorrenti, and seconded by George Kource, the Commission moved to approve payment for part time payroll for the week of December 30, 1995

OVERTIME DOG WARDEN

On a motion by John Sorrenti and seconded by George Kource, the Commission moved to pay the overtime for the Dog Warden.

OVERTIME SHERIFFS DEPARTMENT

On a motion by John Sorrenti and seconded by George Kource, the Commission moved to pay overtime for the Sheriff's Department for December 9, 1995. On a motion by John Sorrenti and seconded by George Kource, the Commission moved to pay overtime for December 16, 1995. On a motion by John Sorrenti and seconded by George Kource, the Commission moved to pay overtime for December 23, 1995

State of West Virginia,
County of Hancock

I, ELEANOR STRAIGHT, Clerk of the County Commission of Hancock County, having the custody of the Files, Journals and Records of said Commission, do hereby certify that the foregoing is a true and accurate copy of:

MINUTES OF HANCOCK COUNTY COMMISSION

as the same appears of record in my office, in _____ ORDER _____ Book No. 28
Page 243, and I further certify that the same is a full and correct transcript thereof.

In Witness Whereof, I have set my hand and affixed the seal of said commission at New Cumberland, Hancock County, West Virginia, this 16TH day of NOVEMBER, 1999.


Eleanor Straight, County Clerk
Hancock County, West Virginia

The Hancock County Commission met in session this 21st day of May, 1998 with President John Sorrenti presiding. Also in attendance were Commissioner George Kource, Commissioner Dan Greathouse, County Clerk Eleanor Straight, Sheriff Jeff Woofter, Assistant Prosecuting Attorney Thomas Hagg, County Administrator Chuck Svokas, Administrative Assistants Cindy Jones and Sharon Ulbright.

CITIZEN PRESENTATIONS

NONE

SPECIAL PRESENTATIONS

RECOGNITION OF OFFICERS - DRUG TASK FORCE

The Coordinator of the Multi Jurisdiction Drug Unit in Hancock and Brooke Counties introduced himself and the members of the Drug Unit who were to be honored with an award. The Coordinator reflected on all their hard work and the results thereof. President Sorrenti delivered a presentation to each of the five members recognizing their efforts.

CORRESPONDENCE

VINCE AZZARELLO, WEIRTON CITY MANAGER - ENHANCED 911 COLLECTIONS

The Commission received a request, from Vince Azzarello, to meet with them in regards to the distribution of Enhanced 911 collections for wireless phones. This was accepted for the record.

DR. JAMES O. BULL - DEAN WEIRTON REGIONAL CAMPUS

Linda Dunn, President of the WV Northern Community College announced that Dr. James O. Bull has accepted the position of Dean of the Weirton Regional Campus effective May 4, 1998. This was accepted as a matter of record.

HOUSE BILL 4713 PASSAGE - INTRA & INTERSTATE TRUCKING

Glen B. Gainer III, State Auditor sent notification of the passing of House Bill 4713 which allows the State Auditor's Office to better track intra and interstate trucking. This was accepted as a matter of record.

JANET KELLER, PRESIDENT LYNN MURRAY MEMORIAL LIBRARY - REQUEST FOR FUNDS

Janet Keller submitted a request for \$24,000.00 of video lottery funds to help aid in the purchase of computers and software and capital improvements to the building. This was accepted as a matter of record.

TOM TOMPOS, TNT EXPRESS - REQUEST TO BID FUEL

Tom Tompos submitted a request for permission to bid on fuel for the county. This was accepted as a matter of record.

MIKE SWARTZMILLER PRINCIPAL NEW CUMBERLAND ELEMENTARY SCHOOL - PERMANENT SCHOOL SIGN

Mike Swartzmiller requested permission to erect a permanent school sign at the base of the hill on county property. On a motion by George Kource the Commission moved to approve this request.

NEW BUSINESS

HANCOCK PUBLIC SERVICE DISTRICT BOARD - APPOINTMENT

✓ On a motion by George Kource the Commission moved to take this matter from the table. On a motion by George Kource the Commission moved to appoint Vito Riggi to the Hancock Public Service District Board.

RESOLUTION CREATING ECONOMIC DEVELOPMENT AUTHORITY

On a motion by George Kource the Commission moved to adopt the resolution creating and establishing the Hancock County Economic Development Authority. Photocopy Book 4, Page 72

BY LAWS - HANCOCK COUNTY ECONOMIC DEVELOPMENT AUTHORITY

On a motion by George Kource the Commission moved to approve the by-laws for the Hancock County Economic Development Authority.

*State of West Virginia,
County of Hancock*

*I, ELEANOR STRAIGHT, Clerk of the County Commission of Hancock
County, having the custody of the Files, Journals and Records of said Commission,
do hereby certify that the foregoing is a true and accurate copy of:*

MINUTES OF HANCOCK COUNTY COMMISSION

*as the same appears of record in my office, in ORDER Book No. 29
Page 42, and I further certify that the same is a full and correct transcript
thereof.*

*In Witness Whereof, I have set my hand and affixed the seal of said
commission at New Cumberland, Hancock County, West Virginia, this 16TH day
of NOVEMBER, 1999.*



Eleanor Straight, County Clerk
Hancock County, West Virginia

OATH OF OFFICE

State of West Virginia, Hancock County, to-wit:

I, Vito Riggi do solemnly swear that I will support the Constitution of the United States, and of this State; and I further swear that I will faithfully discharge the duties of my office as a member of the Hancock Public Service District Board

Beginning on the 6th day of November 1997, and ending on the 30th day of November 192000, to the best of my skill and judgment, so help me God.

[Handwritten signature of Vito Riggi]

Sworn to and subscribed before the undersigned Eleanor Straight in and for the County of Hancock, State of West Virginia, by the said Vito Riggi this 2nd day of June A. D., 19 98

[Handwritten signature of Eleanor Straight]

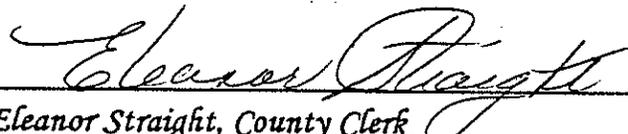
*State of West Virginia,
County of Hancock*

*I, ELEANOR STRAIGHT, Clerk of the County Commission of Hancock
County, having the custody of the Files, Journals and Records of said Commission,
do hereby certify that the foregoing is a true and accurate copy of:*

the oath of Office for Vito Riggi as member of the Hancock County Public
Service District Board

*as the same appears of record in my office, in Bond and Oath Book No. I
Page 191, and I further certify that the same is a full and correct transcript
thereof.*

*In Witness Whereof, I have set my hand and affixed the seal of said
commission at New Cumberland, Hancock County, West Virginia, this 16th day
of November, 1999.*


Eleanor Straight, County Clerk
Hancock County, West Virginia

OATH OF OFFICE

State of West Virginia, Hancock County, to-wit:

I, Don Lemasters do solemnly swear that I will support the Constitution of the United States, and of this State; and I further swear that I will faithfully discharge the duties of my office as a member of the Hancock County Public Service District Board

Beginning on the 10th day of January 19 96, and ending on the 10th day of January 19 2002, to the best of my skill and judgment, so help me God.

Handwritten signature of Don M. Lemasters

Sworn to and subscribed before the undersigned Eleanor Straight in and for the County of Hancock, State of West Virginia, by the said Don Lemasters this 5th day of April A. D. 19 96

Handwritten signature of Eleanor Straight

State of West Virginia,
County of Hancock

I, ELEANOR STRAIGHT, Clerk of the County Commission of Hancock County, having the custody of the Files, Journals and Records of said Commission, do hereby certify that the foregoing is a true and accurate copy of...

the Oath of Office for Don Lemasters as member of the Hancock County
Public Service District Board

as the same appears of record in my office, in Bond and Oath Book No. I
Page 150, and I further certify that the same is a full and correct transcript thereof.

In Witness Whereof, I have set my hand and affixed the seal of said commission at New Cumberland, Hancock County, West Virginia, this 16th day of November, 1999.



Eleanor Straight, County Clerk
Hancock County, West Virginia

State of West Virginia, Hancock County, to-wit:

I, Dan Wilson do solemnly swear that I will support the Constitution of the United States, and of this State; and I further swear that I will faithfully discharge the duties of my office as a member of the Hancock County Public Service District Board

Beginning on the 6th day of July 19 95, and ending on the 17th day of February XIX 2000, to the best of my skill and judgment, so help me God.

X Dan Wilson

Sworn to and subscribed before the undersigned Eleanor Straight in and for the County of Hancock, State of West Virginia, by the said Dan Wilson this 6th day of November A. D., 19 95

Eleanor Straight

State of West Virginia,
County of Hancock ^{ss:}

I, Eleanor Straight, Clerk of the County Commission of Hancock County, having the custody of the Files, Journals and Records of said Commission, do hereby certify that the foregoing is a true and accurate copy of

Dan Wilson, Oath of office for the

Hancock County Public Service Commission

as the same appears of record in my office, in Bond & Oath
Book No. 1 Page 144, and
I further certify 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 commission at New Cumberland, Hancock County, West Virginia, this 28th
day of November, 1995.

Eleanor Straight
Clerk County Commission, Hancock County, W. Va.

Deputy

RULES OF PROCEDURE

HANCOCK COUNTY PUBLIC SERVICE DISTRICT

ARTICLE I

NAME AND PLACE OF BUSINESS

Section 1. Name: HANCOCK COUNTY PUBLIC SERVICE DISTRICT.

Section 2. The principal office of this Public Service District will be located at the offices of Oakland Public Service District, at the intersection of Wiley Ridge Road and Carouthers Road, Hancock County, West Virginia.

Section 3. The Common Seal of the District shall consist of 2 concentric circles between which circles shall be inscribed Hancock County Public Service District, and in the center "seal" as follows:

Section 4: The fiscal year of the District shall begin on July 1 of each year and shall end on the following June 30.

ARTICLE II

PURPOSE

This District is organized exclusively for the purposes set forth in Chapter 16, Article 13A of the Code of West Virginia of 1931, as amended (the "Act").

ARTICLE III

MEMBERSHIP

Section 1. The members of the Public Service Board of this District shall be those persons appointed by The County Commission of Hancock County, West Virginia, or otherwise appointed pursuant to the Act, who shall serve for such terms as may be specified in the order of the County Commission or otherwise.

Section 2. Should any member of the Public Service Board resign or otherwise become legally disqualified to serve as a member of the Public Service Board, the Secretary shall immediately notify the County Commission or other entity provided under the Act and request the appointment of a qualified person to fill such vacancy. Prior to the end of the term of any member of the Public Service Board, the Secretary shall notify the County Commission or other entity provided under the Act of the pending termination and request the County Commission or other entity provided under the Act to enter an order of appointment or re-appointment to maintain a fully qualified membership of the Public Service Board.

ARTICLE IV

MEETINGS OF THE PUBLIC SERVICE BOARD

Section 1. The members of the Public Service Board of this District shall hold regular monthly meetings on the 4th Thursday of each month at such place and hour as the members shall determine from time to time. If the day stated shall fall on a legal holiday, the meeting shall be held on the following day. Special meetings of the Public Service Board may be called at any time by the Chairman or by a quorum of the Board.

Section 2. At any meeting of the Public Service Board of the District, 2 members shall constitute a quorum. Each member of the Public Service Board shall have one vote at any membership meeting and if a quorum is not present, those present may adjourn the meeting to a later date.

Section 3. Unless otherwise agreed, notice to members of regular meetings shall not be required. Unless otherwise waived, notice of each special meeting of the membership shall be given to all members by the Secretary by fax, telephone, mail or other satisfactory means at least 3 days before the date fixed for such special meeting. The notice of any special meeting shall state briefly the purposes of such meeting and the nature of the business to be transacted thereat, and no business other than that stated in the notice or incidental thereto shall be transacted at any such special meeting.

PUBLIC NOTICE OF MEETINGS

Section 4. Pursuant to Section 3, Article 9A, Chapter 6 of the West Virginia Code of 1931, as amended (1999 Revision), notice of the date, time, place and agenda of all regularly scheduled meetings of such Public Service Board, and the date, time, place and purpose of all special meetings of such Public Service Board, shall be made available, in advance, to the public and news media (except in the event of an emergency requiring immediate action) as follows:

A. Regular Meetings. A notice shall be posted and maintained by the Secretary of the Public Service Board of the Public Service District at the front door or bulletin board of the Hancock County Courthouse and at the front door or bulletin board of the place fixed for regular meetings of the Public Service Board of the date, time and place fixed and entered of record by the Public Service Board for the holding of regularly scheduled meetings. In addition, a copy of the agenda for each regularly scheduled meeting shall be posted at the same locations by the Secretary of the Public Service Board not less than 48 hours before such regular meeting is to be held. If a particular regularly scheduled meeting is cancelled or postponed, a notice of such cancellation or postponement shall be posted at the same locations as soon as feasible after such cancellation or postponement has been determined.

B. Special Meetings. A notice shall be posted by the Secretary of the Public Service Board at the front door or bulletin board of the Hancock County Courthouse and at the front door or bulletin board of the place fixed for the regular meetings of the Public Service Board not less than 48 hours before a specially scheduled meeting is to be held, stating the date, time, place and purpose for which such special meeting shall be held. If the special meeting is cancelled, a notice of such cancellation shall be posted at the same locations as soon as feasible after such cancellation has been determined.

ARTICLE V

OFFICERS

Section 1. The officers of the Public Service Board shall be a Chairman, a Secretary and a Treasurer. The Chairman shall be elected from the members of the Public Service Board. The Secretary and Treasurer need not be members of the Public Service Board, and may be the same person.

Section 2. The officers of the Public Service Board shall be elected each year by the members at the first meeting held in such year. The officers so elected shall serve until the next annual election by the membership and until their successors are duly elected and qualified. Any vacancy occurring among the officers shall be filled by the members of the Public Service Board at a regular or special meeting. Persons selected to fill vacancies shall serve until the following January meeting of the Board when their successors shall be elected hereinabove provided.

ARTICLE VI

DUTIES OF OFFICERS

Section 1. When present, the Chairman shall preside as Chairman at all meetings of the Public Service Board. The Chairman shall, together with the Secretary, sign the minutes of all

meetings at which he or she shall preside. The Chairman shall attend generally to the executive business of the Board and exercise such powers as may be conferred by the Board, by these Rules of Procedure, or as prescribed by law. The Chairman shall execute, and if necessary, acknowledge for record, any deeds, deeds of trust, contracts, notes, bonds, agreements or other papers necessary, requisite, proper or convenient to be executed by or on behalf of the Board when and if directed by the members of the Board.

Section 2. The Secretary shall keep a record of all proceedings of the Board which shall be available for inspection as other public records. The Secretary shall, together with the Chairman, sign the minutes of the meetings at which he or she is present. The Secretary shall have charge of the minute book, be the custodian of the Common Seal of the District and all deeds and other writings and papers of the Board. The Secretary shall also perform such other duties as he or she may have under law by virtue of the office or as may be conferred from time to time by the members of the Board, these Rules of Procedure or as prescribed by law.

Section 3. The Treasurer shall be the lawful custodian of all funds of the District and shall disburse funds of the District on orders authorized or approved by the Board. The Treasurer shall keep or cause to be kept proper and accurate books of accounts and proper receipts and vouchers for all disbursements made by or through him and shall prepare and submit such reports and statements of the financial condition of the Board as the members may from time to time prescribe. He shall perform such other duties as may be required of him by law or as may be conferred upon him by the members of the Board, these Rules of Procedure or as prescribed by law.

Section 4. If the Chairman, Secretary or Treasurer is absent from any meeting, the remaining members of the Board shall select a temporary chairman, secretary or treasurer, as necessary, who shall have all of the powers of the absent officer during such period of absence.

ARTICLE VII

AMENDMENTS TO RULES OF PROCEDURE

These Rules of Procedure may be altered, changed, amended, repealed or added to at any regular or special meeting of the Board by a majority vote of the entire Board, or at any regular or special meeting of the members when a quorum is present in person and a majority of those present vote for the amendment; but no such change, alteration, amendment, repeal or addition shall be made at any special meeting unless notice of the intention to propose such change, alteration, amendment, repeal or addition and a clear statement of the substance thereof be included in the written notice calling such meeting.

These Rules of Procedure shall replace any and all previous rules of procedure, bylaws or similar rules heretofore adopted by the District.

Adopted this 18th day of November, 1999.

STATE OF WEST VIRGINIA
COUNTY OF HANCOCK

I, Lyon Romano, Bookkeeper, for the publisher of
THE DAILY TIMES, a newspaper in the city of Weirton, State of
West Virginia, here certify that the annexed publication was
inserted in said newspaper on the following dates:

8/10/99

Commencing of this 10 day of August 1999
given under my hand this 12 day of August 1999

Sworn to and subscribed before me this 12 day of August 1999.

Nancy Kaufmann
of, in and for HANCOCK COUNTY, WEST VIRGINIA



NANCY KAUFMANN
Notary Public, State of Ohio
My Commission Expires June 9, 2002

NOTICE OF FILING
WHEREAS, on July 27, 1999, the Hancock County Public Service District (District) has an application duly verified for a certificate to construct a wastewater collection system to serve the area along Route 2 south of Newell, West Virginia and Route 208 and Mountaineer Race Track and Resort area, and along Route 2 of Route 208 to Neely Chapel. The District proposes to construct a 300,000 gallons per day sequencing batch reactor plant to be built on the south end of the existing parking lot for the Mountaineer Park Race Track. The collection system will consist of approximately 3,600 linear feet of 8 inch diameter force-main, 2,970 linear feet of 6 inch diameter force-main, 18,540 linear feet of 4 inch diameter force-main, 14,500 linear feet of 8 inch gravity sewer, two (2) lift stations and six (6) grinder pumps. The application is on file with and available for public inspection at the Public Service Commission.

WHEREAS, the District estimates that construction will cost approximately \$3,774,952.00. It is proposed that the construction will be financed by a West Virginia State Revolving Fund loan in the amount of \$3,744,450.00 at an annual interest rate of zero percent (0%) plus an annual administrative fee of one percent (1%) for a term not to exceed twenty years.

WHEREAS, the District anticipates charging the following sewer rates for its customers:

APPLICABILITY
Applicable in entire territory served.

AVAILABILITY
Available for general domestic, commercial, and industrial service.

RATES
Customer Charge \$8.00 per month
Usage Charge \$8.33 per 1,000 gallons

Unimmediate	Customer
Charges	Charges

\$99.72 per month Unimmediate Customer Charge
\$48.12 per month (Flat rate equivalent to 4,500 gallons of water usage per month)
Connection Charge:
Subsequent to construction adjacent to the Customer's property \$500.00
DELAYED PAYMENT PENALTY
The above term is not. On its current usage billings not paid within twenty (20) days, ten percent (10%) will be added to the net current amount until the delayed payment penalty is not received and it to be collected only once for each bill where it is appropriate.

INCREMENTAL COST OF WASTEWATER TREATED
\$2.15 per 100 gallons to be used when bill reflects unusual consumption which can be attributed to leakage on customer's side of the meter. This is rate is used to calculate consumption above the customer's historical average usage.

Pursuant to Section 24-2-11, West Virginia Code, IT IS ORDERED that the Hancock County Public Service District give notice of the filing of said application, by publishing a copy of this order once in a newspaper duly published by the Secretary of State, published and of general circulation in Hancock County, making due return to the Commission of proper certification of publication immediately after publication. Anyone desiring to raise objection to said application must do so in writing, within thirty (30) days after the publication of this notice to Sandra Aquire, Executive Secretary, P.O. Box 612, Charleston, West Virginia 25323.

IT IS FURTHER ORDERED that if no protests are received within said 30-day period, the Commission may waive formal hearing and grant the application based on the findings submitted with the application and its report.

IN THE PRESENCE OF:

Notary Public
1999

[RESERVED]

HANCOCK COUNTY PUBLIC SERVICE DISTRICT

Sewer Revenue Bonds, Series 1999
(West Virginia SRF Program)

MINUTES ON ADOPTION OF BOND
RESOLUTION AND SUPPLEMENTAL RESOLUTION

The undersigned SECRETARY of the Public Service Board of Hancock County Public Service District, hereby certifies that the following is a true and correct excerpt of the minutes of a regular meeting of the said Public Service Board:

The Public Service Board of Hancock County Public Service District met in regular session, pursuant to notice duly posted, on the 18th day of November, 1999, in New Cumberland, West Virginia, at the hour of 5:30 p.m.

PRESENT:	Dan Wilson	-	Chairman and Member
	Don Lemasters	-	Secretary and Member
	Vito Riggi	-	Member

ABSENT: None.

Dan Wilson, Chairman, presided, and Don Lemasters, acted 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, following nomination and vote for each office, the following members were elected to the following offices for the 1999 calendar year:

Dan Wilson	-	Chairman
Don Lemasters	-	Secretary
Vito Riggi	-	Treasurer

Thereupon, the Chairman presented proposed Amended Rules of Procedure for consideration and there was discussion. Thereupon, upon motion duly made and seconded, it was unanimously ordered that the said Amended Rules of Procedure be adopted and be in full force and effect on and from the date hereof.

Thereupon, the Chairman presented a proposed Bond Resolution in writing entitled:

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF IMPROVEMENTS AND EXTENSIONS TO THE EXISTING PUBLIC SEWERAGE FACILITIES OF HANCOCK COUNTY PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN \$4,996,347 IN ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 1999 (WEST VIRGINIA SRF PROGRAM); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED 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 RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

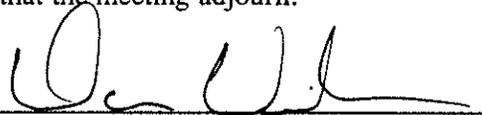
and caused the same to be read and there was discussion. Thereupon, upon motion duly made and seconded, it was unanimously ordered that the said Bond Resolution be adopted and be in full force and effect on and from the date hereof.

Next, the Chairman presented a proposed Supplemental Resolution in writing entitled:

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNT, DATE, MATURITY DATE, REDEMPTION PROVISION, INTEREST RATE, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICE AND OTHER TERMS OF THE SEWER REVENUE BONDS, SERIES 1999 (WEST VIRGINIA SRF PROGRAM) OF HANCOCK COUNTY PUBLIC SERVICE DISTRICT; AUTHORIZING AND APPROVING THE LOAN AGREEMENT RELATING TO SUCH BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

and caused the same to be read and there was discussion. Thereupon, upon motion duly made and seconded, it was unanimously ordered that the said Supplemental Resolution be adopted and be in full force and effect on and from the date hereof.

There being no further business to come before the meeting, on motion duly made and seconded, it was unanimously ordered that the meeting adjourn.

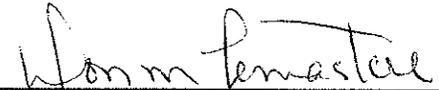


Chairman

CERTIFICATION

I hereby certify that the foregoing action of Hancock County Public Service Board remains in full force and effect and has not been amended, rescinded, superseded, repealed or changed.

WITNESS my signature on this 2nd day of December, 1999.


Secretary

WV MUNICIPAL BOND COMMISSION
812 Quarrier Street
Suite 300
Charleston, WV 25301
(304) 558-3971

NEW ISSUE REPORT FORM

Date of Report: December 2, 1999

(See Reverse for Instructions)

ISSUE: Hancock County Public Service District Sewer Revenue Bonds,
Series 1999 (West Virginia SRF Program)

ADDRESS: Post Office Box 485, New Cumberland, WV 26047 COUNTY: Hancock

PURPOSE OF ISSUE: New Money: X
Refunding: _____ REFUNDS ISSUE(S) DATED: N/A

ISSUE DATE: December 2, 1999 CLOSING DATE: December 2, 1999

ISSUE AMOUNT: \$4,996,347 RATE: 0%; Administrative Fee: 1%

1ST DEBT SERVICE DUE: 6/1/2001 1ST PRINCIPAL DUE: 6/1/2001

1ST DEBT SERVICE AMOUNT: \$62,455.00 PAYING AGENT: Municipal Bond Commission

BOND
COUNSEL: Stephoe & Johnson
Contact Person: Vincent A. Collins, Esq.
Phone: 624-8161

UNDERWRITERS
COUNSEL: Jackson & Kelly
Contact Person: Samme L. Gee, Esq.
Phone: 340-1318

CLOSING BANK: United National Bank
Contact Person: William D'Alesio, SVP
Phone: (304) 723-2000

ESCROW TRUSTEE: _____
Contact Person: _____
Phone: _____

KNOWLEDGEABLE ISSUER CONTACT
Contact Person: Dan Wilson, CPA
Position: Chairman
Phone: (740) 748-5550

OTHER: Division of Environmental Protection
Contact Person: Rosalie Brodersen
Function: Branch Leader
Phone: 558-0637

DEPOSITS TO MBC AT CLOSE: _____
By: _____ Wire _____
X Check X Accrued Interest: \$ _____
Capitalized Interest: \$ _____
Reserve Account: \$ 249,820
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: _____

The purpose of the NEW ISSUE REPORT FORM is to provide the WV Municipal Bond Commission with an early warning of three basic facts no later than the day of closing on any issue for which the Commission is to act as fiscal agent. These are:

1. Formal notification that a new issue is outstanding.
2. Date of first action or debt service.
3. Contact people should we lack documents, information, or funds needed to administer the issue by the date of the first action or debt service.

The commission recognizes that as bond transcripts become increasingly long and complex, it has become more difficult to assemble and submit them to the Commission within the 30 days specified by the West Virginia Code 13-3-8. This notice is not intended to provide all the information needed to administer an issue, but to alert the Commission and ensure that no debt service payments are missed due to delays in assembling bond transcripts. If, at the time of closing, documents such as the ordinance and all supplements, debt service schedules, and a specimen bond or photostat are available and submitted with this form, it will greatly aid the Commission in the performance of its duties. These documents are needed to set up the proper accounts and to advise the issuer of monthly deposit requirements as far in advance of the first debt service as possible.

It is not necessary to complete all items if they are not pertinent to your issue. Indicate the County of the issuer. With PSDs that overlap more than one county, indicate the county of their business office. Complete "Rate" only if the issue has only one rate. Please complete a separate form for each series of an issue. Other important information can be recorded under "Notes."

Again, please submit this form on each new issue on the day of closing. If fund transfers into or out of the Commission at closing are required, please submit this form before closing. If no significant facts change by closing, no resubmission at closing is required. If, however, there are changes, please submit an updated form, with changes noted, at closing.

If you should have any questions concerning this form, please call the Commission.

HANCOCK COUNTY PUBLIC SERVICE DISTRICT

Sewer Revenue Bonds, Series 1999
(West Virginia SRF Program)

ACCEPTANCE OF APPOINTMENT AS DEPOSITORY BANK

UNITED NATIONAL BANK, Weirton, West Virginia, hereby accepts appointment as Depository Bank in connection with the Bond Resolution of Hancock County Public Service District (the "Issuer") adopted November 18, 1999, and the Supplemental Resolution of the Issuer adopted November 18, 1999 (collectively, the "Bond Legislation"), authorizing issuance of the Issuer's Sewer Revenue Bonds, Series 1999 (West Virginia SRF Program), dated December 2, 1999, issued in the principal amount of \$4,996,347 (the "Bonds"), and agrees to serve as Depository Bank in connection with the Bonds, all as set forth in the Bond Legislation.

WITNESS my signature on this 2nd day of December, 1999.

UNITED NATIONAL BANK



Its Senior Vice President

11/09/99
373520/98001

HANCOCK COUNTY PUBLIC SERVICE DISTRICT

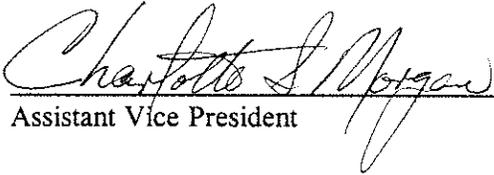
Sewer Revenue Bonds, Series 1999
(West Virginia SRF Program)

ACCEPTANCE OF DUTIES AS REGISTRAR

ONE VALLEY BANK, NATIONAL ASSOCIATION, Charleston, West Virginia, hereby accepts appointment as Registrar in connection with the Hancock County Public Service District Sewer Revenue Bonds, Series 1999 (West Virginia SRF Program), dated December 2, 1999, issued in the principal amount of \$4,996,347 (the "Bonds"), and agrees to perform all duties of Registrar in connection with the Bonds, all as set forth in the Bond Legislation authorizing issuance of the Bonds.

WITNESS my signature on this 2nd day of December, 1999.

ONE VALLEY BANK, NATIONAL
ASSOCIATION


Assistant Vice President

11/12/99
373520/98001

HANCOCK COUNTY PUBLIC SERVICE DISTRICT

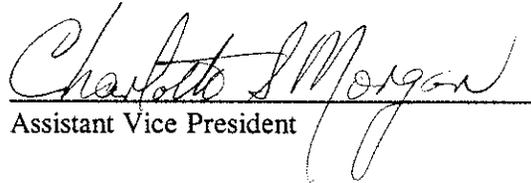
Sewer Revenue Bonds, Series 1999
(West Virginia SRF Program)

CERTIFICATE OF REGISTRATION OF BONDS

ONE VALLEY BANK, NATIONAL ASSOCIATION, Charleston, West Virginia, as Registrar under the Bond Legislation and Registrar's Agreement providing for the above-captioned Bonds of Hancock County Public Service District (the "Issuer"), hereby certifies that on the date hereof, the single, fully registered Sewer Revenue Bond, Series 1999 (West Virginia SRF Program), of the Issuer, dated December 2, 1999, in the principal amount of \$4,996,347, numbered R-1 was registered as to principal only in the name of "West Virginia Water Development Authority" in the books of the Issuer 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 on this 2nd day of December, 1999.

ONE VALLEY BANK, NATIONAL
ASSOCIATION


Assistant Vice President

11/17/99
373520/98001

HANCOCK COUNTY PUBLIC SERVICE DISTRICT

Sewer Revenue Bonds, Series 1999
(West Virginia SRF Program)

REGISTRAR'S AGREEMENT

THIS REGISTRAR'S AGREEMENT, dated as of the 2nd day of December, 1999, by and between HANCOCK COUNTY PUBLIC SERVICE DISTRICT, a public corporation and political subdivision of the State of West Virginia (the "Issuer"), and ONE VALLEY BANK, NATIONAL ASSOCIATION, Charleston, West Virginia (the "Registrar").

