

LUBECK PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2012 A
(WEST VIRGINIA CLEAN WATER SRF PROGRAM)
SEWER REVENUE BONDS, SERIES 2012 B
(WEST VIRGINIA CLEAN WATER SRF PROGRAM)

Closing Date: June 22, 2012

TRANSCRIPT OF PROCEEDINGS

<u>DOCUMENT NO.</u>	<u>DESCRIPTION</u>	<u>INDEX NO.</u>
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State of West Virginia
WATER DEVELOPMENT AUTHORITY
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Date 6/21/12 Time 1:15 LGA Jubeck PSD Program CWSRF

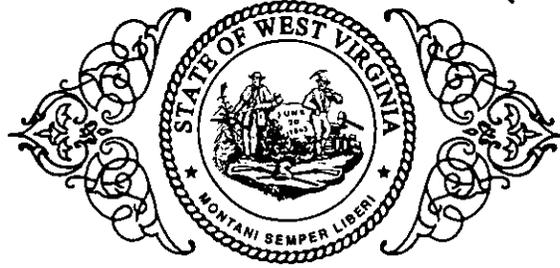
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The Authority requests that the following information concerning the individual who will be responsible for sending Debt Service Payments to the Municipal Bond Commission be provided. (If that individual is in attendance, he/she should also sign above.) Please Print:

Name Randall Atkinson Telephone 304-863-3341 E-Mail RA.Lubeckpsd@CASCable.net
 Address A.D. Box 700, Washington, WV 26181

REMINDER: As a participant in this program, the Local Governmental Agency (LGA) agrees and is required to submit annually to the WDA a copy of its audited financial statements and a copy of its adopted budget. Also, pursuant to the Loan Agreement and the NonArbitrage Certificate (both of which are contained in the bond transcript) you are to provide annually to the WDA a rebate calculation certificate.

State of West Virginia



Certificate

*I, Natalie E. Tennant, Secretary of State of the
State of West Virginia, hereby certify that*

THIS IS A TRUE COPY OF CHAPTER 16, ARTICLE 13A OF THE WEST VIRGINIA CODE, AND CHAPTER 16, ARTICLE 13A OF THE 2011 SUPPLEMENT TO THE WEST VIRGINIA CODE, AS INDICATED BY THE RECORDS OF THIS OFFICE.



*Given under my hand and the
Great Seal of the State of
West Virginia on
June 19, 2012*

Natalie E. Tennant
Secretary of State

ARTICLE 13A

PUBLIC SERVICE DISTRICTS

Section

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

§ 16-13A-1. Legislative findings

The Legislature of the state of West Virginia hereby determines and finds that the present system of public service districts within the state has provided a valuable service at a reasonable cost to persons who would otherwise have been

unable to obtain public utility services. To further this effort, and to insure that all areas of the state are benefiting from the availability of public service district utility services and to further correct areas with health hazards, the Legislature concludes that it is in the best interest of the public to implement better management of public service district resources by expanding the ability and the authority of the public service commission to assist public service districts by offering advice and assistance in operational, financial and regulatory affairs.

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

Acts 1953, c. 147; Acts 1980, c. 60; Acts 1986, c. 81.

Cross References

County courts, authority to make grants for water and sewer systems, see § 7-1-3t.

Administrative Code References

Sewer utilities regulations, see W. Va. Code St. R. § 150-5-1 et seq.

Library References

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| Counties ☞18. | C.J.S. Counties § 31. |
| Municipal Corporations ☞5, 6. | C.J.S. Municipal Corporations § 11. |
| Public Utilities ☞145. | C.J.S. Public Utilities §§ 26 to 32, 159 to 167, |
| Westlaw Topic Nos. 104, 268, 317A. | 169 to 171, 177 to 178. |

Notes of Decisions

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Validity 1

1. Validity

Title of act authorizing creation of public service districts in connection with acquisition, construction, maintenance, operation, improvement and extension of properties supplying water and sewerage services, clearly defines object and purposes of act and powers of governing board, and is sufficient to meet constitutional requirements. Acts 1953, c. 147; Const. art. 6.

§ 30. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Statutes ⇨ 123(3); Statutes ⇨ 123(5)

Statute authorizing creation of public service districts violates no provision of State Constitution, nor is it violative of Fourteenth Amendment to United States Constitution. Act 1953, c. 147; U.S.C.A.Const. Amend. 14. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law ⇨ 4056; Municipal Corporations ⇨ 4

In statute authorizing creation of public service districts, provision for delinquent fixed rates and charges for services rendered to be lien on premises served was not unconstitutional as depriving owners of property without due process of law or as violating Fourteenth Amendment of United States Constitution or applicable provisions of State Constitution. Acts 1953, c. 147, § 1 et seq.; Const. art. 3, §§ 9, 10; U.S.C.A.Const. Amend. 14. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law ⇨ 4416; Municipal Corporations ⇨ 408(1)

Statute authorizing creation of public service districts does not, in so far as it requires County Court to define territory to be included in public service district and appoint a board to govern same in first instance, involve unconstitutional delegation of judicial functions to the County Court, Acts 1953, c. 147; Const. art. 8, § 24. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law ⇨ 2355; Municipal Corporations ⇨ 4

2. In general

A public service district may be created for the purpose of furnishing water or sewer services, or both water and sewer services. Code, 16-13A-1. Canyon Public Service Dist. v. Tasa Coal Co., 1973, 195 S.E.2d 647, 156 W.Va. 606. Municipal Corporations ⇨ 5

Creation and operation of water or sanitary districts or authorities by issuance of revenue bonds payable from revenues are authorized. Code, 16-13A-1 et seq. State ex rel. Appalachian Power Co. v. Gainer, 1965, 143 S.E.2d 351, 149 W.Va. 740. Health ⇨ 369; Waters And Water Courses ⇨ 183.5

A county court may use Federal Revenue Sharing Funds for ordinary and necessary maintenance and operating expenses for sewage disposal, sanitation, and pollution abatement, and ordinary and necessary capital expenditures authorized by law but may not use such funds for matching purposes under any other federal-aid program. 55 W.Va. Op. Atty. Gen. 116 (June 27, 1973) 1973 WL 159152.

3. Construction and application

A public service district is a public corporation and does not come within constitutional

provision which in substance provides that all corporations shall be created by general laws and which is applicable to private corporations. Acts 1953, c. 147, § 1 et seq.; Const. art. 11, § 1. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Statutes ⇨ 80(3)

4. Eminent domain powers

Where notice, hearing and order with respect to creation of public service district considered only the question of furnishing water, such district was created only for the purposes of furnishing water services, and had no power to condemn real estate for sewerage facilities. Code, 16-13A-1, 16-13A-2. Canyon Public Service Dist. v. Tasa Coal Co., 1973, 195 S.E.2d 647, 156 W.Va. 606. Eminent Domain ⇨ 32

Condemnation by public service district is not a taking of private property for private use in violation of applicable constitutional provision. Const. art. 3, § 9. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Eminent Domain ⇨ 13

5. Property of public service district

Property of public service district is public property used for public purposes, and, under constitutional provision that public property shall be exempt from taxation, statute authorizing creation of public service districts and granting tax exemption was not violative of constitutional provision requiring that taxation be equal and uniform throughout state. Acts 1953, c. 147, § 1 et seq.; Const. art. 10, § 1. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Taxation ⇨ 2289

6. Rates and charges for service

Relief under Federal Securities Act of 1933 was not adequate or sufficient remedy for relief sought by corporations holding sewer revenue bonds of public service district in mandamus proceeding to compel district to establish and collect rates for services rendered by district sufficient to provide for all operational and maintenance expenses, to pay, when due, principal and interest of revenue bonds issued by district, and to file tariff reflecting such charges with Public Service Commission, and any relief afforded under provisions of federal statute could not supersede relief which could be granted in mandamus proceeding. Securities Act of 1933, § 1 et seq., 15 U.S.C.A. § 77a et seq.; Code, 16-13A-1 et seq. State ex rel. Allstate Ins. Co. v. Union Public Service Dist., 1966, 151 S.E.2d 102, 151 W.Va. 207. Mandamus ⇨ 3(8)

Corporations holding sewer revenue bonds of public service district, a public corporation and political subdivision of state, had right by mandamus to enforce and compel district and members of the Public Service Board to establish, charge and collect rates for services rendered by district sufficient to provide for all operation-

Note 6

al and maintenance expenses, to pay, when due, principal and interest of revenue bonds issued by district, and to file tariffs reflecting such charges with Public Service Commission. Code, 16-13A-1 et seq., 16-13A-9, 16-13A-10, 16-13A-13, 16-13A-17. State ex rel. Allstate Ins. Co. v. Union Public Service Dist., 1966, 151 S.E.2d 102, 151 W.Va. 207. Mandamus ⇨ 110

It was ministerial duty of chairman of public service board of public service district to sign revenue bonds and to assist in effectuating their issuance, and in view of constitutionality of statute authorizing creation of the public service board, relator's showing of legal right to require performance of such duty, was sufficient and writ of mandamus would issue. Acts 1953, c. 147. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Mandamus ⇨ 103

7. Creation and enforcement of liens

Public service district's failure to docket notice of lien prior to date purchaser recorded deed of trust prevented district from enforcing sewer lien against purchaser. Code, 16-13A-9, 38-10C-1. McClung Investments, Inc. v. Green Valley Community Public Service Dist., 1997, 485 S.E.2d 434, 199 W.Va. 490. Municipal Corporations ⇨ 712(7)

Public service district liens must be docketed to be enforceable against purchaser of property for valuable consideration, without notice. Code, 16-13A-9, 38-10C-1. McClung Investments, Inc. v. Green Valley Community Public Service Dist., 1997, 485 S.E.2d 434, 199 W.Va. 490. Gas ⇨ 14.6; Municipal Corporations ⇨ 712(7); Waters And Water Courses ⇨ 203(14)

Statute authorizing creation of public service districts confers upon public service board authority to create mortgage lien on the property of public service district, and action of legislature conferring such authority was within the legislature's power. Acts 1953, c. 147; Const. art. 10, § 8. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Municipal Corporations ⇨ 222; Municipal Corporations ⇨ 225(1)

8. Admissibility of evidence

Extrinsic evidence relating to background and negotiations with regard to forming a public service district were not admissible in regard to construction of a contract for furnishing of water, where contract language was clear and unambiguous that district was to furnish water as customer should require. Berkeley County Public Service Dist. v. Vitro Corp. of America, 1968, 162 S.E.2d 189, 152 W.Va. 252. Evidence ⇨ 448

9. Costs

Costs of proceeding whereby constitutionality of statute authorizing creation of public service districts was tested would not be taxed against defendant who was chairman of public service board and who, honestly and in good faith, though mistakenly, endeavored to perform his duty in refusing to sign revenue bonds, and each litigant would pay his own costs. Acts 1953, c. 147. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Mandamus ⇨ 190

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

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

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

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

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

Acts 1986, c. 81.

Library References

Public Utilities ⇨ 145.

Westlaw Topic No. 317A.

C.J.S. Public Utilities §§ 26 to 32, 159 to 167,
169 to 171, 177 to 178.

Notes of Decisions

In general 1

1995, 464 S.E.2d 777, 195 W.Va. 135. Public Utilities ⇌ 123

1. In general

Statute clearly and unambiguously gives Public Service Commission (PSC) power to reduce or increase utility rates whenever it finds that existing rate is unjust, unreasonable, insufficient, or unjustly discriminatory or otherwise in violation of any provision of legislation governing Commission. Code, 24-1-1 et seq., 24-2-3. State ex rel. Water Development Authority v. Northern Wayne County Public Service Dist.,

Legislature sought to establish in Public Service Commission (PSC) governmental entity which would protect public from unfair rates and practices by public utilities and also ensure that public utilities are given competitive return for their stockholders. Code, 24-2-3. State ex rel. Water Development Authority v. Northern Wayne County Public Service Dist., 1995, 464 S.E.2d 777, 195 W.Va. 135. Public Utilities ⇌ 123; Public Utilities ⇌ 129

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

Each county commission shall conduct a study of all public service districts which have their principal offices within its county and shall develop a plan relating to the creation, consolidation, merger, expansion or dissolution of such districts or the consolidation or merger of management and administrative services and personnel and shall present such plan to the public service commission for approval, disapproval, or modification: Provided, That within ninety days of the effective date of this section each county commission in this state shall elect either to perform its own study or request that the public service commission perform such study. Each county commission electing to perform its own study has one year from the date of election to present such plan to the public service commission. For each county wherein the county commission elects not to perform its own study, the public service commission shall conduct a study of such county. The public service commission shall establish a schedule for such studies upon a priority basis, with those counties perceived to have the greatest need of creation or consolidation of public service districts receiving the highest priority. In establishing the priority schedule, and in the performance of each study, the bureau of public health and the division of environmental protection shall offer their assistance and cooperation to the public service commission. Upon completion by the public service commission of each study, it shall be submitted to the appropriate county commission for review and comment. Each county commission has six months in which to review the study conducted by the public service commission, suggest changes or modifications thereof, and present such plan to the public service commission. All county plans, whether conducted by the county commission itself or submitted as a result of a public service commission study, shall, by order, be approved, disapproved or modified by the public service commission in accordance with rules promulgated by the public service commission and such order shall be implemented by the county commission.

Acts 1986, c. 81; Acts 1994, c. 61.

Cross References

Public Service Commission, participation in studies, see § 24-1-1b.

Library References

Counties \S 18, 47.

Westlaw Topic No. 104.

C.J.S. Counties $\S\S$ 31, 70 to 73.

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

Any territory constituting the whole or any part of one or more counties in the state so situated that the construction or acquisition by purchase or otherwise and the maintenance, operation, improvement and extension of, properties supplying water, sewerage or stormwater services or gas distribution services or all of these within such territory, will be conducive to the preservation of the public health, comfort and convenience of such area, may be constituted a public service district under and in the manner provided by this article. The words "public service properties," when used in this article, shall mean and include any facility used or to be used for or in connection with: (1) The diversion, development, pumping, impounding, treatment, storage, distribution or furnishing of water to or for the public for industrial, public, private or other uses (herein sometimes referred to as "water facilities"); (2) the collection, treatment, purification or disposal of liquid or solid wastes, sewage or industrial wastes (herein sometimes referred to as "sewer facilities" or "landfills"); (3) the distribution or the furnishing of natural gas to the public for industrial, public, private or other uses (herein sometimes referred to as "gas utilities or gas system"); or (4) the collection, control or disposal of stormwater (herein sometimes referred to as "stormwater system" or "stormwater systems"), or (5) the management, operation, maintenance and control of stormwater and stormwater systems (herein sometimes referred to as "stormwater management program" or "stormwater management programs"). As used in this article "stormwater system" or "stormwater systems" means a stormwater system in its entirety or any integral part thereof used to collect, control or dispose of stormwater, and includes all facilities, structures and natural water courses used for collecting and conducting stormwater to, through and from drainage areas to the points of final outlet including, but not limited to, any and all of the following: Inlets, conduits, outlets, channels, ponds, drainage easements, water quality facilities, catch basins, ditches, streams, gulches, flumes, culverts, siphons, retention or detention basins, dams, floodwalls, pipes, flood control systems, levies and pumping stations: Provided, That the term "stormwater system" or "stormwater systems" does not include highways, road and drainage easements, or stormwater facilities constructed, owned or operated by the West Virginia division of highways. As used in this article "stormwater management program" or "stormwater management programs" means those activities associated with the management, operation, maintenance and control of stormwater and stormwater systems, and includes, but is not limited to, public education, stormwater and surface runoff water quality improvement, mapping, planning, flood control, inspection, enforce-

ment and any other activities required by state and federal law: Provided, however, That the term "stormwater management program" or "stormwater management programs" does not include those activities associated with the management, operation, maintenance and control of highways, road and drainage easements, or stormwater facilities constructed, owned or operated by the West Virginia division of highways without the express agreement of the commissioner of highways.

Acts 1986, c. 81; Acts 2002, c. 272, eff. 90 days after March 9, 2002.

Library References

Counties ☞18.	C.J.S. Counties § 31.
Gas ☞12.	C.J.S. Gas §§ 43 to 45.
Municipal Corporations ☞5, 6.	C.J.S. Municipal Corporations § 11.
Waters and Water Courses ☞183.5.	C.J.S. Waters §§ 483, 543 to 581.
Westlaw Topic Nos. 104, 190, 268, 405.	

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

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

except upon the adoption of a resolution of the governing body of the city, incorporated town or other municipal corporation consenting.

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

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

(d) In all cases where proceedings for the creation, enlargement, reduction, merger, dissolution or consolidation of the public service districts are initiated by petition as aforesaid, the person filing the petition shall advance or satisfactorily indemnify the payment of the cost and expenses of publishing the hearing notice, and otherwise the costs and expenses of the notice shall be paid in the first instance by the county commission out of contingent funds or any other funds available or made available for that purpose. In addition to the notice required herein to be published, there shall also be posted in at least five conspicuous places in the proposed public service district, a notice containing

the same information as is contained in the published notice. The posted notices shall be posted not less than ten days before the hearing.

(c) All persons residing in or owning or having any interest in property in the proposed public service district shall have an opportunity to be heard for and against its creation, enlargement, reduction, merger, dissolution or consolidation. At the hearing the county commission before which the hearing is conducted shall consider and determine the feasibility of the creation, enlargement, reduction, merger, dissolution or consolidation of the proposed district. If the county commission determines that the construction or acquisition by purchase or otherwise and maintenance, operation, improvement and extension of public service properties by the public service district will be conducive to the preservation of public health, comfort and convenience of such area, the county commission shall by order create, enlarge, reduce, merge, dissolve or consolidate such public service district. If the county commission, after due consideration, determines that the proposed district will not be conducive to the preservation of public health, comfort or convenience of the area or that the creation, enlargement, reduction, merger, dissolution or consolidation of the proposed district as set forth and described in the petition or order is not feasible, it may refuse to enter an order creating the district or it may enter an order amending the description of the proposed district and create, enlarge, reduce, merge, dissolve or consolidate the district as amended.

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

(g) The county commission may, if in its discretion it deems it necessary, feasible and proper, enlarge the district to include additional areas, reduce the area of the district, where facilities, equipment, service or materials have not been extended, or dissolve the district if inactive or create or consolidate two or more such districts. If consolidation of districts is not feasible, the county commission may consolidate and centralize management and administration of districts within its county or multi-county area to achieve efficiency of operations: *Provided*, That where the county commission determines on its own motion by order entered of record, or there is a petition to enlarge the district, merge and consolidate districts, or the management and administration thereof, reduce the area of the district or dissolve the district if inactive, all of the applicable provisions of this article providing for hearing, notice of hearing and approval by the Public Service Commission shall apply. The Commission shall at all times attempt to bring about the enlargement or merger of existing public service districts in order to provide increased services and to eliminate the need for creation of new public service districts in those areas which are not currently serviced by a public service district: *Provided, however*, That where two or more public service districts are consolidated pursuant to this section, any rate differentials may continue for the period of bonded indebtedness incurred prior to consolidation. The districts may not enter into any agreement, contract or covenant that infringes upon, impairs, abridges or usurps the duties, rights or powers of the county commission, as set forth in this article, or conflicts with any provision of this article.

(h) A list of all districts and their current board members shall be filed by the county commission with the Secretary of State and the Public Service Commission by the first day of July of each year.

Acts 1953, c. 147; Acts 1965, c. 134; Acts 1967, c. 105; Acts 1975, c. 140; Acts 1980, c. 60; Acts 1981, c. 124; Acts 1986, c. 81; Acts 1995, c. 125, eff. 90 days after March 11, 1995; Acts 2002, c. 272, eff. 90 days after March 9, 2002; Acts 2005, c. 195, eff. 90 days after April 9, 2005.

Library References

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|------------------------------|-------------------------------------|
| Counties ⇨47. | C.J.S. Counties §§ 70 to 73. |
| Municipal Corporations ⇨6. | C.J.S. Municipal Corporations § 11. |
| Westlaw Topic Nos. 104, 268. | |

Notes of Decisions

- | | |
|---|---|
| Costs 6 | |
| Creation of public service districts 2 | ter and sewerage services, clearly defines object and purposes of act and powers of governing board, and is sufficient to meet constitutional requirements. Acts 1953, c. 147; Const. art. 6, § 30. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Statutes ⇨ 123(3); Statutes ⇨ 123(5) |
| District boundaries 3 | |
| Notice of hearing 4 | |
| Number of voters within district 5 | |
| Referendum 7 | |
| Validity 1 | Statute authorizing creation of public service districts does not, in so far as it requires County Court to define territory to be included in public service district and appoint a board to govern same in first instance, involve unconstitutional delegation of judicial functions to the County Court, Acts 1953, c. 147; Const. art. 8, § 24. |

I. Validity

Title of act authorizing creation of public service districts in connection with acquisition, construction, maintenance, operation, improvement and extension of properties supplying wa-

State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law ⇨ 2355; Municipal Corporations ⇨ 4

2. Creation of public service districts

Where notice, hearing and order with respect to creation of public service district considered only the question of furnishing water, such district was created only for the purposes of furnishing water services, and had no power to condemn real estate for sewerage facilities. Code, 16-13A-1, 16-13A-2. Canyon Public Service Dist. v. Tasa Coal Co., 1973, 195 S.E.2d 647, 156 W.Va. 606. Eminent Domain ⇨ 32

Where public service district was created for purpose of furnishing water services, county court had authority to add sewerage services to the facilities of the district under appropriate proceedings. Code, 16-13A-2. Canyon Public Service Dist. v. Tasa Coal Co., 1973, 195 S.E.2d 647, 156 W.Va. 606. Municipal Corporations ⇨ 270

Statute authorizing creation of public service districts confers upon public service board authority to create mortgage lien on the property of public service district, and action of legislature conferring such authority was within the legislature's power. Acts 1953, c. 147; Const. art. 10, § 8. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Municipal Corporations ⇨ 222; Municipal Corporations ⇨ 225(1)

3. District boundaries

Public service district statute that allowed county commission to designate district's boundaries did not also empower commission to make service territories exclusive, displacing Public Service Commission's (PSC) authority to determine service rights. Code, 16-13A-2. Berkeley County Public Service Sewer Dist. v. West Virginia Public Service Com'n, 1998, 512 S.E.2d 201, 204 W.Va. 279. Counties ⇨ 47

4. Notice of hearing

Provisions of statute, with respect to creation of public service districts, which relate to the filing of the petition or motion of the county court, the description of the territory to be embraced, and like provisions are mandatory; but, despite use of the word "shall," the require-

ments for posting and publication of notice and the time of setting the hearing are directory and require only substantial compliance. Code, 16-13A-2. Canyon Public Service Dist. v. Tasa Coal Co., 1973, 195 S.E.2d 647, 156 W.Va. 606. Municipal Corporations ⇨ 12(3); Municipal Corporations ⇨ 12(6)

Though record with respect to creation of public service district was silent with respect to posting of notice of hearing and as to whether hearing was not more than 40 nor less than 20 days after his fixing the date for hearing as provided by statute, there was substantial compliance with statute where hearing was set some time prior to the date of the hearing, there was publication of notice more than ten days prior to the date of the hearing as required, and there were no objections either before, during or after the hearing to the creation of the district or to the procedures employed in its creation. Code, 16-13A-2. Canyon Public Service Dist. v. Tasa Coal Co., 1973, 195 S.E.2d 647, 156 W.Va. 606. Municipal Corporations ⇨ 12(6)

5. Number of voters within district

Public service district was not void because there were not 100 legal voters owning property within the district. Code, 16-13A-2. Canyon Public Service Dist. v. Tasa Coal Co., 1973, 195 S.E.2d 647, 156 W.Va. 606. Municipal Corporations ⇨ 6

6. Costs

Costs of proceeding whereby constitutionality of statute authorizing creation of public service districts was tested would not be taxed against defendant who was chairman of public service board and who, honestly and in good faith, though mistakenly, endeavored to perform his duty in refusing to sign revenue bonds, and each litigant would pay his own costs. Acts 1953, c. 147. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Mandamus ⇨ 190

7. Referendum

A public service district, once created by county court, not subject to referendum on issue to continue or be abolished. 52 W.Va. Op. Atty. Gen. 33 (August 11, 1966) 1966 WL 87428.