WHEREAS, the Issuer has, contemporaneously with the execution hereof, issued and sold its \$4,996,347 Sewer Revenue Bonds, Series 1999 (West Virginia SRF Program), in fully registered form (the "Bonds"), pursuant to the Bond Resolution of the Issuer duly adopted November 18, 1999, and the Supplemental Resolution of the Issuer duly adopted November 18, 1999 (collectively, the "Bond Legislation");

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 Bond Legislation, a copy of which is attached as EXHIBIT A hereto and incorporated herein by reference;

WHEREAS, the Bond Legislation provides for an appointment by the Issuer of a Registrar for the Bonds; and

WHEREAS, the Issuer desires to appoint, and by the Bond Legislation and this Registrar's Agreement does appoint, the Registrar to act as Registrar under the Bond Legislation 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 Issuer 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 Bond Legislation, 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 Issuer advises it of and with generally accepted industry standards.

2. The Registrar agrees to furnish the Issuer with appropriate records of all transactions carried out by it as Registrar and to furnish the Issuer 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 Issuer 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 Issuer.

4. As compensation for acting as Registrar pursuant to this Registrar's Agreement, the Issuer hereby agrees to pay to the Registrar the compensation for services rendered as provided in the annexed schedule.

5. It is intended that this Registrar's Agreement shall carry out and implement provisions of the Bond Legislation with respect to the Registrar. In the event of any conflict between the terms of this Registrar's Agreement and the Bond Legislation, the terms of the Bond Legislation shall govern.

6. The Issuer 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 Bond Legislation 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 addresses:

ISSUER: Hancock County Public Service District
Post Office Box 485
New Cumberland, West Virginia 26047
Attention: Chairman

REGISTRAR: One Valley Bank, National Association
Post Office Box 1793
One Valley Square
Charleston, West Virginia 25326
Attention: Corporate Trust Department

8. The Registrar is hereby requested and authorized to authenticate and deliver the Bonds in accordance with the Bond Legislation.

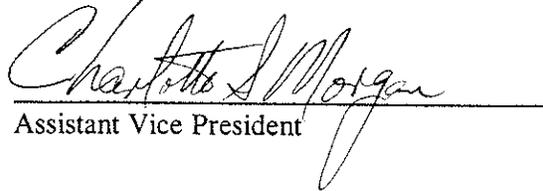
IN WITNESS WHEREOF, the parties hereto have respectively caused this Registrar's Agreement to be signed in their names and on their behalf, all as of the day and year first above-written.

HANCOCK COUNTY PUBLIC
SERVICE DISTRICT



Chairman

ONE VALLEY BANK, NATIONAL
ASSOCIATION



Assistant Vice President

11/12/99
373520/98001

EXHIBIT A

Bond Legislation included in bond transcript as Documents Nos. 1 and 2.

SCHEDULE OF COMPENSATION

(see attached)

HANCOCK COUNTY PUBLIC SERVICE DISTRICT

**SEWER REVENUE BONDS,
SERIES 1995 A AND SERIES 1995 B
(WEST VIRGINIA WATER DEVELOPMENT AUTHORITY)**

BOND RESOLUTION

Table of Contents

Subject		Page
ARTICLE I		
STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS		
Section 1.01	Authority for this Resolution	1
Section 1.02	Findings	1
Section 1.03	Bond Legislation Constitutes Contract	3
Section 1.04	Definitions	3
ARTICLE II		
AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF THE PROJECT		
Section 2.01	Authorization of Acquisition and Construction of the Project	12
ARTICLE III		
AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND SALE OF BONDS; AUTHORIZATION AND EXECUTION OF LOAN AGREEMENT		
Section 3.01	Authorization of Bonds	13
Section 3.02	Terms of Bonds	13
Section 3.03	Execution of Bonds	14
Section 3.04	Authentication and Registration	14
Section 3.05	Negotiability, Transfer and Registration	14
Section 3.06	Bonds Mutilated, Destroyed, Stolen or Lost	15
Section 3.07	Bonds not to be Indebtedness of the Issuer	15
Section 3.08	Bonds Secured by Parity Pledge of Net Revenues	15
Section 3.09	Delivery of Bonds	16

Section 3.08	Bonds Secured by Parity Pledge of Net Revenues	15
Section 3.09	Delivery of Bonds	16
Section 3.10	Form of Bonds	16
	FORM OF SERIES 1995 A BOND	17
	FORM OF SERIES 1995 B BOND	24
Section 3.11	Sale of Bonds; Approval and Ratification of Execution of Loan Agreement	31
Section 3.12	"Amended Schedule A" Filing	31

**ARTICLE IV
[RESERVED]** 32

**ARTICLE V
FUNDS AND ACCOUNTS; SYSTEM REVENUES AND APPLICATION THEREOF**

Section 5.01	Establishment of Funds and Accounts with Depository Bank	33
Section 5.02	Establishment of Funds and Accounts with Commission	33
Section 5.03	System Revenues; Flow of Funds	34

**ARTICLE VI
BOND PROCEEDS; CONSTRUCTION DISBURSEMENTS**

Section 6.01	Application of Bond Proceeds; Pledge of Unexpended Bond Proceeds	39
Section 6.02	Disbursements From the Construction Trust Fund	39

**ARTICLE VII
ADDITIONAL COVENANTS OF THE ISSUER**

Section 7.01	General Covenants of the Issuer	41
Section 7.02	Bonds not to be Indebtedness of the Issuer	41
Section 7.03	Bonds Secured by Parity Pledge of Net Revenues	41
Section 7.04	Initial Schedule of Rates and Charges	41
Section 7.05	Sale of the System	41
Section 7.06	Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances	43
Section 7.07	Parity Bonds	43
Section 7.08	Books; Records and Facilities	45
Section 7.09	Rates	47

Section 7.10	Operating Budget; Audit and Monthly Financial Report	47
Section 7.11	Engineering Services and Operating Personnel	48
Section 7.12	No Competing Franchise	48
Section 7.13	Enforcement of Collections	49
Section 7.14	No Free Services	49
Section 7.15	Insurance and Construction Bonds	49
Section 7.16	Mandatory Connections	51
Section 7.17	Completion of Project; Permits and Orders	51
Section 7.18	Compliance with Loan Agreement and Law	52
Section 7.19	Tax Covenants	52
Section 7.20	Statutory Mortgage Lien	53
Section 7.21	Securities Laws Compliance	53

**ARTICLE VIII
INVESTMENT OF FUNDS; NON ARBITRAGE**

Section 8.01	Investments	54
Section 8.02	Arbitrage and Tax Exemption	54
Section 8.03	Tax Certificate and Rebate	55

**ARTICLE IX
DEFAULT AND REMEDIES**

Section 9.01	Events of Default	57
Section 9.02	Remedies	57
Section 9.03	Appointment of Receiver	57

**ARTICLE X
DEFEASANCE**

Section 10.01	Defeasance of Bonds	59
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**ARTICLE XI
MISCELLANEOUS**

Section 11.01	Amendment or Modification of Bond Legislation	60
Section 11.02	Bond Legislation Constitutes Contract	60
Section 11.03	Severability of Invalid Provisions	60
Section 11.04	Headings, Etc.	60
Section 11.05	Conflicting Provisions Repealed	60
Section 11.06	Covenant of Due Procedure, Etc.	61

Section 11.07	Public Notice of Proposed Financing	61
Section 11.08	Effective Date	62
	SIGNATURES	62
	CERTIFICATION	63
	EXHIBIT A	64

HANCOCK COUNTY PUBLIC SERVICE DISTRICT

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF PUBLIC SEWERAGE FACILITIES OF HANCOCK COUNTY PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN \$289,532 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 1995 A (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY) AND NOT MORE THAN \$1,080,088 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 1995 B (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING AND RATIFYING A LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

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

ARTICLE I

STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01. Authority for this Resolution. This Resolution (together with any order or resolution supplemental hereto or amendatory hereof, the "Bond Legislation") is adopted pursuant to the provisions of Chapter 16, Article 13A of the West Virginia Code of 1931, as amended (the "Act"), and other applicable provisions of law.

Section 1.02. Findings. It is hereby found, determined and declared that:

A. Hancock County Public Service District (the "Issuer") is a public service district and a public corporation and political subdivision of the State of West Virginia in Hancock County of said State.

B. The Issuer does not presently own or operate a public sewerage system. It is deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer that there be acquired and constructed certain public sewerage facilities of the Issuer, consisting of approximately 64,900 feet of vacuum sewer line, 9,100 feet of gravity sewer, 25,000 feet of vacuum/gravity sewers, 8,500 feet of forcemain, two vacuum collection/pumping stations and nine grinder pump facilities, together with all appurtenant facilities (collectively, the "Project"), which constitute properties for the collection, treatment, purification or disposal of liquid or solid wastes, sewage or industrial wastes (the Project and any further improvements or extensions thereto are herein called the "System") at an estimated cost of not more than \$6,400,074, in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have heretofore been filed with the Issuer.

C. The estimated revenues to be derived in each year after completion of the Project from the operation of the System will be sufficient to pay all costs of operation and maintenance of the System and the principal of and interest on the Bonds (as hereinafter defined) and to make payments into all Sinking Funds, Reserve Accounts and other payments provided for herein and in the Series 1995 C Bonds Resolution (as hereinafter defined).

D. It is deemed necessary for the Issuer to issue its Sewer Revenue Bonds, in the aggregate principal amount of not more than \$1,500,000 in two series, consisting of the Sewer Revenue Bonds, Series 1995 A (West Virginia Water Development Authority) (the "Series 1995 A Bonds") and the Sewer Revenue Bonds, Series 1995 B (West Virginia Water Development Authority) (the "Series 1995 B Bonds" and together with the Series 1995 A Bonds, herein called the "Bonds"), each series initially to be represented by a single bond, to permanently finance a portion of the costs of acquisition and construction of the Project. The remaining costs of the Project shall be funded from the sources set forth in Section 2.01 hereof. Said costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor; interest upon the Bonds prior to and during acquisition and construction of the Project and for a period not exceeding 6 months after completion of acquisition and construction of the Project; amounts which may be deposited in the Reserve Accounts (as hereinafter defined); engineering and legal expenses; expenses for estimates of costs and revenues, expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense, commitment fees, fees and expenses of the Authority (as hereinafter defined), discount, initial fees for the services of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Bonds and such other expenses as may be necessary or incidental to the financing herein authorized, the acquisition or construction of the Project and the placing of same in operation, and the performance of the things herein required or permitted, in connection with any thereof, provided, that reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Bonds or the repayment of indebtedness

incurred by the Issuer for such purposes shall be deemed Costs of the Project, as hereinafter defined.

E. The period of usefulness of the System after completion of the Project is not less than 40 years.

F. It is in the best interests of the Issuer that its Bonds be sold to the Authority pursuant to the terms and provisions of a loan agreement to be entered into between the Issuer and the Authority, in form satisfactory to the Issuer and the Authority, as shall be approved by supplemental resolution of the Issuer.

G. The Series 1995 A Bonds and Series 1995 B Bonds shall be issued concurrently and on a parity as to liens, pledge and source of and security for payment. In addition, there will be issued concurrently with the Bonds, on the Closing Date, additional obligations of the Issuer which rank on a parity with the Bonds as to liens, pledge and source of and security for payment, being the Issuer's Sewer Revenue Bonds, Series 1995 C (West Virginia SRF Program) (the "Series 1995 C Bonds"), to be issued pursuant to a separate resolution adopted by the Issuer simultaneously herewith on December 6, 1995 (the "Series 1995 C Bonds Resolution"). Other than the Bonds and the Series 1995 C Bonds, there are no outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System.

H. The Issuer has complied with all requirements of West Virginia law and the Loan Agreement relating to authorization of the acquisition, construction and operation of the Project and the System and issuance of the Bonds, or will have so complied prior to issuance of any thereof, including, among other things and without limitation, the approval (or "grandfathering") of the Project and the financing thereof by the West Virginia Infrastructure and Jobs Development Council and the obtaining of a certificate of public convenience and necessity and approval of this financing and necessary user rates and charges described herein from the Public Service Commission of West Virginia by final order, the time for rehearing and appeal of which will either have expired prior to the issuance of the Bonds or such final order will not be subject to appeal or rehearing.

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of Bonds by those who shall be the Registered Owners of the same from time to time, this Bond Legislation shall be deemed to be and shall constitute a contract between the Issuer and such Registered Owners and the covenants and agreements herein set forth to be performed by the Issuer shall be for the equal benefit, protection and security of the Registered Owners of any and all of such Bonds, all 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. Definitions. The following terms shall have the following meanings herein unless the context expressly requires otherwise:

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

"Authority" means the West Virginia Water Development Authority, which is expected to be the original purchaser and Registered Owner of the Bonds, or any other agency, board or department of the State of West Virginia that succeeds to the functions of the Authority.

"Authorized Officer" means the Chairman of the Governing Body of the Issuer or any temporary Chairman duly selected by the Governing Body.

"Bondholder," "Holder of the Bonds," "Holder," "Registered Owner" or any similar term whenever used herein with respect to an outstanding Bond or Bonds, means the person in whose name such Bond is registered.

"Bond Legislation," "Resolution," "Bond Resolution" or "Local Act" means this Bond Resolution and all orders and resolutions supplemental hereto or amendatory hereof.

"Bond Registrar" means the bank or other entity to be designated as such in the Supplemental Resolution and its successors and assigns.

"Bond Year" means the 12-month period beginning on the anniversary of the Closing Date in each year and ending on the day prior to the anniversary date of the Closing Date in the following year, except that the first Bond Year shall begin on the Closing Date.

"Bonds" means, collectively, the Series 1995 A Bonds, the Series 1995 B Bonds, the Series 1995 C Bonds and, where appropriate, any bonds on a parity therewith subsequently issued hereunder or pursuant to another resolution of the Issuer.

"Chairman" means the Chairman of the Governing Body of the Issuer.

"Closing Date" means the date upon which there is an exchange of the Bonds for the proceeds representing the purchase price of the Bonds from the Authority.

"Code" means the Internal Revenue Code of 1986, as amended, and the Regulations.

"Commission" means the West Virginia Municipal Bond Commission or any other agency of the State of West Virginia that succeeds to the functions of the Commission.

"Construction Trust Fund" means the Construction Trust Fund established by Section 5.01 hereof.

"Consulting Engineers" means L. Robert Kimball & Associates, Inc., Moon Township, Pennsylvania, or any qualified engineer or firm of engineers that shall at any time hereafter be retained by the Issuer as Consulting Engineers for the System or portion thereof; provided however, that the Consulting Engineers shall not be a regular, full-time employee of the State or any of its agencies, commissions or political subdivisions.

"Costs" or "Costs of the Project" means those costs described in Section 1.02D hereof to be a part of the cost of acquisition and construction of the Project.

"Depository Bank" means the bank designated as such in the Supplemental Resolution, and its successors and assigns, which shall be a member of FDIC.

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

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

"Governing Body" or "Board" means the public service board of the Issuer, as it may now or hereafter be constituted.

"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.

"Grants" means all moneys received by the Issuer on account of any Grant for the Project.

"Gross Revenues" means the aggregate gross operating and non-operating revenues of the System, as hereinafter defined, 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, purchased pursuant to Article 8.01 hereof) or any Tap Fees, as hereinafter defined.

"Herein," "hereto" and similar words shall refer to this entire Bond Legislation.

"Independent Certified Public Accountants" means any certified public accountant or firm of certified public accountants that shall at any time hereafter be retained by the Issuer to prepare an independent annual or special audit of the accounts of the System or for any other purpose except keeping the accounts of the System in the normal operation of its business and affairs.

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

"Issuer" means Hancock County Public Service District, a public service district and a public corporation in Hancock County, West Virginia, and, unless the context clearly indicates otherwise, includes the Governing Body of the Issuer.

"Loan Agreement" means the Loan Agreement to be entered into between the Authority and the Issuer, providing for the purchase of the Bonds from the Issuer by the Authority, the form of which shall be approved, and the execution and delivery by the Issuer authorized and directed or ratified by the Supplemental Resolution.

"Net Proceeds" means the face amount of the Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds, if any, deposited in the 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 Bonds, without regard to whether or not such investment is made in tax-exempt obligations.

"Net Revenues" means the balance of the Gross Revenues, remaining after deduction of Operating Expenses, as hereinafter defined.

"Nonpurpose Investment" means any Investment Property which is acquired with the gross proceeds or any other proceeds of the Bonds and is not acquired in order to carry out the governmental purpose of the Bonds.

"Operating Expenses" means the reasonable, proper and necessary costs of repair, operation and maintenance of the System, as hereinafter defined, 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, the SRF Administrative Fee (as defined in the Series 1995 C Bonds Resolution) fees and expenses of the Authority, fiscal agents, the Depository Bank, the Registrar and the Paying Agent (all as herein defined), 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 or the Series 1995 C Bonds, charges for depreciation, losses from the sale or other disposition of, or from any decrease

in the value of, capital assets, amortization of debt discount or such miscellaneous deductions as are applicable to prior accounting periods.

"Outstanding," when used with reference to Bonds and as of any particular date, describes all Bonds theretofore and thereupon being authenticated and delivered except (i) any Bond cancelled by the Bond Registrar at or prior to said date; (ii) any Bond for the payment of which moneys, equal to its principal amount and redemption premium, if applicable, with interest to the date of maturity or redemption shall be in trust hereunder, and set aside for such payment (whether upon or prior to maturity); (iii) any 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 Bonds registered to the Issuer.

"Parity Bonds" means additional Bonds which may be issued under the provisions and within the limitations prescribed by Section 7.07 hereof.

"Paying Agent" means the Commission or such other entity designated as such for the Bonds in a Supplemental Resolution with the written consent of the Authority and the DEP.

"Private Business Use" means 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" means the Authority's loan program, under which the Authority purchases the water development revenue bonds of local governmental entities satisfying certain legal and other requirements with the proceeds of the water development revenue bonds of the Authority.

"Project" means the acquisition and construction of certain improvements and extensions to the existing public sewerage facilities of the Issuer, consisting of approximately 64,900 feet of vacuum sewer line, 9,100 feet of gravity sewer, 25,000 feet of vacuum/gravity sewers, 8,500 feet of forcemain, two vacuum collection/pumping stations and nine grinder pump facilities, together with all appurtenant facilities.

"Qualified Investments" means and includes 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; Tennessee Valley Authority; or Washington Metropolitan Area Transit Authority;

(d) Any bond, debenture, note, participation certificate or other similar obligations 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 FDIC or Federal Savings and Loan Insurance Corporation, 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 holder 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 West Virginia "consolidated fund" managed by the West Virginia State Board of Investments pursuant to Chapter 12, Article 6 of the West Virginia Code of 1931, as amended; and

(i) Obligations of states or political subdivisions or agencies thereof, the interest on which is excluded from gross income for federal income tax purposes, and which are rated at least "A" by Moody's Investors Service, Inc. or Standard & Poor's Corporation.

"Rebate Fund" means the Rebate Fund established by Section 5.01 hereof.

"Registrar" means the Bond Registrar.

"Regulations" means temporary and permanent regulations promulgated under the Code, or any predecessor thereto.

"Renewal and Replacement Fund" means the Renewal and Replacement Fund established by Section 5.01 hereof.

"Reserve Accounts" means, collectively, the Series 1995 A Bonds Reserve Account, the Series 1995 B Bonds Reserve Account and the Series 1995 C Bonds Reserve Account.

"Reserve Requirement" means, collectively, the respective amount required to be on deposit in any reserve account for the Bonds.

"Revenue Fund" means the Revenue Fund established by Section 5.01 hereof.

"Secretary" means the Secretary of the Governing Body of the Issuer.

"Series 1995 A Bonds" means the not more than \$289,532 aggregate principal amount of Sewer Revenue Bonds, Series 1995 A (West Virginia Water Development Authority), of the Issuer, authorized by this Resolution.

"Series 1995 A Bonds Reserve Account" means the Series 1995 A Bonds Reserve Account established in the Series 1995 A Bonds Sinking Fund pursuant to Section 5.02 hereof.

"Series 1995 A Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 1995 A Bonds in the then current or any succeeding year.

"Series 1995 A Bonds Sinking Fund" means the Series 1995 A Bonds Sinking Fund established by Section 5.02 hereof.

"Series 1995 B Bonds" means the not more than \$1,080,088 aggregate principal amount of Sewer Revenue Bonds, Series 1995 B (West Virginia Water Development Authority), of the Issuer, authorized by this Resolution.

"Series 1995 B Bonds Reserve Account" means the Series 1995 B Bonds Reserve Account established in the Series 1995 B Bonds Sinking Fund pursuant to Section 5.02 hereof.

"Series 1995 B Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 1995 B Bonds in the then current or any succeeding year.

"Series 1995 B Bonds Sinking Fund" means the Series 1995 B Bonds Sinking Fund established by Section 5.02 hereof.

"Series 1995 C Bonds" means the not more than \$883,974 aggregate principal amount of Sewer Revenue Bonds, Series 1995 C (West Virginia SRF Program), of the Issuer.

"Series 1995 C Bonds Construction Trust Fund" means the Series 1995 C Bonds Construction Trust Fund pursuant to Section 5.01 of the Series 1995 C Bonds Resolution.

"Series 1995 C Bonds Reserve Account" means the Series 1995 C Bonds Reserve Account established in the Series 1995 C Bonds Sinking Fund pursuant to Section 5.02 of the Series 1995 C Bonds Resolution.

"Series 1995 C Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 1995 C Bonds in the then current or any succeeding year.

"Series 1995 C Bonds Resolution" means the resolution of the Issuer adopted simultaneously herewith on December 6, 1995, authorizing the Series 1995 C Bonds.

"Series 1995 C Bonds Sinking Fund" means the Series 1995 C Bonds Sinking Fund established by Section 5.02 of the Series 1995 C Bonds Resolution.

"Sinking Funds" means, collectively, the Series 1995 A Bonds Sinking Fund, the Series 1995 B Bonds Sinking Fund and the Series 1995 C Bonds Sinking Fund.

"State" means the State of West Virginia.

"Supplemental Resolution" means any resolution or order of the Issuer supplementing or amending this Resolution and, when preceded by the article "the," refers

specifically to the supplemental resolution or resolutions authorizing the sale of the Bonds; provided, that any matter intended by this Resolution to be included in the Supplemental Resolution with respect to the Bonds, and not so included may be included in another Supplemental Resolution.

"Surplus Revenues" means the Net Revenues not required by the Bond Legislation to be set aside and held for the payment of or security for the Bonds, the Series 1995 C Bonds or any other obligations of the Issuer, including, without limitation, the Renewal and Replacement Fund and the respective Reserve Accounts.

"System" means the complete properties of the Issuer for the collection, treatment, purification or disposal of liquid or solid wastes, sewage or industrial wastes, as presently existing in its entirety or any integral part thereof, and shall include the Project and any additions, improvements and extensions thereto hereafter constructed or acquired for said system from any sources whatsoever.

"Tap Fees" means the fees, if any, paid by prospective customers of the System in order to connect thereto.

Additional terms and phrases are defined in this Resolution as they are used. Words importing singular number shall include the plural number in each case and vice versa; words importing persons shall include firms and corporations; and words importing the masculine, feminine or neutral gender shall include any other gender.

ARTICLE II

AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF THE PROJECT

Section 2.01. Authorization of Acquisition and Construction of the Project. There is hereby authorized and ordered the acquisition and construction of the Project, at an estimated cost of not to exceed \$6,400,074, in accordance with the plans and specifications which have been prepared by the Consulting Engineers, heretofore filed in the office of the Governing Body. The proceeds of the Bonds hereby authorized shall be applied as provided in Article VI hereof. The Issuer has received bids and will enter into contracts for the acquisition and construction of the Project, compatible with the financing plan submitted to the Authority.

The cost of the Project is estimated not to exceed \$6,400,074, of which approximately \$289,532 will be obtained from proceeds of the Series 1995 A Bonds, approximately \$1,080,088 will be obtained from proceeds of the Series 1995 B Bonds, approximately \$883,974 will be obtained from proceeds of the Series 1995 C Bonds, approximately \$3,990,230 from a grant by the United States Environmental Protection Agency, and approximately \$156,250 from the funds of the Issuer.

ARTICLE III

AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND SALE OF BONDS; AUTHORIZATION AND EXECUTION OF LOAN AGREEMENT

Section 3.01. Authorization of Bonds. For the purposes of capitalizing interest on the Bonds, funding reserve accounts for the Bonds, paying Costs of the Project not otherwise provided for and paying certain costs of issuance of the Bonds and related costs, or any or all of such purposes, as determined by the Supplemental Resolution, there shall be and hereby are authorized to be issued the Bonds of the Issuer. The Series 1995 A Bonds shall be issued as a single bond, designated "Sewer Revenue Bonds, Series 1995 A (West Virginia Water Development Authority)," in the principal amount of not more than \$289,532, and shall have such terms as set forth hereinafter and in the Supplemental Resolution. The Series 1995 B Bonds shall be issued as a single bond, designated "Sewer Revenue Bonds, Series 1995 B (West Virginia Water Development Authority)", in the principal amount of not more than \$1,080,088, and shall have such terms as are set forth hereinafter and in the Supplemental Resolution. The proceeds of the Bonds remaining after funding of the Reserve Accounts (if funded from Bond proceeds) and capitalizing interest on the Bonds, if any, shall be deposited in or credited to the Construction Trust Fund established by Section 5.01 hereof and applied as set forth in Article VI hereof.

Section 3.02. Terms of Bonds. The Bonds shall bear interest at such rate or rates, not exceeding the then legal maximum, payable semiannually on such dates; shall mature on such dates and in such amounts; and shall be redeemable, in whole or in part, all as the Issuer shall prescribe in a Supplemental Resolution. The Bonds shall be payable as to principal at the 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 shall be paid by check or draft of the Paying Agent or its agent, mailed to the Registered Owner thereof at the address as it appears on the books of the Bond Registrar, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner thereof.

Unless otherwise provided by the Supplemental Resolution, the Bonds shall be issued in the form of a single bond of each series, fully registered to the Authority, with a debt service schedule attached, representing the aggregate principal amount of the Bonds, and shall mature in principal installments, all as provided in the Supplemental Resolution. The Bonds shall be exchangeable at the option and expense of the Holder for another fully registered Bond or Bonds of the same series in aggregate principal amount equal to the amount of said Bonds then Outstanding and being exchanged, with principal installments or maturities, as applicable, substantially corresponding to the principal installments or maturities of the Bonds being exchanged; provided that, the net interest cost amount on the exchanged Bonds shall not exceed the net interest cost amount on the Bonds being

exchanged; and provided further that, the Authority shall not be obligated to pay any expenses of such exchange.

Subsequent series of Bonds, if any, shall be issued in fully registered form and in denominations as determined by a Supplemental Resolution. The Bonds shall be dated as of the date specified in a Supplemental Resolution and shall bear interest from the date so specified therein.

Section 3.03. Execution of Bonds. The Bonds shall be executed in the name of the Issuer by the Chairman, and the seal of the Issuer shall be affixed thereto or imprinted thereon and attested by the Secretary. In case any one or more of the officers who shall have signed or sealed the Bonds shall cease to be such officer of the Issuer before the Bonds so signed and sealed have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any 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 3.04. Authentication and Registration. No Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Bond Legislation unless and until the Certificate of Authentication and Registration on such Bond, substantially in the forms set forth in Section 3.10 hereof shall have been manually executed by the Bond 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 Bond Legislation. The Certificate of Authentication and Registration on any Bond shall be deemed to have been executed by the Bond Registrar if manually signed by an authorized officer of the Bond 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 3.05. 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 Holder, in accepting the 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 Holder shall further be conclusively deemed to have agreed that said Bonds shall be incontestable in the hands of a bona fide holder for value.

So long as the Bonds remain outstanding, the Issuer, through the Bond Registrar or its agent, shall keep and maintain books for the registration and transfer of the Bonds.

The registered Bonds shall be transferable only upon the books of the Bond Registrar, by the registered owner thereof in person or by his attorney duly authorized in writing, upon surrender thereto together with a written instrument of transfer satisfactory to the Bond Registrar duly executed by the registered owner or his duly authorized attorney.

In all cases in which the privilege of exchanging Bonds or transferring the registered Bonds are exercised, Bonds shall be delivered in accordance with the provisions of this Bond Legislation. All Bonds surrendered in any such exchanges or transfers shall forthwith be cancelled by the Bond Registrar. For every such exchange or transfer of Bonds, the Bond 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 Bond Registrar incurred in connection therewith, which sum or sums shall be paid by the Issuer. The Bond Registrar shall not be obliged to make any such exchange or transfer of Bonds during the period commencing on the 15th day of the month next 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, and ending on such interest payment date or redemption date.

Section 3.06. 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 the Bond Registrar shall, if so advised by the Issuer, authenticate and deliver, a new Bond of the same series and of like tenor as the Bonds so mutilated, destroyed, stolen or lost, 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 Holder's furnishing satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer and the Bond Registrar may incur. All Bonds so surrendered shall be cancelled by the Bond Registrar and held for the account of the Issuer. If any 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 thereof.

Section 3.07. 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 Net Revenues derived from the operation of the System as herein provided and amounts, if any, in the Sinking Funds and the Reserve Accounts. No holder or holders of any of the Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer, if any, to pay the Bonds or the interest, if any, thereon.

Section 3.08. Bonds Secured by Parity Pledge of Net Revenues. The payment of the debt service of the Series 1995 A Bonds and Series 1995 B Bonds shall be secured forthwith equally and ratably with each other by a first lien on the Net Revenues derived

from the System, on a parity with each other and with the lien on the Net Revenues in favor of the Holders of the Series 1995 C Bonds. Such Net Revenues in an amount sufficient to pay the principal of and interest on and other payments for the Bonds and to make all other payments provided for in the Bond Legislation, are hereby irrevocably pledged to such payments as they become due.

Section 3.09. Delivery of Bonds. The Issuer shall execute and deliver the Bonds to the Bond Registrar, and the Bond Registrar shall authenticate, register and deliver the Bonds to the original purchasers upon receipt of the documents set forth below:

A. If other than the Authority, a list of the names in which the Bonds are to be registered upon original issuance, together with such taxpayer identification and other information as the Bond Registrar may reasonably require;

B. A request and authorization to the Bond Registrar on behalf of the Issuer, signed by an Authorized Officer, to authenticate and deliver the Bonds to the original purchasers;

C. An executed and certified copy of the Bond Legislation;

D. An executed copy of the Loan Agreement; and

E. The unqualified approving opinion of bond counsel on the Bonds.

Section 3.10. Form of Bonds. The text of the Series 1995 A Bonds and the Series 1995 B Bonds shall be in substantially the following respective form, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted hereby, or by any Supplemental Resolution adopted prior to the issuance thereof:

(FORM OF SERIES 1995 A BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
HANCOCK COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND,
SERIES 1995 A
(WEST VIRGINIA WATER DEVELOPMENT AUTHORITY)

No. AR-1

\$ _____

KNOW ALL MEN BY THESE PRESENTS: That the HANCOCK COUNTY PUBLIC SERVICE DISTRICT, a public corporation and political subdivision of the State of West Virginia in Hancock 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 the West Virginia Water Development Authority (the "Authority") or registered assigns the sum of _____ (\$ _____), in installments on October 1 of each year, as set forth on the "Schedule of Annual 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 interest on each installment shall run from the original date of delivery of this Bond to the Authority and payment therefor, and until payment of such installment, and such interest shall be payable on April 1 and October 1 in each year, beginning _____, 199____. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, 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, Charleston, West Virginia (the "Paying Agent"). The interest on this Bond is payable by check or draft of the Paying Agent mailed to the registered owner hereof at the address as it appears on the books of One Valley Bank, National Association, Charleston, West Virginia, as registrar (the "Registrar"), on the 15th day of the month next 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 upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement between the Issuer and the Authority, dated _____, 199____.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of public sewerage facilities of the Issuer (the "Project"); (ii) [to pay interest on the Bonds of this Series (the "Bonds") during the construction of the Project and for not more than 6 months thereafter; (iii) to fund a reserve account for the Bonds; and (iv)] to pay certain costs of issuance hereof and related costs. The Project and any further improvements or extensions thereto are herein called the "System." 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"), and a Bond Resolution duly adopted by the Issuer on _____, 199____, and a Supplemental Resolution duly adopted by the Issuer on _____, 199____ (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation 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 Bond Legislation.

THIS BOND IS ISSUED ON PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S SEWER REVENUE BONDS, SERIES 1995 B (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY) (THE "SERIES 1995 B BONDS") AND SEWER REVENUE BONDS, SERIES 1995 C (WEST VIRGINIA SRF PROGRAM) (THE "SERIES 1995 C BONDS"), BOTH DATED _____, 199____, ISSUED CONCURRENTLY HEREWITH.

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on parity with the pledge of Net Revenues in favor of the Holders of the Series 1995 B Bonds and the Series 1995 C Bonds, and from moneys in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 1995 A Bonds Reserve Account"), 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 hereon except from said special fund provided from the Net Revenues, the moneys in the Series 1995 A Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest on the Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds, including the

Series 1995 B Bonds and the Series 1995 C Bonds; provided however, that so long as there exists in the Series 1995 A Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding prior to or on a parity with the Bonds, including the Series 1995 B Bonds and Series 1995 C Bonds, an amount at least 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 Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Bond Legislation, only upon the books of the Registrar by the registered owner, or by 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.

Subject to the registration requirements set forth herein, this Bond, under the provision of the Act is, and has all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law and the Bond Legislation, shall be applied solely to the payment of the costs of the Project and costs of issuance hereof described in the Bond Legislation, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the registered 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 Net 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 Bond Legislation, resolutions and 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, HANCOCK COUNTY PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairman and its corporate seal to be hereunto affixed and attested by its Secretary, and has caused this Bond to be dated _____, 199__.

[SEAL]

Chairman

ATTEST:

Secretary

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 1995 A Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: _____, 199__.

ONE VALLEY BANK, NATIONAL
ASSOCIATION,
as Registrar

Authorized Officer

EXHIBIT A

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 SERIES 1995 B BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
HANCOCK COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND,
SERIES 1995 B
(WEST VIRGINIA WATER DEVELOPMENT AUTHORITY)

No. BR-1

\$ _____

KNOW ALL MEN BY THESE PRESENTS: That the HANCOCK COUNTY PUBLIC SERVICE DISTRICT, a public corporation and political subdivision of the State of West Virginia in Hancock 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 the West Virginia Water Development Authority (the "Authority") or registered assigns the sum of _____ (\$ _____), in installments on October 1 of each year, as set forth on the "Schedule of Annual 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 interest on each installment shall run from the original date of delivery of this Bond to the Authority and payment therefor, and until payment of such installment, and such interest shall be payable on April 1 and October 1 in each year, beginning _____, 199____. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, 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, Charleston, West Virginia (the "Paying Agent"). The interest on this Bond is payable by check or draft of the Paying Agent mailed to the registered owner hereof at the address as it appears on the books of One Valley Bank, National Association, Charleston, West Virginia, as registrar (the "Registrar"), on the 15th day of the month next 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 upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement between the Issuer and the Authority, dated _____, 199____.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of public sewerage facilities of the Issuer (the "Project"); (ii) [to pay interest on the Bonds of this Series (the "Bonds") during the construction of the Project and for not more than 6 months thereafter; (iii) to fund a reserve account for the Bonds; and (iv)] to pay certain costs of issuance hereof and related costs. The Project and any further improvements or extensions thereto are herein called the "System." 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"), and a Bond Resolution duly adopted by the Issuer on _____, 199___, and a Supplemental Resolution duly adopted by the Issuer on _____, 199___ (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation 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 Bond Legislation.

THIS BOND IS ISSUED ON PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S SEWER REVENUE BONDS, SERIES 1995 A (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY) (THE "SERIES 1995 A BONDS") AND SEWER REVENUE BONDS, SERIES 1995 C (WEST VIRGINIA SRF PROGRAM) (THE "SERIES 1995 C BONDS"), BOTH DATED _____, 199___, ISSUED CONCURRENTLY HEREWITH.

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on parity with the pledge of Net Revenues in favor of the Holders of the Series 1995 A Bonds and the Series 1995 C Bonds, and from moneys in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 1995 B Bonds Reserve Account"), 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 hereon except from said special fund provided from the Net Revenues, the moneys in the Series 1995 B Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest on the Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds, including the

Series 1995 A Bonds and the Series 1995 C Bonds; provided however, that so long as there exists in the Series 1995 B Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding prior to or on a parity with the Bonds, including the Series 1995 A Bonds and Series 1995 C Bonds, an amount at least 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 Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Bond Legislation, only upon the books of the Registrar by the registered owner, or by 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.

Subject to the registration requirements set forth herein, this Bond, under the provision of the Act is, and has all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law and the Bond Legislation, shall be applied solely to the payment of the costs of the Project and costs of issuance hereof described in the Bond Legislation, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the registered 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 Net 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 Bond Legislation, resolutions and 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, HANCOCK COUNTY PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairman and its corporate seal to be hereunto affixed and attested by its Secretary, and has caused this Bond to be dated _____, 199__.

[SEAL]

Chairman

ATTEST:

Secretary

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 1995 B Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: _____, 199__.

ONE VALLEY BANK, NATIONAL
ASSOCIATION,
as Registrar

Authorized Officer

EXHIBIT A

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 3.11. Sale of Bonds; Approval and Ratification of Execution of Loan Agreement. The Bonds shall be sold to the Authority, pursuant to the terms and conditions of the Loan Agreement. If not so authorized by previous resolution, the Chairman is specifically authorized and directed to execute the Loan Agreement in the form attached hereto as "Exhibit A" and made a part hereof, and the Secretary is directed to affix the seal of the Issuer, attest the same and deliver the Loan Agreement to the Authority, and any such prior execution and delivery is hereby authorized, approved, ratified and confirmed.

Section 3.12. "Amended Schedule A" Filing. Upon completion of acquisition and construction of the Project, the Issuer will file with the Authority a schedule in substantially the form of the "Amended Schedule A" to the Loan Agreement, setting forth the actual costs of the Project and sources of funds therefor.

ARTICLE IV

[RESERVED]

ARTICLE V

FUNDS AND ACCOUNTS; SYSTEM REVENUES AND APPLICATION THEREOF

Section 5.01. Establishment of Funds and Accounts with Depository Bank. The following special funds or accounts are hereby created with and shall be held by the Depository Bank separate and apart from all other funds or accounts of the Depository Bank and the Issuer and from each other:

- (1) Revenue Fund;
- (2) Renewal and Replacement Fund;
- (3) Construction Trust Fund;
- (4) Series 1995 C Bonds Construction Trust Fund (established by the Series 1995 C Bonds Resolution); and
- (5) Rebate Fund.

Section 5.02. Establishment of Funds and Accounts with Commission. The following special funds or accounts are hereby created (or confirmed if concurrently established by the Series 1995 C Bonds Resolution) with and shall be held by the Commission separate and apart from all other funds or accounts of the Commission and the Issuer and from each other:

- (1) Series 1995 A Bonds Sinking Fund;
- (2) Within the Series 1995 A Bonds Sinking Fund, the Series 1995 A Bonds Reserve Account;
- (3) Series 1995 B Bonds Sinking Fund;
- (4) Within the Series 1995 B Bonds Sinking Fund, the Series 1995 B Bonds Reserve Account;
- (5) Series 1995 C Bonds Sinking Fund (established by the Series 1995 C Bonds Resolution); and
- (6) Within the Series 1995 C Bonds Sinking Fund, the Series 1995 C Bonds Reserve Account (established by the Series 1995 C Bonds Resolution).

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 Bond Legislation and in the Series 1995 C Bonds 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 provided in this Bond Legislation and in the Series 1995 C Bonds Resolution. All revenues at any time on deposit in the Revenue Fund shall be disposed of only in the following order and priority:

(1) The Issuer shall first each month transfer from the Revenue Fund and disburse as required the amount necessary and sufficient to pay current Operating Expenses.

(2) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously (i) commencing 7 months prior to the first date of payment of interest on the Series 1995 A Bonds for which interest has not been capitalized, remit to the Commission for deposit in the Series 1995 A Bonds Sinking Fund, a sum equal to 1/6th of the amount of interest which will become due on the Series 1995 A Bonds on the next ensuing semiannual interest payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 1995 A Bonds Sinking Fund and the next semiannual interest payment date is less than 7 months, then such monthly payments shall be increased proportionately to provide, one month prior to the next semiannual interest payment date, the required amount of interest coming due on such date, (ii) commencing 7 months prior to the first date of payment of interest on the Series 1995 B Bonds for which interest has not been capitalized, remit to the Commission for deposit in the Series 1995 B Bonds Sinking Fund, a sum equal to 1/6th of the amount of interest which will become due on the Series 1995 B Bonds on the next ensuing semiannual interest payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 1995 B Bonds Sinking Fund and the next semiannual interest payment date is less than 7 months, then such monthly payments shall be increased proportionately to provide, one month prior to the next semiannual interest payment date, the required amount of interest coming due on such date, (iii) commencing 13 months prior to the first date of payment of principal of the Series 1995 A Bonds, remit to the Commission for deposit in the Series 1995 A Bonds Sinking Fund, a sum equal to 1/12th of the amount of principal which will mature and become due on the Series 1995 A Bonds on the next ensuing annual principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 1995 A Bonds Sinking Fund and the next annual principal payment date is less than 13 months, then such monthly payments shall be increased proportionately to provide, one

of principal coming due on such date, (iv) commencing 13 months prior to the first date of payment of principal of the Series 1995 B Bonds, remit to the Commission for deposit in the Series 1995 B Bonds Sinking Fund, a sum equal to 1/12th of the amount of principal which will mature and become due on the Series 1995 B Bonds on the next ensuing annual principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 1995 B Bonds Sinking Fund and the next annual principal payment date is less than 13 months, then such monthly payments shall be increased proportionately to provide, one month prior to the next annual principal payment date, the required amount of principal coming due on such date, and (v) remit to the Commission the amounts required by the Series 1995 C Bonds Resolution to be deposited in the Series 1995 C Bonds Sinking Fund for payment of the principal of and interest, if any, on the Series 1995 C Bonds.

(3) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously (i) commencing 13 months prior to the first date of payment of principal of the Series 1995 A Bonds, if not fully funded upon issuance of the Series 1995 A Bonds, remit to the Commission for deposit in the Series 1995 A Bonds Reserve Account, an amount equal to 1/120 of the Series 1995 A Bonds Reserve Requirement; provided, that no further payments shall be made into the Series 1995 A Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 1995 A Bonds Reserve Requirement, (ii) commencing 13 months prior to the first date of payment of principal of the Series 1995 B Bonds, if not fully funded upon issuance of the Series 1995 B Bonds, remit to the Commission for deposit in the Series 1995 B Bonds Reserve Account, an amount equal to 1/120 of the Series 1995 B Bonds Reserve Requirement; provided, that no further payments shall be made into the Series 1995 B Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 1995 B Bonds Reserve Requirement, and (iii) remit to the Commission the amount required by the Series 1995 C Bonds Resolution to be deposited in the Series 1995 C Bonds Reserve Account.

(4) The Issuer shall next, from the moneys remaining in the Revenue Fund, on the first day of each month, commencing with the first month in which any of the above payments shall be payable from the Revenue Fund, 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 Series 1995 A Bonds Reserve Account, the Series 1995 B Bonds Reserve Account or the Series 1995 C Bonds Reserve Account shall be promptly eliminated with moneys from the Renewal and Replacement Fund.

Moneys in the Series 1995 A Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest on the Series 1995 A Bonds as the same shall become due. Moneys in the Series 1995 A Bonds Reserve Account shall be used only for the purpose of paying principal of and interest on the Series 1995 A Bonds as the same shall come due, when other moneys in the Series 1995 A Bonds Sinking Fund are insufficient therefor, and for no other purpose, except for transfers to the Rebate Fund permitted hereunder.

Moneys in the Series 1995 B Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest on the Series 1995 B Bonds as the same shall become due. Moneys in the Series 1995 B Bonds Reserve Account shall be used only for the purpose of paying principal of and interest on the Series 1995 B Bonds as the same shall come due, when other moneys in the Series 1995 B Bonds Sinking Fund are insufficient therefor, and for no other purpose, except for transfers to the Rebate Fund permitted hereunder.

Except to the extent transferred to the Rebate Fund at the request of the Issuer, all investment earnings on moneys in the Sinking Funds and the Reserve Accounts (if equal to at least the Reserve Requirement) shall be returned, not less than once each year, by the Commission to the Issuer, and such amounts shall, during construction of the Project, be deposited in the Construction Trust Fund, and following completion of construction of the Project, shall be deposited in the Revenue Fund and applied in full, first to the next ensuing interest payment due on the Bonds, and then to the next ensuing principal payment due thereon.

Except with respect to transfers to the Rebate Fund permitted hereunder; any withdrawals from the Reserve Accounts which result in a reduction in the balance of the Reserve Accounts to below the respective Reserve Requirement shall be subsequently restored from the first Net Revenues available after all required payments have been made in full to the Series 1995 A Bonds Sinking Fund, the Series 1995 B Bonds Sinking Fund and the Series 1995 C Bonds Sinking Fund.

As and when additional Bonds ranking on a parity with the Bonds are issued, provision shall be made for additional payments into the respective sinking funds sufficient to pay the interest on such additional parity Bonds and accomplish retirement thereof at maturity and to accumulate a balance in the appropriate reserve account in an amount equal

to the maximum amount of principal and interest which will become due in any year for account of the Bonds of such series, including such additional Bonds.

The Issuer shall not be required to make any further payments into the Sinking Funds, or the Reserve Accounts therein when the aggregate amount of funds therein are at least equal to the aggregate principal amount of the Bonds issued pursuant to this Bond Legislation then Outstanding and all interest to accrue until the maturity thereof.

Principal and interest payments, and any payments made for the purpose of funding a deficiency in any Reserve Account, shall be made on a parity and pro rata, with respect to the Series 1995 A Bonds, the Series 1995 B Bonds and the Series 1995 C Bonds in accordance with the respective principal amounts then Outstanding.

The Commission is hereby designated as the fiscal agent for the administration of the Sinking Funds and the Reserve Accounts created hereunder, and all amounts required for said accounts shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein.

Moneys in the Sinking Funds and the Reserve Accounts shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

Except with respect to transfers to the Rebate Fund permitted hereunder, the Sinking Funds, including the Reserve Accounts therein, shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Bonds under the conditions and restrictions hereinafter set forth.

B. The Issuer shall on the first day of each month (if such day is not a business day, then the next succeeding business day) deposit with the Commission the required principal, interest and reserve payments with respect to the Bonds 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 Bond Legislation.

C. Whenever all of the required and provided transfers and payments from the Revenue Fund into the several special funds, as hereinbefore 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 such funds during the following month or such other period as required by law, such excess shall be considered Surplus Revenues. Surplus Revenues may be used for any lawful purpose of the System.

D. The Issuer shall remit from the Revenue Fund to the Commission, the Registrar, the Paying Agent or the Depository Bank, on such dates as the Commission, the Registrar, the Paying Agent or the Depository Bank, as the case may be, shall require, such additional sums as shall be necessary to pay their respective charges, and fees then due.

E. The moneys in excess of the sum insured by the maximum amounts insured by FDIC in the Revenue Fund and the Renewal and Replacement Fund and the Rebate 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; provided, however, that the priority of curing deficiencies in the funds and accounts herein shall be in the same order as payments are to be made pursuant to this Section 5.03 and Section 5.03 of the Series 1995 C Bonds Resolution, and the Net Revenues shall be applied to such deficiencies before being applied to any other payments hereunder.

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.

I. All Tap Fees shall be deposited pro rata, by the Issuer, as received, in the Construction Trust Fund and Series 1995 C Bonds Construction Trust Fund, and following completion of the Project, shall be deposited in the Revenue Fund and may be used for any lawful purpose of the System.

ARTICLE VI

BOND PROCEEDS; CONSTRUCTION DISBURSEMENTS

Section 6.01. Application of Bond Proceeds; Pledge of Unexpended Bond Proceeds. From the moneys received from the sale of any or all of the Bonds, the following amounts shall be first deducted and deposited pro rata, in the order set forth below:

A. From the proceeds of the Bonds or from other funds available to the Issuer, there shall first be deposited with the Commission in the Sinking Funds, the amount, if any, set forth in the Supplemental Resolution as capitalized interest; provided, that such amount may not exceed the amount necessary to pay interest on the Bonds for the period commencing on the date of issuance of the Bonds and ending 6 months after the estimated date of completion of construction of the Project.

B. Next, from the proceeds of the Bonds or from other funds available to the Issuer, there shall be deposited with the Commission in the Reserve Accounts, the amount, if any, set forth in the Supplemental Resolution for funding the Reserve Accounts.

C. Next, from the proceeds of the Bonds, there shall first be credited to the Construction Trust Fund and then paid, any and all other borrowings by the Issuer made for the purpose of temporarily financing a portion of the Costs of the Project and any borrowings by the Issuer from the Authority, including interest accrued thereon to the date of such payment, not otherwise paid from funds of the Issuer.

D. The remaining moneys derived from the sale of the Bonds shall be deposited with the Depository Bank in the Construction Trust Fund and applied solely to payment of Costs of the Project in the manner set forth in Section 6.02 hereof.

E. The Depository Bank shall act as a trustee and fiduciary for the Bondholder with respect to the Construction Trust Fund and shall comply with all requirements with respect to the disposition of the Construction Trust Fund set forth in the Bond Legislation. Except with respect to any transfers to the Rebate Fund permitted hereunder, moneys in the Construction Trust Fund 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.

Section 6.02. Disbursements From the Construction Trust Fund. Payments for Costs of the Project shall be made monthly. Except as provided in Section 6.01 hereof, disbursements from the Construction Trust Fund (except for the costs

of issuance of the Bonds which shall be made upon request of the Issuer), shall be made only after submission to the Depository Bank of a certificate, signed by an Authorized Officer 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 disbursement 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.

In case any contract provides for the retention of a portion of the contract price, the Depository Bank shall disburse from the Construction Trust Fund only the net amount remaining after deduction of any such portion. All payments made from the Construction Trust Fund 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 Construction Trust Fund. 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 Construction Trust Fund, including any accounts therein, shall be invested and reinvested in Qualified Investments at the written direction of the Issuer.

After completion of the Project, as certified by the Consulting Engineers, and all Costs have been paid, the Depository Bank shall transfer any moneys remaining in the Construction Trust Fund to the Reserve Accounts, and when fully funded, shall return such remaining moneys to the Issuer for deposit in the Revenue Fund; provided that, in no event shall more than 10% of the proceeds of the Bonds be deposited in the Reserve Accounts and any balance in excess of said amounts shall be returned to the Issuer for deposit in the Revenue Funds. The Issuer shall thereafter, apply such moneys in full, first to the next ensuing interest payments due on the Bonds and thereafter to the next ensuing principal payments due thereon.

ARTICLE VII

ADDITIONAL COVENANTS OF THE ISSUER

Section 7.01. General Covenants of the Issuer. All the covenants, agreements and provisions of this Bond Legislation shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any Holder or Holders of the Bonds. In addition to the other covenants, agreements and provisions of this Bond Legislation, the Issuer hereby covenants and agrees with the Holders 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 the 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 Bond Legislation. No Holder or Holders of the Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer, if any, to pay the Bonds or the interest thereon.

Section 7.03. Bonds Secured by Parity Pledge of Net Revenues. The payment of the debt service of the Series 1995 A Bonds and Series 1995 B 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, on a parity with each other and with the lien on said Net Revenues in favor of the Holders of the Series 1995 C Bonds. The Net Revenues derived from the System, in an amount sufficient to pay the principal of and interest on the Bonds and to make the payments into all funds and accounts and all other payments provided for in the Bond Legislation are hereby irrevocably pledged, in the manner provided herein, to such payments as they become due, and for the other purposes provided in the Bond Legislation.

Section 7.04. Initial Schedule of Rates and Charges. The initial schedule of sewer rates and charges for the services and facilities of the System shall be as set forth and approved and described in the Final Order of the Public Service Commission of West Virginia or entered November 1, 1995, in Case No. 90-558-PSD-CN (Reopened), and such rates are hereby adopted.

Section 7.05. Sale of the System. Except as otherwise required by law or with the written consent of 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 Bonds Outstanding, or to effectively defease this Bond Legislation in accordance with Article X hereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall, with respect

to the Bonds, immediately be remitted to the Commission for deposit in the Sinking Funds, pro rata with respect to the principal amount of each of the Bonds then Outstanding, and, with the written permission of the Authority, or in the event the Authority is no longer a Bondholder, the Issuer shall direct the Commission to apply such proceeds to the payment of principal at maturity of and interest on the Bonds in such manner. Any balance remaining after the payment of all 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. Prior to any such sale, lease or other disposition of such property, if the amount to be received therefor, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, is not in excess of \$10,000, the Issuer shall, by resolution, determine that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then provide for the sale of such property. The proceeds of any such sale shall be deposited in the Renewal and Replacement Fund. If the amount to be received from such sale, lease or other disposition of said property, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, shall be in excess of \$10,000 but not in excess of \$50,000, the Issuer shall first, determine upon consultation with the Consulting Engineers that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then, if it be so advised, by resolution duly adopted, authorize such sale, lease or other disposition of such property upon public bidding. The proceeds derived from any such sale, lease or other disposition of such property, aggregating during such Fiscal Year in excess of \$10,000 and not in excess of \$50,000, shall with the written consent of the Authority, be remitted by the Issuer to the Commission for deposit in the Sinking Funds and shall be applied only to the purchase of Bonds of the last maturities then Outstanding at prices not greater than the par value thereof plus 3% of such par value or otherwise. Such payment of such proceeds into the Sinking Funds or the Renewal and Replacement Fund shall not reduce the amounts required to be paid into said funds by other provisions of this Bond Legislation. 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, together with all other amounts received during the same Fiscal Year for such sales, leases, or other dispositions of such properties, shall be in excess of \$50,000 and insufficient to pay all Bonds then Outstanding without the prior approval and consent in writing of the Holders, or their duly authorized representatives, of over 50% in amount of the Bonds then Outstanding. The Issuer shall prepare the form of such approval and consent for execution by the then Holders of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 7.06. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. Except as provided for in Section 7.06 and Section 7.07 hereof, the Issuer shall not issue any obligations whatsoever 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. All obligations issued by the Issuer after the issuance of the Bonds and payable from the revenues of the System, except additional parity Bonds, shall contain an express statement that such obligations are junior and subordinate, as to lien on, pledge and source of and security for payment from such revenues and in all other respects, to the Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into all funds and accounts set forth herein have been made and are current at the time of the issuance of such subordinate obligations.

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 being on a parity with the lien of the Bonds, and the interest thereon, upon any or all of the income and revenues of the System pledged for payment of the Bonds and the interest thereon in this Bond Legislation, or upon the System or any part thereof.

The Issuer shall give the Authority prior written notice of its issuance of any other obligations to be used for the System, payable from the revenues of the System or from any grants, or any other obligations related to the Project or the System.

Section 7.07. 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 Bond Legislation, except under the conditions and in the manner herein provided.

All Parity Bonds issued hereunder shall be on a parity in all respects with the Bonds.

No such Parity Bonds shall be issued except for the purpose of financing the costs of the acquisition or construction of extensions and improvements to the System or refunding the Bonds issued pursuant hereto, or both such purposes.

No Parity Bonds shall be issued at any time, however, unless there has been procured and filed with the Secretary a written statement by the Independent Certified Public 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 for, from the System during any 12 consecutive months, within the 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 3 succeeding years after the completion of the improvements to be financed by such Parity Bonds, shall not be less than 115% of the largest aggregate

amount that will mature and become due in any succeeding Fiscal Year for principal of and interest on the following:

- (1) The Bonds then Outstanding;
- (2) Any Parity Bonds theretofore issued pursuant to the provisions contained in this Resolution or the Series 1995 C 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 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 (a) the improvements to be financed by such Parity Bonds and (b) any increase in rates adopted by the Issuer, the period for appeal of which has 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 Parity Bonds.

The Net Revenues actually derived from the System during the 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 said Independent Certified Public Accountants, as stated in a certificate jointly made and signed by the Consulting Engineers and said Independent Certified Public Accountants, on account of increased rates, rentals, fees and charges for the System adopted by the Issuer, the period for appeal of which has expired prior to issuance of such Parity Bonds.

Within 30 days of the delivery of such Parity Bonds, the Issuer shall have entered into written contracts for the immediate acquisition or construction of such extensions or improvements, if any, to the System that are to be financed by such Parity Bonds.

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

and on account of such Parity Bonds, in addition to the payments required for Bonds theretofore issued pursuant to this Bond Legislation.

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

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

Notwithstanding the foregoing, or any provision of Section 7.06 hereof to the contrary, additional Parity Bonds may be issued solely for the purpose of completing the Project as described in the application to the Authority submitted as of the date of the Loan Agreement without regard to the restrictions set forth in this Section 7.07, if there is first obtained by the Issuer the written consent of the Authority to the issuance of the Parity Bonds.

Section 7.08. 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, or its 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 such documents and information as it 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 or any grants or other sources of financing for the Project.

The Issuer shall permit the Authority, or its 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 Holder of

a Bond or Bonds issued pursuant to this Bond Legislation shall have the right at all reasonable times to inspect the System and all parts thereof and all records, accounts and data of the Issuer relating thereto.

The accounting system for the System shall follow current generally accepted accounting principles and safeguards to the extent allowed and as prescribed by the Public Service Commission of West Virginia. Separate control accounting records shall be maintained by the Issuer. Subsidiary records as may be required shall be kept in the manner and on the forms, books and other bookkeeping records as prescribed by the Governing Body. The Governing Body 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 Governing Body shall be reported to such agent of the Issuer as the Governing Body shall direct.

The Issuer shall file with the Consulting Engineers, the Authority, or any other original purchaser of the Bonds, and shall mail in each year to any Holder or Holders of the 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 Bond Legislation and the status of all said funds and accounts.

(C) The amount of any Bonds, notes or other obligations Outstanding.

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be audited by Independent Certified Public Accountants and shall mail upon request, and make available generally, the report of said Independent Certified Public Accountants, or a summary thereof, to any Holder or Holders of the Bonds and shall submit said report to the Authority, or any other original purchaser of the Bonds. Such audit report submitted to the Authority shall include a statement that the Issuer is in compliance with the terms and provisions of the Loan Agreement and this Bond Legislation and that the revenues of the System are adequate to meet the Issuer's Operating Expenses and debt service requirements.

The Issuer shall permit the Authority, or its 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, or its 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 with respect to the System pursuant to the Act.

Section 7.09. Rates. Equitable rates or charges for the use of and service rendered by the System have been established all 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 reduction 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 Operating Expenses of the System and (ii) to leave a balance each year equal to at least 115% of the maximum amount required in any year for payment of principal of and interest on the Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds, including the Series 1995 C Bonds; provided that, in the event that amounts equal to or in excess of the reserve requirements are on deposit respectively in the Series 1995 A Bonds Reserve Account, the Series 1995 B Bonds Reserve Account and any reserve accounts for obligations prior to or on a parity with the Bonds, including the Series 1995 C Bonds, are funded at least at the requirement therefor, such balance each year need only equal to at least 110% of the maximum amount required in any year for payment of principal of and interest on the Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds, including the Series 1995 C Bonds. In any event, the Issuer shall not reduce the rates or charges for services set forth in the Public Service Commission order described in Section 7.04.

Section 7.10. Operating Budget; Audit and Monthly Financial Report. 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 within 30 days of 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 Engineer, 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 Issuer 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, within 30 days of adoption thereof, and shall

make available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to the Authority and 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 an Independent Certified Public Accountant, the report of which audit shall be submitted to the Authority and which audit report shall include a statement that the Issuer is in compliance with the terms and provisions of this Bond Legislation and the Loan Agreement and that the revenues of the System are adequate to meet the Issuer's Operating Expenses and debt service requirements.

Commencing on the date contracts are executed for the acquisition and construction of the Project and for two years following the completion of the Project, the Issuer shall each month complete a "Monthly Financial Report," a form of which is attached to the Loan Agreement as Exhibit C, and forward a copy of such report to the Authority by the 10th day of each month.

Section 7.11. Engineering Services and Operating Personnel. The Issuer will obtain a certificate of the Consulting Engineers in the form attached to the Loan Agreement, stating, among other things, that the Project has been or will be constructed in accordance with the approved plans, specifications and designs as submitted to the Authority, the Project is adequate for the purposes for which it was designed, the funding plan as submitted to the Authority is sufficient to pay the costs of acquisition and construction of the Project, and all permits required by federal and state laws for construction of the Project have been obtained.

The Issuer shall provide and maintain competent and adequate resident engineering services satisfactory to 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 Issuer at the completion of construction that construction of the Project is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies.

The Issuer agrees that qualified operating personnel properly certified by the State will be employed to operate the System so long as the Series 1995 Bonds are Outstanding.