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

From and after the date of the adoption of the order creating any public service district, it is a public corporation and political subdivision of the state, but without any power to levy or collect ad valorem taxes. Each district may acquire, own and hold property, both real and personal, in its corporate name, and may sue, may be sued, may adopt an official seal and may enter into

contracts necessary or incidental to its purposes, including contracts with any city, incorporated town or other municipal corporation located within or without its boundaries for furnishing wholesale supply of water for the distribution system of the city, town or other municipal corporation, or for furnishing stormwater services for the city, town or other municipal corporation, and contract for the operation, maintenance, servicing, repair and extension of any properties owned by it or for the operation and improvement or extension by the district of all or any part of the existing municipally owned public service properties of any city, incorporated town or other municipal corporation included within the district: *Provided, That no contract shall extend beyond a maximum of forty years, but provisions may be included therein for a renewal or successive renewals thereof and shall conform to and comply with the rights of the holders of any outstanding bonds issued by the municipalities for the public service properties.*

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

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

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

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

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

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

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

Any vacancy shall be filled for the unexpired term within thirty days, otherwise successor members of the board shall be appointed for terms of six

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

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

The members of the board, and the chair, secretary and treasurer thereof, shall make available to the county commission, at all times, all of its books and records pertaining to the district's operation, finances and affairs, for inspection and audit. The board shall meet at least monthly.

Acts 1953, c. 147; Acts 1965, c. 134; Acts 1971, c. 72; Acts 1981, c. 124; Acts 1983, c. 166; Acts 1986, c. 81; Acts 1994, c. 61; Acts 1997, c. 159, eff. 90 days after April 12, 1997; Acts 2002, c. 272, eff. 90 days after March 9, 2002.

Law Review and Journal Commentaries

The Scope of Title Examination in West Virginia: Can Reasonable Minds Differ? John W. Fisher, II, 98 W. Va. L. Rev. 449 (1996).
 "Yes, West Virginia, there is a special priority for the purchase money mortgage:" The recognition of purchase money mortgage priority in West Virginia. Abraham M. Ashton, 107 W. Va. L. Rev. 525 (2005).

Library References

Counties ☞18. C.J.S. Counties § 31.
 Municipal Corporations ☞6. C.J.S. Municipal Corporations § 11.
 Westlaw Topic Nos. 104, 268.

Notes of Decisions

In general 1
 Criminal responsibility of members 5
 Ministerial officers, generally 3
 Removal of members 4
 Sale of water 6
 Standard of care 2

Tort Claims Act 7

1. In general
 Board members of the Mt. Zion Public Service District cannot be compensated for performing the duties of treasurer and/or secretary

for the Mt. Zion Public Service District; furthermore, a board member may not be compensated for reading meters for the Mt. Zion Public Service District. 63 W.Va. Op.Atty.Gen. 2 (July 14, 1988) 1988 WL 483329.

2. Standard of care

Public service district owes duty of reasonable care to avoid damage to property of others with respect to maintenance of water lines. *McCloud v. Salt Rock Water Public Service Dist.*, 2000, 533 S.E.2d 679, 207 W.Va. 453. *Waters And Water Courses* ⇨ 205

3. Ministerial officers, generally

Public policy of West Virginia, as evidenced by statute making it unlawful for county or district board member or officer to be or become pecuniarily interested in proceeds of any contract or service over which he might have any voice, influence, or control, is not directed against actual fraud or collusion but is for purpose of preventing those acts and eliminating any opportunity therefor, and purpose of statute is to protect public funds and give official recognition to fact that person cannot properly represent public in transacting business with himself. Code, 61-10-15. *State v. Neary*, 1987, 365 S.E.2d 395, 179 W.Va. 115. *Courts* ⇨ 55; *Judges* ⇨ 21

4. Removal of members

Public Service District board member can be removed by majority vote of registered voters. 51 W.Va. Op.Atty.Gen. 564 (November 10, 1965) 1965 WL 92492.

5. Criminal responsibility of members

County commissioner's conviction for being or becoming pecuniarily interested in contract over which he might have some voice or influence was supported by evidence of his continued performance of contract maintenance work for public service district after his election to commission. Code, 61-10-15. *State v. Neary*, 1987, 365 S.E.2d 395, 179 W.Va. 115. *Counties* ⇨ 60

6. Sale of water

Public Service Districts may sell, at wholesale, bulk water to other municipal corporations. 51 W.Va. Op.Atty.Gen. 739 (March 16, 1966) 1966 WL 87469.

7. Tort Claims Act

Tort Claims Act's protection extended to public service districts, under the Act's definition of political subdivision, which included the term "public service districts," despite general authorization for public service districts to "sue and be sued," in the Public Health statutes. *Zirkle v. Elkins Road Public Service Dist.*, 2007, 655 S.E.2d 155. *Waters And Water Courses* ⇨ 183.5

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

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

Acts 1963, c. 75; Acts 1971, c. 72; Acts 1981, c. 124; Acts 1986, c. 81.

Library References

Counties ⇨45.
 Public Utilities ⇨145.
 Westlaw Topic Nos. 104, 317A.

C.J.S. Counties § 67.
 C.J.S. Public Utilities §§ 26 to 32, 159 to 167,
 169 to 171, 177 to 178.

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Criminal responsibility of members 1
Ministerial officers, generally 2
Sufficiency of evidence 3

1. Criminal responsibility of members

Upon becoming member of county commission, person who is pecuniarily interested in proceeds of any contract or service with public service district violates criminal conflict of interest statute; by virtue of that position, that person has some voice, influence, or control over continuation of contract. Code, 61-10-15. State v. Neary, 1987, 365 S.E.2d 395, 179 W.Va. 115. Counties ⇨ 60

2. Ministerial officers, generally

Public policy of West Virginia, as evidenced by statute making it unlawful for county or district board member or officer to be or become pecuniarily interested in proceeds of any contract or service over which he might have any voice, influence, or control, is not directed against actual fraud or collusion but is for purpose of preventing those acts and eliminating any opportunity therefor, and purpose of statute

is to protect public funds and give official recognition to fact that person cannot properly represent public in transacting business with himself. Code, 61-10-15. State v. Neary, 1987, 365 S.E.2d 395, 179 W.Va. 115. Courts ⇨ 55; Judges ⇨ 21

3. Sufficiency of evidence

County commissioner's conviction for being or becoming pecuniarily interested in contract over which he might have some voice or influence was supported by evidence of his continued performance of contract maintenance work for public service district after his election to commission. Code, 61-10-15. State v. Neary, 1987, 365 S.E.2d 395, 179 W.Va. 115. Counties ⇨ 60

Conflict of interest indictment against county commissioner was sufficient even though it did not characterize commissioner's interest as pecuniary, and commissioner was not entitled to bill of particulars. Code, 61-10-15. State v. Neary, 1987, 365 S.E.2d 395, 179 W.Va. 115. Counties ⇨ 60

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

(a) The chairman shall preside at all meetings of the board and may vote as any other member of the board. If the chairman is absent from any meeting, the remaining members may select a temporary chairman and if the member selected as chairman resigns as such or ceases for any reason to be a member of the board, the board shall select one of its members as chairman to serve until the next annual organization meeting.

(b) Salaries of the board members are:

(1) For districts with fewer than six hundred customers, up to seventy-five dollars per attendance at regular monthly meetings and fifty dollars per attendance at additional special meetings, total salary not to exceed fifteen hundred dollars per annum;

(2) For districts with six hundred customers or more but fewer than two thousand customers, up to one hundred dollars per attendance at regular monthly meetings and seventy-five dollars per attendance at additional special meetings, total salary not to exceed two thousand five hundred fifty dollars per annum;

(3) For districts with two thousand customers or more, up to one hundred twenty-five dollars per attendance at regular monthly meetings and seventy-five

dollars per attendance at additional special meetings, total salary not to exceed three thousand seven hundred fifty dollars per annum; and

(4) For districts with four thousand or more customers, up to one hundred fifty dollars per attendance at regular monthly meetings and one hundred dollars per attendance at additional special meetings, total salary not to exceed five thousand four hundred dollars per annum.

The public service district shall certify the number of customers served to the Public Service Commission beginning on the first day of July, one thousand nine hundred eighty-six, and continue each fiscal year thereafter.

(c) Public service districts selling water to other water utilities for resale may adopt the following salaries for its board members:

(1) For districts with annual revenues of less than fifty thousand dollars, up to seventy-five dollars per attendance at regular monthly meetings and fifty dollars per attendance at additional special meetings, total salary not to exceed fifteen hundred dollars per annum;

(2) For districts with annual revenues of fifty thousand dollars or more, but less than two hundred fifty thousand dollars, up to one hundred dollars per attendance at regular monthly meetings and seventy-five dollars per attendance at special meetings, total salary not to exceed two thousand five hundred fifty dollars per annum;

(3) For districts with annual revenues of two hundred fifty thousand dollars or more, but less than five hundred thousand dollars, up to one hundred twenty-five dollars per attendance at regular monthly meetings and seventy-five dollars per attendance at additional special meetings, total salary not to exceed three thousand seven hundred fifty dollars per annum; and

(4) For districts with annual revenues of five hundred thousand dollars or more, up to one hundred fifty dollars per attendance at regular monthly meetings and one hundred dollars per attendance at additional special meetings, total salary not to exceed five thousand four hundred dollars per annum.

The public service district shall certify the number of customers served and its annual revenue to the public service commission beginning on the first day of July, two thousand, and continue each fiscal year thereafter.

(d) Board members may be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their duties as provided for by the rules of the board.

(e) The board shall by resolution determine its own rules of procedure, fix the time and place of its meetings and the manner in which special meetings may be called. Public notice of meetings shall be given in accordance with section three, article nine-a, chapter six of this code. Emergency meetings may be called as provided for by said section. A majority of the members constituting the board also constitute a quorum to do business.

(f) The members of the board are not personally liable or responsible for any obligations of the district or the board, but are answerable only for willful

misconduct in the performance of their duties. The county commission which created a district or county commissions if more than one created the district may, upon written request of the district, adopt an order changing the official name of a public service district: *Provided*, That such name change will not be effective until approved by the public service commission of West Virginia and the owners of any bonds and notes issued by the district, if any, shall have consented, in writing, to the name change. If a district includes territory located in more than one county, the county commission or county commissions changing the name of the district shall provide any county commission into which the district also extends with a certified copy of the order changing the name of the district. The official name of any district created under the provisions of this article may contain the name or names of any city, incorporated town or other municipal corporation included therein or the name of any county or counties in which it is located.

Acts 1953, c. 147; Acts 1981, c. 124; Acts 1986, c. 81; Acts 1997, c. 159, eff. 90 days after April 12, 1997; Acts 2000, c. 199, eff. 90 days after March 11, 2000; Acts 2005, c. 196, eff. 90 days after April 8, 2005.

Library References

Counties ☞68. 87.	C.J.S. Counties §§ 107 to 118, 128.
Municipal Corporations ☞161.	C.J.S. Municipal Corporations §§ 372 to 390.
Westlaw Topic Nos. 104, 268.	

Notes of Decisions

In general 1

1. In general

Board members of the Mt. Zion Public Service District cannot be compensated for per-

forming the duties of treasurer and/or secretary for the Mt. Zion Public Service District; furthermore, a board member may not be compensated for reading meters for the Mt. Zion Public Service District. 63 W.Va. Op.Atty.Gen. 2 (July 14, 1988) 1988 WL 483329.

§ 16-13A-5. General manager of board

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

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

The board of any public service district which purchases water, sewer or stormwater service from a municipal water, sewer or stormwater system or

another public service district may, as an alternative to hiring its own general manager, elect to permit the general manager of the municipal water, sewer or stormwater system or public service district from which such water, sewer or stormwater service is purchased provide professional management to the district, if the appropriate municipality or public service board agrees to provide such assistance. The general manager shall receive reasonable compensation for such service.

Acts 1953, c. 147; Acts 1981, c. 124; Acts 1986, c. 81; Acts 2002, c. 272, eff. 90 days after March 9, 2002.

Library References

Counties ☞65, 68.	C.J.S. Counties §§ 101 to 103, 107 to 118.
Municipal Corporations ☞149, 161.	C.J.S. Municipal Corporations §§ 361 to 366,
Westlaw Topic Nos. 104, 268.	368, 372 to 390.

§ 16-13A-6. Employees of board

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

Acts 1953, c. 147; Acts 1981, c. 124.

Library References

Counties ☞65, 68, 87.	C.J.S. Municipal Corporations §§ 361 to 366,
Municipal Corporations ☞149, 161, 170.	368, 372 to 405.
Westlaw Topic Nos. 104, 268.	
C.J.S. Counties §§ 101 to 103, 107 to 118,	
128.	

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

The board of such districts shall have the supervision and control of all public service properties acquired or constructed by the district, and shall have the power, and it shall be its duty, to maintain, operate, extend and improve the same, including, but not limited to, those activities necessary to comply with all federal and state requirements, including water quality improvement activities. All contracts involving the expenditure by the district of more than fifteen thousand dollars for construction work or for the purchase of equipment and improvements, extensions or replacements, shall be entered into only after notice inviting bids shall have been published as a Class I legal advertisement in compliance with the provision of article three, chapter fifty-nine of this code, and the publication area for such publication shall be as specified in section two of this article in the county or counties in which the district is located. The publication shall not be less than ten days prior to the making of any such contract. To the extent allowed by law, in-state contractors shall be given first priority in awarding public service district contracts. It shall be the duty of the board to ensure that local in-state labor shall be utilized to the greatest extent

possible when hiring laborers for public service district construction or maintenance repair jobs. It shall further be the duty of the board to encourage contractors to use American made products in their construction to the extent possible. Any obligations incurred of any kind or character shall not in any event constitute or be deemed an indebtedness within the meaning of any of the provisions or limitations of the constitution, but all such obligations shall be payable solely and only out of revenues derived from the operation of the public service properties of the district or from proceeds of bonds issued as hereinafter provided. No continuing contract for the purchase of materials or supplies or for furnishing the district with electrical energy or power shall be entered into for a longer period than fifteen years.

Acts 1953, c. 147; Acts 1967, c. 105; Acts 1981, c. 124; Acts 1982, c. 24; Acts 1986, c. 81; Acts 1997, c. 159, eff. 90 days after April 12, 1997; Acts 2002, c. 272, eff. 90 days after March 9, 2002.

Library References

Counties ⇨107.	C.J.S. Counties § 147.
Municipal Corporations ⇨711.	C.J.S. Municipal Corporations § 1535.
Public Utilities ⇨114.	C.J.S. Public Utilities §§ 5 to 9, 202 to 207.
Westlaw Topic Nos. 104, 268, 317A.	

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

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

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

and in accordance with the ordinance, resolution or other proceedings which authorize the issuance of such revenue bonds or obligations.

Whenever such district has constructed, acquired or established water facilities, sewer facilities, a stormwater system, stormwater management program or gas facilities for water, sewer, stormwater or gas services within any city, incorporated town or other municipal corporation included within a district, then such city, incorporated town or other municipal corporation may not thereafter construct, acquire or establish any facilities of the same kind within such city, incorporated town or other municipal corporation without the consent of such district.

For the purpose of acquiring any public service properties or lands, rights or easements deemed necessary or incidental for the purposes of the district, each such district has the right of eminent domain to the same extent and to be exercised in the same manner as now or hereafter provided by law for such right of eminent domain by cities, incorporated towns and other municipal corporations: Provided, That the power of eminent domain provided in this section does not extend to highways, road and drainage easements, or stormwater facilities constructed, owned or operated by the West Virginia division of highways without the express agreement of the commissioner of highways: Provided, however, That such board may not acquire all or any substantial part of a privately owned waterworks system unless and until authorized so to do by the public service commission of West Virginia, and that this section shall not be construed to authorize any district to acquire through condemnation proceedings either in whole or substantial part an existing privately owned waterworks plant or system or gas facilities located in or furnishing water or gas service within such district or extensions made or to be made by it in territory contiguous to such existing plant or system, nor may any such board construct or extend its public service properties to supply its services into areas served by or in competition with existing waterworks or gas facilities or extensions made or to be made in territory contiguous to such existing plant or system by the owner thereof.

Acts 1953, c. 147; Acts 1980, c. 60; Acts 1981, c. 124; Acts 2002, c. 272, eff. 90 days after March 9, 2002.

Library References

- Counties ☞103, 104.
- Eminent Domain ☞6, 16.
- Municipal Corporations ☞221, 224.
- Westlaw Topic Nos. 104, 148, 268.
- C.J.S. Counties §§ 143 to 144, 147.
- C.J.S. Municipal Corporations §§ 873 to 880.
- C.J.S. Property § 17.

Notes of Decisions

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1. Validity

Title of act authorizing creation of public service districts in connection with acquisition, construction, maintenance, operation, improvement and extension of properties supplying wa-

Note 1

ter and sewerage services, clearly defines object and purposes of act and powers of governing board, and is sufficient to meet constitutional requirements. Acts 1953, c. 147; Const. art. 6, § 30. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Statutes ⇨ 123(3); Statutes ⇨ 123(5)

Property of public service district is public property used for public purposes, and, under constitutional provision that public property shall be exempt from taxation, statute authorizing creation of public service districts and granting tax exemption was not violative of constitutional provision requiring that taxation be equal and uniform throughout state. Acts 1953, c. 147, § 1 et seq.; Const. art. 10, § 1. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Taxation ⇨ 2289

2. In general

Statute providing that private property may be taken or damaged for a number of specified purposes amounts to legislative declaration of public purposes within meaning of laws, and it is a judicial question whether such declaration is consonant with organic law. Acts 1949, c. 59; Const. art. 3, § 9. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law ⇨ 2510

3. Eminent domain powers

Although construction of new facility proposed by utility will often require taking of private property through eminent domain, absent express statutory language Public Service Commission (PSC) has no duty to review and decide issues that are inherent in eminent domain proceeding. Sexton v. Public Service Com'n, 1992, 423 S.E.2d 914, 188 W.Va. 305. Public Utilities ⇨ 114

Statute providing that private property may be taken or damaged for a number of specified purposes is consonant with organic law and is constitutional. Acts 1949, c. 59; Const. art. 3, § 9. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Eminent Domain ⇨ 3

4. Valuation of property

Although landowner is competent to give estimate of value of property in eminent domain proceeding, that valuation is not conclusive; government agency may rely on appraisal report concerning estimated value of property to

be taken. Sexton v. Public Service Com'n, 1992, 423 S.E.2d 914, 188 W.Va. 305. Evidence ⇨ 568(4)

5. Environmental assessment

Whether construction of sewage lagoons would constitute "nuisance" does not defeat Public Service Commission's (PSC) jurisdiction to issue certificate of public convenience and necessity; while PSC may assess environmental considerations, chief inquiry by PSC is need of public for project. Code, 24-2-11. Sexton v. Public Service Com'n, 1992, 423 S.E.2d 914, 188 W.Va. 305. Municipal Corporations ⇨ 708

6. Connections with sewers or drains

City, rather than sewer and water districts, was entitled to provide sewer and water services to newly developed tract that was within districts' boundaries, but was annexed to city, where such services were not previously furnished to tract. Code, 16-13A-8. Berkeley County Public Service Sewer Dist. v. West Virginia Public Service Com'n, 1998, 512 S.E.2d 201, 204 W.Va. 279. Municipal Corporations ⇨ 712(1); Waters And Water Courses ⇨ 201

If a tract of real estate located within a public service district has been annexed into a municipality, then, as between the municipality and the public service district, the municipality has the superior right to extend water and/or sewer service which were not being previously furnished to the tract by the public service district, and under those circumstances, a public service district would need the consent of the municipality and the Public Service Commission (PSC) in order to provide such service. Code, 16-13A-8. Berkeley County Public Service Sewer Dist. v. West Virginia Public Service Com'n, 1998, 512 S.E.2d 201, 204 W.Va. 279. Municipal Corporations ⇨ 712(1); Waters And Water Courses ⇨ 201; Waters And Water Courses ⇨ 202

7. Public corporation

A public service district is a public corporation and does not come within constitutional provision which in substance provides that all corporations shall be created by general laws and which is applicable to private corporations. Acts 1953, c. 147, § 1 et seq.; Const. art. 11, § 1. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Statutes ⇨ 80(3)

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

(a)(1) The board may make, enact and enforce all needful rules in connection with the acquisition, construction, improvement, extension, management,

maintenance, operation, care, protection and the use of any public service properties owned or controlled by the district. The board shall establish rates, fees and charges for the services and facilities it furnishes, which shall be sufficient at all times, notwithstanding the provisions of any other law or laws, to pay the cost of maintenance, operation and depreciation of the public service properties and principal of and interest on all bonds issued, other obligations incurred under the provisions of this article and all reserve or other payments provided for in the proceedings which authorized the issuance of any bonds under this article. The schedule of the rates, fees and charges may be based upon:

(A) The consumption of water or gas on premises connected with the facilities, taking into consideration domestic, commercial, industrial and public use of water and gas;

(B) The number and kind of fixtures connected with the facilities located on the various premises;

(C) The number of persons served by the facilities;

(D) Any combination of paragraphs (A), (B) and (C) of this subdivision; or

(E) May be determined on any other basis or classification which the board may determine to be fair and reasonable, taking into consideration the location of the premises served and the nature and extent of the services and facilities furnished. However, no rates, fees or charges for stormwater services may be assessed against highways, road and drainage easements or stormwater facilities constructed, owned or operated by the West Virginia division of highways.