Section 7.12. No Competing Franchise. To the extent legally allowable, the Issuer will not grant or cause, consent to or allow the granting of, any franchise or permit to any person, firm, corporation, body, agency or instrumentality whatsoever for the providing of any services which would compete with services provided by the System.

Section 7.13. Enforcement of Collections. The Issuer will diligently enforce and collect all fees, rentals or other charges for the services and facilities of the System, and take all steps, actions and proceedings for the enforcement and collection of such fees, rentals or other charges which shall become delinquent to the full extent permitted or authorized by the Act, the rules and regulations of the Public Service Commission of West Virginia and other laws of the State of West Virginia.

Whenever any fees, rates, rentals or other charges for the services and facilities of the System shall remain unpaid for a period of 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. To the extent authorized by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, rates, rentals and other charges, if not paid, when due, shall become a lien on the premises served by the System. The Issuer further covenants and agrees that, it will, to the full extent permitted by law and the rules and regulations promulgated by the Public Service Commission of West Virginia, discontinue and shut off the services of the System and any services and facilities of the water system, if so owned by the Issuer, to all users of the services of the System delinquent in payment of charges for the services of the System and will not restore such services of either system until all delinquent charges for the services of the System, plus reasonable interest and penalty charges for the restoration of service, have been fully paid and shall take all further actions to enforce collections to the maximum extent permitted by law. If the water facilities are not owned by the Issuer, the Issuer shall enter into a termination agreement with the water provider, subject to any required approval of such agreement by the Public Service Commission of West Virginia and all rules, regulations and orders of the Public Service Commission of West Virginia.

Section 7.14. No Free Services. The Issuer will not render or cause to be rendered any free services of any nature by the System, nor will any preferential rates be established for users of the same class; and in the event the Issuer, or any department, agency, instrumentality, officer or employee of either shall avail itself or themselves 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. 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 7.15. Insurance and Construction Bonds. A. The Issuer hereby covenants and agrees that so long as any of the Bonds remain Outstanding, the Issuer will, as an Operating Expense, procure, carry and maintain insurance with a reputable insurance carrier or carriers as is customarily covered with respect to works and properties similar to the System. Such insurance shall initially cover the following risks and be in the following amounts:

(1) FIRE, LIGHTNING, VANDALISM, MALICIOUS MISCHIEF AND EXTENDED COVERAGE INSURANCE, on all above-ground insurable portions of the System in an amount equal to the actual cost thereof. In time of war the Issuer will also carry and maintain insurance to the extent available against the risks and hazards of war. The proceeds of all such insurance policies shall be placed in the Renewal and Replacement Fund and used only for the repairs and restoration of the damaged or destroyed properties or for the other purposes provided herein for the Renewal and Replacement Fund. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance (fire and extended coverage) to protect the interests of the Issuer, the Authority, the prime contractor and all subcontractors as their respective interests may appear, in accordance with the Loan Agreement, during construction of the Project on a 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 Issuer, the contractors and subcontractors, as their interests may appear.

(2) PUBLIC LIABILITY INSURANCE, with limits of not less than \$1,000,000 per occurrence to protect the Issuer and the Issuer from claims for bodily injury and/or death and not less than \$500,000 per occurrence from claims for damage to property of others which may arise from the operation of the System, and insurance with the same limits to protect the Issuer from claims arising out of operation or ownership of motor vehicles of or for the System.

(3) WORKER'S COMPENSATION COVERAGE FOR ALL EMPLOYEES OF OR FOR THE SYSTEM ELIGIBLE THEREFOR; AND PERFORMANCE AND PAYMENT BONDS, such bonds to be in the amounts of 100% of the construction contract and to be required of each contractor contracting directly with the Issuer, and such payment bonds will be filed with the Clerk of The County Commission of the County in which such work is to be performed prior to commencement of construction of the Project in compliance with West Virginia Code, Chapter 38, Article 2, Section 39.

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

(5) BUSINESS INTERRUPTION INSURANCE, to the extent available at reasonable cost to the Issuer.

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

B. The Issuer shall also require all contractors engaged in the construction of the Project to carry such worker's compensation coverage for all employees working on the Project and public liability insurance, vehicular liability insurance and property damage insurance in amounts adequate for such purposes and as is customarily carried with respect to works and properties similar to the Project. In the event the Loan Agreement so requires, such insurance shall be made payable to the order of the Authority, the Issuer, the prime contractor and all subcontractors, as their interests may appear.

Section 7.16. Mandatory Connections. The mandatory use of the System is essential and necessary for the protection and preservation of the public health, comfort, safety, convenience and welfare of the inhabitants and residents of, and the economy of, the Issuer and in order to assure the rendering harmless of sewage and 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 Division 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 Public Service Commission of West Virginia, 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 matters from such house, dwelling or building where there is such gravity flow or transportation by such other method approved by the State Division 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 7.17. Completion of Project; Permits and Orders. The Issuer will complete the Project as promptly as possible and operate and maintain the System as a revenue producing utility in good condition and in compliance with all federal and state requirements and standards.

The Issuer will obtain all permits required by state and federal laws for the acquisition and construction of the Project and all orders and approvals from the Public

Service Commission of West Virginia necessary for the acquisition and construction of the Project and the operation of the System.

Section 7.18. Compliance with Loan Agreement and Law. The Issuer agrees to comply with all the terms and conditions of the Loan Agreement and all applicable laws, rules and regulations issued by the Authority, or other State, federal or local bodies in regard to the acquisition and construction of the Project and the operation, maintenance and use of the System.

Section 7.19. Tax Covenants. The Issuer hereby further covenants and agrees as follows:

A. **PRIVATE BUSINESS USE LIMITATION.** The Issuer shall assure that (i) not in excess of 10% of the Net Proceeds of the Bonds are used for Private Business Use if, in addition, the payment of more than 10% of the principal or 10% of the interest due on the Bonds during the term thereof is, under the terms of the Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for a Private Business Use or in payments in respect of property used or to be used for a Private Business Use or is to be derived from payments, whether or not to the Issuer, in respect of property or borrowed money used or to be used for a Private Business Use; and (ii) and that, in the event that both (A) in excess of 5% of the Net Proceeds of the Bonds are used for a Private Business Use, and (B) an amount in excess of 5% of the principal or 5% of the interest due on the Bonds during the term thereof is, under the terms of the Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for said Private Business Use or in payments in respect of property used or to be used for said Private Business Use or is to be derived from payments, whether or not to the Issuer, in respect of property or borrowed money used or to be used for said Private Business Use, then said excess over said 5% of Net Proceeds of the Bonds used for a Private Business Use shall be used for a Private Business Use related to the governmental use of the Project, or if the Bonds are for the purpose of financing more than one project, a portion of the Project, and shall not exceed the proceeds used for the governmental use of that portion of the Project to which such Private Business Use is related, all of the foregoing to be determined in accordance with the Code.

B. **PRIVATE LOAN LIMITATION.** The Issuer shall assure that not in excess of 5% of the Net Proceeds of the Bonds or \$5,000,000 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.

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

D. **INFORMATION RETURN.** The Issuer will timely file all statements, instruments and returns necessary to assure the tax-exempt status of the Series 1995 A Bonds and the interest thereon, including, without limitation, the information return required under Section 149(e) of the Code.

E. **FURTHER ACTIONS.** The Issuer will take any and all actions that may be required of it (including, without limitation, those deemed necessary by the Authority) so that the interest on the Bonds will be and remain excluded from gross income for federal income tax purposes, and will not take any actions, or fail to take any actions (including, without limitation, those deemed necessary by the Authority), the result of which would adversely affect such exclusion.

Section 7.20. Statutory Mortgage Lien. For the further protection of the Holders of the Bonds, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding, shall take effect immediately upon delivery of the Bonds and shall be on a parity with the statutory mortgage lien in favor of the Holders of the Series 1995 C Bonds.

Section 7.21. Securities Laws 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 (17CFR 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 Bond Legislation other than the Revenue Fund, shall be invested and reinvested by the Commission, the Depository Bank, or such other bank or national banking association holding such fund or account, 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 Bond Legislation, the need for such moneys for the purposes set forth herein and the specific restrictions and provisions set forth in this Section 8.01.

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, and the interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account, except as otherwise provided with respect to the Rebate Fund. 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 holder, including the value of accrued interest and giving effect to the amortization of discount, or at par if such investment is held in the "Consolidated Fund." The Commission, the Depository Bank, or such other bank or national banking association, 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. The Depository Bank or such other bank or national banking association, as the case may be, may make any and all investments permitted by this section through its own investment or trust department and shall not be responsible for any losses from such investments, other than for its own negligence or willful misconduct.

The Depository Bank shall keep complete and accurate records of all funds, accounts and investments, and shall distribute to the Issuer, at least once each year (or more often if reasonably requested by the Issuer), a summary of such funds, accounts and investment earnings. The Issuer shall retain all such records and any additional records with respect to such funds, accounts and investment earnings so long as any of the Bonds are Outstanding and as long thereafter as necessary to comply with the Code and assure the exclusion of interest on the Bonds from gross income for federal income tax purposes.

Section 8.02. Arbitrage and Tax Exemption. The Issuer covenants that (i) it shall not take, or permit or suffer to be taken, any action with respect to the gross or other proceeds of the Bonds which would cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code, and (ii) it will take all actions that may be required of it (including, without implied limitation, the timely filing of a Federal information return with respect to the Bonds) so that the interest on the 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. Tax Certificate and Rebate. The Issuer shall deliver a certificate of arbitrage, a tax certificate or other similar certificate to be prepared by nationally recognized bond counsel or tax counsel relating to payment of arbitrage rebate and other tax matters as a condition to issuance of the Bonds. In addition, the Issuer covenants to comply with all Regulations from time to time in effect and applicable to the Bonds as may be necessary in order to fully comply with Section 148(f) of the Code, and covenants to take such actions, and refrain from taking such actions, as may be necessary to fully comply with such Section 148(f) of the Code and such Regulations, regardless of whether such actions may be contrary to any of the provisions of this Bond Legislation.

The Issuer shall calculate, annually, the rebatable arbitrage, determined in accordance with Section 148(f) of the Code. Upon completion of each such annual calculation, unless otherwise agreed by the Authority, the Issuer shall deposit, or cause to be deposited, in the Rebate Fund such sums as are necessary to cause the aggregate amount on deposit in the Rebate Fund to equal the sum determined to be subject to rebate to the United States, which, notwithstanding anything herein to the contrary, shall be paid from investment earnings on the underlying fund or account established hereunder and on which such rebatable arbitrage was earned or from other lawfully available sources. Notwithstanding anything herein to the contrary, the Rebate Fund shall be held free and clear of any lien or pledge hereunder and shall be used only for payment of rebatable arbitrage to the United States. The Issuer shall pay, or cause to be paid, to the United States, from the Rebate Fund, the rebatable arbitrage in accordance with Section 148(f) of the Code and such Regulations. In the event that there are any amounts remaining in the Rebate Fund following all such payments required by the preceding sentence, the Depository Bank shall pay said amounts to the Issuer to be used for any lawful purpose of the System. The Issuer shall remit payments to the United States in the time and at the address prescribed by the Regulations as the same may be 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, 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 addition, the Issuer shall cooperate with the Authority in preparing rebate calculations and in all other respects in connection with rebates and hereby consents to the performance of all matters in connection with such rebates by the Authority at the expense of the Issuer. To the extent not so performed by the Authority, 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 in order to assure compliance with this Section 8.03. The Issuer shall keep and retain, or cause to be kept and retained, records of the determinations made pursuant to this Section 8.03 in accordance with the requirements of Section 148(f) of the Code and such Regulations. In the event the Issuer

fails to make such rebates as required, the Issuer shall pay any and all penalties and other amounts, from lawfully available sources, and obtain a waiver from the Internal Revenue Service, if necessary, in order to maintain the exclusion of interest on the Series 1995 A Bonds from gross income for federal income tax purposes.

The Issuer shall submit to the Authority within 15 days following the end of each Bond Year a certified copy of its rebate calculation and certificate with respect thereto or, if the Issuer qualifies for the small governmental issue exception to rebate, or any other exception thereto, then the Issuer shall submit to the Authority a certificate stating that it is exempt from such rebate provisions and that no event has occurred to its knowledge during the Bond Year which would make the Bonds subject to rebate. The Issuer shall also furnish to the Authority, at any time, such additional information relating to rebate as may be reasonably requested by the Authority including information with respect to earnings on all funds constituting "gross proceeds" of the Bonds (as such term "gross proceeds" is defined in the Code).

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:

(1) If default occurs in the due and punctual payment of the principal of or interest on the Bonds; or

(2) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part relating to the Bonds set forth in this Bond Legislation, any supplemental resolution or in the 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 the Commission, the Depository Bank, the Registrar, the Paying Agent or any other Paying Agent or a Holder of a Bond; or

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

(4) If default occurs with respect to the Series 1995 C Bonds or the Series 1995 C Bonds Resolution.

Section 9.02. Remedies. Upon the happening and continuance of any Event of Default, any Registered Owner of a 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 Bond Legislation 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 the 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 the Bonds, and (v) by action or bill in equity enjoin any acts in violation of the Bond Legislation with respect to the Bonds, or the rights of such Registered Owners; provided that, all rights and remedies of the Holders of the Bonds shall be on a parity with the Holders of the Series 1995 C Bonds.

Section 9.03. Appointment of Receiver. Any Registered Owner of a Bond may, by proper legal action, compel the performance of the duties of the Issuer under the Bond Legislation and the Act, including, the completion of the Project and, after commencement of operation of the System, 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 Event of Default with respect to such Bonds, any

Registered Owner of a Bond 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 or to complete the acquisition and construction of the Project on behalf of the Issuer, with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of Operating Expenses of the System, the payment of the Bonds and interest and the deposits into the funds and accounts hereby established, and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of this Bond Legislation and the Act.

The receiver so appointed shall forthwith, directly or by his or her or its agents and attorneys, enter into and upon and take possession of all facilities of said System and shall hold, operate and 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 exercise.

Whenever all that is due upon the Bonds and interest thereon and under any covenants of this Bond Legislation 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 Bond Legislation 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 Registered Owner of any Bonds 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 or it, 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 may be 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 Registered Owners of the Bonds. 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 completion of the Project and the possession, operation and maintenance of the System for the sole purpose of the protection of both the Issuer and Registered Owners of such Bonds and the curing and making good of any Event of Default with respect thereto under the provisions of this Bond Legislation, 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, assign, 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 respective Holders of the Bonds, the principal of and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Bond Legislation, then the pledge of Net Revenues and other moneys and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Bonds shall thereupon cease, terminate and become void and be discharged and satisfied, except as may otherwise be necessary to assure the exclusion of interest on the Bonds from gross income for federal income tax purposes.

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 either at maturity or at the next redemption date, the principal installments of and interest on such Bonds shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section. All 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 agent, 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 of and interest due and to become due on said Bonds on and prior to the next redemption date or 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 purpose other than, and shall be held in trust for, the payment of the principal installments of and interest on said Bonds; provided, that any cash received from such principal or interest payments on such securities deposited with the Commission or its agent, 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 installments of and interest to become due on said Bonds on and prior to the next redemption date or the maturity dates thereof, and interest earned from such reinvestments shall be paid over to the Issuer as received by the Commission or its agent, 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. Amendment or Modification of Bond Legislation. Prior to issuance of the Bonds, this Resolution may be amended or supplemented in any way by the Supplemental Resolution. Following issuance of the Bonds, no material modification or amendment of this Resolution, or of any resolution or order amendatory or supplemental hereto, that would materially and adversely affect the rights of Registered Owners of the Bonds shall be made without the consent in writing of the Registered Owners of 66-2/3% or more in principal amount of the Bonds so affected and then Outstanding; provided, 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 funds herein pledged therefor without the consent of the Registered Owner thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of Bonds required for consent to the above-permitted amendments or modifications. Notwithstanding the foregoing, this Bond Legislation may be amended without the consent of any Bondholder as may be necessary to assure compliance with Section 148(f) of the Code relating to rebate requirements or otherwise as may be necessary to assure the exclusion of interest on the Bonds from gross income of the Holders thereof.

Section 11.02. Bond Legislation Constitutes Contract. The provisions of the Bond Legislation shall constitute a contract between the Issuer and the Registered Owners of the Bonds, and no change, variation or alteration of any kind of the provisions of the Bond Legislation shall be made in any manner, except as in this Bond Legislation provided.

Section 11.03. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Resolution should be held invalid by any court of competent jurisdiction, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution, the Series 1995 C Bonds Resolution, the Supplemental Resolutions thereto, or the Bonds.

Section 11.04. Headings, Etc. The headings and catchlines of the articles, sections and subsections hereof are for convenience of reference only, and shall not affect in any way the meaning or interpretation of any provision hereof.

Section 11.05. Conflicting Provisions Repealed. All orders or resolutions or parts thereof in conflict with the provisions of this Resolution are, to the extent of such conflict, hereby repealed, provided that, in the event of any conflict between this Resolution and the Series 1995 C Bonds Resolution, the more restrictive provision shall control.

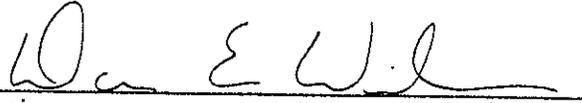
Section 11.06. Covenant of Due Procedure, Etc. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the adoption of this Resolution do exist, have happened, have been performed and have been taken in regular 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 Governing Body 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 11.07. Public Notice of Proposed Financing. Prior to making formal application to the Public Service Commission of West Virginia for a Certificate of Public Convenience and Necessity and adoption of this Resolution, the Secretary of the Governing Body shall have caused to be published in a newspaper of general circulation in each municipality in Hancock County Public Service District and within the boundaries of the Issuer, a Class II legal advertisement stating:

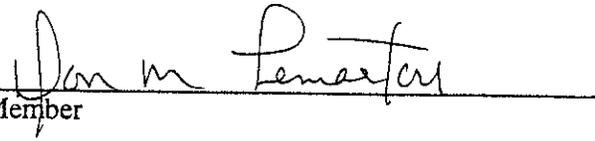
- (a) The maximum amount of the Bonds to be issued;
- (b) The maximum interest rate and terms of the Bonds authorized hereby;
- (c) The public service properties to be acquired or constructed and the cost of the same;
- (d) The maximum anticipated rates which will be charged by the Issuer; and
- (e) The date that the formal application for a certificate of public convenience and necessity is to be filed with the Public Service Commission of West Virginia.

Section 11.08. Effective Date. This Resolution shall take effect immediately upon adoption.

Adopted this 6th day of December, 1995.



Chairman



Member

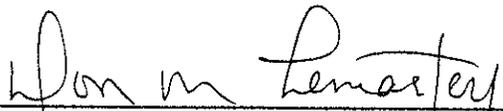
Member

CERTIFICATION

Certified a true copy of a Resolution duly adopted by the Public Service Board of HANCOCK COUNTY PUBLIC SERVICE DISTRICT on the 6th day of December, 1995.

Dated: December 7, 1995.

[SEAL]


Secretary

12/04/95
HANJM.A4
373520/90001

EXHIBIT A

[Loan Agreement attached to bond transcript as Document 3.]

HANCOCK COUNTY PUBLIC SERVICE DISTRICT

Sewer Revenue Bonds,
Series 1995 A (West Virginia Water Development Authority)
and Series 1995 B (West Virginia Water Development Authority)

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNT, DATE, MATURITY DATE, REDEMPTION PROVISION, INTEREST RATE, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICE AND OTHER TERMS OF THE SEWER REVENUE BONDS, SERIES 1995 A (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY) AND SEWER REVENUE BONDS, SERIES 1995 B (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY), OF HANCOCK COUNTY PUBLIC SERVICE DISTRICT; AUTHORIZING AND APPROVING A LOAN AGREEMENT RELATING TO SUCH BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the Public Service Board (the "Governing Body") of Hancock County Public Service District (the "Issuer"), has duly and officially adopted a bond resolution, effective December 6, 1995 (the "Bond Resolution" or the "Resolution"), entitled:

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF PUBLIC SEWERAGE FACILITIES OF HANCOCK COUNTY PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN \$289,532 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 1995 A (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY) AND NOT MORE THAN \$1,080,088 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 1995 B (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY);

PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING AND RATIFYING A LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

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

WHEREAS, the Bond Resolution provides for the issuance of Sewer Revenue Bonds, Series 1995 A (West Virginia Water Development Authority) and Series 1995 B (West Virginia Water Development Authority), of the Issuer (collectively, the "Bonds" and individually, the "Series 1995 A Bonds" and the "Series 1995 B Bonds"), in the respective aggregate principal amounts not to exceed \$289,532 (Series 1995 A Bonds) and \$1,080,088 (Series 1995 B Bonds), and has authorized the execution and delivery of a loan agreement relating to the Bonds (the "Loan Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), all in accordance with Chapter 16, Article 13A of the West Virginia Code of 1931, as amended (the "Act"); and in the Bond Resolution it is provided that the form of the Loan Agreement and the exact principal amount, date, maturity date, redemption provision, interest rate, interest and principal payment dates, sale price 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 Loan Agreement has been presented to the Issuer at this meeting;

WHEREAS, the Bonds are proposed to be purchased by the Authority pursuant to the Loan Agreement; and

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted and that the Loan Agreement be approved and entered into by the Issuer, that the exact principal amount, the date, the maturity date, the redemption provision, the interest rate, the interest and principal

payment dates and the sale price of the Bonds be fixed hereby in the manner stated herein, and that other matters relating to the Bonds be herein provided for;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF HANCOCK COUNTY PUBLIC SERVICE DISTRICT:

Section 1. Pursuant to the Bond Resolution and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the following bonds of the Issuer:

A. The Sewer Revenue Bonds, Series 1995 A (West Virginia Water Development Authority), of the Issuer, originally represented by a single Bond, numbered AR-1, in the principal amount of \$289,532. The Series 1995 A Bonds shall be dated the date of delivery thereof, shall finally mature October 1, 2033, and shall bear interest at the rate of 6.75% per annum, payable semiannually on April 1 and October 1 of each year, beginning April 1, 1996. The Series 1995 A Bonds shall be payable in annual installments of principal on October 1 of each year, commencing October 1, 1997, and ending October 1, 2033, and in the amounts as set forth in "Schedule X" attached to the Loan Agreement and incorporated in and made a part of the Series 1995 A Bonds. The Series 1995 A Bonds shall be subject to redemption upon the written consent of the Authority, and upon payment of the interest and redemption premium, if any, and otherwise in compliance with the Loan Agreement, so long as the Authority shall be the registered owner of the Series 1995 A Bonds. The Issuer shall, if requested by the Authority, exchange the Series 1995 A Bond for one or more series of Bonds as provided herein and in the Bond Resolution; provided that, the aggregate principal amount and the net interest cost amount of the exchanged Bonds do not exceed \$289,532 and 6.75% respectively, and the exchanged Bonds have in the aggregate substantially similar principal installments.

B. The Sewer Revenue Bonds, Series 1995 B (West Virginia Water Development Authority), of the Issuer, originally represented by a single Bond, numbered BR-1, in the principal amount of \$1,080,088. The Series 1995 B Bonds shall be dated the date of delivery thereof, shall finally mature October 1, 2035, and shall bear interest at the rate of 6.75% per annum, payable semiannually on April 1 and October 1 of each year, beginning April 1, 1996. The Series 1995 B Bonds shall be payable in annual installments of principal on October 1 of each year, commencing October 1, 1997, and ending October 1, 2035, and in the amounts as set forth in "Schedule X" attached to the Loan Agreement and incorporated in and made a part of the Series 1995 B Bonds. The Series 1995 B Bonds shall be subject to redemption upon the written consent of the Authority, and upon payment of the interest and redemption premium, if any, and otherwise in compliance with the Loan Agreement, so long as the Authority shall be the registered owner of the Series 1995 B Bonds. The Issuer shall, if requested by the Authority, exchange the Series 1995 B Bond for one or more series of Bonds as provided herein and in the Bond Resolution; provided that, the aggregate principal amount and the net interest

cost amount of the exchanged Bonds do not exceed \$1,080,088 and 6.75% respectively, and the exchanged Bonds have in the aggregate substantially similar principal installments.

Section 2. All other provisions relating to the Bonds and the text of the Bonds shall be in substantially the form provided in the Bond Resolution.

Section 3. The Issuer does hereby authorize, approve and accept the Loan Agreement, a copy of which is incorporated herein by reference, and the execution and delivery of the Loan Agreement by the Chairman, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, directed, ratified and approved. The Issuer hereby affirms all covenants and representations made in the Loan Agreement and in the application to the Authority. The price of the Bonds shall be 100% of par value, there being no interest accrued thereon.

Section 4. The Issuer 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 Issuer and the Registrar, and the execution and delivery of the Registrar's Agreement by the Chairman, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, approved and directed.

Section 5. The Issuer does hereby appoint and direct the West Virginia Municipal Bond Commission, Charleston, West Virginia, to serve as Paying Agent for the Bonds.

Section 6. The Issuer does hereby appoint United National Bank, Weirton, West Virginia, as Depository Bank under the Bond Resolution.

Section 7. Series 1995 A Bonds proceeds in the amount of -0- shall be deposited in the Series 1995 A Bonds Sinking Fund, as capitalized interest.

Section 8. Series 1995 A Bonds proceeds in the amount of -0- shall be deposited in the Series 1995 A Bonds Reserve Account.

Section 9. Series 1995 B Bonds proceeds in the amount of -0- shall be deposited in the Series 1995 B Bonds Sinking Fund, as capitalized interest.

Section 10. Series 1995 B Bonds proceeds in the amount of -0- shall be deposited in the Series 1995 B Bonds Reserve Account.

Section 11. The balance of the proceeds of the Bonds shall be deposited in or credited to the Construction Trust Fund for payment of Costs of the Project, including, without limitation, costs of issuance of the Bonds and related costs.

Section 12. The Chairman and Secretary are hereby authorized and directed to execute and deliver such other documents, agreements, instruments and certificates required or desirable in connection with the Bonds to be issued hereby and by the Bond Resolution approved and provided for, to the end that the Bonds may be delivered on or about December 7, 1995, to the Authority pursuant to the Loan Agreement.

Section 13. The acquisition and construction of the Project and the financing thereof in part with proceeds of the Bonds are in the public interest, serves a public purpose of the Issuer and will promote the health, welfare and safety of the residents of the Issuer.

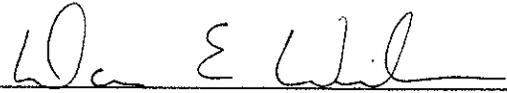
Section 14. The Issuer hereby determines that it is in the best interest of the Issuer to invest all moneys in the funds and accounts established by the Bond Resolution held by the Depository Bank until expended, in repurchase agreements or time accounts, secured by a pledge of Government Obligations, and therefore, the Issuer hereby directs the Depository Bank to take such actions as may be necessary to cause such moneys to be invested in such repurchase agreements or time accounts, until further directed in writing by the Issuer. Moneys in the Sinking Funds, including the Reserve Accounts therein, shall be invested by the West Virginia Municipal Bond Commission in the West Virginia Consolidated Fund.

Section 15. The Issuer shall not permit at any time or times any of the proceeds of the 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 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 Issuer will take all actions necessary to comply with the Code and Treasury Regulations promulgated or to be promulgated thereunder.

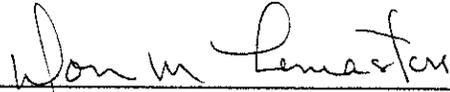
Section 16. This Supplemental Resolution shall be effective immediately following adoption hereof.

Adopted this 6th day of December, 1995.

HANCOCK COUNTY PUBLIC SERVICE
DISTRICT



Chairman



Member

Member

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Public Service Board of Hancock County Public Service District on the 6th day of December, 1995.

Dated: December 7, 1995.

[SEAL]


Secretary

12/04/95
HANJM.G5
373520/90001

HANCOCK COUNTY PUBLIC SERVICE DISTRICT

Sewer Revenue Bonds,
Series 1995 A (West Virginia Water Development Authority)
and Series 1995 B (West Virginia Water Development Authority)

SUPPLEMENTAL RESOLUTION

WHEREAS, the Public Service Board (the "Governing Body") of Hancock County Public Service District (the "Issuer"), has duly and officially adopted a supplemental resolution, effective December 6, 1995 (the "Prior Supplemental Resolution"), entitled:

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNT, DATE, MATURITY DATE, REDEMPTION PROVISION, INTEREST RATE, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICE AND OTHER TERMS OF THE SEWER REVENUE BONDS, SERIES 1995 A (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY) AND SEWER REVENUE BONDS, SERIES 1995 B (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY), OF HANCOCK COUNTY PUBLIC SERVICE DISTRICT; AUTHORIZING AND APPROVING A LOAN AGREEMENT RELATING TO SUCH BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Prior Supplemental Resolution when used herein;

WHEREAS, the Prior Supplemental Resolution provides that the Issuer shall, if requested by the Authority, exchange the Series 1995 B Bond for one or more series of Bonds; provided that, the aggregate principal amount and the net interest cost amount of the exchanged Bonds do not exceed \$1,080,088 and 6.75% respectively, and the exchanged Bonds have in the aggregate substantially similar principal installments;

WHEREAS, the Authority has requested the Issuer to exchange the Series 1995 B Bond delivered on December 7, 1995, for another fully registered Bond of the same series in the aggregate principal amount of \$1,080,088 at a net interest cost of 6.25%; and

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted to approve the exchange of the Series 1995 B Bond;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF HANCOCK COUNTY PUBLIC SERVICE DISTRICT:

Section 1. Pursuant to the Prior Supplemental Resolution and the Act, this Supplemental Resolution is hereby adopted. The Issuer is hereby authorized and ordered to exchange the Series 1995 B Bond delivered on December 7, 1995, for the following bond of the Issuer:

The Sewer Revenue Bonds, Series 1995 B (West Virginia Water Development Authority), of the Issuer, originally represented by a single Bond, numbered BR-1, in the principal amount of \$1,080,088. The Series 1995 B Bonds shall be dated the date of delivery thereof, shall finally mature October 1, 2035, and shall bear interest at the rate of 6.25% per annum, payable semiannually on April 1 and October 1 of each year, beginning April 1, 1996. The Series 1995 B Bonds shall be payable in annual installments of principal on October 1 of each year, commencing October 1, 1997, and ending October 1, 2035, and in the amounts as set forth in "Schedule X" attached to the Loan Agreement and incorporated in and made a part of the Series 1995 B Bonds. The Series 1995 B Bonds shall be subject to redemption upon the written consent of the Authority, and upon payment of the interest and redemption premium, if any, and otherwise in compliance with the Loan Agreement, so long as the Authority shall be the registered owner of the Series 1995 B Bonds.