(2) Where water, sewer, stormwater or gas services, or any combination thereof, are all furnished to any premises, the schedule of charges may be billed as a single amount for the aggregate of the charges. The board shall require all users of services and facilities furnished by the district to designate on every application for service whether the applicant is a tenant or an owner of the premises to be served. If the applicant is a tenant, he or she shall state the name and address of the owner or owners of the premises to be served by the district. Notwithstanding the provisions of section eight, article three, chapter twenty-four of this code to the contrary, all new applicants for service shall deposit the greater of a sum equal to two twelfths of the average annual usage of the applicant's specific customer class or fifty dollars, with the district to secure the payment of service rates, fees and charges in the event they become delinquent as provided in this section. If a district provides both water and sewer service, all new applicants for service shall deposit the greater of a sum equal to two twelfths of the average annual usage for water service or fifty dollars and the greater of a sum equal to two twelfths of the average annual usage for wastewater service of the applicant's specific customer class or fifty dollars. In any case where a deposit is forfeited to pay service rates, fees and charges which were delinquent at the time of disconnection or termination of service, no reconnection or reinstatement of service may be made by the district until another deposit equal to the greater of a sum equal to two twelfths of the average usage for the applicant's specific customer class or fifty dollars

has been remitted to the district. After twelve months of prompt payment history, the district shall return the deposit to the customer or credit the customer's account at a rate as the public service commission may prescribe: *Provided*, That where the customer is a tenant, the district is not required to return the deposit until the time the tenant discontinues service with the district. Whenever any rates, fees, rentals or charges for services or facilities furnished remain unpaid for a period of twenty days after the same become due and payable, the user of the services and facilities provided is delinquent and the user is liable at law until all rates, fees and charges are fully paid. The board may, under reasonable rules promulgated by the public service commission, shut off and discontinue water or gas services to all delinquent users of either water or gas facilities, or both, ten days after the water or gas services become delinquent.

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

(c) Any district furnishing sewer facilities within the district may require, or may by petition to the circuit court of the county in which the property is located, compel or may require the division of health to compel all owners, tenants or occupants of any houses, dwellings and buildings located near any sewer facilities where sewage will flow by gravity or be transported by other methods approved by the division of health, including, but not limited to, vacuum and pressure systems, approved under the provisions of section nine, article one, chapter sixteen of this code, from the houses, dwellings or buildings into the sewer facilities, to connect with and use the sewer facilities and to cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from the houses, dwellings and buildings where

there is gravity flow or transportation by any other methods approved by the division of health, including, but not limited to, vacuum and pressure systems, approved under the provisions of section nine, article one, chapter sixteen of this code and the houses, dwellings and buildings can be adequately served by the sewer facilities of the district and it is declared that the mandatory use of the sewer facilities provided for in this paragraph is necessary and essential for the health and welfare of the inhabitants and residents of the districts and of the state. If the public service district requires the property owner to connect with the sewer facilities even when sewage from dwellings may not flow to the main line by gravity and the property owner incurs costs for any changes in the existing dwellings' exterior plumbing in order to connect to the main sewer line, the public service district board shall authorize the district to pay all reasonable costs for the changes in the exterior plumbing, including, but not limited to, installation, operation, maintenance and purchase of a pump or any other method approved by the division of health. Maintenance and operation costs for the extra installation should be reflected in the users charge for approval of the public service commission. The circuit court shall adjudicate the merits of the petition by summary hearing to be held not later than thirty days after service of petition to the appropriate owners, tenants or occupants.

(d) Whenever any district has made available sewer facilities to any owner, tenant or occupant of any house, dwelling or building located near the sewer facility and the engineer for the district has certified that the sewer facilities are available to and are adequate to serve the owner, tenant or occupant and sewage will flow by gravity or be transported by other methods approved by the division of health from the house, dwelling or building into the sewer facilities, the district may charge, and the owner, tenant or occupant shall pay the rates and charges for services established under this article only after thirty-day notice of the availability of the facilities has been received by the owner, tenant or occupant. Rates and charges for sewage services shall be based upon actual water consumption or the average monthly water consumption based upon the owner's, tenant's or occupant's specific customer class.

(e) Whenever any district has made available a stormwater system to any owner, tenant or occupant of any real property located near the stormwater system and where stormwater from real property affects or drains into the stormwater system, it is hereby found, determined and declared that the owner, tenant or occupant is being served by the stormwater system and it is further hereby found, determined and declared that the mandatory use of the stormwater system is necessary and essential for the health and welfare of the inhabitants and residents of the district and of the state. The district may charge, and the owner, tenant or occupant shall pay the rates, fees and charges for stormwater services established under this article only after thirty-day notice of the availability of the stormwater system has been received by the owner.

(f) All delinquent fees, rates and charges of the district for either water facilities, sewer facilities, gas facilities or stormwater systems or stormwater management programs are liens on the premises served of equal dignity, rank and priority with the lien on the premises of state, county, school and municipi-

pal taxes. In addition to the other remedies provided in this section, public service districts are granted a deferral of filing fees or other fees and costs incidental to the bringing and maintenance of an action in magistrate court for the collection of delinquent water, sewer, stormwater or gas bills. If the district collects the delinquent account, plus reasonable costs, from its customer or other responsible party, the district shall pay to the magistrate the normal filing fee and reasonable costs which were previously deferred. In addition, each public service district may exchange with other public service districts a list of delinquent accounts: *Provided*, That an owner of real property may not be held liable for the delinquent rates or charges for services or facilities of a tenant, nor may any lien attach to real property for the reason of delinquent rates or charges for services or facilities of a tenant of the real property, unless the owner has contracted directly with the public service district to purchase the services or facilities.

(g) Anything in this section to the contrary notwithstanding, any establishment, as defined in section three, article eleven, chapter twenty-two, now or hereafter operating its own sewage disposal system pursuant to a permit issued by the division of environmental protection, as prescribed by section eleven, article eleven, chapter twenty-two of this code, is exempt from the provisions of this section.

Acts 1953, c. 147; Acts 1965, c. 134; Acts 1980, c. 60; Acts 1981, c. 124; Acts 1986, c. 81; Acts 1989, c. 174; Acts 1994, c. 61; Acts 2002, c. 272, eff. 90 days after March 9, 2002; Acts 2003, c. 183, eff. 90 days after March 8, 2003.

Law Review and Journal Commentaries

The Scope of Title Examination in West Virginia: Can Reasonable Minds Differ? John W. Fisher, II, 98 W. Va. L. Rev. 449 (1996).
 "Yes, West Virginia, there is a special priority for the purchase money mortgage." The recog-

nition of purchase money mortgage priority in West Virginia. Abraham M. Ashton, 107 W. Va. L. Rev. 525 (2005).

Library References

Gas ⇨14.6.
 Municipal Corporations ⇨712.
 Waters and Water Courses ⇨203.
 Westlaw Topic Nos. 190, 268, 405.

C.J.S. Gas §§ 64, 84 to 85.
 C.J.S. Municipal Corporations § 1535.
 C.J.S. Waters §§ 483, 666 to 732.

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applicable provisions of State Constitution. Acts 1953, c. 147, § 1 et seq.; Const. art. 3, §§ 9, 10; U.S.C.A.Const. Amend. 14. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law ⇨ 4416; Municipal Corporations ⇨ 408(1)

1. Validity

In statute authorizing creation of public service districts, provision for delinquent fixed rates and charges for services rendered to be lien on premises served was not unconstitutional as depriving owners of property without due process of law or as violating Fourteenth Amendment of United States Constitution or

2. Takings

Public service district's requiring property owner to connect onto its sewer system and to abandon private sewer system located on property was not a taking of private property without just compensation. Const. Art. 3, § 9; Code, 16-13A-9; U.S.C.A. Const.Amend. 5. Kingmill Valley Public Service Dist. v. River-

view Estates Mobile Home Park, Inc., 1989, 386 S.E.2d 483, 182 W.Va. 116. Eminent Domain ⇨ 2.18

Statute providing that private property may be taken or damaged for a number of specified purposes amounts to legislative declaration of public purposes within meaning of laws, and it is a judicial question whether such declaration is consonant with organic law. Acts 1949, c. 59; Const. art. 3, § 9. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law ⇨ 2510

3. Public service district liens

Public service district liens must be docketed to be enforceable against purchaser of property for valuable consideration, without notice. Code, 16-13A-9, 38-10C-1. McClung Investments, Inc. v. Green Valley Community Public Service Dist., 1997, 485 S.E.2d 434, 199 W.Va. 490. Gas ⇨ 14.6; Municipal Corporations ⇨ 712(7); Waters And Water Courses ⇨ 203(14)

Public service district's failure to docket notice of lien prior to date purchaser recorded deed of trust prevented district from enforcing sewer lien against purchaser. Code, 16-13A-9, 38-10C-1. McClung Investments, Inc. v. Green Valley Community Public Service Dist., 1997, 485 S.E.2d 434, 199 W.Va. 490. Municipal Corporations ⇨ 712(7)

If owner, tenant or occupant of garage apartment did not receive notice that public service district's sewer facilities were available for apartment, district would have been without statutory authority to impose charges and a lien against apartment for sewer services, though the apartment was on a lot containing another dwelling which was properly subject to sewer service charges. Code, 16-13A-9, 16-13A-21, Rhodes v. Malden Public Service Dist., 1983, 301 S.E.2d 601, 171 W.Va. 645. Municipal Corporations ⇨ 712(7)

Statute authorizing creation of public service districts confers upon public service board authority to create mortgage lien on the property of public service district, and action of legislature conferring such authority was within the legislature's power. Acts 1953, c. 147; Const. art. 10, § 8. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Municipal

Corporations ⇨ 222; Municipal Corporations ⇨ 225(1)

4. Rates and charges for service

Statute clearly and unambiguously gives Public Service Commission (PSC) power to reduce or increase utility rates whenever it finds that existing rate is unjust, unreasonable, insufficient, or unjustly discriminatory or otherwise in violation of any provision of legislation governing Commission. Code, 24-1-1 et seq., 24-2-3. State ex rel. Water Development Authority v. Northern Wayne County Public Service Dist., 1995, 464 S.E.2d 777, 195 W.Va. 135. Public Utilities ⇨ 123

Corporations holding sewer revenue bonds of public service district, a public corporation and political subdivision of state, had right by mandamus to enforce and compel district and members of the Public Service Board to establish, charge and collect rates for services rendered by district sufficient to provide for all operational and maintenance expenses, to pay, when due, principal and interest of revenue bonds issued by district, and to file tariffs reflecting such charges with Public Service Commission. Code, 16-13A-1 et seq., 16-13A-9, 16-13A-10, 16-13A-13, 16-13A-17. State ex rel. Allstate Ins. Co. v. Union Public Service Dist., 1966, 151 S.E.2d 102, 151 W.Va. 207. Mandamus ⇨ 110

Duty imposed on public service district, a public corporation and political subdivision of state, to establish rates and charges sufficient to pay cost of maintenance, operation and depreciation of properties of district and principal of and interest on all bonds issued by district is nondiscretionary duty which may be enforced by mandamus. Code, 16-13A-9. State ex rel. Allstate Ins. Co. v. Union Public Service Dist., 1966, 151 S.E.2d 102, 151 W.Va. 207. Mandamus ⇨ 80

5. Notice of availability of sewer service

Issue of fact as to whether owner or tenant had received notice that public service district's sewer services were available for garage apartment, so as to allow imposition of sewer service charges and a lien against apartment, was not appropriate for resolution in mandamus proceeding. Code, 16-13A-9, 16-13A-21. Rhodes v. Malden Public Service Dist., 1983, 301 S.E.2d 601, 171 W.Va. 645. Mandamus ⇨ 174

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

No public service district shall foreclose upon the premises served by such district for delinquent fees, rates or charges for which a lien is authorized by sections nine or nineteen of this article except through the bringing and maintenance of a civil action for such purpose brought in the circuit court of the county wherein the district lies. In every such action, the court shall be required to make a finding based upon the evidence and facts presented that

the district prior to the bringing of such action had exhausted all other remedies for the collection of debts with respect to such delinquencies. In no event shall foreclosure procedures be instituted by any such district or on its behalf unless such delinquency had been in existence or continued for a period of two years from the date of the first such delinquency for which foreclosure is being sought.

Acts 1982, c. 74.

Library References

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| Gas ☞14.6. | C.J.S. Gas §§ 64, 84 to 85. |
| Municipal Corporations ☞712. | C.J.S. Municipal Corporations § 1535. |
| Waters and Water Courses ☞203. | C.J.S. Waters §§ 483, 666 to 732. |
| Westlaw Topic Nos. 190, 268, 405. | |

§ 16-13A-10. Budget

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

Acts 1953, c. 147; Acts 1981, c. 124.

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| Counties ☞154.5. | C.J.S. Municipal Corporations §§ 1621 to 1622. |
| Municipal Corporations ☞879. | |
| Westlaw Topic Nos. 104, 268. | |

Notes of Decisions

In general 1

1. In general

Corporations holding sewer revenue bonds of public service district, a public corporation and political subdivision of state, had right by mandamus to enforce and compel district and members of the Public Service Board to establish, charge and collect rates for services rendered

by district sufficient to provide for all operational and maintenance expenses, to pay, when due, principal and interest of revenue bonds issued by district, and to file tariffs reflecting such charges with Public Service Commission. Code, 16-13A-1 et seq., 16-13A-9, 16-13A-10, 16-13A-13, 16-13A-17. State ex rel. Allstate Ins. Co. v. Union Public Service Dist., 1966, 151 S.E.2d 102, 151 W.Va. 207. Mandamus ☞ 110

§ 16-13A-11. Accounts; audit

The general manager, under direction of the board, shall install and maintain a proper system of accounts, in accordance with all rules, regulations or orders

pertaining thereto by the public service commission, showing receipts from operation and application of the same, and the board shall at least once a year cause such accounts to be properly audited: Provided, That such audit may be any audit by an independent public accountant completed within one year of the time required for the submission of the report: Provided, however, That if the district is required to have its books, records and accounts audited annually by an independent certified public accountant as a result of any covenant in any board resolution or bond instrument, a copy of such audit may be submitted in satisfaction of the requirements of this section, and is hereby found, declared and determined to be sufficient to satisfy the requirements of article nine, chapter six of this code pertaining to the annual audit report by the state tax commission. A copy of the audit shall be forwarded within thirty days of submission to the county commission and to the public service commission.

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

Acts 1953, c. 147; Acts 1981, c. 124; Acts 1986, c. 81.

Library References

Counties ⇨154.5. C.J.S. Municipal Corporations §§ 1621 to
Municipal Corporations ⇨879. 1622.
Westlaw Topic Nos. 104, 268.

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

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

Acts 1953, c. 147; Acts 1981, c. 124.

Library References

Counties ⇨158. C.J.S. Counties § 198.
Municipal Corporations ⇨883. C.J.S. Municipal Corporations §§ 1626, 1635.
Westlaw Topic Nos. 104, 268.

§ 16-13A-13. Revenue bonds

For constructing or acquiring any public service properties for the authorized purposes of the district, or necessary or incidental thereto, and for constructing improvements and extensions thereto, and also for reimbursing or paying the costs and expenses of creating the district, the board of any such district is hereby authorized to borrow money from time to time and in evidence thereof issue the bonds of such district, payable solely from the revenues derived from the operation of the public service properties under control of the district. Such bonds may be issued in one or more series, may bear such date or dates, may mature at such time or times not exceeding forty years from their respective dates, may bear interest at such rate or rates not exceeding eighteen percent per annum payable at such times, may be in such form, may carry such registration privileges, may be executed in such manner, may be payable at such place or places, may be subject to such terms of redemption with or without premium, may be declared or become due before maturity date thereof, may be authenticated in any manner, and upon compliance with such conditions, and may contain such terms and covenants as may be provided by resolution or resolutions of the board. Notwithstanding the form or tenor thereof, and in the absence of any express recital on the face thereof, that the bond is nonnegotiable, all such bonds shall be, and shall be treated as, negotiable instruments for all purposes. Bonds bearing the signatures of officers in office on the date of the signing thereof shall be valid and binding for all purposes notwithstanding that before the delivery thereof any or all of the persons whose signatures appear thereon shall have ceased to be such officers. Notwithstanding the requirements or provisions of any other law, any such bonds may be negotiated or sold in such manner and at such time or times as is found by the board to be most advantageous, and all such bonds may be sold at such price that the interest cost of the proceeds therefrom does not exceed nineteen percent per annum, based on the average maturity of such bonds and computed according to standard tables of bond values. Any resolution or resolutions providing for the issuance of such bonds may contain such covenants and restrictions upon the issuance of additional bonds thereafter as may be deemed necessary or advisable for the assurance of the payment of the bonds thereby authorized.

Acts 1953, c. 147; Acts 1970, c. 11; Acts 1970, c. 12; Acts 1970, 1st Ex. Sess., c. 2; Acts 1980, c. 33; Acts 1981, 1st Ex. Sess., c. 2; Acts 1989, c. 174.

Library References

Counties ☞174.

Municipal Corporations ☞911.

Westlaw Topic Nos. 104, 268.

C.J.S. Counties § 218.

C.J.S. Municipal Corporations §§ 1647 to 1649.

Notes of Decisions

In general 1

1. In general

Corporations holding sewer revenue bonds of public service district, a public corporation and political subdivision of state, had right by mandamus to enforce and compel district and members of the Public Service Board to establish, charge and collect rates for services rendered by district sufficient to provide for all operational and maintenance expenses, to pay, when due, principal and interest of revenue bonds issued by district, and to file tariffs reflecting such

charges with Public Service Commission. Code, 16-13A-1 et seq., 16-13A-9, 16-13A-10, 16-13A-13, 16-13A-17. State ex rel. Allstate Ins. Co. v. Union Public Service Dist., 1966, 151 S.E.2d 102, 151 W.Va. 207. Mandamus ⇨ 110

Two acts amending same Code section in same manner except as to maximum interest rate of bonds, enacted on same date at same legislative session, and impossible to determine which passed after the other, that having lower maximum interest rate will govern. 53 W.Va. Op.Atty.Gen. 418 (April 8, 1970) 1970 WL 116579.

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

The cost of any public service properties acquired under the provisions of this article shall be deemed to include the cost of the acquisition or construction thereof, the cost of all property rights, easements and franchises deemed necessary or convenient therefor and for the improvements and extensions thereto; for stormwater systems and associated stormwater management programs, those activities which include, but are not limited to, water quality improvement activities necessary to comply with all federal and state requirements; interest upon bonds prior to and during construction or acquisition and for six months after completion of construction or of acquisition of the improvements and extensions; engineering, fiscal agents and legal expenses; expenses for estimates of cost and of revenues, expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense, and such other expenses as may be necessary or incident to the financing herein authorized, and the construction or acquisition of the properties and the placing of same in operation, and the performance of the things herein required or permitted, in connection with any thereof.

Acts 1953, c. 147; Acts 2002, c. 272, eff. 90 days after March 9, 2002.

Library References

Counties ⇨154.5.
Municipal Corporations ⇨879.
Westlaw Topic Nos. 104, 268.

C.J.S. Municipal Corporations §§ 1621 to 1622.

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

In the discretion and at the option of the board such bonds may be secured by a trust indenture by and between the district and a corporate trustee, which may be a trust company or bank having powers of a trust company within or without the State of West Virginia, but no such trust indenture shall convey, mortgage or create any lien upon the public service properties or any part thereof. The resolution authorizing the bonds and fixing the details thereof may provide that such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of bondholders as may be reasonable

and proper, not in violation of law, including covenants setting forth the duties of the district and the members of its board and officers in relation to the construction or acquisition of public service properties and the improvement, extension, operation, repair, maintenance and insurance thereof, and the custody, safeguarding and application of all moneys, and may provide that all or any part of the construction work shall be contracted for, constructed and paid for, under the supervision and approval of consulting engineers employed or designated by the board and satisfactory to the original bond purchasers, their successors, assignees or nominees, who may be given the right to require the security given by contractors and by any depository of the proceeds of bonds or revenues of the public service properties or other money pertaining thereto be satisfactory to such purchasers, their successors, assignees or nominees. Such indenture may set forth the rights and remedies of the bondholders and such trustee.

Acts 1953, c. 147.

Library References

Counties ☞183.	C.J.S. Counties § 222.
Municipal Corporations ☞950(15). Westlaw Topic Nos. 104, 268.	C.J.S. Municipal Corporations §§ 1708 to 1709.

United States Code Annotated

Trust Indenture Act of 1939, see 15 U.S.C.A. § 77aaa et seq.

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

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

Acts 1953, c. 147.

Library References

Counties ☞186.5.	C.J.S. Municipal Corporations §§ 1704 to 1705.
Municipal Corporations ☞951. Westlaw Topic Nos. 104, 268.	

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

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

Acts 1953, c. 147.

Library References

Counties ⇨188.

Municipal Corporations ⇨937, 955.

Westlaw Topic Nos. 104, 268.

C.J.S. Counties § 226.

C.J.S. Municipal Corporations §§ 1707, 1711.

Notes of Decisions

In general 1

1. In general

Corporations holding sewer revenue bonds of public service district, a public corporation and political subdivision of state, had right by mandamus to enforce and compel district and members of the Public Service Board to establish, charge and collect rates for services rendered

by district sufficient to provide for all operational and maintenance expenses, to pay, when due, principal and interest of revenue bonds issued by district, and to file tariffs reflecting such charges with Public Service Commission. Code, 16-13A-1 et seq., 16-13A-9, 16-13A-10, 16-13A-13, 16-13A-17. State ex rel. Allstate Ins. Co. v. Union Public Service Dist., 1966, 151 S.E.2d 102, 151 W.Va. 207. Mandamus ⇌ 110

§ 16-13A-18. Operating contracts

The board may enter into contracts or agreements with any persons, firms or corporations for the operation and management of the public service properties within the district, or any part thereof, for such period of time and under such terms and conditions as shall be agreed upon between the board and such persons, firms or corporations. The board shall have power to provide in the resolution authorizing the issuance of bonds, or in any trust indenture securing such bonds, that such contracts or agreements shall be valid and binding upon the district as long as any of said bonds, or interest thereon, are outstanding and unpaid.

Acts 1953, c. 147.

Library References

Counties ⇌ 114.

Municipal Corporations ⇌ 328.

Westlaw Topic Nos. 104, 268.

C.J.S. Counties § 161.

C.J.S. Municipal Corporations §§ 1027 to 1029.

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

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

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

Acts 1963, c. 75; Acts 1981, c. 124; Acts 1986, c. 81; Acts 1997, c. 160, eff. 90 days after April 10, 1997; Acts 2002, c. 272, eff. 90 days after March 9, 2002.

Library References

Counties ☞110.	C.J.S. Counties § 147.
Municipal Corporations ☞225.	C.J.S. Municipal Corporations §§ 882 to 892.
Westlaw Topic Nos. 104, 268.	

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

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

Acts 1953, c. 147.

Library References

Counties ☞188.	C.J.S. Counties § 226.
Municipal Corporations ☞937, 955.	C.J.S. Municipal Corporations §§ 1707, 1711.
Westlaw Topic Nos. 104, 268.	

Notes of Decisions

<p>In general 1</p> <p>_____</p> <p>1. In general</p> <p>Statute authorizing creation of public service districts confers upon public service board authority to create mortgage lien on the property</p>	<p>of public service district, and action of legislature conferring such authority was within the legislature's power. Acts 1953, c. 147; Const. art. 10, § 8. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Municipal Corporations ☞ 222; Municipal Corporations ☞ 225(1)</p>
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§ 16-13A-20. Refunding revenue bonds

The board of any district having issued bonds under the provisions of this article is hereby empowered thereafter by resolution to issue refunding bonds of such district for the purpose of retiring or refinancing such outstanding

bonds, together with any unpaid interest thereon and redemption premium thereunto appertaining and all of the provisions of this article relating to the issuance, security and payment of bonds shall be applicable to such refunding bonds, subject, however, to the provisions of the proceedings which authorized the issuance of the bonds to be so refunded.

Acts 1953, c. 147.

Library References

Counties ⇨175.

Municipal Corporations ⇨913.

Westlaw Topic Nos. 104, 268.

C.J.S. Counties § 218.

C.J.S. Municipal Corporations §§ 1647 to 1648, 1651.

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

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

Acts 1953, c. 147; Acts 1986, c. 81; Acts 1994, c. 61.

Library References

Counties ⇨18.

Municipal Corporations ⇨5.

Taxation ⇨2316, 3519.

Westlaw Topic Nos. 104, 268, 371.

C.J.S. Counties § 31.

C.J.S. Municipal Corporations § 11.

Notes of Decisions

In general 2

Validity 1

I. Validity

Statute authorizing creation of public service districts violates no provision of State Constitution, nor is it violative of Fourteenth Amendment to United States Constitution. Act 1953,

c. 147; U.S.C.A.Const. Amend. 14. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law ⇨ 4056; Municipal Corporations ⇨ 4

Statute authorizing creation of public service districts does not, in so far as it requires County Court to define territory to be included in public service district and appoint a board to govern same in first instance, involve unconstitutional

delegation of judicial functions to the County Court, Acts 1953, c. 147; Const. art. 8, § 24. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law ☞ 2355; Municipal Corporations ☞ 4

2. In general

Statute authorizing creation of public service districts confers upon public service board authority to create mortgage lien on the property of public service district, and action of legislature conferring such authority was within the legislature's power. Acts 1953, c. 147; Const. art. 10, § 8. State ex rel. McMillion v. Stahl,

1955, 89 S.E.2d 693, 141 W.Va. 233. Municipal Corporations ☞ 222; Municipal Corporations ☞ 225(1)

Title of act authorizing creation of public service districts in connection with acquisition, construction, maintenance, operation, improvement and extension of properties supplying water and sewerage services, clearly defines object and purposes of act and powers of governing board, and is sufficient to meet constitutional requirements. Acts 1953, c. 147; Const. art. 6, § 30. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Statutes ☞ 123(3); Statutes ☞ 123(5)

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

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

Acts 1958, c. 14; Acts 1960, c. 19.

W.Va. Const., art. IX, § 9, redesignated the office of the county court as county commission.

Library References

Counties ☞18.	C.J.S. Counties § 31.
Municipal Corporations ☞5.	C.J.S. Municipal Corporations § 11.
Westlaw Topic Nos. 104, 268.	

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

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

Acts 1958, c. 14; Acts 1960, c. 19; Acts 1965, c. 134.

W.Va. Const., art. IX, § 9, redesignated the office of the county court as county commission.

Library References

Counties ☞47.	C.J.S. Counties §§ 70 to 73.
Municipal Corporations ☞166.	C.J.S. Municipal Corporations §§ 369 to 371.
Westlaw Topic Nos. 104, 268.	

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

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

advances may be paid from the proceeds thereof until the maturity of such notes or other negotiable instrument.

Acts 1958, c. 14; Acts 1980, c. 60; Acts 1981, c. 124; Acts 1986, c. 118; Acts 2002, c. 272, eff. 90 days after March 9, 2002.

Library References

Counties \S 149.	C.J.S. Counties $\S\S$ 185, 187.
Municipal Corporations \S 864(3).	C.J.S. Municipal Corporations $\S\S$ 1583 to 1585, 1587.
Westlaw Topic Nos. 104, 268.	

Notes of Decisions

In general 1 _____ note. is permissible borrowing under this section. 62 W.Va. Op.Atty.Gen. 27 (May 6, 1988) 1988 WL 483331.

1. **In general**
 The borrowing by PSD's of money from counties and/or municipalities, as evidenced by a

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

(a) Notwithstanding any other provisions of this article to the contrary, a public service district may not borrow money, enter into contracts for the provision of engineering, design or feasibility studies, issue or contract to issue revenue bonds or exercise any of the powers conferred by the provisions of section thirteen, twenty or twenty-four of this article without the prior consent and approval of the Public Service Commission: *Provided*, That approval of funding set forth in section eleven, article two, chapter twenty-four of this code or this section is not required if the funding is for a project which has received a certificate of public convenience and necessity after the eighth day of July, two thousand five, from the commission and where the cost of the project changes but the change does not affect the rates established for the project.

(b) The Public Service Commission may waive the provision of prior consent and approval for entering into contracts for engineering, design or feasibility studies pursuant to this section for good cause shown which is evidenced by the public service district filing a request for waiver of this section stated in a letter directed to the commission with a brief description of the project, a verified statement by the board members that the public service district has complied with chapter five-g of this code, and further explanation of ability to evaluate their own engineering contract, including, but not limited to:

- (1) Experience with the same engineering firm; or
- (2) Completion of a construction project requiring engineering services. The district shall also forward an executed copy of the engineering contract to the commission after receiving approval of the waiver.

(c) An engineering contract that meets one or more of the following criteria is exempt from the waiver or approval requirements:

- (1) A contract with a public service district that is a Class A utility on the first day of April, two thousand three, or subsequently becomes a Class A utility as defined by commission rule;

(2) A contract with a public service district that does not require borrowing and that can be paid out of existing rates;

(3) A contract where the payment of engineering fees are contingent upon the receipt of funding, and commission approval of the funding, to construct the project which is the subject of the contract; or

(4) A contract that does not exceed fifteen thousand dollars.

(d) Requests for approval or waivers of engineering contracts shall be deemed granted thirty days after the filing date unless the staff of the Public Service Commission or a party files an objection to the request. If an objection is filed, the Public Service Commission shall issue its decision within one hundred twenty days of the filing date. In the event objection is received to a request for a waiver, the application shall be considered a request for waiver as well as a request for approval in the event a waiver is not appropriate.

(e) Unless the properties to be constructed or acquired represent ordinary extensions or repairs of existing systems in the usual course of business, a public service district must first obtain a certificate of public convenience and necessity from the Public Service Commission in accordance with the provision of chapter twenty-four of this code when a public service district is seeking to acquire or construct public service property.

Acts 1969, 1st Ex. Sess., c. 6; Acts 1981, c. 124; Acts 1986, c. 81; Acts 1996, c. 213, eff. 90 days after March 9, 1996; Acts 1997, c. 159, eff. 90 days after April 12, 1997; Acts 2003, c. 184, eff. 90 days after March 7, 2003; Acts 2005, c. 193, eff. 90 days after April 9, 2005; Acts 2006, c. 190, eff. 90 days after March 10, 2006.

Library References

- Counties ⇨114.
- Municipal Corporations ⇨270.
- Public Utilities ⇨145.
- Westlaw Topic Nos. 104, 268, 317A.
- C.J.S. Counties § 161.
- C.J.S. Public Utilities §§ 26 to 32, 159 to 167, 169 to 171, 177 to 178.

Research References

ALR Library

101 ALR 5th 287, Remedies for Sewage Treatment Plant Alleged or Deemed to be Nuisance.

Notes of Decisions

In general 1

Certificate of public convenience and necessity 2

1. In general

Proposed sewage treatment project complied with buffer zone requirements where all parties acknowledged that distance of proposed sewage lagoons from property owners' home was further than minimum buffer-zone requirement of 300 feet; Public Service Commission relied on ample evidence in record to support claim that proposed location was both cost-effective and

environmentally sound. Code, 16-13A-25, 24-2-11, 24-2-11(a). Sexton v. Public Service Com'n, 1992, 423 S.E.2d 914, 188 W.Va. 305. Municipal Corporations ⇨ 708

2. Certificate of public convenience and necessity

Public Service district must obtain certificate of public convenience and necessity before it can acquire or construct public service property. Code, 16-13A-25. Sexton v. Public Service Com'n, 1992, 423 S.E.2d 914, 188 W.Va. 305. Public Utilities ⇨ 113

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*Using the Classification and
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Chapter 16

2011
Cumulative Annual Pocket Part

Replacing 2010 Pocket Part supplementing 2008 Main Volume

Includes laws through the 2011 Regular Session

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recovered by the sanitary board of the municipality in a civil action in the name of the municipality.

(j) Any municipality exercising the powers given herein has the authority to construct, acquire, improve, equip, operate, repair and maintain any plants, machinery or works necessary to comply with the order of the Secretary of the Department of Environmental Protection or the Environmental Quality Board and the authority provided herein to establish, maintain and collect rates, fees or charges is an additional and alternative method of financing such works and matters, and is independent of any other provision of this article insofar as the article provides for or requires the issuance of revenue bonds or the imposition of rates, fees and charges in connection with the bonds: *Provided*, That except for the method of financing such works and matters, the construction, acquisition, improvement, equipment, custody, operation, repair and maintenance of any plants, machinery or works in compliance with an order of the Secretary of the Department of Environmental Protection or the Environmental Quality Board and the rights, powers and duties of the municipality and the respective officers and departments thereof, including the sanitary board, are governed by the provisions of this article.

(k) The jurisdiction and authority provided by this section does not extend to highways, road and drainage easements and stormwater facilities constructed, owned or operated by the West Virginia Division of Highways and no rates, fees or charges for stormwater services or costs of compliance may be assessed against highways, road and drainage easements and/or stormwater facilities constructed, owned and/or operated by the West Virginia Division of Highways.

(l) A municipality which has been designated by the Environmental Protection Agency as an entity to serve a West Virginia Separate Storm Sewer System community, as defined in 40 C.F.R. § 122.26, has the authority to enact ordinances or regulations which allow for the issuance of orders, the right to enter properties and the right to impose reasonable fines and penalties regarding correction of violations of municipal stormwater ordinances or regulations within the municipal watershed served by the municipal stormwater system, as long as such rules, regulations, fines or actions are not contrary to any rules or orders of the Public Service Commission.

(m) Notice of a violation of a municipal stormwater ordinance or regulation shall be served in person to the alleged violator or by certified mail, return receipt requested. The notice shall state the nature of the violation, the potential penalty, the action required to correct the violation and the time limit for making the correction. Should a person, after receipt of proper notice, fail to correct the violation of the municipal stormwater ordinance or regulation, the municipality may make or have made the corrections of the violation and bring the party into compliance with the applicable stormwater ordinance or regulation. The municipality may collect the costs of correcting the violation from the person by instituting a civil action, as long as such actions are not contrary to any rules or orders of the Public Service Commission.

(n) A municipality which has been designated by the Environmental Protection Agency as an entity to serve a West Virginia Separate Storm Sewer System community shall prepare an annual report detailing the collection and expenditure of rates, fees or charges and make it available for public review at the place of business of the governing body and the stormwater utility main office.

Acts 1955, c. 135; Acts 1967, c. 105; Acts 1994, c. 61; Acts 2001, c. 212, eff. 90 days after April 14, 2001; Acts 2008, c. 202, eff. March 8, 2008.

ARTICLE 13A

PUBLIC SERVICE DISTRICTS

<p>Section 16-13A-7. Acquisition and operation of district properties.</p> <p>16-13A-9. Rules; service rates and charges; discontinuance of service; required</p>	<p>Section water and sewer connections; lien for delinquent fees.</p>
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§ 16-13A-7. Acquisition and

The board of these districts shall maintain, operate, extend and improve properties acquired or constructed under this article, and shall perform all other duties, to maintain, operate, extend and improve activities necessary to comply with this article. All contracts for construction work or for replacements, shall be entered into as a Class I legal advertisement under section fifty-nine of this code, and the provisions of section two of this article in the publication shall not be less than the extent allowed by law, in-state contracts for service district contracts. It shall be utilized to the greatest extent for construction or maintenance required to encourage contractors to use as much as possible. Any obligations incurred or be deemed an indebtedness under the Constitution, but all such obligations derived from the operation of the bonds issued as hereinafter provided or supplies or for furnishing the for a longer period than fifteen years. Acts 1953, c. 147; Acts 1967, c. 105; 159, eff. 90 days after April 12, 1997; eff. June 9, 2011.

§ 16-13A-9. Rules; service rates and charges required water

(a)(1) The board may make, acquisition, construction, improvement, protection and the use of any property. The board shall establish rates which shall be sufficient at all times to pay the cost of maintenance, principal of and interest on all of this article and all reserve authorized the issuance of any charges may be based upon:

- (A) The consumption of water for consideration domestic, commercial, industrial, and agricultural premises;
 - (B) The number and kind of premises;
 - (C) The number of persons occupying the premises;
 - (D) Any combination of paragraphs (A), (B), and (C);
 - (E) May be determined on a basis to be fair and reasonable, taking into consideration the nature and extent of the charges for stormwater service easements or stormwater facilities. Division of Highways.
- (2) Where water, sewer, stormwater, or other services are furnished to any premises, the

PUBLIC HEALTH

n in the name of the

authority to construct, machinery or works ment of Environmental y provided herein to und alternative method provision of this article bonds or the imposition . That except for the quision, improvement, machinery or works in onmental Protection or of the municipality and y board, are governed

ot extend to highways, ned or operated by the stormwater services or nage easements and/or st Virginia Division of

l Protection Agency as nunity, as defined in 40 ns which allow for the se reasonable fines and diances or regulations system, as long as such r orders of the Public

gulation shall be served requested. The notice required to correct the erson, after receipt of er ordinance or regula- violation and bring the egulation. The munic- on by instituting a civil s of the Public Service

al Protection Agency as munity shall prepare an or charges and make it ody and the stormwater

days after April 14, 2001;

d sewer connections; lien quent fees.

PUBLIC HEALTH

§ 16-13A-9

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

The board of these districts shall have the supervision and control of all public service properties acquired or constructed by the district, and shall have the power, and it shall be its duty, to maintain, operate, extend and improve the same, including, but not limited to, those activities necessary to comply with all federal and state requirements, including water quality improvement activities. All contracts involving the expenditure by the district of more than \$25,000 for construction work or for the purchase of equipment and improvements, extensions or replacements, shall be entered into only after notice inviting bids shall have been published as a Class I legal advertisement in compliance with the provision of article three, chapter fifty-nine of this code, and the publication area for such publication shall be as specified in section two of this article in the county or counties in which the district is located. The publication shall not be less than ten days prior to the making of any such contract. To the extent allowed by law, in-state contractors shall be given first priority in awarding public service district contracts. It shall be the duty of the board to ensure that local in-state labor shall be utilized to the greatest extent possible when hiring laborers for public service district construction or maintenance repair jobs. It shall further be the duty of the board to encourage contractors to use American made products in their construction to the extent possible. Any obligations incurred of any kind or character shall not in any event constitute or be deemed an indebtedness within the meaning of any of the provisions or limitations of the Constitution, but all such obligations shall be payable solely and only out of revenues derived from the operation of the public service properties of the district or from proceeds of bonds issued as hereinafter provided. No continuing contract for the purchase of materials or supplies or for furnishing the district with electrical energy or power shall be entered into for a longer period than fifteen years.

Acts 1953, c. 147; Acts 1967, c. 105; Acts 1981, c. 124; Acts 1982, c. 24; Acts 1986, c. 81; Acts 1997, c. 159, eff. 90 days after April 12, 1997; Acts 2002, c. 272, eff. 90 days after March 9, 2002; Acts 2011, c. 147, eff. June 9, 2011.

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

(a)(1) The board may make, enact and enforce all needful rules in connection with the acquisition, construction, improvement, extension, management, maintenance, operation, care, protection and the use of any public service properties owned or controlled by the district. The board shall establish rates, fees and charges for the services and facilities it furnishes, which shall be sufficient at all times, notwithstanding the provisions of any other law or laws, to pay the cost of maintenance, operation and depreciation of the public service properties and principal of and interest on all bonds issued, other obligations incurred under the provisions of this article and all reserve or other payments provided for in the proceedings which authorized the issuance of any bonds under this article. The schedule of the rates, fees and charges may be based upon:

(A) The consumption of water or gas on premises connected with the facilities, taking into consideration domestic, commercial, industrial and public use of water and gas;

(B) The number and kind of fixtures connected with the facilities located on the various premises;

(C) The number of persons served by the facilities;

(D) Any combination of paragraphs (A), (B) and (C) of this subdivision; or

(E) May be determined on any other basis or classification which the board may determine to be fair and reasonable, taking into consideration the location of the premises served and the nature and extent of the services and facilities furnished. However, no rates, fees or charges for stormwater services may be assessed against highways, road and drainage easements or stormwater facilities constructed, owned or operated by the West Virginia Division of Highways.

(2) Where water, sewer, stormwater or gas services, or any combination thereof, are all furnished to any premises, the schedule of charges may be billed as a single amount for the

aggregate of the charges. The board shall require all users of services and facilities furnished by the district to designate on every application for service whether the applicant is a tenant or an owner of the premises to be served. If the applicant is a tenant, he or she shall state the name and address of the owner or owners of the premises to be served by the district. Notwithstanding the provisions of section eight, article three, chapter twenty-four of this code to the contrary, all new applicants for service shall deposit the greater of a sum equal to two twelfths of the average annual usage of the applicant's specific customer class or \$50, with the district to secure the payment of service rates, fees and charges in the event they become delinquent as provided in this section. If a district provides both water and sewer service, all new applicants for service shall deposit the greater of a sum equal to two twelfths of the average annual usage for water service or \$50 and the greater of a sum equal to two twelfths of the average annual usage for wastewater service of the applicant's specific customer class or \$50. In any case where a deposit is forfeited to pay service rates, fees and charges which were delinquent at the time of disconnection or termination of service, no reconnection or reinstatement of service may be made by the district until another deposit equal to the greater of a sum equal to two twelfths of the average usage for the applicant's specific customer class or \$50 has been remitted to the district. After twelve months of prompt payment history, the district shall return the deposit to the customer or credit the customer's account at a rate as the Public Service Commission may prescribe: *Provided*, That where the customer is a tenant, the district is not required to return the deposit until the time the tenant discontinues service with the district. Whenever any rates, fees, rentals or charges for services or facilities furnished remain unpaid for a period of twenty days after the same become due and payable, the user of the services and facilities provided is delinquent and the user is liable at law until all rates, fees and charges are fully paid. The board may, under reasonable rules promulgated by the Public Service Commission, shut off and discontinue water or gas services to all delinquent users of either water or gas facilities, or both, ten days after the water or gas services become delinquent. *Provided, however*, That nothing contained within the rules of the Public Service Commission shall be deemed to require any agents or employees of the board to accept payment at the customer's premises in lieu of discontinuing service for a delinquent bill.

(b) In the event that any publicly or privately owned utility, city, incorporated town, other municipal corporation or other public service district included within the district owns and operates separately water facilities, sewer facilities or stormwater facilities and the district owns and operates another kind of facility either water or sewer, or both, as the case may be, then the district and the publicly or privately owned utility, city, incorporated town or other municipal corporation or other public service district shall covenant and contract with each other to shut off and discontinue the supplying of water service for the nonpayment of sewer or stormwater service fees and charges: *Provided*, That any contracts entered into by a public service district pursuant to this section shall be submitted to the Public Service Commission for approval. Any public service district which provides water and sewer service, water and stormwater service or water, sewer and stormwater service has the right to terminate water service for delinquency in payment of water, sewer or stormwater bills. Where one public service district is providing sewer service and another public service district or a municipality included within the boundaries of the sewer or stormwater district is providing water service and the district providing sewer or stormwater service experiences a delinquency in payment, the district or the municipality included within the boundaries of the sewer or stormwater district that is providing water service, upon the request of the district providing sewer or stormwater service to the delinquent account, shall terminate its water service to the customer having the delinquent sewer or stormwater account: *Provided, however*, That any termination of water service must comply with all rules and orders of the Public Service Commission. *Provided further*, That nothing contained within the rules of the Public Service Commission shall be deemed to require any agents or employees of the Public Service Districts to accept payment at the customer's premises in lieu of discontinuing service for a delinquent bill.