Section 2. All other provisions relating to the Bonds and the text of the Bonds shall be in substantially the form provided in the Bond Resolution.

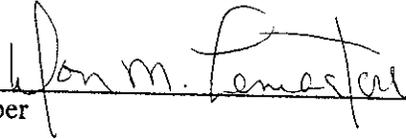
Section 3. The Chairman and Secretary are hereby authorized and directed to execute and deliver such other documents, agreements, instruments and certificates required or desirable in connection with the exchange of the Series 1995 B Bond, to the end that the exchanged Bonds may be delivered on or about January 9, 1996, to the Authority. The Chairman is hereby authorized to make any adjustments to the accounts established for the Bonds at the West Virginia Municipal Bond Commission.

Adopted this 3rd day of January, 1996.

HANCOCK COUNTY PUBLIC SERVICE
DISTRICT



Chairman



Member

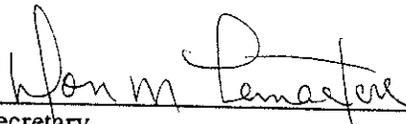
Member

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Public Service Board of Hancock County Public Service District on the 3rd day of January, 1996.

Dated: January 9, 1996.

[SEAL]


Secretary

01/02/96
HANJM.EE2
373520/90001

HANCOCK COUNTY PUBLIC SERVICE DISTRICT

**SEWER REVENUE BONDS, SERIES 1995 C
(WEST VIRGINIA SRF PROGRAM)**

BOND RESOLUTION

Table of Contents

Subject		Page
ARTICLE I		
STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS		
Section 1.01	Authority for this Resolution	1
Section 1.02	Findings	1
Section 1.03	Bond Legislation Constitutes Contract	3
Section 1.04	Definitions	4
ARTICLE II		
AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF THE PROJECT		
Section 2.01	Authorization of Acquisition and Construction of the Project	13
ARTICLE III		
AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND SALE OF BONDS; AUTHORIZATION AND EXECUTION OF LOAN AGREEMENT		
Section 3.01	Authorization of Bonds	14
Section 3.02	Terms of Bonds	14
Section 3.03	Execution of Bonds	15
Section 3.04	Authentication and Registration	15
Section 3.05	Negotiability, Transfer and Registration	15
Section 3.06	Bonds Mutilated, Destroyed, Stolen or Lost	16
Section 3.07	Bonds not to be Indebtedness of the Issuer	16
Section 3.08	Bonds Secured by Pledge of Net Revenues	17

Section 3.09	Delivery of Bonds	17
Section 3.10	Form of Bonds	17
	FORM OF SERIES 1995 C BOND	18
Section 3.11	Sale of Bonds; Approval and Ratification of Execution of Loan Agreement	26
Section 3.12	"Amended Schedule A" Filing	26

ARTICLE IV
[RESERVED] 27

ARTICLE V
FUNDS AND ACCOUNTS; SYSTEM REVENUES AND APPLICATION THEREOF

Section 5.01	Establishment of Funds and Accounts with Depository Bank	28
Section 5.02	Establishment of Funds and Accounts with Commission	28
Section 5.03	System Revenues; Flow of Funds	29

ARTICLE VI
BOND PROCEEDS; CONSTRUCTION DISBURSEMENTS

Section 6.01	Application of Bond Proceeds; Pledge of Unexpended Bond Proceeds	33
Section 6.02	Disbursements From the Series 1995 C Bonds Construction Trust Fund	34

ARTICLE VII
ADDITIONAL COVENANTS OF THE ISSUER

Section 7.01	General Covenants of the Issuer	35
Section 7.02	Bonds not to be Indebtedness of the Issuer	35
Section 7.03	Bonds Secured by Pledge of Net Revenues	35
Section 7.04	Initial Schedule of Rates and Charges	35
Section 7.05	Sale of the System	35
Section 7.06	Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances	37
Section 7.07	Parity Bonds	37
Section 7.08	Books; Records and Facilities	39
Section 7.09	Rates	41
Section 7.10	Operating Budget; Audit and Monthly Financial Report	41
Section 7.11	Engineering Services and Operating Personnel	42
Section 7.12	No Competing Franchise	43

Section 7.13	Enforcement of Collections	43
Section 7.14	No Free Services	44
Section 7.15	Insurance and Construction Bonds	44
Section 7.16	Mandatory Connections	45
Section 7.17	Completion of Project; Permits and Orders	46
Section 7.18	Compliance with Loan Agreement and Law	46
Section 7.19	Tax Covenants	46
Section 7.20	Statutory Mortgage Lien	47
Section 7.21	Securities Laws Compliance	47

ARTICLE VIII

INVESTMENT OF FUNDS; NON ARBITRAGE

Section 8.01	Investments	49
Section 8.02	Arbitrage and Tax Exemption	49
Section 8.03	Tax Certificate and Rebate	50

ARTICLE IX

DEFAULT AND REMEDIES

Section 9.01	Events of Default	52
Section 9.02	Remedies	52
Section 9.03	Appointment of Receiver	52

ARTICLE X

DEFEASANCE

Section 10.01	Defeasance of Bonds	54
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ARTICLE XI

MISCELLANEOUS

Section 11.01	Amendment or Modification of Bond Legislation	55
Section 11.02	Bond Legislation Constitutes Contract	55
Section 11.03	Severability of Invalid Provisions	55
Section 11.04	Headings, Etc.	55
Section 11.05	Conflicting Provisions Repealed	55
Section 11.06	Covenant of Due Procedure, Etc.	56
Section 11.07	Effective Date	56
Section 11.08	Public Notice of Proposed Financing	56
	SIGNATURES	57
	CERTIFICATION	58
	EXHIBIT A	59

HANCOCK COUNTY PUBLIC SERVICE DISTRICT

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF IMPROVEMENTS AND EXTENSIONS, TO THE EXISTING PUBLIC SEWERAGE FACILITIES OF HANCOCK COUNTY PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN \$883,974 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 1995 C (WEST VIRGINIA SRF PROGRAM); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED 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 RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

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

ARTICLE I

STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01. Authority for this Resolution. This Resolution (together with any order or resolution supplemental hereto or amendatory hereof, the "Bond Legislation") is adopted pursuant to the provisions of Chapter 16, Article 13A and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"), and other applicable provisions of law.

Section 1.02. Findings. It is hereby found, determined and declared that:

A. The Hancock County Public Service District (the "Issuer") is a public service district and a public corporation and political subdivision of the State of West Virginia in Hancock County of said State.

B. The Issuer presently owns and operates a public sewerage system. However, it is deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer that there be acquired and constructed certain public sewerage facilities of the Issuer, consisting of approximately 64,900 feet of vacuum sewer line, 9,100 feet of gravity sewer, 25,000 feet of vacuum/gravity sewers, 8,500 feet of forcemain, two vacuum collection/pumping stations and nine grinder pump facilities, together with all appurtenant facilities (collectively, the "Project") (the Project and any further improvements or extensions thereto are herein called the "System") at an estimated cost of not more than \$6,400,074, in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have heretofore been filed with the Issuer.

C. The Issuer intends to permanently finance a portion of such costs of acquisition and construction of the Project through the issuance of its revenue bonds to the West Virginia Water Development Authority (the "Authority"), in connection with the West Virginia Water Pollution Control Revolving Fund program (the "SRF Program"), pursuant to the Act, in order to take advantage of the favorable terms available to the Issuer under the SRF Program.

D. It is deemed necessary for the Issuer to issue its Sewer Revenue Bonds, Series 1995 C (West Virginia SRF Program), in the aggregate principal amount of not more than \$950,000 (the "Series 1995 C Bonds"), initially to be represented by a single bond, to permanently finance a portion of the costs of acquisition and construction of the Project. The remaining costs of the project shall be funded from the sources set forth in Section 2.01 hereof. Said costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor; interest upon the Series 1995 C Bonds prior to and during acquisition and construction of the Project and for a period not exceeding 6 months after completion of acquisition and construction of the Project; amounts which may be deposited in the Series 1995 C Bonds Reserve Account (as hereinafter defined); engineering and legal expenses; expenses for estimates of costs and revenues, expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense, commitment fees, fees and expenses of the Authority, discount, initial fees for the services of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Series 1995 C Bonds and such other expenses as may be necessary or incidental to the financing herein authorized, the acquisition or construction of the Project and the placing of same in operation, and the performance of the things herein required or permitted, in connection with any thereof; provided, that reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Series 1995 C Bonds or the repayment of indebtedness incurred by the Issuer for such purposes shall be deemed Costs of the Project, as hereinafter defined.

E. The period of usefulness of the System after completion of the Project is not less than 40 years.

F. It is in the best interests of the Issuer that its Series 1995 C Bonds be sold to the Authority pursuant to the terms and provisions of a loan agreement by and among the Issuer, the Authority and the West Virginia Division of Environmental Protection, a division of the West Virginia Bureau of Environment (the "DEP"), in form satisfactory to the Issuer, the Authority and the DEP, (the "Loan Agreement") to be approved hereby if not previously approved by resolution of the Issuer.

G. There will be issued concurrently with the Series 1995 C Bonds, on the Closing Date, obligations of the Issuer which rank on a parity with the Series 1995 C Bonds as to liens, pledge, source of and security for payment, being the Issuer's Sewer Revenue Bonds, Series 1995 A (West Virginia Water Development Authority) (the "Series 1995 A Bonds") and Series 1995 B (West Virginia Water Development Authority (the "Series 1995 B Bonds"), to be issued pursuant to a separate resolution adopted by the Issuer simultaneously herewith on December 6, 1995 (the "Series 1995 A and Series 1995 B Bonds Resolution"). Other than the Series 1995 A Bonds and the Series 1995 B Bonds, there are no outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System.

H. The estimated revenues to be derived in each year after completion of the Project from the operation of the System will be sufficient to pay all costs of operation and maintenance of the System and the principal of and interest on the Bonds (as hereinafter defined) and to make payments into all Sinking Funds, Reserve Accounts and other payments provided for herein and in the Series 1995 A and Series 1995 B Bonds Resolution, all as such terms are hereinafter defined.

I. The Issuer has complied with all requirements of West Virginia law and the Loan Agreement relating to authorization of the acquisition, construction and operation of the Project and the System and issuance of the Series 1995 C Bonds, or will have so complied prior to issuance of any thereof, including, among other things and without limitation, the approval (or "grandfathering") of the Project and the financing thereof by the West Virginia Infrastructure and Jobs Development Council obtaining of a certificate of convenience and necessity and approval of this financing and necessary user rates and charges described herein from the Public Service Commission of West Virginia by final order, the time for rehearing and appeal of which will either have expired prior to the issuance of the Series 1995 C Bonds or such final order will not be subject to appeal or rehearing.

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Series 1995 C Bonds by those who shall be the Registered Owners of the same from time to time, this Bond Legislation shall be deemed to be and

shall constitute a contract between the Issuer and such Bondholders, and the covenants and agreements herein set forth to be performed by the Issuer shall be for the equal benefit, protection and security of the Registered Owners of any and all of such Series-1995 C Bonds, all which shall be of equal rank and without preference, priority or distinction between any one Bond of a series and any other Bonds of the same series, by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

Section 1.04. Definitions. The following terms shall have the following meanings herein unless the context expressly requires otherwise:

"Act" means, collectively, Chapter 16, Article 13A and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended and in effect on the date of adoption hereof.

"Authority" means the West Virginia Water Development Authority, which is expected to be the original purchaser and Registered Owner of the Series 1995 C Bonds, or any other agency of the State of West Virginia that succeeds to the functions of the Authority.

"Authorized Officer" means the Chairman of the Governing Body of the Issuer, or any temporary Chairman duly selected by the Governing Body.

"Bondholder," "Holder of the Bonds," "Holder," "Registered Owner" or any similar term whenever used herein with respect to an outstanding Bond or Bonds, means the person in whose name such Bond is registered.

"Bond Legislation," "Resolution," "Bond Resolution" or "Local Act" means this Bond Resolution and all orders and resolutions supplemental hereto or amendatory hereof.

"Bond Registrar" means the bank or other entity to be designated as such in the Supplemental Resolution and its successors and assigns.

"Bonds" means, collectively, the Series 1995 C Bonds, the Series 1995 A Bonds, the Series 1995 B Bonds and, where appropriate, any bonds on a parity therewith subsequently issued hereunder or pursuant to another resolution of the Issuer.

"Bond Year" means the 12-month period beginning on the anniversary of the Closing Date in each year and ending on the day prior to the anniversary date of the Closing Date in the following year, except that the first Bond Year shall begin on the Closing Date.

"Chairman" means the Chairman of the Governing Body of the Issuer.

"Closing Date" means the date upon which there is an exchange of the Series 1995 C Bonds for the proceeds or at least a de minimis portion thereof representing the purchase price of the Series 1995 C Bonds from the Authority.

"Code" means the Internal Revenue Code of 1986, as amended, and the Regulations.

"Commission" means the West Virginia Municipal Bond Commission or any other agency of the State of West Virginia that succeeds to the functions of the Commission.

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

"Construction Trust Fund" means the Construction Trust Fund established by Section 5.01 of the Series 1995 A and Series 1995 B Bonds Resolution.

"Consulting Engineers" means L. Robert Kimball & Associates, Inc., Moon Township, Pennsylvania, or any qualified engineer or firm of engineers that shall at any time hereafter be retained by the Issuer as Consulting Engineers for the System, or portion thereof; provided however, that the Consulting Engineers shall not be a regular, full-time employee of the State or any of its agencies, commissions, or political subdivisions.

"Costs" or "Costs of the Project" means those costs described in Section 1.02D hereof to be a part of the cost of acquisition and construction of the Project.

"DEP" means the 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 to the functions of the DEP.

"Depository Bank" means the bank designated as such in the Supplemental Resolution, and its successors and assigns.

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

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

"Governing Body" or "Board" means the public service board of the Issuer, as it may now or hereafter be constituted.

"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.

"Grants" means all moneys received by the Issuer on account of any Grant for the Project.

"Gross Revenues" means the aggregate gross operating and non-operating revenues of the System, as hereinafter defined, 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, purchased pursuant to Article 8.01 hereof) or any Tap Fees, as hereinafter defined.

"Herein," "hereto" and similar words shall refer to this entire Bond Legislation.

"Independent Certified Public Accountants" means any certified public accountant or firm of certified public accountants that shall at any time hereafter be retained by the Issuer to prepare an independent annual or special audit of the accounts of the System or for any other purpose except keeping the accounts of the System in the normal operation of its business and affairs.

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

"Issuer" means the Hancock County Public Service District, a public service district and a public corporation in Hancock County, West Virginia, and, unless the context clearly indicates otherwise, includes the Governing Body of the Issuer.

"Loan Agreement" means the Loan Agreement heretofore entered, or to be entered, into by and among the Authority, the DEP and the Issuer, providing for the purchase of the Series 1995 C Bonds from the Issuer by the Authority, the form of which shall be approved, and the execution and delivery by the Issuer authorized and directed or ratified, by the Supplemental Resolution.

"Net Proceeds" means the face amount of the Series 1995 C Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds, if any, deposited in the Series 1995 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 1995 C Bonds, without regard to whether or not such investment is made in tax-exempt obligations.

"Net Revenues" means the balance of the Gross Revenues, remaining after deduction of Operating Expenses, as hereinafter defined.

"Nonpurpose Investment" means any Investment Property which is acquired with the gross proceeds or any other proceeds of the Series 1995 C Bonds and is not acquired in order to carry out the governmental purpose of the Series 1995 C Bonds.

"Operating Expenses" means the reasonable, proper and necessary costs of repair, operation and maintenance of the System and includes, without limiting the generality of the foregoing, administrative, engineering, legal, auditing and insurance expenses, other than those capitalized as part of the Costs, the SRF Administrative Fee, fees and expenses of the Authority, fiscal agents, the Depository Bank, the Registrar and the Paying Agent (all as herein defined), 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 Series 1995 A Bonds or the Series 1995 B Bonds or the Series 1995 C Bonds, charges for depreciation, losses from the sale or other disposition of, or from any decrease in the value of, capital assets, amortization of debt discount or such miscellaneous deductions as are applicable to prior accounting periods.

"Outstanding," when used with reference to Bonds and as of any particular date, describes all Bonds theretofore and thereupon being authenticated and delivered, except (i) any Bond cancelled by the Bond Registrar at or prior to said date; (ii) any Bond for the payment of which moneys, equal to its principal amount and redemption premium, if applicable, with interest to the date of maturity or redemption shall be in trust hereunder and set aside for such payment (whether upon or prior to maturity); (iii) any 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 Bonds registered to the Issuer.

"Parity Bonds" means additional Bonds which may be issued under the provisions and within the limitations prescribed by Section 7.07 hereof.

"Paying Agent" means the Commission or other entity designated as such for the Series 1995 C Bonds in the Supplemental Resolution with the written consent of the Authority and the DEP.

"Private Business Use" means 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.

"Project" means the acquisition and construction of public sewerage facilities of the Issuer, consisting of approximately 64,900 feet of vacuum sewer line, 9,100 feet of gravity sewer, 25,000 feet of vacuum/gravity sewers, 8,500 feet of forcemain, two vacuum collection/pumping stations and nine grinder pump facilities, together with all appurtenant facilities.

"Qualified Investments" means and includes 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; Tennessee Valley Authority; or Washington Metropolitan Area Transit Authority;
- (d) Any bond, debenture, note, participation certificate or other similar obligations 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 FDIC or Federal Savings and Loan Insurance Corporation, 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 holder 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 West Virginia "consolidated fund" managed by the West Virginia State Board of Investments pursuant to Chapter 12, Article 6 of the West Virginia Code of 1931, as amended; and

(i) Obligations of states or political subdivisions or agencies thereof, the interest on which is excluded from gross income for federal income tax purposes, and which are rated at least "A" by Moody's Investors Service, Inc. or Standard & Poor's Corporation.

"Rebate Fund" means the Rebate Fund established by Section 5.01 of the Series 1995 A and Series 1995 B Bonds Resolution.

"Registrar" means the Bond Registrar.

"Regulations" means temporary and permanent regulations promulgated under the Code; or any predecessor to the Code.

"Renewal and Replacement Fund" means the Renewal and Replacement Fund established by Section 5.01 of the Series 1995 A and Series 1995 B Bonds Resolution.

"Reserve Accounts" means, collectively, the Series 1995 A Bonds Reserve Account, the Series 1995 B Bonds Reserve Account and the Series 1995 C Bonds Reserve Account.

"Reserve Requirement" means, collectively, the respective amount required to be on deposit in any reserve account for the Bonds.

"Revenue Fund" means the Revenue Fund established by Section 5.01 of the Series 1995 A and Series 1995 B Bonds Resolution.

"Secretary" means the Secretary of the Governing Body of the Issuer.

"Series 1995 A Bonds" means the not more than \$289,532 aggregate principal amount of Sewer Revenue Bonds, Series 1995 A (West Virginia Water Development Authority), of the Issuer.

"Series 1995 A Bonds Reserve Account" means the Series 1995 A Bonds Reserve Account established in the Series 1995 A Bonds Sinking Fund pursuant to Section 5.02 of the Series 1995 A and Series 1995 B Bonds Resolution.

"Series 1995 A Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 1995 A Bonds in the then current or any succeeding year.

"Series 1995 A Bonds Sinking Fund" means the Series 1995 A Bonds Sinking Fund established by Section 5.02 of the Series 1995 A and Series 1995 B Bonds Resolution.

"Series 1995 B Bonds" means the not more than \$1,080,088 aggregate principal amount of Sewer Revenue Bonds, Series 1995 B (West Virginia Water Development Authority), of the Issuer.

"Series 1995 B Bonds Reserve Account" means the Series 1995 B Bonds Reserve Account established in the Series 1995 B Bonds Sinking Fund pursuant to Section 5.02 of the Series 1995 A and Series 1995 B Bonds Resolution.

"Series 1995 B Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 1995 B Bonds in the then current or any succeeding year.

"Series 1995 B Bonds Sinking Fund" means the Series 1995 B Bonds Sinking Fund established by Section 5.02 of the Series 1995 A and Series 1995 B Bonds Resolution.

"Series 1995 A and Series 1995 B Bonds Resolution" means the resolution of the Issuer adopted simultaneously herewith on December 6, 1995, authorizing the Series 1995 A Bonds and Series 1995 B Bonds.

"Series 1995 C Bonds" means the not more than \$883,974 in aggregate principal amount of Sewer Revenue Bonds, Series 1995 C (West Virginia SRF Program), of the Issuer, authorized by this Resolution.

"Series 1995 C Bonds Construction Trust Fund" means the Series 1995 C Bonds Construction Trust Fund established by Section 5.01 hereof.

"Series 1995 C Bonds Reserve Account" means the Series 1995 C Bonds Reserve Account established in the Series 1995 C Bonds Sinking Fund pursuant to Section 5.02 hereof.

"Series 1995 C Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 1995 C Bonds in the then current or any succeeding year.

"Series 1995 C Bonds Sinking Fund" means the Series 1995 C Bonds Sinking Fund established by Section 5.02 hereof.

"Sinking Funds" means, collectively, the Series 1995 A Bonds Sinking Fund, the Series 1995 B Bonds Sinking Fund and the Series 1995 C Bonds Sinking Fund.

"SRF Administrative Fee" means any administrative fee required to be paid under the Loan Agreement.

"SRF Program" means the State's Water Pollution Control Revolving Fund Program, under which the Authority purchases the water pollution control revenue bonds of local governmental entities satisfying certain legal and other requirements with the proceeds of a capitalization grant award from the United States Environmental Protection Agency and funds of the State.

"SRF Regulations" means the regulations set forth in Title 47, Series 31 of the West Virginia Code of State Regulations.

"State" means the State of West Virginia.

"Supplemental Resolution" means any resolution or order of the Issuer supplementing or amending this Resolution and, when preceded by the article "the," refers specifically to the supplemental resolution or resolution authorizing the sale of the Series 1995 C Bonds; provided, that any matter intended by this Resolution to be included in the Supplemental Resolution with respect to the Series 1995 C Bonds, and not so included, may be included in another Supplemental Resolution.

"Surplus Revenues" means the Net Revenues not required by the Bond Legislation to be set aside and held for the payment of or security for the Series 1995 A Bonds, the Series 1995 C Bonds or any other obligations of the Issuer, including, without limitation, the Renewal and Replacement Fund and the respective Reserve Accounts.

"System" means the complete properties of the Issuer for the collection, treatment, purification or disposal of liquid or solid wastes, sewage or industrial wastes, as presently existing in its entirety or any integral part thereof, and shall include the Project and any additions, improvements and extensions thereto hereafter constructed or acquired for said system from any sources whatsoever.

"Tap Fees" means the fees, if any, paid by prospective customers of the System in order to connect thereto.

Additional terms and phrases are defined in this Resolution as they are used. Words importing singular number shall include the plural number in each case and vice versa; words importing persons shall include firms and corporations; and words importing the masculine, feminine or neutral gender shall include any other gender.

ARTICLE II

AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF THE PROJECT

Section 2.01. Authorization of Acquisition and Construction of the Project. There is hereby authorized and ordered the acquisition and construction of the Project, at an estimated cost of not to exceed \$6,400,074, in accordance with the plans and specifications which have been prepared by the Consulting Engineers, heretofore filed in the office of the Governing Body. The proceeds of the Series 1995 C Bonds hereby authorized shall be applied as provided in Article VI hereof. The Issuer has received bids and will enter into contracts for the acquisition and construction of the Project, compatible with the financing plan submitted to the SRF Program.

The cost of the Project is estimated not to exceed \$6,400,074, of which approximately \$289,532 will be obtained from proceeds of the Series 1995 A Bonds, approximately \$1,080,088 will be obtained from proceeds of the Series 1995 B Bonds, approximately \$883,974 will be obtained from proceeds of the Series 1995 C Bonds, approximately \$3,990,230 from a grant by the United States Environmental Protection Agency, and approximately \$156,250 from the funds of the Issuer.

ARTICLE III

AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND SALE OF BONDS; AUTHORIZATION AND EXECUTION OF LOAN AGREEMENT

Section 3.01. Authorization of Bonds. For the purposes of capitalizing interest on the Series 1995 C Bonds, funding a reserve account for the Series 1995 C Bonds, paying Costs of the Project not otherwise provided for and paying certain costs of issuance of the Series 1995 C Bonds and related costs, or any or all of such purposes, as determined by the Supplemental Resolution, there shall be and hereby are authorized to be issued the negotiable Series 1995 C Bonds of the Issuer. The Series 1995 C Bonds shall be issued as a single bond, designated as "Sewer Revenue Bonds, Series 1995 C (West Virginia SRF Program)", in the principal amount of not more than \$883,974, and shall have such terms as set forth hereinafter and in the Supplemental Resolution. The proceeds of the Series 1995 C Bonds remaining after funding of the Series 1995 C Bonds Reserve Account (if funded from Bond proceeds) and capitalizing interest on the Series 1995 C Bonds, if any, shall be deposited in or credited to the Series 1995 C Bonds Construction Trust Fund established by Section 5.01 hereof.

Section 3.02. Terms of Bonds. The Series 1995 C Bonds shall bear interest, if any, at such rate or rates, not exceeding the then legal maximum, payable quarterly on such dates; shall mature on such dates and in such amounts; and shall be redeemable, in whole or in part, all as the Issuer shall prescribe in a Supplemental Resolution or as specifically provided in the Loan Agreement. The Series 1995 C Bonds shall be payable as to principal at the 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 Series 1995 C Bonds, if any, shall be paid by check or draft of the Paying Agent or its agent, mailed to the Registered Owner thereof at the address as it appears on the books of the Bond Registrar, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner thereof.

Unless otherwise provided by the Supplemental Resolution, the Series 1995 C Bonds shall be issued in the form of a single bond, fully registered to the Authority, with a record of advances and a debt service schedule attached, representing the aggregate principal amount of the Series 1995 C Bonds, and shall mature in principal installments, all as provided in the Supplemental Resolution. The Series 1995 C Bonds shall be exchangeable at the option and expense of the Holder for another fully registered Bond or Bonds of the same series in aggregate principal amount equal to the amount of said Bonds then Outstanding and being exchanged, 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, if any, shall be issued in fully registered form and in denominations as determined by a Supplemental Resolution. The Bonds shall be dated as of the date specified in a Supplemental Resolution and shall bear interest, if any, from the date so specified therein.

Section 3.03. Execution of Bonds. The Series 1995 C Bonds shall be executed in the name of the Issuer by the Chairman, and the seal of the Issuer shall be affixed thereto or imprinted thereon and attested by the Secretary. In case any one or more of the officers who shall have signed or sealed the Series 1995 C Bonds shall cease to be such officer of the Issuer before the Series 1995 C Bonds so signed and sealed have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Series 1995 C 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 3.04. Authentication and Registration. No Series 1995 C Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Bond Legislation unless and until the Certificate of Authentication and Registration on such Bond, substantially in the form set forth in Section 3.10 hereof shall have been manually executed by the Bond 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 Bond Legislation. The Certificate of Authentication and Registration on any Series 1995 C Bond shall be deemed to have been executed by the Bond Registrar if manually signed by an authorized officer of the Bond 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 3.05. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Series 1995 C 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 Holder, in accepting the Series 1995 C 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 Holder shall further be conclusively deemed to have agreed that said Bonds shall be incontestable in the hands of a bona fide holder for value.

So long as the Series 1995 C Bonds remain outstanding, the Issuer, through the Bond Registrar or its agent, shall keep and maintain books for the registration and transfer of such Bonds.

The registered Series 1995 C Bonds shall be transferable only upon the books of the Bond Registrar, by the registered owner thereof in person or by his attorney duly authorized in writing, upon surrender thereto together with a written instrument of transfer satisfactory to the Bond Registrar duly executed by the registered owner or his duly authorized attorney.

In all cases in which the privilege of exchanging Series 1995 C Bonds or transferring the registered Series 1995 C Bonds are exercised, all Series 1995 C Bonds shall be delivered in accordance with the provisions of this Bond Legislation. All Series 1995 C Bonds surrendered in any such exchanges or transfers shall forthwith be cancelled by the Bond Registrar. For every such exchange or transfer of Series 1995 C Bonds, the Bond 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 Bond Registrar incurred in connection therewith, which sum or sums shall be paid by the Issuer. The Bond Registrar shall not be obliged to make any such exchange or transfer of Series 1995 C Bonds during the period commencing on the 15th day of the month next preceding an interest payment date on the Series 1995 C Bonds or, in the case of any proposed redemption of Series 1995 C Bonds, next preceding the date of the selection of Bonds to be redeemed, and ending on such interest payment date or redemption date.

Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Series 1995 C Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue, and the Bond Registrar shall, if so advised by the Issuer, authenticate and deliver, a new Bond of the same series and of like tenor as the Bonds so mutilated, destroyed, stolen or lost, 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 Holder's furnishing satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer and the Bond Registrar may incur. All Bonds so surrendered shall be cancelled by the Bond Registrar and held for the account of the Issuer. If any 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 thereof.

Section 3.07. Bonds not to be Indebtedness of the Issuer. The Series 1995 C 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 Net Revenues derived from the operation of the System as herein provided and amounts, if any, in the Series 1995 C Bonds Sinking Fund and the Series 1995 C Bonds Reserve Account. No holder or holders of the Series 1995 C Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer, if any, to pay the Series 1995 C Bonds or the interest, if any, thereon.

Section 3.08. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of all the Series 1995 C Bonds shall be secured forthwith equally and ratably with each other by a first lien on the Net Revenues derived from the System, on parity with the lien on the Net Revenues in favor of the Holders of the Series 1995 A Bonds and Series 1995 B Bonds. Such Net Revenues in an amount sufficient to pay the principal of and interest on and other payments for the Bonds and to make all other payments provided for in the Bond Legislation, are hereby irrevocably pledged to such payments as they become due.

Section 3.09. Delivery of Bonds. The Issuer shall execute and deliver the Series 1995 C Bonds to the Bond Registrar, and the Bond Registrar shall authenticate, register and deliver the Series 1995 C Bonds to the original purchasers upon receipt of the documents set forth below:

- A. If other than the Authority, a list of the names in which the Series 1995 C Bonds are to be registered upon original issuance, together with such taxpayer identification and other information as the Bond Registrar may reasonably require;
- B. A request and authorization to the Bond Registrar on behalf of the Issuer, signed by an Authorized Officer, to authenticate and deliver the Series 1995 C Bonds to the original purchasers;
- C. An executed and certified copy of the Bond Legislation;
- D. An executed copy of the Loan Agreement; and
- E. The unqualified approving opinion of bond counsel on the Series 1995 C Bonds.

Section 3.10. Form of Bonds. The text of the Series 1995 C Bonds shall be in substantially the following form, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted hereby, or by any Supplemental Resolution adopted prior to the issuance thereof:

[FORM OF SERIES 1995 C BOND]

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
HANCOCK COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND, SERIES 1995 C
(WEST VIRGINIA SRF PROGRAM)

No. CR-1

\$ _____

KNOW ALL MEN BY THESE PRESENTS: That HANCOCK COUNTY PUBLIC SERVICE DISTRICT, a public corporation and political subdivision of the State of West Virginia in Hancock 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 the West Virginia Water Development Authority (the "Authority") or registered assigns the sum of _____

(\$ _____), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing _____, 199____, as set forth on the "Schedule of Annual Debt Service" attached as EXHIBIT B hereto and incorporated herein by reference, without interest.

The SRF Administrative Fee (as defined in the hereinafter described Bond Legislation) shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing _____, 199____, as set forth on EXHIBIT B attached hereto. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, 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, Charleston, West Virginia (the "Paying Agent").

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 upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement by and among the Issuer, the Authority and the West Virginia Division of Environmental Protection, dated _____, 199____.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of public sewerage facilities of the Issuer (the "Project"); (ii) [to pay

interest on the hereinafter described Series 1995 A Bonds and Series 1995 B Bonds during construction of the Project and for not more than 6 months thereafter; (iii) to fund a reserve account for the hereinafter described Series 1995 A Bonds; (iv) to fund a reserve account for the hereinafter described Series 1995 B Bonds; (v) to fund a reserve account for the Bonds of this Series (the "Bonds"); and (vi)] to pay certain costs of issuance hereof and related costs. The Project and any further improvements or extensions thereto are herein called the "System." 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 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"), and a Bond Resolution duly adopted by the Issuer on _____, 199____, and a Supplemental Resolution duly adopted by the Issuer on _____, 199____ (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation 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 Bond Legislation.

THIS BOND IS ISSUED ON PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S SEWER REVENUE BONDS, SERIES 1995 A (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY) (THE "SERIES 1995 A BONDS"); AND SEWER REVENUE BONDS, SERIES 1995 B (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY) (THE "SERIES 1995 B BONDS"), BOTH DATED _____, 199____, ISSUED CONCURRENTLY HEREWITH.

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on parity with the pledge of Net Revenues in favor of the Holders of the Series 1995 A Bonds and Series 1995 B Bonds, and from moneys in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 1995 C Bonds Reserve Account"), 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 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, except from said special fund provided from the Net Revenues, the moneys in the Series 1995 C Bonds Reserve Account and unexpended proceeds of the Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of

operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds, and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds, including the Series 1995 A Bonds and the Series 1995 B Bonds; provided however, that so long as there exists in the Series 1995 C Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding prior to or on a parity with the Bonds, including the Series 1995 A Bonds and the Series 1995 B Bonds, an amount at least 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 Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Bond Legislation, only upon the books of One Valley Bank, National Association, Charleston, West Virginia, as registrar (the "Registrar"), by the registered owner, or by 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.

Subject to the registration requirements set forth herein, this Bond, under the provision of the Act is, and has all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law and the Bond Legislation, shall be applied solely to payment of the costs of the Project and costs of issuance hereof described in the Bond Legislation, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the registered 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 Net 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 this Bond.

All provisions of the Bond Legislation, resolutions and 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, HANCOCK COUNTY PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairman, and its corporate seal to be hereunto affixed and attested by its Secretary, and has caused this Bond to be dated _____, 199__.

[SEAL]

Chairman

ATTEST:

Secretary

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 1995 C Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: _____, 199__.

ONE VALLEY BANK,
NATIONAL ASSOCIATION,
as Registrar

Authorized Officer

EXHIBIT A

RECORD OF ADVANCES

AMOUNT	DATE	AMOUNT	DATE
(1) \$		(7) \$	
(2) \$		(8) \$	
(3) \$		(9) \$	
(4) \$		(10) \$	
(5) \$		(11) \$	
(6) \$		(12) \$	

TOTAL

\$ _____

ARTICLE V

FUNDS AND ACCOUNTS; SYSTEM REVENUES AND APPLICATION THEREOF

Section 5.01. Establishment of Funds and Accounts with Depository Bank. The following special funds or accounts are hereby created (or confirmed if concurrently established by the Series 1995 A and Series 1995 B Bonds Resolution) with and shall be held by the Depository Bank separate and apart from all other funds or accounts of the Depository Bank and the Issuer and from each other:

- (1) Revenue Fund (established by the Series 1995 A and Series 1995 B Bonds Resolution);
- (2) Renewal and Replacement Fund (established by the Series 1995 A and Series 1995 B Bonds Resolution);
- (3) Construction Trust Fund (established by the Series 1995 A and Series 1995 B Bonds Resolution);
- (4) Series 1995 C Bonds Construction Trust Fund; and
- (5) Rebate Fund (established by the Series 1995 A and Series 1995 B Bonds Resolution).

Section 5.02. Establishment of Funds and Accounts with Commission. The following special funds or accounts are hereby created (or confirmed if concurrently established by the Series 1995 A and Series 1995 B Bonds Resolution) with and shall be held by the Commission separate and apart from all other funds or accounts of the Commission and the Issuer and from each other:

- (1) Series 1995 A Bonds Sinking Fund (established by the Series 1995 A and Series 1995 B Bonds Resolution);
- (2) Within the Series 1995 A Bonds Sinking Fund, the Series 1995 A Bonds Reserve Account (established by the Series 1995 A and Series 1995 B Bonds Resolution);
- (3) Series 1995 B Bonds Sinking Fund (established by the Series 1995 A and Series 1995 B Bonds Resolution);
- (4) Within the Series 1995 B Bonds Sinking Fund, the Series 1995 B Bonds Reserve Account (established by the Series 1995 A and Series 1995 B Bonds Resolution);

(5) Series 1995 C Bonds Sinking Fund; and

(6) Within the Series 1995 C Bonds Sinking Fund, the Series 1995 C Bonds 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 Bond Legislation and in the Series 1995 A and Series 1995 B Bonds 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 provided in this Bond Legislation and in the Series 1995 A and Series 1995 B Bonds Resolution. All revenues at any time on deposit in the Revenue Fund shall be disposed of only in the following order and priority:

(1) The Issuer shall first each month transfer from the Revenue Fund and disburse as required the amount necessary and sufficient to pay current Operating Expenses.

(2) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously (i) commencing 4 months prior to the first date of payment of principal of the Series 1995 C Bonds, remit to the Commission for deposit in the Series 1995 C Bonds Sinking Fund, an amount equal to 1/3rd of the amount of principal (and interest, if any) which will mature and become due on the Series 1995 C 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 Series 1995 C Bonds 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, and (ii) remit to the Commission the amounts required by the Series 1995 A and Series 1995 B Bonds Resolution to be deposited in the Series 1995 A Bonds Sinking Fund and Series 1995 B Bonds Sinking Fund for payment of the principal of and interest on the Series 1995 A Bonds and Series 1995 B Bonds.

(3) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously (i) commencing 3 months prior to the first date of payment of principal of the Series 1995 C Bonds, if not fully funded upon issuance of the Series 1995 C Bonds, remit to the Commission for deposit in the Series 1995 C Bonds Reserve Account, an amount equal to 1/120 of the Series 1995 C Bonds Reserve Requirement; provided, that no further payments shall be made into the Series 1995 C Bonds Reserve Account

when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 1995 C Bonds Reserve Requirement, and (ii) remit to the Commission the amount required by the Series 1995 A and Series 1995 B Bonds Resolution to be deposited in the Series 1995 A Bonds Reserve Account and the Series 1995 B Bonds Reserve Account.

(4) The Issuer shall next, from the moneys remaining in the Revenue Fund, on the first day of each month, commencing with the first month in which any of the above payments shall be payable from the Revenue Fund, as set forth in the Series 1995 A and Series 1995 B Bonds Resolution and not in addition thereto, 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 Series 1995 A Bonds Reserve Account, the Series 1995 B Bonds Reserve Account and the Series 1995 C Bonds Reserve Account shall be promptly eliminated with moneys from the Renewal and Replacement Fund.

Moneys in the Series 1995 C Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest, if any, on the Series 1995 C Bonds as the same shall become due. Moneys in the Series 1995 C Bonds Reserve Account shall be used only for the purpose of paying principal of and interest, if any, on the Series 1995 C Bonds as the same shall come due, when other moneys in the Series 1995 C Bonds Sinking Fund are insufficient therefor, and for no other purpose.

All investment earnings on moneys in the Series 1995 C Bonds Sinking Fund and the Series 1995 C Bonds Reserve Account (if fully funded) shall be returned, not less than once each year, by the Commission to the Issuer, and such amounts shall, during construction of the Project, be deposited in the Series 1995 C Bonds Construction Trust Fund, and following completion of construction of the Project, shall be deposited in the Revenue Fund and applied in full, first to the next ensuing interest payment due, if any, on the Series 1995 C Bonds, and then to the next ensuing principal payment due thereon.

Any withdrawals from the Series 1995 C Bonds Reserve Account which result in a reduction in the balance of the Series 1995 C Bonds Reserve Account to below the Series 1995 C Bonds Reserve Requirement shall be subsequently restored from the first Net Revenues available after all required payments have been made in full to the Series 1995 A Bonds Sinking Fund, the Series 1995 B Bonds Sinking Fund and the Series 1995 C Bonds Sinking Fund.

As and when additional Bonds ranking on a parity with the Series 1995 C Bonds are issued, provision shall be made for additional payments into the respective sinking fund sufficient to pay the interest on such additional parity Bonds and accomplish retirement thereof at maturity and to accumulate a balance in the appropriate reserve account in an amount equal to the maximum amount of principal and interest which will become due in any year for account of the Bonds of such series, including such additional parity Bonds.

The Issuer shall not be required to make any further payments into the Series 1995 C Bonds Sinking Fund, or the Series 1995 C Bonds Reserve Account therein when the aggregate amount of funds therein are at least equal to the aggregate principal amount of the Series 1995 C Bonds issued pursuant to this Bond Legislation then Outstanding and all interest, if any, to accrue until the maturity thereof.

Principal and interest payments, and any payments made for the purpose of funding a deficiency in any Reserve Account, shall be made on a parity and pro rata, with respect to the Series 1995 A Bonds, the Series 1995 B Bonds and Series 1995 C Bonds in accordance with the respective principal amounts then Outstanding.

The Commission is hereby designated as the fiscal agent for the administration of the Series 1995 C Bonds Sinking Fund and the Series 1995 C Bonds Reserve Account created hereunder, and all amounts required for said accounts shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein.

Moneys in the Series 1995 C Bonds Sinking Fund and the Series 1995 C Bonds Reserve Account shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

The Series 1995 C Bonds Sinking Fund, including the Series 1995 C Bonds Reserve Account therein, shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Series 1995 C Bonds under the conditions and restrictions hereinafter set forth.

B. The Issuer shall on the first day of each month (if such day is not a business day, then the next succeeding business day) deposit with the Commission the required principal, interest and reserve payments with respect to the Series 1995 C Bonds, including the SRF Administrative Fee as set forth in Schedule Y attached to the Loan Agreement, 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 Bond Legislation.

C. The Issuer shall complete the "Monthly Payment Form," a form of which 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 5th day of such calendar month.

D. Whenever all of the required and provided transfers and payments from the Revenue Fund into the several special funds, as hereinbefore 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 such funds during the following month or such other period as required by law, such excess shall be considered Surplus Revenues. Surplus Revenues may be used for any lawful purpose of the System.

E. The Issuer shall remit from the Revenue Fund to the Commission, the Registrar, the Paying Agent or the Depository Bank, on such dates as the Commission, the Registrar, the Paying Agent or the Depository Bank, as the case may be, shall require, such additional sums as shall be necessary to pay their respective charges and fees then due.

F. The moneys in excess of the sum insured by 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.

G. 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; provided, however, that the priority of curing deficiencies in the funds and accounts herein shall be in the same order as payments are to be made pursuant to this Section 5.03 and Section 5.03 of the Series 1995 A and Series 1995 B Bonds Resolution, and the Net Revenues shall be applied to such deficiencies before being applied to any other payments hereunder.

H. All remittances made by the Issuer to the Commission shall clearly identify the fund or account into which each amount is to be deposited.

I. The Gross Revenues of the System shall only be used for purposes of the System.

J. All Tap Fees shall be deposited pro rata, by the Issuer, as received, in the Construction Trust Fund and Series 1995 C Bonds Construction Trust Fund, and following completion of the Project, shall be deposited in the Revenue Fund and may be used for any lawful purpose of the System.

ARTICLE VI

BOND PROCEEDS; CONSTRUCTION DISBURSEMENTS

Section 6.01. Application of Bond Proceeds; Pledge of Unexpended Bond Proceeds. From the moneys received from the sale of the Series 1995 C Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. From the proceeds of the Series 1995 C Bonds, there shall first be deposited with the Commission in (i) the Series 1995 A Bonds Sinking Fund, (ii) the Series 1995 B Bonds Sinking Fund, and (iii) the Series 1995 C Bonds Sinking Fund, the amounts, if any, set forth in the respective Supplemental Resolutions as capitalized interest; provided, that such amounts may not exceed the amount necessary to pay interest on the Bonds for the period commencing on the date of issuance of the Bonds and ending 6 months after the estimated date of completion of construction of the Project.

B. Next, from the proceeds of the Series 1995 C Bonds, there shall be deposited with the Commission in (i) the Series 1995 A Bonds Reserve Account, (ii) the Series 1995 B Bonds Reserve Account and (iii) the Series 1995 C Bonds Reserve Account, the amounts, if any, set forth in the respective Supplemental Resolutions for funding the Series 1995 A Bonds Reserve Account, the Series 1995 B Bonds Reserve Account and the Series 1995 C Bonds Reserve Account.

C. Next, from the proceeds of the Series 1995 C Bonds, there shall first be credited to the Series 1995 C Bonds Construction Trust Fund and then paid, any and all borrowings by the Issuer made for the purpose of temporarily financing a portion of the Costs of the Project, and any borrowings by the Issuer from the Authority, including interest accrued thereon to the date of such payment, not otherwise paid from funds of the Issuer.

D. As the Issuer receives advances of the remaining moneys derived from the sale of the Series 1995 C Bonds, such moneys shall be deposited with the Depository Bank in the Series 1995 C Bonds Construction Trust Fund and applied solely to payment of Costs of the Project in the manner set forth in Section 6.02 hereof.

E. The Depository Bank shall act as a trustee and fiduciary for the Bondholder with respect to the Series 1995 C Bonds Construction Trust Fund and shall comply with all requirements with respect to the disposition of the Series 1995 C Bonds Construction Trust Fund set forth in the Bond Legislation. Moneys in the Series 1995 C Bonds Construction Trust Fund shall be used solely to pay Costs of the Project and until so transferred or expended, are hereby pledged as additional security for the Series 1995 C Bonds.

Section 6.02. Disbursements From the Series 1995 C Bonds Construction Trust Fund. 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 1995 C Bonds will be expended and the disbursement procedures for such proceeds, including an estimated monthly draw schedule. Payments for Costs of the Project shall be made monthly.

Except as provided in Section 6.01 hereof, disbursements from the Series 1995 C Bonds Construction Trust Fund shall be made only after submission to, and approval from, the Authority and the DEP of the following:

(1) a "Payment Requisition Form," a form of which is attached to the Loan Agreement as Exhibit C, and

(2) a certificate, signed by an Authorized Officer 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 disbursement 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.

In case any contract provides for the retention of a portion of the contract price, the Depository Bank shall disburse from the Series 1995 C Bonds Construction Trust Fund only the net amount remaining after deduction of any such portion. All payments made from the Series 1995 C Bonds Construction Trust Fund 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 Series 1995 C Bonds Construction Trust Fund. 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 Series 1995 C Bonds Construction Trust Fund, 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 of this Bond Legislation shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any Holder or Holders of the Series 1995 C Bonds. In addition to the other covenants, agreements and provisions of this Bond Legislation, the Issuer hereby covenants and agrees with the Holders of the Series 1995 C 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 the Series 1995 C Bonds or the interest thereon is Outstanding and unpaid.

Section 7.02. Bonds not to be Indebtedness of the Issuer. The Series 1995 C 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 Bond Legislation. No Holder or Holders of any Series 1995 C Bonds, shall ever have the right to compel the exercise of the taxing power of the Issuer, if any, to pay the Series 1995 C Bonds or the interest, if any, thereon.

Section 7.03. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of the Series 1995 C 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, on a parity with the lien on said Net Revenues in favor of the Holders of the Series 1995 A Bonds and Series 1995 B Bonds. The Net Revenues derived from the System, in an amount sufficient to pay the principal of and interest on the Bonds and to make the payments into all funds and accounts and all other payments provided for in the Bond Legislation are hereby irrevocably pledged, in the manner provided herein, to such payments as they become due, and for the other purposes provided in the Bond Legislation.

Section 7.04. Initial Schedule of Rates and Charges. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth approved and described in the Final Order of the Public Service Commission of West Virginia, entered November 1, 1995, in Case No. 90-558-PSD-CN (Reopened) and such rates are hereby adopted.

Section 7.05. Sale of the System. Except as otherwise required by law or with the written consent of the Authority and the DEP, 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 Bonds Outstanding, or to effectively defease this Bond Legislation in accordance with Article X

hereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall, with respect to the Bonds, immediately be remitted to the Commission for deposit in the Sinking Funds, pro rata, with respect to the principal amount of each of the Bonds then Outstanding, and, with the written permission of the Authority, or in the event the Authority is no longer a Bondholder, the Issuer shall direct the Commission to apply such proceeds to the payment of principal at maturity of and interest on the Bonds in such manner. Any balance remaining after the payment of all 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. Prior to any such sale, lease or other disposition of such property, if the amount to be received therefor, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, is not in excess of \$10,000, the Issuer shall, by resolution, determine that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then provide for the sale of such property. The proceeds of any such sale shall be deposited in the Renewal and Replacement Fund. If the amount to be received from such sale, lease or other disposition of said property, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, shall be in excess of \$10,000 but not in excess of \$50,000, the Issuer shall first, determine upon consultation with the Consulting Engineers that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then, if it be so advised, by resolution duly adopted, authorize such sale, lease or other disposition of such property upon public bidding. The proceeds derived from any such sale, lease or other disposition of such property, aggregating during such Fiscal Year in excess of \$10,000 and not in excess of \$50,000, shall, with the written consent of the Authority, be remitted by the Issuer to the Commission for deposit in the Sinking Funds and shall be applied only to the purchase of Bonds of the last maturities then Outstanding at prices not greater than the par value thereof plus 3% of such par value or otherwise. Such payment of such proceeds into the Sinking Funds or the Renewal and Replacement Fund shall not reduce the amounts required to be paid into said funds by other provisions of this Bond Legislation. 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, together with all other amounts received during the same Fiscal Year for such sales, leases, or other dispositions of such properties, shall be in excess of \$50,000 and insufficient to pay all Bonds then Outstanding without the prior approval and consent in writing of the Holders, or their duly authorized representatives, of over 50% in amount of the Bonds then Outstanding. The Issuer shall prepare the form of such approval and consent for execution by the then Holders of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 7.06. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. Except as provided for in Section 7.06 and Section 7.07 hereof, the Issuer shall not issue any other obligations whatsoever 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 Series 1995 C Bonds. All obligations issued by the Issuer after the issuance of the Series 1995 C Bonds and 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, pledge and source of and security for payment from such revenues and in all other respects, to the Series 1995 C Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into all funds and accounts set forth herein have been made and are current at the time of the issuance of such subordinate obligations.

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 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, if any, in this Bond Legislation, 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 System, payable from the revenues of the System or from any grants for the System, or any other obligations related to the Project or the System.

Section 7.07. 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 Bond Legislation, except under the conditions and in the manner herein provided.

All Parity Bonds issued hereunder shall be on a parity in all respects with the Series' 1995 C Bonds.

No such Parity Bonds shall be issued except for the purpose of financing the costs of the acquisition or construction of extensions and improvements to the System or refunding the Series 1995 C Bonds issued pursuant hereto, or both such purposes.

No Parity Bonds shall be issued at any time, however, unless there has been procured and filed with the Secretary a written statement by the Independent Certified Public 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 for, from the System during any 12 consecutive months, within the 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 3 succeeding years after the completion of the improvements to be financed by such Parity Bonds, shall not be less than 115% of the largest aggregate

amount, if any, that will mature and become due in any succeeding Fiscal Year for principal of and interest on the following:

- (1) The Bonds then Outstanding;
- (2) Any Parity Bonds theretofore issued pursuant to the provisions contained in this Resolution or the Series 1995 A and Series 1995 B Bonds 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 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 (a) the improvements to be financed by such Parity Bonds and (b) any increase in rates adopted by the Issuer, the period for appeal of which has 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 Parity Bonds.

The Net Revenues actually derived from the System during the 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 said Independent Certified Public Accountants, as stated in a certificate jointly made and signed by the Consulting Engineers and said Independent Certified Public Accountants, on account of increased rates, rentals, fees and charges for the System adopted by the Issuer, the period for appeal of which has expired prior to issuance of such Parity Bonds.

Within 30 days of the delivery of such Parity Bonds, the Issuer shall have entered into written contracts for the immediate acquisition or construction of such extensions or improvements, if any, to the System that are to be financed by such Parity Bonds.

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

and on account of such Parity Bonds, in addition to the payments required for Bonds theretofore issued pursuant to this Bond Legislation.

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on the revenues of the System is subject to the prior and superior liens of the Series 1995 C 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 Series 1995 C Bonds.

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

Notwithstanding the foregoing, or any provision of Section 7.06 hereof to the contrary, additional Parity Bonds may be issued solely for the purpose of completing the Project as described in the application to the Authority and the DEP submitted as of the date of the Loan Agreement without regard to the restrictions set forth in this Section 7.07, if there is first obtained by the Issuer the written consent of the Authority and the DEP to the issuance of the Parity Bonds.

Section 7.08. 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 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 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 or any grants or other sources of financing for the Project.

The Issuer shall permit the Authority 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 Holder of a Bond or Bonds issued pursuant to this Bond Legislation shall have the right at all reasonable times to inspect the System and all parts thereof and all records, accounts and data of the Issuer relating thereto.

The accounting system for the System shall follow current generally accepted accounting principles and safeguards to the extent allowed and as prescribed by the Public Service Commission of West Virginia. Separate control accounting records shall be maintained by the Issuer. Subsidiary records as may be required shall be kept in the manner and on the forms, books and other bookkeeping records as prescribed by the Governing Body. The Governing Body 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 Governing Body shall be reported to such agent of the Governing Body as the Issuer shall direct.

The Issuer shall file with the Consulting Engineers, the Authority and the DEP, or any other original purchaser of the Series 1995 C Bonds, and shall mail in each year to any Holder or Holders of the Series 1995 C 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 Bond Legislation and the status of all said funds and accounts.

(C) The amount of any Bonds, notes or other obligations Outstanding.

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be audited by Independent Certified Public Accountants and shall mail, upon request, and make available generally, the report of said Independent Certified Public Accountants, or a summary thereof, to any Holder or Holders of the Series 1995 C Bonds, and shall submit said report to the Authority and the DEP, or any other original purchaser of the Series 1995 C Bonds. Such audit report submitted to the Authority and the DEP shall include a statement that the Issuer is in compliance with the terms and provisions of the Loan Agreement and this Bond Legislation and that the revenues of the System are adequate to meet the Issuer's Operating Expenses and debt service and reserve requirements.

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 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 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 and the DEP with respect to the System pursuant to the Act.

Section 7.09. Rates. Equitable rates or charges for the use of and service rendered by the System have been established all 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 reduction 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 Operating Expenses of the System and (ii) to leave a balance each year equal to at least 115% of the maximum amount required in any year for payment of principal of and interest, if any, on the Series 1995 C Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Series 1995 C Bonds, including the Series 1995 A Bonds and Series 1995 B Bonds; provided that, in the event that amounts equal to or in excess of the reserve requirements are on deposit respectively in the Series 1995 C Bonds Reserve Account and any reserve accounts for obligations prior to or on a parity with the Series 1995 C Bonds, including the Series 1995 A Bonds and Series 1995 B Bonds, are funded at least at the requirement therefor, such balance each year need only equal at least 110% of the maximum amount required in any year for payment of principal of and interest, if any, on the Series 1995 C Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Series 1995 C Bonds, including the Series 1995 A Bonds and Series 1995 B Bonds. In any event, the Issuer shall not reduce the rates or charges for services set forth in the Public Service Commission Order described in Section 7.04.

Section 7.10. Operating Budget; Audit and Monthly Financial Report. 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 and the DEP within 30 days of 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 Issuer 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 the DEP and to any Holder of any Bonds, within 30 days of adoption thereof and shall make available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to the Authority and the DEP and 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 an Independent Certified Public Accountant, the report of which audit shall be submitted to the Authority and the DEP and which audit report shall include a statement that the Issuer is in compliance with the terms and provisions of this Bond Legislation and the Loan Agreement and that the revenues of the System are adequate to meet the Issuer's Operating Expenses and debt service and reserve requirements.

Commencing on the date contracts are executed for the acquisition and construction of the Project and for two years following the completion of the Project, the Issuer shall each month complete a "Monthly Financial Report," a form of which is attached to the Loan Agreement as Exhibit B, and forward a copy of such report to the Authority and the DEP by the 10th day of each month.

Section 7.11. Engineering Services and Operating Personnel. The Issuer will obtain a certificate of the Consulting Engineers in the form attached to the Loan Agreement, stating, among other things, that the Project has been or will be constructed in accordance with the approved plans, specifications and designs as submitted to the Authority and the DEP, the Project is adequate for the purposes for which it was designed, the funding plan as submitted to the Authority and the DEP is sufficient to pay the costs of acquisition and construction of the Project, and all permits required by federal and state laws for construction of the Project have been obtained.

The Issuer shall provide and maintain competent and adequate resident engineering services satisfactory to the Authority 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, which have been approved by all necessary governmental bodies. Such resident engineer shall certify to the Authority, the DEP and the Issuer at the completion of construction that construction of the Project 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," a form of which is attached to the Loan Agreement as Exhibit A, 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 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 the Loan Agreement. The Issuer shall notify the DEP in writing of the certified operator employed at the 25% completion stage.

Section 7.12. No Competing Franchise. To the extent legally allowable, the Issuer will not grant or cause, consent to or allow the granting of, any franchise or permit to any person, firm, corporation, body, agency or instrumentality whatsoever for the providing of any services which would compete with services provided by the System.

Section 7.13. Enforcement of Collections. The Issuer will diligently enforce and collect all fees, rentals or other charges for the services and facilities of the System, and take all steps, actions and proceedings for the enforcement and collection of such fees, rentals or other charges which shall become delinquent to the full extent permitted or authorized by the Act, the rules and regulations of the Public Service Commission of West Virginia and other laws of the State of West Virginia.

Whenever any fees, rates, rentals or other charges for the services and facilities of the System shall remain unpaid for a period of 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. To the extent authorized by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, rates, rentals and other charges, if not paid, when due, shall become a lien on the premises served by the System. The Issuer further covenants and agrees that, it will, to the full extent permitted by law and the rules and regulations promulgated by the Public Service Commission of West Virginia, discontinue and shut off the services of the System, and any services and facilities of the water system, it so owned by the Issuer, to all users of the services of the System delinquent in payment of charges for the services of the System and will not restore such services of either system until all delinquent charges for the services of the System, plus reasonable interest and penalty charges for the restoration of service, have been fully paid and shall take all further actions to enforce collections to the maximum extent permitted by law. If the water facilities are not owned by the Issuer, the Issuer shall enter into a termination agreement with the water provider, subject to any required approval of such agreement by

the Public Service Commission of West Virginia and all rules, regulations and orders of the Public Service Commission of West Virginia.

Section 7.14. No Free Services. The Issuer will not render or cause to be rendered any free services of any nature by the System, nor will any preferential rates be established for users of the same class; and in the event the Issuer, or any department, agency, instrumentality, officer or employee of the Issuer shall avail itself or themselves 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. 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 7.15. Insurance and Construction Bonds. A. The Issuer hereby covenants and agrees that so long as the Series 1995 C Bonds remain Outstanding, the Issuer will, as an Operating Expense, procure, carry and maintain insurance with a reputable insurance carrier or carriers as is customarily covered with respect to works and properties similar to the System. Such insurance shall initially cover the following risks and be in the following amounts:

(1) FIRE, LIGHTNING, VANDALISM, MALICIOUS MISCHIEF AND EXTENDED COVERAGE INSURANCE, on all above-ground insurable portions of the System in an amount equal to the actual cost thereof. In time of war the Issuer will also carry and maintain insurance to the extent available against the risks and hazards of war. The proceeds of all such insurance policies shall be placed in the Renewal and Replacement Fund and used only for the repairs and restoration of the damaged or destroyed properties or for the other purposes provided herein for said Renewal and Replacement Fund. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance (fire and extended coverage) to protect the interests of the Issuer, the Authority, the prime contractor and all subcontractors as their respective interests may appear, in accordance with the Loan Agreement, during construction of the Project on a 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 Issuer, the contractors and subcontractors, as their interests may appear.

(2) PUBLIC LIABILITY INSURANCE, with limits of not less than \$1,000,000 per occurrence to protect the Issuer from claims for bodily injury and/or death and not less than \$500,000 per occurrence from claims for damage to property of others which may arise from the operation of the System, and insurance with the same limits to protect the Issuer from claims arising out of operation or ownership of motor vehicles of or for the System.

(3) WORKER'S COMPENSATION COVERAGE FOR ALL EMPLOYEES OF OR FOR THE SYSTEM ELIGIBLE THEREFOR; AND PERFORMANCE AND PAYMENT BONDS, such bonds to be in the amounts of 100% of the construction contract and to be required of each contractor contracting directly with the Issuer, and such payment bonds will be filed with the Clerk of The County Commission of the County in which such work is to be performed prior to commencement of construction of the Project in compliance with West Virginia Code, Chapter 38, Article 2, Section 39.