(c) Any district furnishing sewer facilities within the district may require, or may by petition to the circuit court of the county in which the property is located, compel or may require the Division of Health to compel all owners, tenants or occupants of any houses, dwellings and buildings located near any sewer facilities where sewage will flow by gravity or

be transported by other methods limited to, vacuum and pressure article one, chapter sixteen of sewer facilities, to connect with means for the collection, treatment of houses, dwellings and buildings methods approved by the Division of Health pressure systems, approved under of this code and the houses, dwellings and buildings of the district and it provided for in this paragraph inhabitants and residents of the district requires the property owner to dwellings may not flow to the district any changes in the existing sewer line, the Public Service District costs for the changes in the operation, maintenance and public Division of Health. Maintenance reflected in the users charge for court shall adjudicate the merits thirty days after service of process.

(d) Whenever any district has occupant of any house, dwelling for the district has certified that the owner, tenant or occupant : methods approved by the Division of Health sewer facilities, the district may rates and charges for services and availability of the facilities has been charges for sewage services shall monthly water consumption basis class.

(e) The owner, tenant or occupant served by a stormwater system district has been designated by the West Virginia Separate Stormwater (2) the district's authority has been system; (3) the district has made real property affects or drains located in the Municipal Separate further hereby found, determining system is necessary and essential of the district and of the state. shall pay the rates, fees and charges only after thirty-day notice of the owner. An entity providing stormwater fee charged for the be assessed to the tenant.

(f) All delinquent fees, rates facilities, gas facilities or stormwater on the premises served of equal state, county, school and municipal Service Commission shall be deemed Districts to accept payment at the delinquent bill. In addition to districts are granted a deferral of and maintenance of an action in

users of services and facilities or service whether the applicant is a tenant, he or she the premises to be served by the article three, chapter twenty-four of shall deposit the greater of a sum applicant's specific customer class or es, fees and charges in the event district provides both water and the greater of a sum equal to two 50 and the greater of a sum equal service of the applicant's specific dited to pay service rates, fees and ion or termination of service, no the district until another deposit average usage for the applicant's district. After twelve months of visit to the customer or credit the on may prescribe: *Provided*, That o return the deposit until the time ever any rates, fees, rentals or r a period of twenty days after the d facilities provided is delinquent is are fully paid. The board may, Commission, shut off and discon- water or gas facilities, or both, ten *Provided, however*, That nothing n shall be deemed to require any he customer's premises in lieu of

lity, city, incorporated town, other ided within the district owns and mwater facilities and the district ewer, or both, as the case may be, y, city, incorporated town or other covenant and contract with each vice for the nonpayment of sewer any contracts entered into by a submitted to the Public Service hich provides water and sewer stormwater service has the right water, sewer or stormwater bills. and another public service district sewer or stormwater district is stormwater service experiences a luded within the boundaries of the e, upon the request of the district account, shall terminate its water stormwater account: *Provided*, ly with all rules and orders of the z contained within the rules of the agents or employees of the Public ses in lieu of discontinuing service

district may require, or may by operty is located, compel or may ants or occupants of any houses, ere sewage will flow by gravity or

be transported by other methods approved by the Division of Health, including, but not limited to, vacuum and pressure systems, approved under the provisions of section nine, article one, chapter sixteen of this code, from the houses, dwellings or buildings into the sewer facilities, to connect with and use the sewer facilities and to cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from the houses, dwellings and buildings where there is gravity flow or transportation by any other methods approved by the Division of Health, including, but not limited to, vacuum and pressure systems, approved under the provisions of section nine, article one, chapter sixteen of this code and the houses, dwellings and buildings can be adequately served by the sewer facilities of the district and it is declared that the mandatory use of the sewer facilities provided for in this paragraph is necessary and essential for the health and welfare of the inhabitants and residents of the districts and of the state. If the public service district requires the property owner to connect with the sewer facilities even when sewage from dwellings may not flow to the main line by gravity and the property owner incurs costs for any changes in the existing dwellings' exterior plumbing in order to connect to the main sewer line, the Public Service District Board shall authorize the district to pay all reasonable costs for the changes in the exterior plumbing, including, but not limited to, installation, operation, maintenance and purchase of a pump or any other method approved by the Division of Health. Maintenance and operation costs for the extra installation should be reflected in the users charge for approval of the Public Service Commission. The circuit court shall adjudicate the merits of the petition by summary hearing to be held not later than thirty days after service of petition to the appropriate owners, tenants or occupants.

(d) Whenever any district has made available sewer facilities to any owner, tenant or occupant of any house, dwelling or building located near the sewer facility and the engineer for the district has certified that the sewer facilities are available to and are adequate to serve the owner, tenant or occupant and sewage will flow by gravity or be transported by other methods approved by the Division of Health from the house, dwelling or building into the sewer facilities, the district may charge, and the owner, tenant or occupant shall pay, the rates and charges for services established under this article only after thirty-day notice of the availability of the facilities has been received by the owner, tenant or occupant. Rates and charges for sewage services shall be based upon actual water consumption or the average monthly water consumption based upon the owner's, tenant's or occupant's specific customer class.

(e) The owner, tenant or occupant of any real property may be determined and declared to be served by a stormwater system only after each of the following conditions is met: (1) The district has been designated by the Environmental Protection Agency as an entity to serve a West Virginia Separate Storm Sewer System community, as defined in 40 C.F.R. § 122.26; (2) the district's authority has been properly expanded to operate and maintain a stormwater system; (3) the district has made available a stormwater system where stormwater from the real property affects or drains into the stormwater system; and (4) the real property is located in the Municipal Separate Storm Sewer System's designated service area. It is further hereby found, determined and declared that the mandatory use of the stormwater system is necessary and essential for the health and welfare of the inhabitants and residents of the district and of the state. The district may charge and the owner, tenant or occupant shall pay the rates, fees and charges for stormwater services established under this article only after thirty-day notice of the availability of the stormwater system has been received by the owner. An entity providing stormwater service shall provide a tenant a report of the stormwater fee charged for the entire property and, if appropriate, that portion of the fee to be assessed to the tenant.

(f) All delinquent fees, rates and charges of the district for either water facilities, sewer facilities, gas facilities or stormwater systems or stormwater management programs are liens on the premises served of equal dignity, rank and priority with the lien on the premises of state, county, school and municipal taxes. Nothing contained within the rules of the Public Service Commission shall be deemed to require any agents or employees of the Public Service Districts to accept payment at the customer's premises in lieu of discontinuing service for a delinquent bill. In addition to the other remedies provided in this section, public service districts are granted a deferral of filing fees or other fees and costs incidental to the bringing and maintenance of an action in magistrate court for the collection of delinquent water, sewer,

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stormwater or gas bills. If the district collects the delinquent account, plus reasonable costs, from its customer or other responsible party, the district shall pay to the magistrate the normal filing fee and reasonable costs which were previously deferred. In addition, each public service district may exchange with other public service districts a list of delinquent accounts: *Provided*, That an owner of real property may not be held liable for the delinquent rates or charges for services or facilities of a tenant, nor may any lien attach to real property for the reason of delinquent rates or charges for services or facilities of a tenant of the real property, unless the owner has contracted directly with the public service district to purchase the services or facilities.

(g) Anything in this section to the contrary notwithstanding, any establishment, as defined in section three, article eleven, chapter twenty-two of this code, now or hereafter operating its own sewage disposal system pursuant to a permit issued by the Department of Environmental Protection, as prescribed by section eleven of said article, is exempt from the provisions of this section.

(h) A public service district which has been designated by the Environmental Protection Agency as an entity to serve a West Virginia Separate Storm Sewer System community shall prepare an annual report detailing the collection and expenditure of rates, fees or charges and make it available for public review at the place of business of the governing body and the stormwater utility main office.

Acts 1953, c. 147; Acts 1965, c. 134; Acts 1980, c. 60; Acts 1981, c. 124; Acts 1986, c. 81; Acts 1989, c. 174; Acts 1994, c. 61; Acts 2002, c. 272, eff. 90 days after March 9, 2002; Acts 2003, c. 183, eff. 90 days after March 8, 2003; Acts 2008, c. 202, eff. March 8, 2008; Acts 2010, c. 201, eff. June 11, 2010.

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

United States Code Annotated

Trust Indenture Act of 1939, see 15 U.S.C.A. § 77aaa et seq.

ARTICLE 13D

REGIONAL WATER AND WASTEWATER AUTHORITY ACT

§ 16-13D-11. Bonds may be secured by trust indenture

United States Code Annotated

Trust Indenture Act of 1939, see 15 U.S.C.A. § 77aaa et seq.

ARTICLE 13E

COMMUNITY ENHANCEMENT ACT

<p>Section 16-13E-2. Definitions. 16-13E-4. Petition for creation or expansion of community enhancement district; petition requirements.</p>	<p>Section 16-13E-10a. Extension of vesting period for land development plans and plats; approval of phases.</p>
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§ 16-13E-2. Definitions

For purposes of this article:

(a) "Assessment bonds" means special obligation bonds or notes issued by a community enhancement district which are payable from the proceeds of assessments.

(b) "Assessment" means the fee, including interest, paid by the owner of real property located within a community enhancement district to pay for the cost of a project or projects

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constructed upon or bene related thereto, which fee

(e) "Board" means a Co

(d) "Community enhan district created pursuant t

(e) "Cost" means the co

(1) Construction, recon personal property, rights, acquired by the district;

(2) All machinery and enhance county or city se

(3) Financing charges advisable by the district construction;

(4) Interest and rese insurance and any other

(5) Costs of issuance i

(6) The design of exte any district;

(7) Architectural, engi

(8) Plans, specificatio

(9) Administrative ex project; and

(10) Other expenses : financing of a project.

(f) "Development con the subject subdivision c

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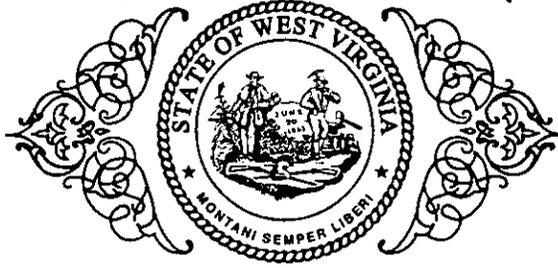
(8) The finished lay

(g) "Development co the subject land devel the maturity date of th development concept ment concept that is development plan an

(h) "Five-year vest development plan and eight-a of this code.

(i) "Governing body of a municipality, the

State of West Virginia



Certificate

*I, Natalie E. Tennant, Secretary of State of the
State of West Virginia, hereby certify that*

THIS IS A TRUE COPY OF CHAPTER 31, ARTICLE 15A OF THE WEST VIRGINIA CODE, AND SENATE BILL NO. 676, PASSED MARCH 9, 2012 AND IN EFFECT FROM PASSAGE, AS INDICATED BY THE RECORDS OF THIS OFFICE.



*Given under my hand and the
Great Seal of the State of
West Virginia on
June 19, 2012*

Natalie E. Tennant
Secretary of State

ARTICLE 15A
WEST VIRGINIA INFRASTRUCTURE AND
JOBS DEVELOPMENT COUNCIL

Section	
31-15A-1.	Short title.
31-15A-2.	Definitions.
31-15A-3.	West Virginia Infrastructure and Jobs Development Council continued; members of council; staff of council.
31-15A-4.	Development of guidelines and preliminary application for funding assistance.
31-15A-5.	Requirements for project funding assistance; review of project preliminary applications by council.
31-15A-6.	Powers, duties and responsibilities of the council generally; comprehensive assessment.
31-15A-7.	Current and prospective planning; roads and highways; report to division of highways.
31-15A-8.	Exemption of certain emergency projects from certificate of public convenience and necessity requirements; review of certain emergency projects by public service commission; and exemption for North Fork Hughes River watershed project.
31-15A-9.	Infrastructure fund; deposits in fund; disbursements to provide loans, loan guarantees, grants and other assistance; loans, loan guarantees, grants and other assistance shall be subject to assistance agreements; West Virginia Infrastructure Lottery Revenue Debt Service Fund; use of funds for projects.
31-15A-10.	Recommendations by council for expenditures of funds by loan, grant or for engineering assistance.
31-15A-11.	Reservation of funds for projects and infrastructure projects.
31-15A-12.	Additional powers of water development authority.
31-15A-13.	Prohibition on funds inuring to the benefit of or being distributable to water development board; transactions between the water development board and officers having certain interests in such transactions.
31-15A-14.	Termination or dissolution.
31-15A-15.	Projects not to be considered public improvements; competitive bid requirements.
31-15A-16.	Dedication of severance tax proceeds.
31-15A-17.	Water development authority empowered to issue infrastructure revenue bonds and refunding bonds; creation of infrastructure revenue debt service fund; funding of infrastructure revenue debt service fund; requirements and manner of such issuance.
31-15A-17a.	Infrastructure revenue bonds payable from A. James Manchin Fund.
31-15A-17b.	Infrastructure lottery revenue bonds for watershed compliance projects.
31-15A-18.	Trustee for holders of infrastructure revenue bonds; contents of trust agreement.
31-15A-19.	Legal remedies of infrastructure revenue bondholders or noteholders and trustees.
31-15A-20.	Infrastructure revenue bonds lawful investments.
31-15A-21.	Purchase and cancellation of infrastructure revenue bonds.
31-15A-22.	Refunding revenue bonds.
31-15A-23.	Infrastructure revenue bonds not debt of state, county, municipality or any political subdivision.
31-15A-24.	Infrastructure revenue bonds exempt from taxation.

§ 31-15A-1. Short title

This article shall be known and may be cited as the "West Virginia Infrastructure and Jobs Development Act."

Acts 1994, 1st Ex. Sess., c. 26.

§ 31-15A-2. Definitions

For purposes of this article:

(a) "Bond" or "infrastructure revenue bond" means a revenue bond, note, or other obligation issued by the water development authority pursuant to this article, including bonds to refund such bonds and notes to renew such notes, and notes in anticipation of and payable from the proceeds of such bonds.

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

(c) "Cost" means, as applied to any project to be financed, in whole or in part, with infrastructure revenues or funds otherwise provided pursuant to this article, the cost of planning, acquisition, improvement and construction of the project; the cost of preliminary design and analysis, surveys, borings; the cost of environmental, financial, market and engineering feasibility studies, assessments, applications, approvals, submissions or clearances; the cost of preparation of plans and specifications and other engineering services; the cost of acquisition of all land, rights-of-way, property rights, easements, franchise rights and any other interests required for the acquisition, repair, improvement or construction of the project; the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which buildings or structures may be moved; the cost of excavation, grading, shaping or treatment of earth, demolishing or removing any buildings or structures; the cost of constructing any buildings or other improvements; the cost of all pumps, tanks, vehicles, apparatus and other machinery, furnishings and equipment; loan or origination fees and all finance charges and interest incurred prior to and during the construction and for no more than six months after completion of construction; the cost of all legal services and expenses; the cost of all plans, specifications, surveys and estimates of cost; all working capital and other expenses necessary or incident to determining the feasibility or practicability of acquiring, repairing, improving or constructing any project; the cost of placing any project in operation; and all other costs and expenses of any kind or nature incurred or to be incurred by the project sponsor developing the project that are reasonable and necessary for carrying out all works and undertakings necessary or incident to the accomplishment of any project: Provided, That costs shall not include any amounts related to the ongoing operations of the owner or operator, depreciation thereof or any other cost which the council or the water development authority has not determined to be consistent with the purposes and objectives of this article;

(d) "Council" means the West Virginia infrastructure and jobs development council created in section three of this article;

(e) "Division of environmental protection" means the division of environmental protection established under article one, chapter twenty-two of this code, or any successor to all or any substantial part of its powers and duties;

(f) "Division of health" means the division of health created in article one, chapter sixteen of this code, or any successor to all or any substantial part of its powers and duties;

(g) "Economic development authority" means the economic development authority established under article fifteen, chapter thirty-one of the code, or any successor to all or any substantial part of its powers and duties;

(h) "Emergency project" means a project which the council has determined:
(1) Is essential to the immediate economic development of an area of the state; and

(2) will not likely be developed in that area if construction of the project is not commenced immediately;

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

(j) "Housing development fund" means the West Virginia housing development fund established under article eighteen of this chapter, or any successor to all or any substantial part of its powers and duties;

(k) "Infrastructure fund" means the West Virginia infrastructure fund created and established in section nine of this article;

(l) "infrastructure project" means a project in the state which the council determines is likely to foster and enhance economic growth and development in the area of the state in which the project is developed, for commercial, industrial, community improvement or preservation or other proper purposes, including, without limitation, tourism and recreational housing, land, air or water transportation facilities and bridges, industrial or commercial projects and facilities, mail order, warehouses, wholesale and retail sales facilities and other real and personal properties, including facilities owned or leased by this state or any other project sponsor, and includes, without limitation:

(1) the process of acquiring, holding, operating, planning, financing, demolition, construction, improving, expanding, renovation, leasing or otherwise disposing of the project or any part thereof or interest therein; and

(2) preparing land for construction and making, installing or constructing improvements on the land, including water or wastewater facilities or any part thereof, steam, gas, telephone and telecommunications and electric lines and installations, roads, bridges, railroad spurs, buildings, docking and shipping facilities, curbs, gutters, sidewalks, and drainage and flood control facilities, whether on or off the site;

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

(n) "Need of the project sponsors" means there is a public need for a project. The council shall construe a population increase evidenced by the last two decennial censuses in a county in which a project is proposed, as a factor supporting the conclusion that a need exists for projects in that county.

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

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

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

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

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

(t) "State development office" means the West Virginia development office established under article two, chapter five-b of this code, or any successor to all or any substantial part of its powers and duties;

(u) "State infrastructure agency" means the division of health, division of environmental protection, housing development fund, public service commission, state development office, water development authority, economic development authority and any other state agency, division, body, authority, commission, instrumentality or entity which now or in the future receives applications for the funding of, and provides funding or technical assistance to, the planning, acquisition, construction or improvement of a project;

(v) "Wastewater facility" means all facilities, land and equipment used for or in connection with treating, neutralizing, disposing of, stabilizing, cooling, segregating or holding wastewater, including, without limitation, facilities for the treatment and disposal of sewage, industrial wastes or other wastes, wastewater, and the residue thereof; facilities for the temporary or permanent impoundment of wastewater, both surface and underground; and sanitary

sewers or other collection systems, whether on the surface or underground, designed to transport wastewater together with the equipment and furnishings therefor or thereof and their appurtenances and systems, whether on the surface or underground including force mains and pumping facilities therefor;

(w) "Water development authority" means the West Virginia water development authority continued pursuant to the provisions of article one, chapter twenty-two-c of this code, or any successor to all or any substantial part of its powers and duties; and

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

Acts 1994, 1st Ex. Sess., c. 26; Acts 1998, c. 180, eff. 90 days after March 14, 1998.

Library References

States Ⓒ83, 147.

Westlaw Topic No. 360.

C.J.S. States §§ 262, 437, 443 to 445.

§ 31-15A-3. West Virginia Infrastructure and Jobs Development Council continued; members of council; staff of council

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

(b) The council shall consist of thirteen members, including:

- (1) The Governor or designee;
- (2) The Executive Director of the Housing Development Fund or his or her designee;
- (3) The Director of the Division of Environmental Protection or his or her designee;
- (4) The Director of the Economic Development Authority or his or her designee;
- (5) The Director of the Water Development Authority or his or her designee;
- (6) The Director of the Division of Health or his or her designee;
- (7) The Chairman of the Public Service Commission or his or her designee;

and

(8) Six members representing the general public: *Provided*, That there shall be at least one member representing the general public from each congressional district. No more than one member representing the general public may be a resident of the same county.

(c) The Governor shall appoint the public members of the Council who shall serve three-year staggered terms.

(d) The Commissioner of the Division of Highways, the Executive Director of the state rail authority, two members of the West Virginia Senate, two members of the West Virginia House of Delegates, the Chancellor of the Higher Education Policy commission and the Chancellor of the West Virginia Council for Community and Technical College Education serve as advisory members of the council. The advisory members shall be ex officio, nonvoting members of the Council.

(e) The Governor shall appoint the legislative members of the council: *Provided*, That no more than three of the legislative members may be of the same political party.

(f) The Governor shall appoint the representatives of the governing boards from a list of three names submitted by each governing board.

(g) The Governor or designee shall serve as chairman and the council shall annually appoint a vice chairperson and shall appoint a secretary, who need not be a member of the Council and who shall keep records of its proceedings. Seven members of the Council shall constitute a quorum and the affirmative vote of at least the majority of those members present shall be necessary for any action taken by vote of the Council. A vacancy in the membership of the council does not impair the rights of a quorum by such vote to exercise all the rights and perform all the duties of the council.

(h) A member of the council who serves by virtue of his or her office does not receive compensation or reimbursement of expenses for serving as a member. The public members are reimbursed for actual expenses incurred in the service of the council in a manner consistent with guidelines of the travel management office of the Department of Administration.

(i) The council meets at least monthly to review projects and infrastructure projects requesting funding assistance and otherwise to conduct its business and may meet more frequently if necessary. Notwithstanding any other provision of this article to the contrary, the Economic Development Authority is not subject to council review with regard to any action taken pursuant to the authority established in article fifteen, chapter thirty-one of this code. The Governor's civil contingent fund is not subject to council review with regard to projects or infrastructure projects funded through the Governor's Civil Contingent Fund.

(j) The Water Development Authority shall provide office space for the council and each governmental agency represented on the council shall provide staff support for the council in the manner determined appropriate by the council.

(k) The council shall invite to each meeting one or more representatives of the United States Department of Agriculture, Rural Economic Community Development, the United States Economic Development Agency and the United States Army Corps of Engineers or any successors thereto. The council shall

invite other appropriate parties as is necessary to effectuate the purposes of this article.

Acts 1994, 1st Ex. Sess., c. 26; Acts 1995, c. 130, eff. March 10, 1995; Acts 2005, 1st Ex. Sess., c. 3, eff. Jan. 29, 2005; Acts 2009, c. 221, eff. April 10, 2009.

Historical and Statutory Notes

Acts 2005, 1st Ex. Sess., c. 3, rewrote (b); in (c), substituted "The governor or designee shall serve as chairman and the council shall annually appoint a vice chairperson" for "The council shall annually elect one of its members as chairman"; rewrote (d); and made nonsubstantive changes throughout the section. Prior to revision, (b) and (d) read:

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

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

receive reimbursement for actual expenses incurred in the service of the council."

Acts 2009, c. 221, rewrote this section, which formerly read:

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

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

"(c) The governor or designee shall serve as chairman and the council shall annually ap-

point a vice chairperson and shall appoint a secretary, who need not be a member of the council and who shall keep records of its proceedings. Six members of the council shall constitute a quorum and the affirmative vote of at least the majority of those members present shall be necessary for any action taken by vote of the council. A vacancy in the membership of the council does not impair the rights of a quorum by such vote to exercise all the rights and perform all the duties of the council.