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

(5) BUSINESS INTERRUPTION INSURANCE, to the extent available at reasonable cost to the Issuer.

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

B. 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.

The Issuer shall also require all contractors engaged in the construction of the Project to carry such worker's compensation coverage for all employees working on the Project and public liability insurance, vehicular liability insurance and property damage insurance in amounts adequate for such purposes and as is customarily carried with respect to works and properties similar to the Project; provided that the amounts and terms of such coverage are satisfactory to the Authority and the DEP. In the event the Loan Agreement so requires, such insurance shall be made payable to the order of the Authority, the Issuer, the prime contractor and all subcontractors, as their interests may appear.

Section 7.16. Mandatory Connections. The mandatory use of the System is essential and necessary for the protection and preservation of the public health, comfort, safety, convenience and welfare of the inhabitants and residents of, and the economy of, the Issuer and in order to assure the rendering harmless of sewage and 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 Division 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 Public Service Commission of West Virginia, 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 matters from such house, dwelling or building where there is such gravity flow or transportation by such other method approved by the State Division 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 7.17. Completion of Project; Permits and Orders. The Issuer will complete the Project as promptly as possible and operate and maintain the System as a revenue-producing utility in good condition and in compliance with all Federal and state requirements and standards.

The Issuer will obtain all permits required by state and federal laws for the acquisition and construction of the Project and all orders and approvals from the Public Service Commission of West Virginia necessary for the acquisition and construction of the Project and the operation of the System.

Section 7.18. Compliance with Loan Agreement and Law. The Issuer agrees to comply with all the terms and conditions of the Loan Agreement. Notwithstanding anything herein to the contrary, the Issuer will provide the DEP with copies of all documents submitted to the Authority.

The Issuer also agrees to comply with all applicable laws, rules and regulations issued by the Authority, the DEP or other state, federal or local bodies in regard to the acquisition and construction of the Project and the operation, maintenance and use of the System.

Section 7.19. Tax Covenants. The Issuer hereby further covenants and agrees as follows:

A: PRIVATE BUSINESS USE LIMITATION. The Issuer shall assure that (i) not in excess of 10% of the Net Proceeds of the Series 1995 C Bonds are used for Private Business Use if, in addition, the payment of more than 10% of the principal or 10% of the interest due on the Series 1995 C Bonds during the term thereof is, under the terms of the Series 1995 C Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for a Private Business Use or in payments in respect of property used or to be used for a Private Business Use or is to be derived from payments, whether or not to the Issuer, in respect of property or borrowed money used or to be used for a Private Business Use; and (ii) and that, in the event that both (A) in excess of 5% of the Net Proceeds of the Series 1995 C Bonds are used for a Private Business Use,

and (B) an amount in excess of 5% of the principal or 5% of the interest due on the Series 1995 C Bonds during the term thereof is, under the terms of the Series 1995 C Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for said Private Business Use or in payments in respect of property used or to be used for said Private Business Use or is to be derived from payments, whether or not to the Issuer, in respect of property or borrowed money used or to be used for said Private Business Use, then said excess over said 5% of Net Proceeds of the Series 1995 C Bonds used for a Private Business Use shall be used for a Private Business Use related to the governmental use of the Project, or if the Series 1995 C Bonds are for the purpose of financing more than one project, a portion of the Project, and shall not exceed the proceeds used for the governmental use of that portion of the Project to which such Private Business Use is related. All of the foregoing to be determined in accordance with the Code.

B. PRIVATE LOAN LIMITATION. The Issuer shall assure that not in excess of 5% of the Net Proceeds of the Series 1995 C Bonds or \$5,000,000 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.

C. FEDERAL GUARANTEE PROHIBITION. The Issuer shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Series 1995 C Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

D. INFORMATION RETURN. The Issuer will timely file all statements, instruments and returns necessary to assure the tax-exempt status of the Series 1995 C Bonds and the interest thereon, including, without limitation, the information return required under Section 149(e) of the Code.

E. FURTHER ACTIONS. The Issuer will take any and all actions that may be required of it (including, without limitation, those deemed necessary by the Authority) so that the interest on the Series 1995 C Bonds will be and remain excluded from gross income for federal income tax purposes, and will not take any actions, or fail to take any actions (including, without limitation, those deemed necessary by the Authority), the result of which would adversely affect such exclusion.

Section 7.20. Statutory Mortgage Lien. For the further protection of the Holders of the Series 1995 C Bonds, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding, shall take effect immediately upon delivery of the Series 1995 C Bonds, and shall be on a parity with the statutory mortgage lien in favor of the Holders of the Series 1995 A Bonds.

Section 7.21. Securities Laws 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 (17CFR 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 Bond Legislation other than the Revenue Fund, shall be invested and reinvested by the Commission, the Depository Bank, or such other bank or national banking association holding such fund or account, 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 Bond Legislation, the need for such moneys for the purposes set forth herein and the specific restrictions and provisions set forth in this Section 8.01.

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, and the interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account except as otherwise provided with respect to the Rebate Fund. 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 holder, including the value of accrued interest and giving effect to the amortization of discount, or at par if such investment is held in the "Consolidated Fund." The Commission, the Depository Bank, or such other bank or national banking association, 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. The Depository Bank, or such other bank or national banking association, as the case may be, may make any and all investments permitted by this section through its own investment or trust department and shall not be responsible for any losses from such investments, other than for its own negligence or willful misconduct.

The Depository Bank shall keep complete and accurate records of all funds, accounts and investments, and shall distribute to the Issuer, at least once each year (or more often if reasonably requested by the Issuer), a summary of such funds, accounts and investment earnings. The Issuer shall retain all such records and any additional records with respect to such funds, accounts and investment earnings so long as any of the Bonds are Outstanding and as long thereafter as necessary to comply with the Code and assure the exclusion of interest on the Series 1995 C Bonds, if any, from gross income for federal income tax purposes.

Section 8.02. Arbitrage and Tax Exemption. The Issuer covenants that (i) it shall not take, or permit or suffer to be taken, any action with respect to the gross or other proceeds of the Series 1995 C Bonds which would cause the Series 1995 C Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code, and (ii) it will take any and 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 1995 C Bonds) so that the interest on the Series 1995 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. Tax Certificate and Rebate. The Issuer shall deliver a certificate of arbitrage, a tax certificate or other similar certificate to be prepared by nationally recognized bond counsel or tax counsel relating to payment of arbitrage rebate and other tax matters as a condition to issuance of the Series 1995 C Bonds. In addition, the Issuer covenants to comply with all Regulations from time to time in effect and applicable to the Series 1995 C Bonds as may be necessary in order to fully comply with Section 148(f) of the Code, and covenants to take such actions, and refrain from taking such actions, as may be necessary to fully comply with such Section 148(f) of the Code and such Regulations, regardless of whether such actions may be contrary to any of the provisions of this Bond Legislation.

The Issuer shall calculate, annually, the rebatable arbitrage, determined in accordance with Section 148(f) of the Code. Upon completion of each such annual calculation, unless otherwise agreed by the Authority, the Issuer shall deposit, or cause to be deposited, in the Rebate Fund such sums as are necessary to cause the aggregate amount on deposit in the Rebate Fund to equal the sum determined to be subject to rebate to the United States, which, notwithstanding anything herein to the contrary, shall be paid from investment earnings on the underlying fund or account established hereunder and on which such rebatable arbitrage was earned or from other lawfully available sources. Notwithstanding anything herein to the contrary, the Rebate Fund shall be held free and clear of any lien or pledge hereunder and shall be used only for payment of rebatable arbitrage to the United States. The Issuer shall pay, or cause to be paid, to the United States, from the Rebate Fund, the rebatable arbitrage in accordance with Section 148(f) of the Code and such Regulations. In the event that there are any amounts remaining in the Rebate Fund following all such payments required by the preceding sentence, the Depository Bank shall pay said amounts to the Issuer to be used for any lawful purpose of the System. The Issuer shall remit payments to the United States in the time and at the address prescribed by the Regulations as the same may be 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, 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 addition, the Issuer shall cooperate with the Authority in preparing rebate calculations and in all other respects in connection with rebates and hereby consents to the performance of all matters in connection with such rebates by the Authority at the expense of the Issuer. To the extent not so performed by the Authority, 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 in order to assure compliance with this Section 8.03. The Issuer shall keep and retain, or cause to be kept and retained, records of the determinations made pursuant to this Section 8.03 in accordance with the requirements of Section 148(f) of the Code and such Regulations. In the event the Issuer fails to make such rebates as required, the Issuer shall pay any and all penalties and other

amounts, from lawfully available sources, and obtain a waiver from the Internal Revenue Service, if necessary, in order to maintain the exclusion of interest on the Series 1995 C Bonds from gross income for federal income tax purposes.

The Issuer shall submit to the Authority within 15 days following the end of each Bond Year a certified copy of its rebate calculation and certificate with respect thereto or, if the Issuer qualifies for the small governmental issue exception to rebate, or any other exception thereto, then the Issuer shall submit to the Authority a certificate stating that it is exempt from such rebate provisions and that no event has occurred to its knowledge during the Bond Year which would make the Series 1995 C Bonds subject to rebate. The Issuer shall also furnish to the Authority, at any time, such additional information relating to rebate as may be reasonably requested by the Authority including information with respect to earnings on all funds constituting "gross proceeds" of the Bonds (as such term "gross proceeds" is defined in the Code).

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 Series 1995 C Bonds:

(1) If default occurs in the due and punctual payment of the principal of or interest on the Series 1995 C Bonds; or

(2) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its parts relating to the Series 1995 C Bonds set forth in this Bond Legislation, any supplemental resolution or in the Series 1995 C 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 the Commission, the Depository Bank, Registrar, the Paying Agent or any other Paying Agent or a Holder of a Bond; or

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

(4) If default occurs with respect to the Series 1995 A Bonds, the Series 1995 B Bonds or the Series 1995 A and Series 1995 B Bonds Resolution.

Section 9.02. Remedies. Upon the happening and continuance of any Event of Default, any Registered Owner of a 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 Bond Legislation 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 the 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 the Bonds, and (v) by action or bill in equity enjoin any acts in violation of the Bond Legislation with respect to the Bonds, or the rights of such Registered Owner; provided that, all rights and remedies of the Holders of the Series 1995 C Bonds shall be on a parity with the Holders of the Series 1995 A Bonds and the Series 1995 B Bonds.

Section 9.03. Appointment of Receiver. Any Registered Owner of a Bond may, by proper legal action, compel the performance of the duties of the Issuer under the Bond Legislation and the Act, including, the completion of the Project and after commencement of operation of the System, 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 Event of Default with respect to such Bonds, any Registered Owner of a Bond 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 or to complete the acquisition and construction of the Project on behalf of the Issuer, with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of Operating Expenses of the System, the payment of the Bonds and interest and the deposits into the funds and accounts hereby established, and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of this Bond Legislation and the Act.

The receiver so appointed shall forthwith, directly or by his or her or its agents and attorneys, enter into and upon and take possession of all facilities of said System and shall hold, operate and 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 exercise.

Whenever all that is due upon the Bonds and interest thereon and under any covenants of this Bond Legislation 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 Bond Legislation 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 Registered Owner of any Bonds 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 or it, 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 may be 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 Registered Owners of the Bonds. 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 completion of the Project and the possession, operation and maintenance of the System for the sole purpose of the protection of both the Issuer and Registered Owners of such Bonds and the curing and making good of any Event of Default with respect thereto under the provisions of this Bond Legislation, and the title to and ownership of the 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, assign, 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 Holders of the Series 1995 C Bonds, the principal of and interest due or to become due thereon, if any, at the times and in the manner stipulated therein and in this Bond Legislation, then the pledge of Net Revenues and other moneys and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series 1995 C Bonds shall thereupon cease, terminate and become void and be discharged and satisfied, except as may otherwise be necessary to assure the exclusion of interest on the Series 1995 C Bonds from gross income for federal income tax purposes.

Series 1995 C 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 either at maturity or at the next redemption date, the principal installments of and interest on such Series 1995 C Bonds shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section. All Series 1995 C 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 agent, 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 of and interest due and to become due on said Series 1995 C Bonds on and prior to the next redemption date or 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 purpose other than, and shall be held in trust for, the payment of the principal installments of and interest on said Series 1995 C Bonds; provided, that any cash received from such principal or interest payments on such securities deposited with the Commission or its agent, 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 installments of and interest to become due on said Bonds on and prior to the next redemption date or the maturity dates thereof, and interest earned from such reinvestments shall be paid over to the Issuer as received by the Commission or its agent, 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. Amendment or Modification of Bond Legislation. Prior to issuance of the Series 1995 C Bonds, this Resolution may be amended or supplemented in any way by the Supplemental Resolution. Following issuance of the Series 1995 C Bonds, no material modification or amendment of this Bond Legislation, or of any resolution amendatory or supplemental hereto, that would materially and adversely affect the rights of Registered Owners of the Series 1995 C Bonds shall be made without the consent in writing of the Registered Owners of 66 2/3% or more in principal amount of the Series 1995 C Bonds so affected and then Outstanding; provided, 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 funds herein respectively pledged therefor without the consent of the Registered Owner thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of Bonds required for consent to the above-permitted amendments or modifications. Notwithstanding the foregoing, this Bond Legislation may be amended without the consent of any Bondholder as may be necessary to assure compliance with Section 148(f) of the Code relating to rebate requirements or otherwise as may be necessary to assure the exclusion of interest, if any, on the Series 1995 C Bonds from gross income of the holders thereof.

Section 11.02. Bond Legislation Constitutes Contract. The provisions of the Bond Legislation shall constitute a contract between the Issuer and the Registered Owners of the Series 1995 C Bonds, and no change, variation or alteration of any kind of the provisions of the Bond Legislation shall be made in any manner, except as in this Bond Legislation provided.

Section 11.03. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Resolution should be held invalid by any court of competent jurisdiction, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution, the Series 1995 A Bonds Resolution, the Supplemental Resolutions thereto, or the Series 1995 C Bonds.

Section 11.04. Headings, Etc. The headings and catchlines of the articles, sections and subsections hereof are for convenience of reference only, and shall not affect in any way the meaning or interpretation of any provision hereof.

Section 11.05. Conflicting Provisions Repealed. All orders or resolutions or parts thereof in conflict with the provisions of this Resolution are, to the extent of such conflict, hereby repealed, provided that, in the event of any conflict between this Resolution and the Series 1995 A and Series 1995 B Bonds Resolution, the more restrictive provision shall control.

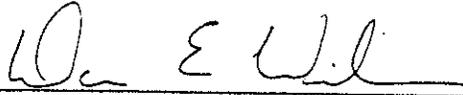
Section 11.06. Covenant of Due Procedure, Etc. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the adoption of this Resolution do exist, have happened, have been performed and have been taken in regular 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 Governing Body 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 11.07. Effective Date. This Resolution shall take effect immediately upon adoption.

Section 11.08. Public Notice of Proposed Financing. Prior to making formal application to the Public Service Commission of West Virginia for a Certificate of Public Convenience and Necessity and adoption of this Resolution, the Secretary of the Governing Body shall have caused to be published in a newspaper of general circulation in each municipality in Hancock County Public Service District and within the boundaries of the Issuer, a Class II legal advertisement stating:

- (a) The maximum amount of the Series 1995 C Bonds to be issued;
- (b) The maximum interest rate and terms of the Series 1995 C Bonds authorized hereby;
- (c) The public service properties to be acquired or constructed and the cost of the same;
- (d) The maximum anticipated rates which will be charged by the Issuer; 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 of West Virginia.

Adopted this 6th day of December, 1995.



Chairman



Member

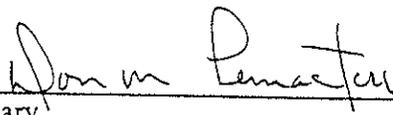
Member

CERTIFICATION

Certified a true copy of an Resolution duly adopted by the Public Service Board of HANCOCK COUNTY PUBLIC SERVICE DISTRICT on the 6th day of December, 1995.

Dated: December 7, 1995.

[SEAL]


Secretary

12/04/95
HANJM.Z4
373520/90001

EXHIBIT A

[Loan Agreement attached to bond transcript as Document 6.]

EXHIBIT A

[Loan Agreement attached to bond transcript as Document 6.]

HANCOCK COUNTY PUBLIC SERVICE DISTRICT

Sewer Revenue Bonds,
Series 1995 C (West Virginia SRF Program)

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNT, DATE, MATURITY DATE, REDEMPTION PROVISION, INTEREST RATE, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICE AND OTHER TERMS OF THE SEWER REVENUE BONDS, SERIES 1995 C (WEST VIRGINIA SRF PROGRAM), OF HANCOCK COUNTY PUBLIC SERVICE DISTRICT; AUTHORIZING AND APPROVING A LOAN AGREEMENT RELATING TO SUCH BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the Public Service Board (the "Governing Body") of Hancock County Public Service District (the "Issuer"), has duly and officially adopted a bond resolution, effective December 6, 1995 (the "Bond Resolution" or the "Resolution"), entitled:

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF IMPROVEMENTS AND EXTENSIONS, TO THE EXISTING PUBLIC SEWERAGE FACILITIES OF HANCOCK COUNTY PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN \$883,974 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 1995 C (WEST VIRGINIA SRF PROGRAM); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED 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 RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND

PROVIDING FOR THE TERMS AND PROVISIONS OF
SUCH BONDS AND ADOPTING OTHER PROVISIONS
RELATING THERETO.

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

WHEREAS, the Bond Resolution provides for the issuance of Sewer Revenue Bonds, Series 1995 C (West Virginia SRF Program), of the Issuer (the "Bonds" or the "Series 1995 C Bonds"), in the aggregate principal amount not to exceed \$883,974, and has authorized the execution and delivery of a loan agreement relating to the Bonds (the "Loan Agreement"), by and among the Issuer, the West Virginia Water Development Authority (the "Authority") and the West Virginia Division of Environmental Protection (the "DEP"), all in accordance with Chapter 16, Article 13A and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"); and in the Bond Resolution it is provided that the form of the Loan Agreement and the exact principal amount, date, maturity date, redemption provision, interest rate, interest and principal payment dates, sale price 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 Loan Agreement has been presented to the Issuer at this meeting;

WHEREAS, the Bonds are proposed to be purchased by the Authority pursuant to the Loan Agreement; and

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted and that the Loan Agreement be approved and entered into by the Issuer, that the exact principal amount, the date, the maturity date, the redemption provision, the interest rate, the interest and principal payment dates and the sale price of the Bonds be fixed hereby in the manner stated herein, and that other matters relating to the Bonds be herein provided for;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF
HANCOCK COUNTY PUBLIC SERVICE DISTRICT:

Section 1. Pursuant to the Bond Resolution and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the Sewer Revenue Bonds, Series 1995 C (West Virginia SRF Program), of the Issuer, originally represented by a single Bond, numbered CR-1, in the principal amount of \$883,974. The Bonds shall be dated the date of delivery thereof, shall finally mature March 1, 2017, and shall bear no interest. The Bonds shall be payable in quarterly installments of principal on March 1, June 1, September 1 and December 1 of each year, commencing June 1, 1997, and ending March 1, 2017, and in the amounts as set forth in "Schedule Y" attached to the Loan Agreement and incorporated in and made a part of the Bonds. The Bonds shall be subject to redemption upon the written consent of the Authority and the DEP, and upon payment of the interest and redemption premium, if any, and otherwise in compliance with the Loan Agreement, so long as the Authority shall be the registered owner of the Bonds. The Issuer does hereby approve and shall pay the SRF Administrative Fee equal to 1% of the principal amount of the Bonds set forth in "Schedule Y" attached to the Loan Agreement.

Section 2. All other provisions relating to the Bonds and the text of the Bonds shall be in substantially the form provided in the Bond Resolution.

Section 3. The Issuer does hereby ratify, approve and accept the Loan Agreement, a copy of which is incorporated herein by reference, and the execution and delivery of the Loan Agreement by the Chairman, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, directed, ratified and approved. The Issuer hereby affirms all covenants and representations made in the Loan Agreement and in the application to the DEP and the Authority. The price of the Bonds shall be 100% of par value, there being no interest accrued thereon, provided that the proceeds of the Bonds shall be advanced from time to time as requisitioned by the Issuer.

Section 4. The Issuer 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 Issuer and the Registrar, and the execution and delivery of the Registrar's Agreement by the Chairman, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, approved and directed.

Section 5. The Issuer does hereby appoint and direct the West Virginia Municipal Bond Commission, Charleston, West Virginia, to serve as Paying Agent for the Bonds.

Section 6. The Issuer does hereby appoint United National Bank, Weirton, West Virginia, as Depository Bank under the Bond Resolution.

Section 7. Series 1995 C Bonds proceeds in the amount of \$27,687 shall be deposited in the Series 1995 A Bonds Sinking Fund, as capitalized interest.

Section 8. Series 1995 C Bonds proceeds in the amount of \$103,283 shall be deposited in the Series 1995 B Bonds Sinking Fund, as capitalized interest.

Section 9. Series 1995 C Bonds proceeds in the amount of \$0- shall be deposited in the Series 1995 C Bonds Sinking Fund, as capitalized interest.

Section 10. Series 1995 C Bonds proceeds in the amount of \$21,458 shall be deposited in the Series 1995 A Bonds Reserve Account.

Section 11. Series 1995 C Bonds proceeds in the amount of \$79,098 shall be deposited in the Series 1995 B Bonds Reserve Account.

Section 12. Series 1995 C Bonds proceeds in the amount of \$44,200 shall be deposited in the Series 1995 C Bonds Reserve Account.

Section 13. The balance of the proceeds of the Bonds shall be deposited in or credited to the Series 1995 C Bonds Construction Trust Fund as received from time to time for payment of Costs of the Project, including costs of issuance of the Bonds and related costs.

Section 14. The Chairman and Secretary are hereby authorized and directed to execute and deliver such other documents, agreements, instruments and certificates required or desirable in connection with the Bonds to be issued hereby and by the Bond Resolution approved and provided for, to the end that the Bonds may be delivered on or about December 7, 1995, to the Authority pursuant to the Loan Agreement.

Section 15. The acquisition and construction of the Project and the financing thereof in part with proceeds of the Bonds is in the public interest, serves a public purpose of the Issuer and will promote the health, welfare and safety of the residents of the Issuer.

Section 16. The Issuer hereby determines that it is in the best interest of the Issuer to invest all moneys in the funds and accounts established by the Bond Resolution held by the Depository Bank until expended, in repurchase agreements or time accounts, secured by a pledge of Government Obligations, and therefore, the Issuer hereby directs the Depository Bank to take such actions as may be necessary to cause such moneys to be invested in such repurchase agreements or time accounts until further directed in writing by the Issuer. Moneys in the Series 1995 C Bonds Sinking Fund, including the Series 1995 C Bonds Reserve Account therein, shall be invested by the West Virginia Municipal Bond Commission in the West Virginia Consolidated Fund.

Section 17. The Issuer shall not permit at any time or times any of the proceeds of the 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 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 Issuer will take all actions necessary to comply with the Code and Treasury Regulations promulgated or to be promulgated thereunder.

Section 18. This Supplemental Resolution shall be effective immediately following adoption hereof.

Adopted this 6th day of December, 1995.

HANCOCK COUNTY PUBLIC SERVICE
DISTRICT



Chairman



Member

Member

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Public Service Board of Hancock County Public Service District on the 6th day of December, 1995.

Dated: December 7, 1995.

[SEAL]


Secretary

12/04/95
HANJM.H6
373520/90001

HANCOCK COUNTY PUBLIC SERVICE DISTRICT

Sewer Revenue Bonds,
Series 1995 C (West Virginia SRF Program)

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNT, DATE, MATURITY DATE, REDEMPTION PROVISION, INTEREST RATE, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICE AND OTHER TERMS OF THE SEWER REVENUE BONDS, SERIES 1995 C (WEST VIRGINIA SRF PROGRAM), OF HANCOCK COUNTY PUBLIC SERVICE DISTRICT; AUTHORIZING AND APPROVING A LOAN AGREEMENT RELATING TO SUCH BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the Public Service Board (the "Governing Body") of Hancock County Public Service District (the "Issuer"), has duly and officially adopted a bond resolution, effective December 6, 1995 (the "Bond Resolution" or the "Resolution"), entitled:

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF IMPROVEMENTS AND EXTENSIONS, TO THE EXISTING PUBLIC SEWERAGE FACILITIES OF HANCOCK COUNTY PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN \$883,974 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 1995 C (WEST VIRGINIA SRF PROGRAM); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED 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 RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND

PROVIDING FOR THE TERMS AND PROVISIONS OF
SUCH BONDS AND ADOPTING OTHER PROVISIONS
RELATING THERETO.

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

WHEREAS, the Bond Resolution provides for the issuance of Sewer Revenue Bonds, Series 1995 C (West Virginia SRF Program), of the Issuer (the "Bonds" or the "Series 1995 C Bonds"), in the aggregate principal amount not to exceed \$883,974, and has authorized the execution and delivery of a loan agreement relating to the Bonds (the "Loan Agreement"), by and among the Issuer, the West Virginia Water Development Authority (the "Authority") and the West Virginia Division of Environmental Protection (the "DEP"), all in accordance with Chapter 16, Article 13A and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"); and in the Bond Resolution it is provided that the form of the Loan Agreement and the exact principal amount, date, maturity date, redemption provision, interest rate, interest and principal payment dates, sale price 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 Loan Agreement has been presented to the Issuer at this meeting;

WHEREAS, the Bonds are proposed to be purchased by the Authority pursuant to the Loan Agreement; and

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted and that the Loan Agreement be approved and entered into by the Issuer, that the exact principal amount, the date, the maturity date, the redemption provision, the interest rate, the interest and principal payment dates and the sale price of the Bonds be fixed hereby in the manner stated herein, and that other matters relating to the Bonds be herein provided for;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF
HANCOCK COUNTY PUBLIC SERVICE DISTRICT:

Section 1. Pursuant to the Bond Resolution and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the Sewer Revenue Bonds, Series 1995 C (West Virginia SRF Program), of the Issuer, originally represented by a single Bond, numbered CR-1, in the principal amount of \$883,974. The Bonds shall be dated the date of delivery thereof, shall finally mature March 1, 2017, and shall bear no interest. The Bonds shall be payable in quarterly installments of principal on March 1, June 1, September 1 and December 1 of each year, commencing June 1, 1997, and ending March 1, 2017, and in the amounts as set forth in "Schedule Y" attached to the Loan Agreement and incorporated in and made a part of the Bonds. The Bonds shall be subject to redemption upon the written consent of the Authority and the DEP, and upon payment of the interest and redemption premium, if any, and otherwise in compliance with the Loan Agreement, so long as the Authority shall be the registered owner of the Bonds. The Issuer does hereby approve and shall pay the SRF Administrative Fee equal to 1% of the principal amount of the Bonds set forth in "Schedule Y" attached to the Loan Agreement.

Section 2. All other provisions relating to the Bonds and the text of the Bonds shall be in substantially the form provided in the Bond Resolution.

Section 3. The Issuer does hereby ratify, approve and accept the Loan Agreement, a copy of which is incorporated herein by reference, and the execution and delivery of the Loan Agreement by the Chairman, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, directed, ratified and approved. The Issuer hereby affirms all covenants and representations made in the Loan Agreement and in the application to the DEP and the Authority. The price of the Bonds shall be 100% of par value, there being no interest accrued thereon, provided that the proceeds of the Bonds shall be advanced from time to time as requisitioned by the Issuer.

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Section 5. The Issuer does hereby appoint and direct the West Virginia Municipal Bond Commission, Charleston, West Virginia, to serve as Paying Agent for the Bonds.

Section 6. The Issuer does hereby appoint United National Bank, Weirton, West Virginia, as Depository Bank under the Bond Resolution.

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Section 14. The Chairman and Secretary are hereby authorized and directed to execute and deliver such other documents, agreements, instruments and certificates required or desirable in connection with the Bonds to be issued hereby and by the Bond Resolution approved and provided for, to the end that the Bonds may be delivered on or about December 7, 1995, to the Authority pursuant to the Loan Agreement.

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Section 17. The Issuer shall not permit at any time or times any of the proceeds of the 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 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 Issuer will take all actions necessary to comply with the Code and Treasury Regulations promulgated or to be promulgated thereunder.

Section 18. This Supplemental Resolution shall be effective immediately following adoption hereof.

Adopted this 6th day of December, 1995.

HANCOCK COUNTY PUBLIC SERVICE
DISTRICT



Chairman



Member

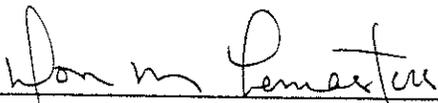
Member

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Public Service Board of Hancock County Public Service District on the 6th day of December, 1995.

Dated: December 7, 1995.

[SEAL]


Secretary

12/04/95
HANJM.H6
373520/90001



State of West Virginia
WATER DEVELOPMENT AUTHORITY

*180 Association Drive
Charleston WV 25311-1571*

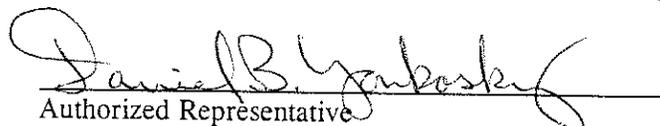
*Telephone (304) 558-3612
Telecopier (304) 558-0299*

December 2, 1999

Hancock County Public Service District
Sewer Revenue Bonds, Series 1999
(West Virginia SRF Program)

TO WHOM IT MAY CONCERN:

In reliance upon the certificate of the Issuer's certified public accountant dated the date hereof, the undersigned duly authorized representative for the West Virginia Water Development Authority, the registered owner of the entire outstanding aggregate principal amount of the Prior Bonds, hereinafter defined and described, hereby consents to the issuance of the Sewer Revenue Bonds, Series 1999 (West Virginia SRF Program) (the "Series 1999 Bonds"), in the original aggregate principal amount of \$4,996,347, by Hancock County Public Service District (the "Issuer"), under the terms of the resolution authorizing the Series 1999 Bonds, on a parity, with respect to liens, pledge and source of and security for payment, with the Issuer's Sewer Revenue Bonds, Series 1995 A (West Virginia Water Development Authority), Sewer Revenue Bonds, Series 1995 B (West Virginia Water Development Authority), and Sewer Revenue Bonds, Series 1995 C (West Virginia SRF Program) (collectively, the "Prior Bonds").


Authorized Representative

1

2

HANCOCK COUNTY PUBLIC SERVICE DISTRICT

and

MOUNTAINEER PARK, INC.

SEWER FACILITIES USER AGREEMENT

Dates as of July 9, 1999

Table of Contents

ARTICLE I DEFINITIONS

Section 1.1	Definitions	2
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ARTICLE II OPERATING PROVISIONS

Section 2.1	Acquisition and Construction of Project	3
Section 2.2	Capacity	3
Section 2.3	Measurement	3
Section 2.4	Authorization	3
Section 2.5	Reduction of Treatment: Notices	3
Section 2.6	Disputes	3

ARTICLE III USER FEE PROVISIONS

Section 3.1	Tap in Fee	4
Section 3.2	Rates	4
Section 3.3	Obligations of Company Unconditional	6

ARTICLE IV SPECIAL COVENANTS; MAINTENANCE AND MODIFICATION

Section 4.1	Limitation of Liability of Town	6
Section 4.2	Further Assurances and Corrective Instruments	6
Section 4.3	Maintenance and Modification of System	6
Section 4.4	Books and Records	6

**ARTICLE V
TERM**

Section 5.1	Term of Agreement	6
-------------	-------------------	---

**ARTICLE VI
INDEMNIFICATION; ASSIGNMENT**

Section 6.1	Indemnification Covenants	7
Section 6.2	Assignment	7

**ARTICLE VII
DEFAULTS AND REMEDIES**

Section 7.1	Defaults Defined	7
Section 7.2	Remedies on Default	8
Section 7.3	Delay or Omission	8
Section 7.4	No Additional Waiver Implied by One Waiver	8

**ARTICLE VIII
MISCELLANEOUS**

Section 8.1	Notices	9
Section 8.2	Severability	9
Section 8.3	Amendments	9
Section 8.4	Execution in Counterparts	9
Section 8.5	Applicable Law	9
Section 8.6	Captions	10

	SIGNATURES	10
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SEWER FACILITIES USER AGREEMENT

This SEWER FACILITIES USER AGREEMENT, dated as of July 9, 1999, between the HANCOCK COUNTY PUBLIC SERVICE DISTRICT, a public service district located in Hancock County, West Virginia (the "District") and MOUNTAINEER PARK, INC. a West Virginia corporation (the "Company");

WITNESSETH:

WHEREAS, the Company desires to obtain sewage collection and disposal services to service its facilities located at the Mountaineer Race Track and Resort, located in Hancock County, West Virginia (the "Facility") and the District has agreed to provide sanitary and sewage collection, treatment and disposal services to the Facility;

WHEREAS, the District is authorized and empowered to acquire, construct, maintain and improve sewage treatment and disposal systems, collection lines and all necessary appurtenant facilities, and to accept grants, borrow money and issue revenue bonds payable from the revenues of such sewerage systems;

WHEREAS, the District has determined, through its Governing Body, as hereinafter defined, that it is necessary and desirable to establish certain new sewage, collection, treatment and disposal facilities, consisting of a new sewage treatment plant, collection lines and system, 0.300 MGD sequencing batch reactor ("SBR") and all necessary appurtenances (the "Project");

WHEREAS, the Company has agreed to make certain payments to the District in exchange for the sewerage services provided by the District, as hereinafter described;

WHEREAS, the Company and the District have agreed to establish their respective obligations pursuant to the terms and conditions set forth in this Agreement;

NOW, THEREFORE, in consideration of the premises and the mutual covenants hereinafter contained, the parties agree as follows;

ARTICLE I

DEFINITIONS

Section 1.1 Definitions. If not otherwise defined herein all capitalized, undefined terms used herein shall have the following meanings:

"Agreement" means this Sewer Facilities User Agreement and any amendments and supplements thereto.

"Bond Ordinance" means collectively, the ordinances or resolutions of the District which may be adopted from time to time, authorizing issuance of bonds, notes or other obligations to finance acquisitions and construction of the Project and any additions thereto, as supplemented or amended.

"Business Day" means a day, other than Saturday or Sunday or any legal holiday.

"Company" means (i) Mountaineer Park Inc., which owns and operates the Mountaineer Park Racetrack and Resort located in Hancock County, West Virginia and (ii) any surviving, resulting, or transferee entity.

"Default" means any Default under this Agreement as specified in and defined by Section 6.1 hereof.

"District" means the Hancock County Public Service District, a public service district organized and existing under the laws of the State of West Virginia.

"Facility" has the meaning set out in the preambles hereto.

"Fiscal Year" means the fiscal year of the District, which begins on July 1 of each year and ends on June 30 of the following year.

"Governing Body" means the Board of the District.

"Project" has the meaning set out in the preamble hereto

"Project Operation Costs" shall mean the total sum of all costs associated with the operation and maintenance of the Project during a twelve month period of operation, including but not limited to all costs associated with the operation, maintenance and repair of the treatment plant, pump stations, piping, equipment, facilities, all appurtenances related thereto, together with all administrative costs, bond payments, engineering costs, legal costs, accounting costs and costs of billing; provided, however, that all user fees received from any customer other than the Company served by the Project during the same twelve month period of operation shall be deducted therefrom.

"State" means the State of West Virginia.

ARTICLE II

OPERATING PROVISIONS

Section 2.1 Acquisition and Construction of the Project. The District shall use its best efforts to acquire, construct install the Project by June 31, 2000 provided that there shall be no penalty to the District if the Project is not completed by said date. The District shall operate, maintain and manage the Project and shall possess adequate capacity to provide treatment of all Company's sanitary sewage which is required in order to meet all federal, State and local effluent requirements now or hereafter in effect.

Section 2.2 Capacity: Other Users. During the term of this Agreement the Company may use up to 200,000 gallons per day of the District's capacity: Provided, however, that it is expressly understood and agreed by the parties that no portion of the District's capacity shall be reserved for the exclusive use of the Company and that any portion of the District's capacity may be utilized by the Company or such other industrial, commercial or residential user on a first come/first serve basis.

Section 2.3 Measurement of Volume. The District may, in its discretion and with such frequency as it may deem necessary, measure the volume of the facility's sewage.

Section 2.4 Authorization. The District will obtain, at its expense, all permits, authorizations and approvals which may be required by any local, State or federal regulatory bodies in order for the District to accomplish its obligations hereunder.

Section 2.5 Reduction of Treatment Services; Notices. If for any reason related to the safe operation or necessary maintenance or repair of the Project or the sufficiency of pretreatment of sewage, the District finds it necessary to reduce the volume of the Company's sewage treated or to stop treatment thereof completely, or if the District learns of the imminence of any event which will cause such a reduction or interruption, the District may reduce or interrupt the volume of sewage treated, and in such event shall notify the Company of such reduction or interruption by telephone as soon as possible. Telephone notices shall promptly be confirmed in writing.

Section 2.6 Disputes. The District and the Company will negotiate in good faith to attempt to resolve any dispute which may arise from this Agreement or any circumstance which is not covered by the terms of this Agreement. In the event that the parties are unable to negotiate a resolution of any dispute arising from this Agreement (other than a dispute involving payment of damages or other matters not within the jurisdiction of the Commission) or in the event of a disagreement over the appropriate level of rates and charges to be imposed on the Company by the District, the parties agree that either party shall have the right to petition

the Public Service Commission of West Virginia (the "Commission") to hear and resolve that dispute or fix the appropriate level of rates and charges. The District and the Company agree that with respect to those disputes and disagreements described above over which the Commission has jurisdiction, the submission of such disputes and disagreements to the Commission shall be the sole and exclusive method for resolving such disputes and disagreements; provided, however that either party shall be permitted to appeal any action taken by the Commission in accordance with West Virginia law.

ARTICLE III

FEES FOR SERVICES

Section 3.1 Tap in Fee. The Company shall pay the District the tap in fee established by the District prior to connection to the collection system.

Section 3.2 Rates. The Company shall begin paying the District a monthly fee for services after the Company has been notified by the District that the system is operational and available for connection by the Company. During the first twelve months following such notification, the Company covenants and agrees to pay the District or to such designee as appointed by written notice of the District, a monthly fee of Thirty-two Thousand Forty Dollars (\$32,040.00), which is equal to the District's estimated Project Operation Costs during the first twelve months of operation of the Project.

Upon completion of the first twelve months of operation, the District shall determine its actual Project Operation Costs during the first twelve months of operation of the Project. In the event that the actual Project Operation Costs during the first twelve months exceed the estimated Project Operation Costs, then the Company shall pay to the District such difference as a supplemental payment. In the event that the actual Project Operation Costs are less than the estimated Project Operation Costs for the first twelve months of operation, then the District shall provide the Company a credit towards the Company's next monthly payment.

Following the first twelve months of operation and at all other such times as is permitted by the Public Service Commission, the District shall apply to the Public Service Commission for approval of rates to be charged to the Company, which said rates are to be based upon the District's actual operation costs, and following approval by the Public Service Commission of such rates, the Company shall pay the District user fees on a monthly basis in accordance with such rates established by the Public Service Commission.

The Company shall continue to pay the District a monthly fee of Thirty-two Thousand Forty Dollars (\$32,040.00) for each month of operation following the first twelve months of operation but prior to the time that the Public Service Commission has approved and/or established the rates to be charged to the Company.

All monthly fees set forth in the Section shall be paid by the Company to the District on the first day of each month.

Section 3.3 Obligations of Company Unconditional. Notwithstanding anything to the contrary contained herein, the obligations of the Company to make the payments required in Section 3 shall be absolute and unconditional and shall not be subject to any defense whatsoever or any right of setoff, counterclaim or recoupment, including, without limitation (a) any defense or claim based on breach or nonperformance by the District of its obligations set forth in this Agreement, (b) the invalidation or unenforceability of this Agreement with respect to the District or the Company, or (c) the inability of the Company to utilize the service of the Project due to a force majeure, impossibility or any other reason whatsoever. Nothing contained in this Section shall be construed to release the District from the performance of any of the agreements on its part herein contained, and in the event the District should fail to perform any such agreement on its part, the Company may petition the Public Service Commission as the Company may deem necessary to compel performance so long as such action or any remedies sought or obtained therein does not abrogate the obligations of the Company.

ARTICLE IV

SPECIAL COVENANTS; MAINTENANCE AND MODIFICATION

Section 4.1 Limitation of Liability of District. The District shall not be liable to the Company if for any reason the District cannot provide the sewage treatment and disposal services contemplated by this Agreement. Any monetary obligation of the District which may be created by or arise out of this Agreement shall never constitute a general obligation of or a pledge of the faith and credit or taxing power of the District, but shall be payable solely from the revenues of the System.

Section 4.2 Further Assurances and Corrective Instruments. The District and the Company agree that they will, from time to time, execute, acknowledge and deliver or cause to be executed, acknowledged and delivered, such supplements or amendments hereto and such further instruments as may be reasonably required for carrying out the expressed intention of this Agreement.

Section 4.3 Maintenance and Modifications of System. The District agrees during the Term of Agreement it will (i) keep the System in as reasonably safe condition as its operations shall permit, (ii) keep the System in good repair and in good operating condition, making from time to time all necessary repairs thereto (including external and structural repairs) and renewals and replacements thereof, and (iii) develop and implement methods to reduce costs of operating and maintaining the System.

Section 4.4 Books and Records. The District shall keep accurate financial books and records, in accordance with generally accepted accounting principles. At the request of the Company, the District shall make such books and records available for inspection by the Company or its representatives during normal business hours within two Business Days of such requests.

ARTICLE V

TERM

Section 5.1 Term of Agreement. This Agreement shall remain in full force and effect from the date hereof until such time as the debt incurred by the District in order to finance the Project has been completely repaid but in no event to equal forty years.

ARTICLE VI

INDEMNIFICATION; ASSIGNMENT

Section 6.1 Indemnification Covenants.

(a) The Company shall and hereby agrees to indemnify and save the District harmless against and from all claims by or on behalf of any person, firm, corporation or other legal entity arising from any breach or default on the part of the Company in the performance of any of its obligations under this Agreement; provided, however, that the Company shall have no obligations to indemnify the District against claims, demands, causes of action, cost, expenses or damages resulting from or connected with (i) the District's own negligence or willful misconduct, (ii) the District's failure to meet or comply with governmental statutes, rules, regulations, permits or orders, or (iii) the District's breach of this Agreement.

(b) If any action shall be brought against the District in respect of which indemnity hereunder may be sought against the Company, then the District shall promptly notify the Company in writing, and the Company at its option may or, at the request of the District, shall assume the defense thereof, including the employment of counsel and the right to negotiate and consent to settlement. If the Company assumes the defense thereof, the District shall have the right to employ separate counsel in any such action and to participate in the defense thereof, provided that the fees and expenses of such counsel shall be at the expense of the District unless the employment of such counsel has been authorized in writing by the Company. The Company shall not be liable for any settlement of any such action effected without its consent.

Section 6.2 Assignment. The parties hereto agree that the District may, in its sole discretion, assign all of the District's right, title, and interest in and to this Agreement, to any trustee, person or entity as security for Financing Costs. Any representations made by the Company in connection with such financing shall be deemed to be part of this Agreement.

ARTICLE VII

DEFAULTS AND REMEDIES

Section 7.1 Defaults Defined. The term "Default" shall mean, whenever it is used in this Agreement, any one or more of the following events:

(a) Failure by the Company to pay any amount required to be paid under Section 3 hereof when due.

(b) Failure by either party to observe and perform any material covenant, condition or agreement on its part to be observed or performed, other than as referred to in Section 6.1 (a) hereof or as prevented by reason of force majeure as defined hereunder, for a period of thirty (30) Business Days after written notice specifying such failure and requesting that it be remedied shall have been given to the other party, unless the District or Company shall agree in writing to an extension of such time prior to its expiration or such notice is rescinded; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, neither the District nor the Company will unreasonably withhold its consent to an extension of such time if corrective action is instituted by the other party within the applicable period and diligently pursued until such failure is corrected and if a representative of the party delivers certificate to the other party designating the date by which such failure is expected to be corrected.

Section 7.2 Remedies on Default.

(a) Whenever any Default referred to in Section 7.1 hereof shall have happened and be continuing, and not be cured as allowed in Section 7.1, the District may take one or any combination of the following remedial steps:

(i) Subject to the rules and regulations of the Commission, terminate, on ten (10) days written notice to the Company, the Terms of Agreement and all rights of the Company under this Agreement;

(ii) Take any other action at law or in equity which may appear necessary or desirable to collect the payment then due or thereafter to become due hereunder, and to enforce the obligations, agreements or covenants of the Company under this Agreement.

(b) Whenever any Default referred to in Section 7.1 hereof shall have happened and be continuing, and not be cured as allowed in Section 7.1, the Company may take action at law or equity which may appear necessary or desirable to enforce the obligations, agreements or covenants of the District under this Agreement.

Section 7.3 **Delay or Omission.** No delay or omission to exercise any right or power accruing upon any Default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle either party to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be required in this Article.

Section 7.4 **No Additional Waiver Implied by One Waiver.** In the event any agreement contained in this Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

ARTICLE VIII

MISCELLANEOUS

Section 8.1 **Notices.** All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when delivered or mailed by registered mail, postage, prepaid, addressed as follows:

IF TO THE DISTRICT:

Dan E. Wilson, Chairman
Hancock County Public Service District
PO Box 485
New Cumberland, WV 26047

IF TO THE COMPANY:

Mountaineer Racetrack and Resort
State Route 2
Chester, WV 26034

The District and Company may, by written notice given hereunder, designate any further or different addresses or addresses to which subsequent notices, certificates or other communications shall be sent.

Section 8.2 Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by the Commission or any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereon.

Section 8.3 Amendments. This Agreement may be amended and supplemented at any time by mutual consent of the parties hereto, subject to any approvals which may be required by the laws of the State and the rules and regulations of the Commission.

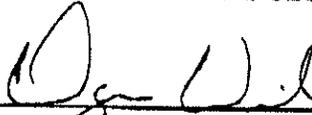
Section 8.4 Execution in Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 8.5 Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of West Virginia.

Section 8.6 Captions. The captions and headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or Sections of this Agreement.

IN WITNESS WHEREOF, the District has caused this Agreement to be executed in its name and the Company has caused this Agreement to be executed in its name all as of the date first above written.

HANCOCK COUNTY PUBLIC SERVICE DISTRICT

By 
Its CHAIRMAN

MOUNTAINEER PARK, INC.

By 
Its PRESIDENT

Page 2 of 7
Permit No. WV0101729

Also, to acquire, construct, install, operate, and maintain a new 0.3 MGD sewage collection and treatment system consisting of approximately 870 linear feet of twelve (12) inch gravity sewer line, 6,350 linear feet of ten (10) inch gravity sewer line, 10,750 linear feet of eight (8) inch gravity sewer line, 3,350 linear feet of four (4) inch force main, 15,000 linear feet of three (3) inch force main, 930 linear feet of two (2) inch force main, 3,850 linear feet of 2 ½ inch force main, 1,200 linear feet of 1 ½ inch force main, 70 manholes, six (6) lift stations, and a 0.3 MGD sequential batch reactor treatment facility consisting of a bar screen, a grit chamber, two (2) reactor basins (169,800 gallons per basin), a 96 lamp open channel ultraviolet disinfection unit, a 78,310 gallon aerobic digester, a 0.7 meter filter belt press, influent flow metering, and all other necessary appurtenances.

The new system is designed to serve 3,000 persons or equivalents including the Route 2 / Mountaineer Track and Gaming Resort areas of the Hancock County PSD and discharge treated wastewater to the Ohio River.

This permit is subject to the following terms and conditions:

The information submitted on and with Permit Application No. WV0101729 dated the 28th day of June 1995, Permit Modification Application No. WV0101729-A dated the 22nd day of October 1998, and the plans and specifications approved by the Construction Assistance branch on the 22nd day of June 1999 are all hereby made terms and conditions of this Permit with like effect as if all such permit application information were set forth herein and with other conditions set forth in Sections A, B, C, and Appendix A.

The validity of this permit is contingent upon the payment of the applicable annual permit fee, as required by Chapter 22, Article 11, Section 10 of the Code of West Virginia.

NEW SEWAGE COLLECTION AND TREATMENT FACILITIES TO BE CONSTRUCTED IN ACCORDANCE WITH:

Plans, Specifications, and Reports:

Date Approved: June 22, 1999

Prepared by: L. Robert Kimball & Associates
415 Moon Clinton Road
Moon Township, PA 15108

Title: Hancock County PSD
Hancock County, West Virginia
Wastewater Treatment Plant Route 2 Project

A. Discharge Limitations and Monitoring Requirements

During the period beginning New Plant Start up and lasting through midnight June 29, 2004 the permittee is authorized to discharge from outlet number(s) 001 - Discharge from sewage treatment facilities

Such discharges shall be limited and monitored by the permittee as specified below:

Effluent Characteristic	Discharge Limitations			Monitoring Requirements		
	Avg. Monthly	(Quantity) lbs/day Max. Daily	Other Units (Specify) Avg. Monthly Max. Daily	Measurement Frequency	Sample Type	Measured
Flow	N/A	N/A	0.300	MGD	Continuous	Measured
Biochemical Oxygen Demand (5-Day)	75.1	150.1	30.0	mg/l	1/Month	Batch**
Total Suspended Solids	75.1	150.1	30.0	mg/l	1/Month	Batch**
Nitrogen, Ammonia	37.5	75.1	15.0	mg/l	1/Month	Batch**
Fecal Coliform	N/A	N/A	200	counts/100ml	1/Month	Grab
Copper, Total Recoverable*	N/A	N/A	27	µg/l	1/Quarter	Batch**
Lead, Total Recoverable*	N/A	N/A	26	µg/l	1/Quarter	Batch**
Zinc, Total Recoverable*	N/A	N/A	175	µg/l	1/Quarter	Batch**

* Colorimetric analytical procedures shall not be used when monitoring the total recoverable form of the metal.

** One (1) aliquot sample shall be taken from each batch discharge over a 24 hour period.

The pH shall not be less than 6.0 standard units and not more than 9.0 standard units and shall be monitored by grab sampling monthly.

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s): All effluent samples shall be collected at or as near as possible to the point of discharge.

This discharge shall not cause violation of Title 46, Series 1, Section 3, of the West Virginia Legislative Rules issued pursuant to Chapter 22B, Article 3.

B. SCHEDULE OF COMPLIANCE

1. **The permittee shall achieve compliance with the provisions for waste treatment and the monitoring requirements specified in this permit in accordance with the following schedule:**

ON OR BEFORE December 30, 2000 -	Complete construction and make operational the new treatment plant and collection system project.
ON OR BEFORE March 30, 2001 -	Begin to meet final permit effluent limitations.
(ON OR BEFORE 90 DAYS) OF TREATMENT PLANT STARTUP -	Permittee shall submit a permit modification in order to obtain approval for the disposal of sewage sludge generated by the treatment plant.

2. **Reports of compliance or non-compliance with, and progress reports on interim and final requirements contained in the above compliance schedule, shall be postmarked no later than 14 days following each schedule date.**

C. OTHER REQUIREMENTS

1. The herein-described treatment works, structures, electrical and mechanical equipment shall be adequately protected from physical damage by the maximum expected one hundred (100) year flood level and operability be maintained during the twenty-five (25) year flood level.
2. The entire sewage treatment facility shall be adequately protected by fencing.
3. Continuous maintenance and operation of the listed sewage treatment facility shall be performed by or supervised by a certified operator possessing at least a Class II certificate for Waste Water Treatment Plant Operators issued by the State of West Virginia.
4. An instantaneous flow from the sewage disposal system shall not exceed the peak design flow at any given time.
5. The arithmetic mean of values for effluent samples collected in a period of seven (7) consecutive days shall not exceed 45.0 mg/l for BOD₅, 45.0 mg/l for TSS, and 22.5 mg/l for NH₃-N.
6. The arithmetic mean of the effluent values of BOD₅ and TSS discharged during a period of 30 consecutive days shall not exceed 15 percent (%) of the respective arithmetic mean of the influent values for these parameters during the same time period except as specifically authorized by the permitting authority.
7. The permittee shall not accept any new non-domestic discharges without first obtaining approval from the Chief of the Office of Water Resources as provided in Title 47, Series 10, Section 14 of the West Virginia Legislative Rules.
8. If any existing non-domestic discharge causes, or is suspected of causing, interference or pass through (as defined by 40 CFR 403.3) or otherwise violates any provision of 40 CFR 403, the permittee shall notify the Chief of such violation or suspected violation.
9. If any existing non-domestic discharge is identified as being subject to Categorical Pretreatment Standard under 40 CFR Chapter 1, Subchapter N, and the discharge is not regulated by this permit, the permittee shall notify the Chief of such identification.
10. The permittee shall submit each month according to the enclosed format, a Discharge Monitoring Report (DMR) indicating in terms of concentration and/or quantities the values of the constituents listed in Section A analytically determined to be in the plant effluent (s). Additional information pertaining to effluent monitoring and reporting can be found in Section III of Appendix A.
11. The required DMRs should be received no later than 20 days following the end of the reporting period and be addressed to:

**Chief
Office of Water Resources
1201 Greenbrier Street
Charleston, West Virginia 25311-1088
Attention: Engineering Branch**

C. OTHER REQUIREMENTS (Continued)

12. Because the permittee is using ultraviolet light as their disinfection method, no Total Residual Chlorine (TRC) effluent limitation shall currently be imposed. Should the permittee in the future decide to use chlorine as a disinfection method, a TRC effluent limitation shall be promulgated and imposed in order to protect the acute water quality standard for TRC.
13. Within 90 days of the startup of the treatment plant, the permittee shall, in conformance with the requirements of Section II.5 of Appendix A of this permit, obtain approval for the disposal of any solids generated by the wastewater treatment facility. This approval shall be afforded in accordance with the provisions of Title 33, Series 2 of the West Virginia Legislative Rules.
14. The Hancock County PSD may accept contaminated stormwater from the Mountaineer Park and Gaming Resort for subsequent treatment and disposal. Approval is subject to and contingent upon compliance with the following terms and conditions:
 - a. The wastestreams approved for acceptance include only the contaminated stormwater from the stable areas and the manure storage area.
 - b. The maximum daily volume of this wastewater approved for acceptance shall not exceed 216,000 gallons. The actual volume accepted shall be recorded daily from the Mountaineer Park and Gaming Resort stormwater overflow structure.
 - c. Reports of flow measurements required by Section G.14.b shall be submitted monthly as an attachment to the permittee's Discharge Monitoring Reports (DMRs). The reports shall include the average and maximum daily volume accepted.
 - d. In addition, the Hancock County PSD may accept a maximum daily volume of 3,000 gallons of wastewater from the stable's horse washing facility which will flow directly to the Hancock County PSD lift station.

The herein-described activity is to be extended, modified, added to, made, enlarged, acquired, constructed or installed, and operated, used and maintained strictly in accordance with the terms and conditions of this permit with the plans and specifications submitted with Permit Application No. WV0101729-A, dated the 22nd day of October 1998; with the plan of maintenance and method of operation thereof submitted with such application(s); and with any applicable rules and regulations promulgated by the Environmental Quality Board and the Director of the Division of Environmental Protection.

Failure to comply with the terms and conditions of this permit, with the plans and specifications submitted with Permit Application No. WV0101729-A, dated the 22nd day of October 1998; and with the plan of maintenance and method of operation thereof submitted with such application(s) shall constitute grounds for the revocation or suspension of this permit and for the invocation of all the enforcement procedures set forth in Chapter 22, Article 11, or 15 of the Code of West Virginia.

This permit is issued in accordance with the provisions of Chapter 22, Articles 11 and 12 and/or 15 of the Code of West Virginia and is transferable under the terms of Section 11 of Article 11.

By: 
Chief

BST/rb



Office of Water Resources
1201 Greenbrier Street
Charleston, WV 25311-1088
Telephone 304-558-4086 or 558-8855
Fax 304-558-5903

West Virginia Division of Environmental Protection

Cecil H. Underwood
Governor

Michael P. Miano
Director

April 13, 1999

Dan Wilson, Chairman
Hancock County Public Service District
P. O. Box 166R
Weirton, WV 26062

RE: Permit Application No. WV0101729
Hancock County

Dear Mr. Wilson:

Your forms for Permit Application No. WV0101729 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 16th day of April, 1999 in the Weirton Daily Times.

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: Jessica Welsh,
Public 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

Mavis L. Lucas

Mavis L. Lucas
Permit Support Team

MLL:bb

Enclosures

cc: Environmental Inspector Supervisor
Environmental Inspector

"To use all available resources to protect and restore West Virginia's environment in concert with the needs of present and future generations."

DEP

West Virginia
Division of
Environmental Protection

State of West Virginia
Division of Environmental Protection
Office of Water Resources

Public Notice

West Virginia Division of Environmental Protection's, Public Information Office, 1201 Greenbrier Street, Charleston, West Virginia 25311 Telephone: (304)538-3614

Application for a West Virginia National Pollutant Discharge Elimination System Water Pollution Control Permit

Public Notice No.: S-33-99

Public Notice Date: 4/16/99

Paper: *Weirton Daily Times*

The following has applied for a WV NPDES Water Pollution Control Permit Modification for this facility or activity:

Appl. No.: WV0101729

Applicant: Hancock County PSD
P.O. Box 166R
Weirton, WV 26062

Location: Near Chester, Hancock County, WV
Latitude: 40° 34' 30" N
Longitude: 80° 39' 46" W

Receiving Stream: Ohio River

Activity: To operate and maintain a sewage collection system designed to serve 1,875 persons in the Kings Creek Road and Turkey Foot Road Areas of the Hancock County PSD and to convey the wastewater to the City of Weirton sewage collection and treatment system for ultimate treatment and discharge.

Also, to acquire, construct, install, operate, and maintain a new 0.3 MGD sewage collection and treatment system. The new system is designed to serve 3,000 persons or equivalents including the Route 2 / Mountaineer Track and Gaming Resort areas of the Hancock County PSD and discharge treated wastewater.

Business: Public Service District

On the basis of review of the application, the "Water Pollution Control Act (Chapter 22, Article 11-8(a))," and the "West Virginia Legislative Rules," the State of West Virginia will act on the above application.

Any interested person may submit written comments on the draft permit modification and may request a public hearing by addressing such to the Chief of the Office of Water Resources within 30 days of the date of the public notice. Such comments or requests should be addressed to:

Chief, Office of Water Resources, DEP
ATTN: Jessica Welsh, Public Information Specialist
1201 Greenbrier Street



Office of Water Resources
617 Broad Street
Charleston, WV 25301-1251
Telephone Number (304) 558-0641
Fax Number (304) 558-3778



West Virginia Division of Environmental Protection

Cecil H. Underwood
Governor

Michael C. Castle
Director

December 8, 1999

Hancock County Public Service District
Sewer Revenue Bonds, Series 1999
(West Virginia SRF Program)

Hancock County Public Service District
New Cumberland, West Virginia

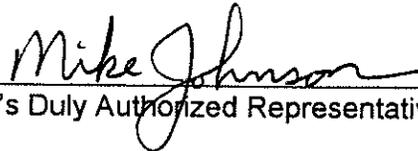
West Virginia Water Development Authority
Charleston, West Virginia

Ladies and Gentlemen:

The purpose of this letter is to certify that the funds from the State of West Virginia's Water Pollution Control Revolving Fund that has been utilized to purchase the above-referenced bonds of Hancock County Public Service District are not, in whole or in part, proceeds of the match provided from the State's General Obligation Bonds.

Very truly yours,

WEST VIRGINIA DIVISION OF ENVIRONMENTAL
PROTECTION



It's Duly Authorized Representative

12/01/99
373520.98001

"To use all available resources to protect and restore West Virginia's
environment in concert with the needs of present and future generations."



West Virginia
Division of
Environmental Protection

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 3.11. Sale of Bonds; Approval and Ratification of Execution of Loan Agreement. The Series 1995 C Bonds shall be sold to the Authority, pursuant to the terms and conditions of the Loan Agreement. If not so authorized by previous resolution, the Chairman is specifically authorized and directed to execute the Loan Agreement in the form attached hereto as "Exhibit A" and made a part hereof, and the Secretary is directed to affix the seal of the Issuer, attest the same and deliver the Loan Agreement to the Authority, and any such prior execution and delivery is hereby authorized, approved, ratified and confirmed.

Section 3.12. "Amended Schedule A" Filing. Within 60 days following the Completion Date, the Issuer will file with the Authority a schedule in substantially the form of the "Amended Schedule A" to the Loan Agreement, setting forth the actual costs of the Project and sources of funds therefor.

ARTICLE IV

[RESERVED]