"(d) A member of the council who serves by virtue of his or her office does not receive compensation or reimbursement of expenses for serving as a member. The public members are reimbursed for actual expenses incurred in the service of the council in a manner consistent with guidelines of the travel management office of the department of administration.

"(e) The council meets at least monthly to review projects and infrastructure projects requesting funding assistance and otherwise to conduct its business and may meet more frequently if necessary. Notwithstanding any oth-

er provision of this article to the contrary, the economic development authority is not subject to council review with regard to any action taken pursuant to the authority established in article fifteen, chapter thirty-one of this code. The governor's civil contingent fund is not subject to council review with regard to projects or infrastructure projects funded through the governor's civil contingent fund.

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

"(g) The council shall invite to each meeting one or more representatives of the United States department of agriculture, rural economic community development, the United States economic development agency and the United States army corps of engineers or any successors thereto. The council shall invite such other appropriate parties as is necessary to effectuate the purposes of this article."

Library References

States 69, 74, 83.
Westlaw Topic No. 360.

C.I.S. States §§ 224 to 225, 229, 249 to 250,
252, 262.

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

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

the degree to which the project or infrastructure project achieves other state or regional planning goals; (9) the estimated date upon which the project or infrastructure project could commence if funding were available and the estimated completion date of the project or infrastructure project; and (10) such other considerations as the council may consider necessary or appropriate to accomplish the purpose and intent of this article.

(b) The council shall create a preliminary application form which shall be used by all project sponsors requesting funding assistance from state infrastructure agencies to plan, acquire, construct, improve or otherwise develop an infrastructure project or project. The preliminary application form shall contain all information required by all state infrastructure agencies that will be required to issue permits and/or certificates regarding the project or infrastructure project. The preliminary application shall require the project sponsor to set forth the type and proposed location of the infrastructure project or project; the estimated total cost of the project; the amount of funding assistance required and the specific uses of the funding; other sources of funding available or potentially available for the infrastructure project or project; information demonstrating the need for the infrastructure project or project and that the proposed funding of the project is the most economically feasible and viable alternative to completing the project or infrastructure project; and such other information as the council considers necessary to enable it to recommend the type of project or infrastructure project financing, in terms of the kind, amount and source of funding, which the project sponsor should pursue and which the state infrastructure agency or agencies should consider an appropriate investment of public funds, and to otherwise carry out the intent of this article.

Acts 1994, 1st Ex. Sess., c. 26.

Library References

States ~~69~~ 69, 74, 83.
Westlaw Topic No. 360.

C.J.S. States §§ 224 to 225, 229, 249 to 250,
252, 262.

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

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

(b) The council shall, within thirty days of receipt of each completed preliminary application submitted to it, review the preliminary application and either

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

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

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

Acts 1994, 1st Ex. Sess., c. 26.

Library References

States 69, 74, 83.
Westlaw Topic No. 360.

C.J.S. States §§ 224 to 225, 229, 249 to 250,
252, 262.

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

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

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

(2) Periodically prepare a list of infrastructure projects or projects which cannot meet the established funding guidelines of the various state infrastruc-

ture agencies, other than the Housing Development Fund, but which are consistent with the mandates of this article and recommend to the Water Development Authority that it make a grant or loan to the project sponsors from the infrastructure fund to finance the cost of one or more such projects or infrastructure projects;

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

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

(b) The council shall develop a comprehensive statewide inventory of water supply systems and sewage treatment systems and an assessment of current and future needs. The assessment shall identify the areas of the state which do not have adequate public water or sewage systems and offer recommendations for the construction of new facilities or the extension or expansion of existing facilities to meet the identified needs. The council shall include in the assessment an identification of the obstacles, issues and problems which prevent or inhibit development of adequate infrastructure throughout the state, including financial, governmental, physical, or geographical factors and make recommendation as the council considers appropriate regarding the obstacles, issues or problems identified. This comprehensive inventory and assessment shall be updated at least once in every three-year period after the initial assessment and inventory is completed in 1996.

(c) The council shall study the viability of the consolidation of public service districts throughout the state. The council shall report their findings and conclusions on or before January 16, 1995 to the Governor, Speaker of the House of Delegates and President of the Senate.

Acts 1994, 1st Ex. Sess., c. 26; Acts 2009, c. 221, eff. April 10, 2009.

Historical and Statutory Notes

Acts 2009, c. 221, rewrote this section, which formerly read:

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

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

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

the cost of one or more such projects or infrastructure projects;

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

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

"(b) The council shall develop a comprehensive statewide inventory of water supply systems and sewage treatment systems and an assessment of current and future needs by the first day of July, one thousand nine hundred ninety-six. The assessment shall identify the areas of the state which do not have adequate public water or sewage systems and offer recommendations for the construction of new facilities or the extension or expansion of existing facilities to meet the identified needs. The council shall include in the assessment an identification of the obstacles, issues and problems which pre-

vent or inhibit development of adequate infrastructure throughout the state, including financial, governmental, physical, or geographical factors and make recommendation as the council considers appropriate regarding the obstacles, issues or problems identified. This comprehensive inventory and assessment shall be updated at least once in every three-year period after the initial assessment and inventory is completed.

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

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

Library References

States 69, 74, 83.
Westlaw Topic No. 360.

C.J.S. States §§ 224 to 225, 229, 249 to 250, 252, 262.

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

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

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

infrastructure planning team shall advise the commissioner of the division of highways on the feasibility of an infrastructure plan. The local infrastructure planning team shall meet to develop an infrastructure plan that includes an assessment study of existing water and sewer lines and a feasibility study on future development and laying of water and sewer lines. After these studies are completed, a developmental map shall be drawn of the proposed road route with overlays of the proposed water and sewer lines. These studies and the map shall be presented to the commissioner of the division of highways and shall be used by the commissioner in the planning, developing and building of the road.

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

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

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

Acts 1994, 1st Ex. Sess., c. 26.

Library References

Highways ☞91.

Water Law ☞1036.

Westlaw Topic Nos. 200, 405.

C.J.S. Highways § 155.

C.J.S. Waters §§ 483, 543 to 581.

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

(a) If the council determines a project to be an emergency and the emergency project will be funded solely with grant money for the extension of an existing certificated water facility or wastewater facility, and if the council finds in its recommendation that the construction and acquisition of the emergency project will have no effect on the public utility's customer rates and will have

no significant effect on its operational costs as a result of the project cost, then the emergency project is exempt from the requirement to obtain a certificate of public convenience and necessity under section eleven, article two, chapter twenty-four of this code. If the public utility is a public service district, it is exempt from the approval of the public service commission required under section twenty-five, article thirteen-a, chapter sixteen of this code.

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

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

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

Acts 1994, 1st Ex. Sess., c. 26; Acts 1993, c. 180, eff. 90 days after March 14, 1998.

Library References

Public Utilities ☞113.	C.J.S. Public Utilities §§ 3, 180 to 196.
Water Law ☞1869.	C.J.S. Waters §§ 483, 498 to 504.
Westlaw Topic Nos. 317A, 405.	

§ 31-15A-9. Infrastructure fund; deposits in fund; disbursements to provide loans, loan guarantees, grants and other assistance; loans, loan guarantees, grants and other assistance shall be subject to assistance agreements; West Virginia Infrastructure Lottery Revenue Debt Service Fund; use of funds for projects

(a) The Water Development Authority shall create and establish a special revolving fund of moneys made available by appropriation, grant, contribution or loan to be known as the "West Virginia Infrastructure Fund". This fund shall be governed, administered and accounted for by the directors, officers and managerial staff of the Water Development Authority as a special purpose account separate and distinct from any other moneys, funds or funds owned and managed by the Water Development Authority. The infrastructure fund shall consist of sub-accounts, as deemed necessary by the council or the Water Development Authority, for the deposit of: (1) Infrastructure revenues; (2) any appropriations, grants, gifts, contributions, loan proceeds or other revenues received by the infrastructure fund from any source, public or private; (3) amounts received as payments on any loans made by the Water Development Authority to pay for the cost of a project or infrastructure project; (4) insurance proceeds payable to the Water Development Authority or the infrastructure fund in connection with any infrastructure project or project; (5) all income earned on moneys held in the infrastructure fund; (6) all funds deposited in accordance with section four of article fifteen-b; and (7) all proceeds derived from the sale of bonds issued pursuant to article fifteen-b of this chapter.

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

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

(b) Notwithstanding any provision of this code to the contrary, amounts in the infrastructure fund shall be deposited by the Water Development Authority in one or more banking institutions: *Provided*, That any moneys so deposited shall be deposited in a banking institution located in this state. The banking institution shall be selected by the Water Development Authority by competitive bid. Pending the disbursement of any money from the infrastructure fund as authorized under this section, the Water Development Authority shall invest

and reinvest the moneys subject to the limitations set forth in article eighteen, chapter thirty-one of this code.

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

(d) Each loan, loan guarantee, grant or other assistance made or provided by the Water Development Authority shall be evidenced by a loan, loan guarantee, grant or assistance agreement between the Water Development Authority and the project sponsor to which the loan, loan guarantee, grant or assistance shall be made or provided, which agreement shall include, without limitation and to the extent applicable, the following provisions:

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

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

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

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

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

(f) The interest rate on any loan to governmental, quasi- governmental, or not for profit project sponsors for projects made pursuant to this article shall not exceed three percent per annum. Due to the limited availability of funds available for loans for projects, it is the public policy of this state to prioritize

funding needs to first meet the needs of governmental, quasi-governmental and not for profit project sponsors and to require that loans made to for-profit entities shall bear interest at the current market rates. Therefore, no loan may be made by the council to a for-profit entity at an interest rate which is less than the current market rate at the time of the loan agreement.

(g) The Water Development Authority shall cause an annual audit to be made by an independent certified public accountant of its books, accounts and records, with respect to the receipts, disbursements, contracts, leases, assignments, loans, grants and all other matters relating to the financial operation of the infrastructure fund, including the operating of any sub-account within the infrastructure fund. The person performing such audit shall furnish copies of the audit report to the commissioner of finance and administration, where they shall be placed on file and made available for inspection by the general public. The person performing such audit shall also furnish copies of the audit report to the Legislature's Joint Committee on Government and Finance.

(h) There is hereby created in the Water Development Authority a separate, special account which shall be designated and known as the "West Virginia Infrastructure Lottery Revenue Debt Service Fund," into which shall be deposited annually for the fiscal year beginning July 1, 2011, and each fiscal year thereafter, the first \$6 million transferred pursuant to section eighteen-d, article twenty-two, chapter twenty-nine of this code and any other funds provided therefor: *Provided*, That such deposits and transfers are not subject to the reservations of funds or requirements for distributions of funds established by sections ten and eleven of this article. Moneys in the West Virginia infrastructure lottery revenue debt service fund shall be used to pay debt service on bonds or notes issued by the Water Development Authority for watershed compliance projects as provided in section seventeen-b of this article, and to the extent not needed to pay debt service, for the design or construction of improvements for watershed compliance projects. Moneys in the West Virginia infrastructure lottery revenue debt service fund not expended at the close of the fiscal year do not lapse or revert to the General Fund but are carried forward to the next fiscal year.

Acts 1994, 1st Ex. Sess., c. 26; Acts 1995, c. 130, eff. March 10, 1995; Acts 2011, c. 179, eff. June 10, 2011.

Acts 1990, c. 2, abolished the office of commissioner of finance and administration and transferred all duties and powers to the secretary of administration. See § 5A-1-2.

Historical and Statutory Notes

Acts 2011, c. 179, in subsec. (d)(2), substituted "proceed" for "proceeds", and made non-substantive corrections throughout this section.

Library References

States ⇨ 127, 128.

Water Law ⇨ 1900 to 1905.

Westlaw Topic Nos. 360, 405.

C.J.S. States §§ 381 to 382, 386 to 387.

C.J.S. Waters §§ 483, 543 to 581.

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

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

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

(c) Notwithstanding any other provision of this article to the contrary, the council shall apply a mandatory minimum end user utility rate that must be met by the project sponsor before funding assistance may be awarded. The mandatory minimum end utility rate shall be based upon a uniform statewide percentage of the median household income in a particular geographic area and said rate shall exceed six tenths of one percent: Provided, That funding assistance made from the proceeds of any general obligation bonds and revenue bonds issued after the fifteenth day of March, one thousand nine hundred ninety-eight, after transfers required to make the state match for the water and wastewater revolving loan programs pursuant to article two, chapter twenty-two-c and article thirteen-c, chapter sixteen of this code, shall be provided by the council on a pro rata basis divided equally among the congressional districts of this state as delineated in accordance with section three, article two, chapter one of this code: Provided, however, That infrastructure projects as defined in subsection (1), section two of this article shall not be subject to pro rata distribution. When determining median household income of a geographic area of the project to be served, the council shall consider any surveys of the income of the households that will be served by the project.

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

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

(f) The council shall report to the governor, the speaker of the House of Delegates and the president of the Senate during each regular and interim session of the Legislature, on its activities and decisions relating to distribution

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or planned distribution of grants and loans under the criteria to be developed pursuant to this article.

Acts 1994, 1st Ex. Sess., c. 26; Acts 1995, c. 130, eff. March 10, 1995; Acts 1998, c. 180, eff. 90 days after March 14, 1998.

Library References

States ⇨127, 128.

Westlaw Topic No. 360.

C.J.S. States §§ 381 to 382, 386 to 387.

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

Eighty percent of the funds deposited in the West Virginia infrastructure fund shall be dedicated for the purpose of providing funding for the cost of projects as defined in subsection (n), section two of this article. Twenty percent of the funds deposited in the West Virginia infrastructure fund shall be dedicated for the purpose of providing funding for costs of infrastructure projects as defined in subsection (l), section two of this article. Project sponsors of infrastructure projects shall follow the application process as established by this article: *Provided*, That notwithstanding any provision of this article to the contrary, all applications for any infrastructure project shall be submitted to the executive director of the West Virginia development office for review, recommendation and approval regarding infrastructure project funding.

Acts 1994, 1st Ex. Sess., c. 26; Acts 1998, c. 180, eff. 90 days after March 14, 1998; Acts 2005, 1st Ex. Sess., c. 3, eff. Jan. 29, 2005.

Historical and Statutory Notes

Acts 2005, 1st Ex. Sess., c. 3, in the last sentence, substituted "executive director of the West Virginia development office" for "council for community and economic development, or its successor".

Library References

States ⇨128.

Westlaw Topic No. 360.

C.J.S. States §§ 381 to 382.

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

To accomplish the purpose and intent of this article, the water development authority is hereby empowered, in addition to all other powers granted to it under this code, upon approval of the council, to (1) enter into agreements or other transactions with any federal or state agency in connection with any infrastructure project or project; (2) receive or administer on behalf of any federal or state agency grants, subsidies or other payments to be applied to the costs of any infrastructure project or project financed, in whole or in part, or otherwise assisted by the water development authority, including, but not limited to, payments to be applied to operating costs and debt service or obligations of any project sponsor; (3) receive and accept aid or contributions from any source of money, property, labor or other things of value, to be held, used and applied only for the purposes for which such grants and contributions

are made; (4) establish and amend the criteria and qualifications for making loans, loan guarantees or grants, or providing any other assistance, for any infrastructure project or project, and the terms of any loans, loan guarantee, grant or assistance agreement for any project; and (5) do all things which are necessary to further the purposes and intent of this article.

Acts 1994, 1st Ex. Sess., c. 26.

Library References

Water Law ☞1898.
Westlaw Topic No. 405.
C.J.S. Waters §§ 483, 543 to 581.

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

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

Acts 1994, 1st Ex. Sess., c. 26; Acts 1998, c. 180, eff. 90 days after March 14, 1998.

Library References

Water Law ☞1897.
Westlaw Topic No. 405.
C.J.S. Waters §§ 483, 543 to 581.

§ 31-15A-14. Termination or dissolution

Upon the termination or dissolution of the water development authority, all rights and properties of the water development authority with respect to the infrastructure fund shall pass to and be vested in the state, subject to the rights of lienholders and other creditors.

Acts 1994, 1st Ex. Sess., c. 26.

Library References

Water Law ☞1861.
Westlaw Topic No. 405.
C.J.S. Waters §§ 483 to 484.

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

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

(b) The state and its subdivisions shall, except as provided in subsection (c) of this section, solicit competitive bids and require the payment of prevailing wage rates as provided in article five-a, chapter twenty-one of this code for every project or infrastructure project funded pursuant to this article exceeding twenty-five thousand dollars in total cost.

Following the solicitation of the bids, the construction contract shall be awarded to the lowest qualified responsible bidder, who shall furnish a sufficient performance and payment bond: Provided, That the state and its subdivisions may reject all bids and solicit new bids on the project.

(c) This section does not:

(1) Apply to work performed on construction or repair projects not exceeding a total cost of fifty thousand dollars by regular full-time employees of the state or its subdivisions: Provided, That no more than fifty thousand dollars shall be expended on an individual project in a single location in a twelve-month period;

(2) Prevent students enrolled in vocational educational schools from being used in the construction or repair projects when such use is a part of the students' training program;

(3) Apply to emergency repairs to building components and systems: Provided, That the term "emergency repairs" means repairs that, if not made immediately, will seriously impair the use of the building components and systems or cause danger to those persons using the building components and systems; or

(4) Apply to any situation where the state or a subdivision of the state comes to an agreement with volunteers, or a volunteer group, by which the governmental body will provide construction or repair materials, architectural, engineering, technical or any other professional services and the volunteers will provide the necessary labor without charge to, or liability upon, the governmental body: Provided, That the total cost of the construction or repair projects does not exceed fifty thousand dollars.

(d) The provisions of subsection (b) of this section do not apply to privately owned projects or infrastructure projects constructed on lands not owned by the state or a subdivision of the state.

Acts 1994, 1st Ex. Sess., c. 26; Acts 2001, c. 45, eff. 90 days after April 14, 2001.

Historical and Statutory Notes

Acts 2001, c. 45 rewrote this section which as enacted provided: "(a) No project or infrastructure project acquired, constructed, maintained or financed in

whole or in part by the water development authority shall be considered to be a "public improvement" within the meaning of the provisions of article five-a, chapter twenty-one of this code, as a result of such financing.

"(b) The state and its subdivisions shall, except as provided in this subsection, solicit competitive bids and require the payment of prevailing wage rates as provided in article five-a, chapter twenty-one of this code for every project or infrastructure project funded pursuant to this article exceeding twenty-five thousand dollars in total cost. Following the solicitation of the bids, the construction contract shall be awarded to the lowest qualified responsible bidder, who shall furnish a sufficient performance and payment bond: Provided, That the state and its subdivisions may reject all bids and solicit new bids on the project. Nothing in this subsection applies to work performed on construction or repair projects not exceeding a total cost of twenty-five thousand dollars by regular full-time employees of the state or its subdivisions, nor shall anything in this subsection prevent students enrolled in vocational educational schools from being utilized in the construction or repair

projects when such use is a part of the students' training program. Nothing in this subsection applies to emergency repairs to building components and systems: Provided, however, That the term "emergency repairs" means repairs that if not made immediately will seriously impair the use of the building components and systems or cause danger to those persons using the building components and systems. This subsection shall not apply to any situation where the state or a subdivision thereof comes to an agreement with volunteers, or a volunteer group, whereby the governmental body will provide construction or repair materials, architectural, engineering, technical or any other professional services and the volunteers will provide the necessary labor without charge to, or liability upon, the governmental body: Provided further, That the total cost of the construction or repair projects does not exceed twenty-five thousand dollars.

"(c) The provisions of subsection (b) of this section shall not apply to privately owned projects or infrastructure projects constructed on lands not owned by the state or a subdivision of the state."

Library References

States ⇄ 86, 98.2.
Westlaw Topic No. 360.
C.J.S. States § 261.

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

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

(b) Notwithstanding any other provision of this code to the contrary, beginning on July 1, 1995, the first \$16 million of the tax collected pursuant to article thirteen-a, chapter eleven of this code shall be deposited to the credit of the West Virginia Infrastructure General Obligation Debt Service Fund created pursuant to section three, article fifteen-b of this chapter: *Provided*, That beginning on July 1, 1998, the first \$24 million of the tax annually collected pursuant to article thirteen-a of this code shall be deposited to the credit of the West Virginia Infrastructure General Obligation Debt Service Fund created pursuant to section three, article fifteen-b of this chapter.

(c) Notwithstanding any provision of subsection (b) of this section to the contrary: (1) None of the collections from the tax imposed pursuant to section six, article thirteen-a, chapter eleven of this code shall be so dedicated or deposited; and (2) the portion of the tax imposed by article thirteen-a, chapter eleven and dedicated for purposes of Medicaid and the Division of Forestry

pursuant to section twenty-a of said article thirteen-a shall remain dedicated for the purposes set forth in that section twenty-a.

(d) On or before May 1 of each year, commencing May 1, 1995, the council, by resolution, shall certify to the Treasurer and the Water Development Authority the principal and interest coverage ratio and amount for the following fiscal year on any infrastructure general obligation bonds issued pursuant to the provisions of article fifteen-b of this chapter.

Acts 1994, 1st Ex. Sess., c. 26; Acts 1995, c. 130, eff. March 10, 1995; Acts 1998, c. 180, eff. 90 days after March 14, 1998; Acts 2008, c. 213, eff. June 7, 2008; Acts 2011, c. 164, eff. April 7, 2011.

Historical and Statutory Notes

Acts 2008, c. 213, added subsec. (e).

Acts 2011, c. 164, deleted subsec. (e), and made nonsubstantive corrections throughout the section. Prior to deletion, subsec. (e) read:

“(e) Notwithstanding any provision of this article to the contrary, the tax on coalbed methane remitted by the Tax Commissioner for deposit in the West Virginia Infrastructure Fund pursuant to section twenty-a, article thirteen-a, chapter eleven of this code shall be distributed as follows: (1) Seventy-five percent of the moneys so deposited shall be distributed for infrastructure projects in the various counties of this

state in which the coalbed methane was produced, and (2) the remaining twenty-five percent of the moneys so deposited shall be distributed equally to the various counties of this state in which no coalbed methane was produced for infrastructure projects. Moneys shall be distributed to each coalbed methane producing county in direct proportion to the amount of tax paid by the county using information provided by the Tax Commissioner as required in section twenty-a, article thirteen-a, chapter eleven of this code.”

Library References

States ⇄127.

Westlaw Topic No. 360.

C.J.S. States §§ 386 to 387.

§ 31-15A-17. Water development authority empowered to issue infrastructure revenue bonds and refunding bonds; creation of infrastructure revenue debt service fund; funding of infrastructure revenue debt service fund; requirements and manner of such issuance

(a) To accomplish the purpose and intent of this article, the water development authority is hereby empowered at the written request of the council to issue from time to time infrastructure revenue bonds of the state in such principal amounts as the council deems necessary to make loans and loan guarantees and other forms of financial assistance to project sponsors for one or more projects or infrastructure projects: Provided, That the water development authority may not issue any such bonds, other than refunding bonds, unless the council by resolution determines that the aggregate cost of the projects or infrastructure projects expected to be constructed during any annual period exceeds (1) the projected annual infrastructure revenues for the same period, and (2) the principal and interest payments not otherwise pledged to the infrastructure revenue debt service fund that are due the water development authority on all outstanding loans previously made by the water development authority pursuant to the provisions of this article.

(b) The proceeds of infrastructure revenue bonds shall be used solely for the purpose of making loans and loan guarantees and other forms of financial assistance to sponsors of one or more projects or infrastructure projects, and shall be deposited in one or more special accounts with the trustee under the trust agreement securing such bonds and disbursed from time to time for projects or infrastructure projects in accordance with this article: Provided, That notwithstanding any provision of this code to the contrary, twenty percent of the funds deposited in the special account shall be dedicated for the purpose of providing funding for costs of infrastructure projects as defined in subsection (l), section two, of this article.

(c) The water development authority may not authorize the disbursement of any proceeds of infrastructure revenue bonds unless it has received documentation from the council pursuant to the provisions of section ten of this article.

(d) There is hereby created in the water development authority a special fund which shall be designated and known as the "West Virginia Infrastructure Revenue Debt Service Fund," into which shall be transferred solely from the loan repayments deposited in the infrastructure fund the amounts certified by the director of the water development authority as necessary to pay the principal, premium, if any, and interest on infrastructure revenue bonds and any reserve requirements, subject to the terms of any agreement with the holders of the infrastructure revenue bonds. All amounts deposited in the West Virginia infrastructure revenue debt service fund shall be pledged to the repayment of the principal, interest and redemption premium, if any, on any infrastructure revenue bonds authorized by this article: Provided, That amounts on deposit in the fund may be used to establish or maintain reserves created for the purposes of securing such infrastructure revenue bonds. The pledge shall be valid and binding from the time the pledge is made, and the West Virginia infrastructure revenue debt service fund so pledged shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the water development authority irrespective of whether the parties have notice thereof.

(e) Except as may otherwise be expressly provided in this article or by resolution of the water development authority, every issue of infrastructure revenue bonds shall be special obligations of the water development authority payable solely from amounts in the West Virginia infrastructure revenue debt service fund, and the reserves created for this purpose by the water development authority, without preference or priority among the bonds regardless of when issued, subject only to any agreements with the holders of any bonds to the contrary. All such bonds are hereby declared to be negotiable instruments.

(f) Infrastructure revenue bonds shall be authorized by resolution of the water development authority. These bonds shall bear such dates and shall mature at such times, in case of any note or renewal thereof not exceeding five years from the date of issue of the original note, and in the case of any bond not exceeding fifty years from the date of issue, as the resolution may provide.

Infrastructure revenue bonds shall bear interest at a rate or rates, including variable rates, shall be taxable or tax-exempt, shall be in the denominations, shall be in registered form, shall carry the registration privileges, shall be payable in the medium and place of payment, and shall be subject to the terms of redemption as the water development authority may authorize. Infrastructure revenue bonds may be sold by the water development authority at public or private sale at the price the water development authority determines in consultation with the council. Infrastructure revenue bonds shall be executed by the chairman and the vice chairman of the water development authority, either or both of whom may use a facsimile signature. The official seal of the water development authority or a facsimile thereof shall be affixed thereto or printed thereon and attested by manual or facsimile signature by the secretary-treasurer of the water development authority. If any officer whose signature, or a facsimile of whose signature appears on any infrastructure revenue bond ceases to be such officer before delivery of such bond, such signature or facsimile is nevertheless sufficient for all purposes to the same extent as if he or she had remained in office until such delivery, and if the seal of the water development authority has been changed after a facsimile has been imprinted on such bond, the facsimile will continue to be sufficient for all purposes.

(g) Any resolution authorizing any infrastructure revenue bonds may contain provisions, subject to any agreement with bondholders or noteholders which may then exist, which agreements shall be part of the contract with the holder thereof, with respect to the pledge of or other use and disposition of amounts in the infrastructure revenue debt service fund; the setting aside of reserve funds; the disposition of any assets of the water development authority; limitations on the purpose to which the proceeds of sale of bonds may be applied; the authorization of notes issued in anticipation of the issuance of bonds; an agreement of the water development authority to do all things necessary for the authorization, issuance and sale of such bonds in such amounts as may be necessary for the timely retirement of such notes; limitations on the issuance of additional bonds; the terms upon which additional bonds may be issued and secured; the refunding of outstanding bonds and the renewal of outstanding notes; the procedures, if any, by which the terms of any contract with bondholders or noteholders may be amended or abrogated; the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given; and any other matter which in any way affects the security for or protection of the bonds.

(h) In the event that the sum of all reserves pledged to the payment of the bonds is less than the minimum reserve requirements established in any resolution or resolutions authorizing the issuance of the bonds, the chairman or the director of the water development authority shall certify, on or before the first day of December of each year, the amount of such deficiency to the governor of the state for inclusion, if the governor shall so elect, of the amount of such deficiency in the budget to be submitted to the next session of the Legislature for appropriation to the water development authority to be pledged for payment of such bonds: Provided, That the Legislature shall not be required

to make any appropriations so requested, and the amount of such deficiencies shall not constitute a debt or liability of the state.

(i) Neither the officers or board members of the water development authority, nor any person executing the infrastructure revenue bonds, shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

Acts 1998, c. 180, eff. 90 days after March 14, 1998.

Library References

States Ⓒ147 to 156.
Westlaw Topic No. 360.

C.J.S. States §§ 437 to 438, 441 to 447, 449 to 453.

§ 31-15A-17a. Infrastructure revenue bonds payable from A. James Manchin Fund

Notwithstanding any other provision of this code to the contrary, the Water Development Authority may issue, in accordance with the provisions of section seventeen of this article, infrastructure revenue bonds payable from the A. James Manchin Fund created by section nine, article fifteen-a, chapter twenty-two of this code and such other sources as may be legally pledged for such purposes other than the West Virginia Infrastructure Revenue Debt Service Fund created by section seventeen of this article.

Acts 2003, c. 251, eff. 90 days after March 8, 2003; Acts 2005, c. 199, eff. 90 days after April 9, 2005.

Library References

States Ⓒ127.
Westlaw Topic No. 360.
C.J.S. States §§ 386 to 387.

§ 31-15A-17b. Infrastructure lottery revenue bonds for watershed compliance projects

(a)(1) The Chesapeake Bay has been identified as an impaired water body due to excessive nutrients entering the Bay from various sources in six states, including wastewater facilities in West Virginia. To restore the Chesapeake Bay, the states have agreed to reduce their respective nutrient contributions to the Chesapeake Bay.

(2) The Greenbrier River Watershed in southeastern West Virginia which encompasses approximately 1,646 square miles, the majority of which lies within Pocahontas, Greenbrier, Monroe and Summers counties, has been identified as an impaired water body due to excessive levels of fecal coliform and phosphorus entering the Watershed from various sources, including wastewater facilities in West Virginia. To restore the Greenbrier River Watershed, the state agrees to reduce the fecal coliform and phosphorus contributions to the Greenbrier River Watershed.

(b) Notwithstanding any other provision of this code to the contrary, the Water Development Authority may issue, in accordance with the provisions of

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section seventeen of this article, infrastructure lottery revenue bonds payable from the West Virginia infrastructure lottery revenue debt service fund created by section nine of this article and such other sources as may be legally pledged for such purposes other than the West Virginia infrastructure revenue debt service fund created by section seventeen of this article.

(c) The council shall direct the Water Development Authority to issue bonds in one or more series when it has approved Chesapeake Bay watershed compliance projects and Greenbrier River watershed compliance projects with an authorized permitted flow of four hundred thousand gallons per day or more. The proceeds of the bonds shall be used solely to pay costs of issuance, fund a debt service reserve account, capitalize interest, pay for security instruments necessary to market the bonds and to make grants to governmental instrumentalities of the state for the construction of approved Chesapeake Bay watershed compliance projects and Greenbrier River watershed compliance projects. To the extent funds are available in the West Virginia Infrastructure Lottery Revenue Debt Service Fund that are not needed for debt service, the council may direct the Water Development Authority to make grants to project sponsors for the design or construction of approved Chesapeake Bay watershed compliance projects and Greenbrier River watershed compliance projects.

(d) No later than June 30, 2012, each publicly owned facility with an authorized permitted flow of 400,000 gallons per day or more that is subject to meeting Chesapeake Bay compliance standards or Greenbrier River watershed compliance standards shall submit to the council a ten year projected capital funding plan for Chesapeake Bay watershed compliance projects or Greenbrier River watershed compliance projects, as the case may be, including a general project description, cost estimate and estimated or actual project start date and project completion date, if any. The council shall timely review the submitted capital funding plans and forward approved plans to the Water Development Authority for further processing and implementation pursuant to this article. If the council finds a plan to be incomplete, inadequate or otherwise problematic, it shall return the plan to the applicant with comment on the plan shortcomings. The applicant may then resubmit to council an amended capital funding plan for further consideration pursuant to the terms of this subsection.

(e) Upon approval, each proposed Chesapeake Bay watershed compliance project or Greenbrier River watershed compliance project, or portion of a larger project, which portion is dedicated to compliance with nutrient standards, or fecal coliform and phosphorus standards, established for the protection and restoration of the Chesapeake Bay or the Greenbrier River Watershed, as the case may be, shall be eligible for grant funding by funds generated by the infrastructure lottery revenue bonds described in section (b) of this section. At the request of the applicant, the remaining percentage of project funding not otherwise funded by grant under the provisions of this article may be reviewed as a standard project funding application.

(f) No later than December 1, 2012, the Water Development Authority shall report to the Joint Committee on Government and Finance the total cost of Chesapeake Bay watershed compliance projects and the Greenbrier River

watershed compliance projects and the proposed grant awards for each eligible project. Grant awards shall be of equal ratio among all applicants of the total cost of each eligible project.

(g) Eligible projects that have obtained project financing prior to December 31, 2011 may apply to the council for funding under the provisions of this section. These applications shall be processed and considered as all other eligible projects, and any grant funding awarded shall, to the extent allowed by law, be dedicated to prepay all or a portion of debt previously incurred by governmental instrumentalities of the state for required Chesapeake Bay nutrient removal projects or Greenbrier River watershed fecal coliform and phosphorus removal projects, subject to the bond covenants and contractual obligations of the borrowing governmental entity. However, any private portion of funding provided by agreement between a political subdivision and one or more private entities, either by direct capital investment or debt service obligation, shall not be eligible for grant funding under the provisions of this article.

Acts 2011, c. 179, eff. June 10, 2011.

Library References

States ☞147.

Water Law ☞1873.

Westlaw Topic Nos. 360, 405.

C.J.S. States §§ 437, 443 to 445.

C.J.S. Waters §§ 483, 498 to 504.

§ 31-15A-18. Trustee for holders of infrastructure revenue bonds; contents of trust agreement

(a) Any infrastructure revenue bonds issued by the water development authority under this article shall be secured by a trust agreement between the water development authority and a corporate trustee, which trustee may be any trust company or banking institution having the powers of a trust company within this state.

(b) Any trust agreement may pledge or assign the infrastructure revenue debt service fund. Any trust agreement or any resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders or noteholders as are reasonable and proper and not in violation of law, including the provisions contained in section seventeen of this article, and covenants setting forth the duties of the water development authority in respect to the payment of the principal of and interest, charges and fees on loans made to, or bond purchases from, governmental agencies from the proceeds of the bonds, and the custody, safeguarding and application of all moneys. Any banking institution or trust company incorporated under the laws of this state which may act as depository of the proceeds of bonds or of the infrastructure debt service fund shall furnish such indemnifying bonds or pledge securities as are required by the water development authority. The trust agreement may set forth the rights and remedies of the bondholders and noteholders and of the trustee and may restrict individual rights of action by bondholders and noteholders as customarily provided in trust agreements or trust indentures securing similar bonds and notes. The

trust agreement may contain such other provisions as the water development authority deems reasonable and proper for the security of the bondholders or noteholders. All expenses incurred in carrying out the provisions of any such trust agreement may be treated as part of the cost of the construction, renovation, repair, improvement or acquisition of a project or infrastructure project.

Acts 1998, c. 180, eff. 90 days after March 14, 1998.

Library References

States ⇨147.
Westlaw Topic No. 360.
C.J.S. States §§ 437, 443 to 445.

§ 31-15A-19. Legal remedies of infrastructure revenue bondholders or noteholders and trustees

Any holder of infrastructure revenue bonds issued pursuant to this article and the trustee under any trust agreement, except to the extent the rights given by this article may be restricted by the applicable resolution or trust agreement, may by civil action, mandamus or other proceedings protect and enforce any rights granted under the laws of this state or granted under this article, by the trust agreement or by the resolution in the issuance of the bonds, and may enforce and compel the performance of all duties required by this article, pursuant to the trust agreement or resolution, to be performed by the water development authority or any officer thereof.

Acts 1998, c. 180, eff. 90 days after March 14, 1998.

Library References

States ⇨164.
Westlaw Topic No. 360.

§ 31-15A-20. Infrastructure revenue bonds lawful investments

All infrastructure revenue bonds issued pursuant to this article shall be lawful investments for banking institutions, societies for savings, building and loan associations, savings and loan associations, deposit guarantee associations, trust companies, and insurance companies, including domestic for life and domestic not for life insurance companies.

Acts 1998, c. 180, eff. 90 days after March 14, 1998.

Library References

States ⇨147.
Westlaw Topic No. 360.
C.J.S. States §§ 437, 443 to 445.

§ 31-15A-21. Purchase and cancellation of infrastructure revenue bonds

(a) The water development authority, subject to such agreements with noteholders or bondholders as may then exist, shall have the power, from any funds available therefor, to purchase or redeem infrastructure revenue bonds of the water development authority.

(b) If the infrastructure revenue bonds are then redeemable, the price of the purchase shall not exceed the redemption price then applicable, plus accrued interest to the next interest payment date thereon. If the infrastructure revenue bonds are not then redeemable, the price of the purchase shall not exceed the redemption price applicable on the first date after the purchase upon which the bonds become subject to redemption, plus accrued interest to such date. Upon purchase or redemption, the bonds shall be canceled.

Acts 1998, c. 180, eff. 90 days after March 14, 1998.

Library References

States ⇨153.
Westlaw Topic No. 360.
C.J.S. States §§ 451 to 453.

§ 31-15A-22. Refunding revenue bonds

Any infrastructure revenue bonds issued pursuant to the provisions of this article and at any time outstanding may at any time and from time to time be refunded by the water development authority by the issuance of its refunding revenue bonds in an amount it deems necessary to refund the principal of the bonds to be refunded, together with any unpaid interest thereon, to provide additional funds for the water development authority to accomplish the purpose of this article, and to pay any premiums and commissions necessary to be paid in connection therewith. Any refunding may be effected whether the infrastructure revenue bonds to be refunded shall have then matured or shall thereafter mature: Provided, That the holders of any infrastructure revenue bonds so to be refunded shall not be compelled without their consent to surrender their infrastructure revenue bonds for payment or exchange prior to the date on which they are payable or, if they are called for redemption, prior to the date on which they are by their terms subject to redemption. Any refunding revenue bonds issued pursuant to this article shall be payable from the West Virginia infrastructure revenue debt service fund, and shall be subject to the provisions contained in section seventeen of this article, and shall be secured in accordance with the provisions of sections seventeen and eighteen of this article.

Acts 1998, c. 180, eff. 90 days after March 14, 1998.

Library References

States ⇨166.
Westlaw Topic No. 360.
C.J.S. States § 448.

§ 31-15A-23. Infrastructure revenue bonds not debt of state, county, municipality or any political subdivision

Infrastructure revenue bonds issued pursuant to the provisions of this article shall not constitute a debt or a pledge of the faith and credit or taxing power of this state or of any county, municipality or any other political subdivision of this state. The holders or owners thereof shall have no right to have taxes

INFRASTRUCTURE & JOBS DEVELOPMENT COUNCIL § 31-15A-24

levied by the Legislature or the taxing authority of any county, municipality or any other political subdivision of this state for the payment of the principal thereof or interest thereon. The bonds shall be payable solely from the revenues and funds pledged for their payment as authorized by this article. All such bonds shall contain on the face thereof a statement to the effect that the bonds, as to both principal and interest, are not debts of the state or any county, municipality or political subdivision thereof, but are payable solely from revenues and funds pledged for their payment.

Acts 1998, c. 180, eff. 90 days after March 14, 1998.

Library References

States ⇨168.5.
Westlaw Topic No. 360.
C.J.S. States §§ 456 to 466.

§ 31-15A-24. Infrastructure revenue bonds exempt from taxation

The exercise of the powers granted to the water development authority by this article will be in all respects for the benefit of the people of the state, for the improvement of their health, safety, convenience and welfare and for the enhancement of their residential, agricultural, recreational, economic, commercial and industrial opportunities and is for a public purpose. As the construction, acquisition, repair or renovation of projects or infrastructure projects will constitute the performance of essential governmental functions, the water development authority shall not be required to pay any taxes or assessments upon any project or upon any property acquired or used by the water development authority or upon the income therefrom. The infrastructure revenue bonds and all interest and income thereon shall be exempt from all taxation by this state, or any county, municipality, political subdivision or agency thereof, except estate taxes.

Acts 1998, c. 180, eff. 90 days after March 14, 1998.

Library References

Taxation ⇨2315.
Westlaw Topic No. 371.
C.J.S. Taxation §§ 300 to 309, 324.

FILED

2012 MAR 19 PM 3: 54

WEST VIRGINIA LEGISLATURE
EIGHTIETH LEGISLATURE
REGULAR SESSION, 2012

WEST VIRGINIA
SECRETARY OF STATE

SB 676

—●—
ENROLLED

Senate Bill No. 676

(BY SENATORS PREZIOSO, D. FACEMIRE, CHAFIN, EDGELL,
GREEN, HELMICK, LAIRD, McCABE, MILLER, PLYMALE,
STOLLINGS, UNGER, WELLS, YOST, BOLEY, HALL AND SYPOLT)

[PASSED MARCH 9, 2012; IN EFFECT FROM PASSAGE.]

FILED

2012 MAR 19 PM 3: 54

OFFICE WEST VIRGINIA
SECRETARY OF STATE

ENROLLED

Senate Bill No. 676

(BY SENATORS PREZIOSO, D. FACEMIRE, CHAFIN, EDGELL,
GREEN, HELMICK, LAIRD, MCCABE, MILLER, PLYMALE,
STOLLINGS, UNGER, WELLS, YOST, BOLEY, HALL AND SYPOLT)

[Passed March 9, 2012; in effect from passage.]

AN ACT to amend and reenact §31-15A-17b of the Code of West Virginia, 1931, as amended, relating to Chesapeake Bay watershed compliance projects; and specifying dates by which eligible projects may apply for grant funding.

Be it enacted by the Legislature of West Virginia:

That §31-15A-17b of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 15A. WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL.

§31-15A-17b. Infrastructure lottery revenue bonds for watershed compliance projects.

- 1 (a)(1) The Chesapeake Bay has been identified as an
- 2 impaired water body due to excessive nutrients entering the
- 3 Bay from various sources in six states, including wastewater
- 4 facilities in West Virginia. To restore the Chesapeake Bay,
- 5 the states have agreed to reduce their respective nutrient
- 6 contributions to the Chesapeake Bay.

7 (2) The Greenbrier River Watershed in southeastern West
8 Virginia which encompasses approximately 1,646 square
9 miles, the majority of which lies within Pocahontas,
10 Greenbrier, Monroe and Summers counties, has been
11 identified as an impaired water body due to excessive levels
12 of fecal coliform and phosphorus entering the Watershed
13 from various sources, including wastewater facilities in West
14 Virginia. To restore the Greenbrier River Watershed, the
15 state agrees to reduce the fecal coliform and phosphorus
16 contributions to the Greenbrier River Watershed.

17 (b) Notwithstanding any other provision of this code to
18 the contrary, the Water Development Authority may issue, in
19 accordance with the provisions of section seventeen of this
20 article, infrastructure lottery revenue bonds payable from
21 the West Virginia infrastructure lottery revenue debt service
22 fund created by section nine of this article and such other
23 sources as may be legally pledged for such purposes other
24 than the West Virginia infrastructure revenue debt service
25 fund created by section seventeen of this article.

26 (c) The council shall direct the Water Development
27 Authority to issue bonds in one or more series when it has
28 approved Chesapeake Bay watershed compliance projects
29 and Greenbrier River watershed compliance projects with an
30 authorized permitted flow of four hundred thousand gallons
31 per day or more. The proceeds of the bonds shall be used
32 solely to pay costs of issuance, fund a debt service reserve
33 account, capitalize interest, pay for security instruments
34 necessary to market the bonds and to make grants to govern-
35 mental instrumentalities of the state for the construction of
36 approved Chesapeake Bay watershed compliance projects
37 and Greenbrier River watershed compliance projects. To the
38 extent funds are available in the West Virginia Infrastruc-
39 ture Lottery Revenue Debt Service Fund that are not needed
40 for debt service, the council may direct the Water Develop-
41 ment Authority to make grants to project sponsors for the
42 design or construction of approved Chesapeake Bay water-
43 shed compliance projects and Greenbrier River watershed
44 compliance projects: *Provided*, That the council shall direct

45 the water development authority to provide from monies in
46 the Lottery Revenue Debt Service Fund not needed to pay
47 debt service in fiscal year 2013 a grant of \$6 million to a
48 Chesapeake Bay watershed compliance project which opened
49 bids on December 28, 2011 and further provided that such
50 Chesapeake Bay watershed compliance project shall receive
51 no further grant funding under this section after receipt of
52 the \$6 million grant.

53 (d) No later than June 30, 2012, each publicly owned
54 facility with an authorized permitted flow of 400,000 gallons
55 per day or more that is subject to meeting Chesapeake Bay
56 compliance standards or Greenbrier River watershed
57 compliance standards shall submit to the council a ten year
58 projected capital funding plan for Chesapeake Bay water-
59 shed compliance projects or Greenbrier River watershed
60 compliance projects, as the case may be, including a general
61 project description, cost estimate and estimated or actual
62 project start date and project completion date, if any. The
63 council shall timely review the submitted capital funding
64 plans and forward approved plans to the Water Development
65 Authority for further processing and implementation
66 pursuant to this article. If the council finds a plan to be
67 incomplete, inadequate or otherwise problematic, it shall
68 return the plan to the applicant with comment on the plan
69 shortcomings. The applicant may then resubmit to council an
70 amended capital funding plan for further consideration
71 pursuant to the terms of this subsection.

72 (e) Upon approval, each proposed Chesapeake Bay
73 watershed compliance project or Greenbrier River watershed
74 compliance project, or portion of a larger project, which
75 portion is dedicated to compliance with nutrient standards,
76 or fecal coliform and phosphorus standards, established for
77 the protection and restoration of the Chesapeake Bay or the
78 Greenbrier River Watershed, as the case may be, shall be
79 eligible for grant funding by funds generated by the infra-
80 structure lottery revenue bonds described in section (b) of
81 this section. At the request of the applicant, the remaining
82 percentage of project funding not otherwise funded by grant

83 under the provisions of this article may be reviewed as a
84 standard project funding application.

85 (f) No later than December 1, 2012, the Water Develop-
86 ment Authority shall report to the Joint Committee on
87 Government and Finance the total cost of Chesapeake Bay
88 watershed compliance projects and the Greenbrier River
89 watershed compliance projects and the proposed grant
90 awards for each eligible project. Grant awards shall be of
91 equal ratio among all applicants of the total cost of each
92 eligible project.

93 (g) Eligible projects that have obtained project financing
94 prior to December 31, 2012, may apply to the council for
95 funding under the provisions of this section. These applica-
96 tions shall be processed and considered as all other eligible
97 projects, and a grant funding awarded shall, to the extent
98 allowed by law, be dedicated to prepay all or a portion of
99 debt previously incurred by governmental instrumentalities
100 of the state for required Chesapeake Bay nutrient removal
101 projects or Greenbrier River watershed fecal coliform and
102 phosphorus removal projects, subject to the bond covenants
103 and contractual obligations of the borrowing governmental
104 entity. However, any private portion of funding provided by
105 agreement between a political subdivision and one or more
106 private entities, either by direct capital investment or debt
107 service obligation, shall not be eligible for grant funding
108 under the provisions of this article.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
.....
Chairman Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

[Signature]
.....
Clerk of the Senate

[Signature]
.....
Clerk of the House of Delegates

[Signature]
.....
President of the Senate

[Signature]
.....
Speaker of the House of Delegates

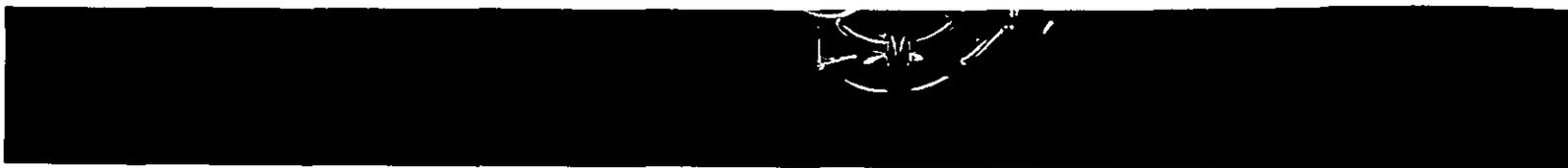
OFFICE WEST VIRGINIA
SECRETARY OF STATE

2012 MAR 19 PM 3:54

FILED

The within *is approved* this the *19th*
Day of *March*, 2012.

[Signature]
.....
Governor



PRESENTED TO THE GOVERNOR

MAR 15 2012

Time 1:45 pm

ORDER of Wood County Court, West Va. Va

2/14/9

STATE OF WEST VIRGINIA, ss. I, JAMES H. ...

The County Court of Wood County, West Virginia, do hereby certify that the following named commissioners ...

That being the date fixed by order of the County Court for conducting the public hearing on the creation of one proposed ...

It appearing and being ascertained that the public hearing on the creation of one proposed ...

It appearing and being ascertained that the public hearing on the creation of one proposed ...

It appearing and being ascertained that the public hearing on the creation of one proposed ...

It appearing and being ascertained that the public hearing on the creation of one proposed ...

It appearing and being ascertained that the public hearing on the creation of one proposed ...

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It appearing and being ascertained that the public hearing on the creation of one proposed ...

It appearing and being ascertained that the public hearing on the creation of one proposed ...

2

ORDERS--Wood County Co., West Virginia

JANUARY Term FIFTEENTH Day JANUARY 1958
THURSDAY, JANUARY 30th, 1958

is so situated that the construction or acquisition by purchase or otherwise and the maintenance, operation, improvement and extension of properties supplying both water and sewage services within such territory by said public service district will be conducive to the preservation of public health, comfort and convenience of such area.
ADOPTED BY THE COUNTY COURT Jan. 30, 1958.

a/ Harry G. Nicely,
President

Attest:
L. G. White
Clerk

A RESOLUTION AND ORDER APPOINTING
MEMBERS TO THE PUBLIC SERVICE BOARD
OF THE LEBECK PUBLIC SERVICE DISTRICT.

WHEREAS, the County Court of Wood County, West Virginia, did heretofore by resolution and order adopted Jan. 30, 1958, create the Lebeck Public Service District; and,

WHEREAS, under the provisions of Article 13A of Chapter 16 of the West Virginia Code the powers of said public service district shall be vested in and exercised by a public service board; and,

WHEREAS, since there is no city, incorporated town or other municipal corporation included within said district, it is provided by said Article 13A of Chapter 16 of the West Virginia Code that this County Court shall appoint three members of said board, who shall be persons residing within the district;

~~NOW THEREFORE~~ Be It and It is Hereby Resolved and Ordered by the County Court of Wood County, West Virginia, as follows:

Section 1. That the County Court of Wood County, West Virginia, hereby finds and determined that David T. Correll, Paul F. Somerville and Stafford J. McQuillin, are persons residing within the Lebeck Public Service District, and the aforesaid persons are hereby appointed as members of the public service board of said district and their respective terms of office shall be as follows:

David T. Correll for a term of six years from the first day of the month in which this resolution and order is adopted;

Paul F. Somerville for a term of four years from the first day of the month in which this resolution and order is adopted; and,

Stafford J. McQuillin for a term of two years from the first day of the month in which this resolution and order is adopted.

Section 2. The aforesaid persons shall meet as soon as practicable, at the office of the Clerk of said County Court and shall qualify by taking an oath of office, and thereafter said appointees constituting the initial public service board of the Lebeck Public Service District shall meet and organize in compliance with the provisions of Article 13A of Chapter 16 of the West Virginia Code.

ADOPTED BY THE COUNTY COURT JAN. 30, 1958.

a/ Harry G. Nicely
President

Attest:
L. G. White
Clerk

STATE OF WEST VIRGINIA }
 } ss
County of Wood

I, L. G. White, hereby certify that I am the duly qualified and acting Clerk of the County Court of Wood County, West Virginia, and that the foregoing constitutes a true, complete and correct transcript of the proceedings of said County Court as had under date of Jan. 30, 1958, and resolutions and orders then adopted relating to the creation of Lebeck Public Service District, and appointment of members to the public service board of said district.

IN WITNESS WHEREOF, I have hereunto affixed my official signature and seal of said Court at Parkersburg, West Virginia, this 30 January, 1958.

(SEAL)

a/ L. G. White
County Court Clerk

And there appearing no further business to claim the attention of this Court, it is, hereby ordered that this Court do now adjourn to meet in regular session on Saturday, the 1st day of February, 1958, at 9:30 o'clock A. M.

Harry G. Nicely
President

STATE OF WEST VIRGINIA,
COUNTY OF WOOD, TO-WIT:

I, H. K. Smith, Clerk of the County Commission in and for the County of Wood and State of West Virginia, having a Seal, and the Office in whose custody the files, books and records of said Office are required by laws of said State to be kept, do hereby certify that the attached and foregoing writing is a full, true and complete transcript and copy of Order Dated January 30, 1958

IN RE: Luback Public Service District.

as the same appears of record in my said Office in Order Book 28, Page 149

IN WITNESS WHEREOF, I have hereunto set my hand and the Seal of said Office, at the City of Parkersburg, County of Wood and State of West Virginia, this the 24th day of April, 1956

H. K. SMITH

CLERK WOOD COUNTY COMMISSION

By Wm. H. Smith
Clerk

Officials of Lubeck Public Service District were present at the meeting of the Commission and again discussed with the Commission the need for public water service in a substantial area of Wood County roughly described as the Lost Pavement, Missouri Run, Hope Hill, Homewood Road, Woodyard Creek Road areas, collectively referred to as the additional area. The Commission, having been previously contacted by residents of the area and having made certain investigations into the need for safe, potable and dependable water in the additional area and having been advised that Lubeck Public Service District is commencing an expansion of its water facilities and can provide expanded water service, has determined that there is an urgent need for public water service in said additional area, that Lubeck Public Service District is able to provide that service, and that the district should be enlarged to include this additional area.

The Commission, on its own motion, does hereby propose that Lubeck Public Service District be enlarged to include the Lost Pavement, Missouri Run, Hope Hill, Homewood Road, Woodyard Creek Road areas, more particularly described as follows:

BEGINNING at a point in the present southerly boundary of Lubeck Public Service District having a latitude of N. 39° 12' 43" and having a longitude of W. 81° 40' 55"; thence in a southeasterly direction approximately 2.3 miles to a point having a latitude of N. 39° 11' 13" and having a longitude of W. 81° 39' 07"; thence in an easterly direction approximately 4.6 miles to a point having a latitude of N. 39° 11' 13" and having a longitude of W. 81° 33' 07"; thence in a northerly direction approximately 2.5 miles to a point having a

latitude of N. 39° 13' 25" and having a longitude of W. 81° 33' 07"; thence in a northwesterly direction approximately 2.15 miles to a point in the present boundary of Lubeck Public Service District having a latitude of N. 39° 14' 24" and a longitude of W. 81° 35'; thence with the present boundary line of Lubeck Public Service District the following three courses: W. approximately 1.73 miles to a point having a latitude of N. 39° 14' 24" and a longitude of W. 81° 36' 58"; thence southwest approximately 2.9 miles to a point having a latitude of N. 39° 12' 43" and a longitude of W. 81° 38' 58"; thence W. approximately 1.80 miles to the place of beginning.

It is ordered that a public hearing to consider the enlargement of Lubeck Public Service District to include the aforesaid area be held in the Judicial Annex Building of Wood County in the City of Parkersburg, West Virginia, on the 7th day of July, 1988, at 7:00 o'clock P. M., that notice of said hearing be published in The Parkersburg News as a Class I legal advertisement not less than 10 days before the date of the hearing and that notices be posted in at least five conspicuous places in said additional area not less than 10 days before the date of the hearing.

Entered this 16th day of June, 1988.


Commissioner


Commissioner


Commissioner

JULY 11, 1988

7/11/88
5172

IN THE COUNTY COMMISSION OF WOOD COUNTY, WEST VIRGINIA

IN RE: THE COUNTY COMMISSION OF WOOD COUNTY APPROVED THE
ENLARGEMENT OF THE LUBECK PUBLIC SERVICE DISTRICT.

ORDER

The County Commission of Wood County, on this date, approved the enlargement of the Lubeck Public Service District upon a motion made by Lewis E. Guinn, seconded by Steven A. Grimm and made unanimous by Holmes R. Shaver. This action is pursuant to the Public Hearing held on Thursday, July 7, 1988, at 7:00 P.M. after being duly advertised in accordance with Article 13-A, Chapter 16 of the West Virginia Code.

Attached to this Order is a Resolution and affidavits of notice and posting within the area to be annexed, and should be made a part thereof.

Approved:

COUNTY COMMISSION OF WOOD COUNTY


Holmes R. Shaver, President


Lewis E. Guinn, Commissioner


Steven A. Grimm, Commissioner

7/11/88
51/72

**A RESOLUTION AND ORDER ENLARGING
LUBECK PUBLIC SERVICE DISTRICT IN WOOD COUNTY, WEST VIRGINIA**

WHEREAS, the Wood County Commission did heretofore by order entered on June 16, 1988, fix the 7th day of July, 1988, as a date for a public hearing on the enlargement of Lubeck Public Service District, and notice of said hearing was published and posted as required by Article 13-A, Chapter 16 of the West Virginia Code, and in said notice it was provided that all persons residing in, or owning, or having any interest in property in the areas proposed to be included might appear at the time and place of said meeting and be heard for and against said enlargement, and

WHEREAS, the Wood County Commission proceeded to hold said public hearing on the 7th day of July, 1988, at 7:00 o'clock P. M., at which hearing in excess of 175 persons were present, and the Commission receiving neither written protest nor oral protest to said enlargement, and all of the persons present unanimously favoring said enlargement,

NOW THEREFORE BE IT RESOLVED AND ORDERED that the affidavit of The Parkersburg News of the publication of the notice of public hearing, together with the affidavit of James M. Cox as to the posting within the areas to be included within Lubeck Public Service District, be and the same are hereby filed.

BE IT FURTHER RESOLVED AND ORDERED that it is necessary, feasible and proper to enlarge Lubeck Public Service

District to include areas commonly known as Lost Pavement, Missouri Run, Hope Hill, Homewood Road, and Woodyard Creek Road areas, located in Wood County, West Virginia, to provide public water service to those areas, which areas are collectively described as follows:

BEGINNING at a point in the present southerly boundary of Lubeck Public Service District having a latitude of N. 39° 12' 43" and having a longitude of W. 81° 40' 55"; thence in a southeasterly direction approximately 2.3 miles to a point having a latitude of N. 39° 11' 13" and having a longitude of W. 81° 39' 07"; thence in an easterly direction approximately 4.6 miles to a point having a latitude of N. 39° 11' 13" and having a longitude of W. 81° 33' 07"; thence in a northerly direction approximately 2.5 miles to a point having a latitude of N. 39° 13' 25" and having a longitude of W. 81° 33' 07"; thence in a northwesterly direction approximately 2.15 miles to a point in the present boundary of Lubeck Public Service District having a latitude of N. 39° 14' 24" and a longitude of W. 81° 35'; thence with the present boundary line of Lubeck Public Service District the following three courses: W. approximately 1.73 miles to a point having a latitude of N. 39° 14' 24" and a longitude of W. 81° 36' 58"; thence southwest approximately 2.9 miles to a point having a latitude of N. 39° 12' 43" and a longitude of W. 81° 38' 58"; thence W. approximately 1.80 miles to the place of beginning.

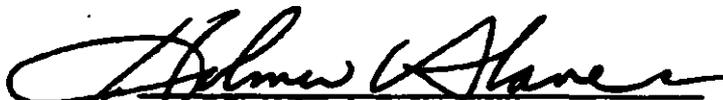
IT IS FURTHER ORDERED that from and after the date of the entry of this Order said additional area shall be a part of Lubeck Public Service District.

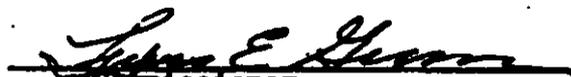
The Wood County Commission does further find and ORDER that the enlargement, maintenance, operation, improvement and extension of public service properties by said Public Service

District will be conducive to the preservation of public health, comfort and convenience of such areas.

BE IT FURTHER ORDERED that within ten (10) days after the entry of this Order a certified copy thereof be filed for review and approval with the Public Service Commission of West Virginia as required by Article 13-A, Chapter 16, of the West Virginia Code.

Entered this 11th day of July, 1988.


Commissioner


Commissioner

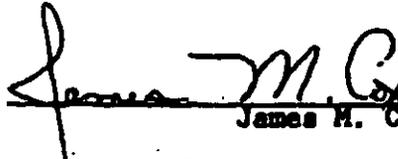

Commissioner

STATE OF WEST VIRGINIA,
COUNTY OF WOOD, TO-WIT:

I, James M. Cox, Manager of Lubeck Public Service District, upon my oath say that on June 25th, 1988, I caused to be posted copies of the attached notice in six conspicuous places throughout the area to be annexed, commonly known as Lost Pavement, Missouri Run, Hope Hill, Homewood Road, Woodyard Creek Road areas, located in Wood County, West Virginia, at the following locations:

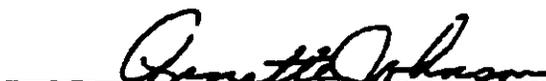
1. ~0.8 MILE ON HOMWOOD RD. FROM LUBECK - LARRY BROTHERS PROPERTY
2. ~0.25 MILE ON LOST PAVEMENT RD FROM ROUTE 32 IN GREEN CO.
3. ~0.6 MILE ON HOPE HILL RD. FROM ROUTE 32 IN GREEN CO. - M^r HARRY BROTHERS.
4. ~INTERSECTION OF ROUTES 24/12 & 13/10.
5. AT THE OLD WILLIAMS SCHOOL ON ROUTE 32.
6. ~INTERSECTION OF ROUTES 13 & 9/4.

Dated this 25th day of June, 1988.


James M. Cox

Taken, subscribed and sworn to before the undersigned authority this 26th day of June, 1988.

My commission expires: 10-8-91


Notary Public.

**NOTICE OF PUBLIC HEARING
TO ENLARGE LUBECK PUBLIC SERVICE DISTRICT
TO INCLUDE THE LOST PAVEMENT, MISSOURI RUN,
HOPE HILL, HOMEWOOD ROAD AND WOODYARD CREEK ROAD AREAS**

Notice is given that the Wood County Commission has fixed the 7th day of July, 1988, at 7:00 o'clock P. M. at the Judicial Annex Building of Wood County in the City of Parkersburg, West Virginia, as the time and place for a public hearing to consider the enlargement of Lubeck Public Service District to include the areas commonly known as Lost Pavement, Missouri Run, Hope Hill, Homewood Road, Woodyard Creek Road areas, located in Wood County, West Virginia, to provide public water service to those areas, which areas are collectively described as follows:

BEGINNING at a point in the present southerly boundary of Lubeck Public Service District having a latitude of N. 39° 12' 43" and having a longitude of W. 81° 40' 55"; thence in a southeasterly direction approximately 2.3 miles to a point having a latitude of N. 39° 11' 13" and having a longitude of W. 81° 39' 07"; thence in an easterly direction approximately 4.6 miles to a point having a latitude of N. 39° 11' 13" and having a longitude of W. 81° 33' 07"; thence in a northerly direction approximately 2.5 miles to a point having a latitude of N. 39° 13' 25" and having a longitude of W. 81° 33' 07"; thence in a northwesterly direction approximately 2.15 miles to a point in the present boundary of Lubeck Public Service District having a latitude of N. 39° 14' 24" and a longitude of W. 81° 35'; thence with the present boundary line of Lubeck Public Service District the following three courses: W. approximately 1.73 miles to a point having a latitude of N. 39° 14' 24" and a longitude of W. 81° 36' 58"; thence southwest approximately 2.9 miles to a point having a latitude of N. 39° 12' 43" and a longitude of W. 81° 38' 58"; thence W. approximately 1.80 miles to the place of beginning.

All persons residing in, or owning, or having any interest in property in said areas may appear at the aforesaid time and place and be heard for and against said enlargement.

Jamie Six, Clerk
Wood County Commission

STATE OF WEST VIRGINIA,
COUNTY OF WOOD, TO-WIT:

I, JAMIE SIX, Clerk of the County Commission in and for the County of Wood and State of West Virginia, having a Seal, and the Office in whose custody the files, books and records of said Office are required by laws of said State to be kept, do hereby certify that the attached and foregoing writing is a full, true and complete transcript and copy of _____

IN RE: THE COUNTY COMMISSION OF WOOD COUNTY APPROVED THE ENLARGEMENT OF THE LUBECK PUBLIC SERVICE DISTRICT

as the same appears of record in my said Office in COURT ORDER BOOK NO. 51, Page 72

IN WITNESS WHEREOF, I have hereunto set my hand and the Seal of said Office, at the City of Parkersburg, County of Wood and State of West Virginia, this the 6th day of February, 1990

JAMIE SIX

CLERK WOOD COUNTY COMMISSION,

By: _____

Pauline Eaton

Deputy

ORIGINAL

ENTERED
LA 88-404

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

FINAL

10-25-88

Entered: October 5, 1988

CASE NO. 88-404-W-PC

WOOD COUNTY COMMISSION,
Parkersburg, Wood County.

Petition for permission to enlarge boundaries
of Lubeck Public Service District.

RECOMMENDED DECISION

On June 16, 1988, the Wood County Commission adopted an order to enlarge the boundaries of Lubeck Public Service District to include areas commonly known as Lost Pavement, Missouri Run, Hope Hill, Homewood Road, and Woodyard Creek Road, all of which are located in Wood County. The purpose of this expansion of the Lubeck Public Service District boundaries was to ultimately provide water service to those areas as a part of a future project to be undertaken by that District.

In accordance with the provisions of West Virginia Code §16-13A-2, the order of the Wood County Commission was submitted for the Commission's consideration and approval. In accordance with the provisions of that statute, the Public Service Commission is required to conduct a public hearing in the affected County prior to entering a decision which either approves, modifies or disapproves the proposed Public Service District boundary modifications.

By Order entered on August 3, 1988, hearings in these matters were scheduled to commence in the Judge's Chambers, City Building, 2nd and Avery Streets, Parkersburg, West Virginia, on Tuesday, September 13, 1988, beginning at 10:00 a.m., EDST. The purpose of this hearing was to receive public testimony and to receive additional evidence to determine if the order of the Wood County Commission is in the public interest.

The August 3, 1988 Order required the Wood County Commission to publish a copy of the Commission's Order once in a newspaper, duly qualified by the Secretary of State, published and of general circulation in Wood County. On August 30, 1988, the Wood County Commission submitted an affidavit of publication verifying that the required public notice was provided by publication on August 19, 1988 in The Parkersburg News, a newspaper published and of general circulation in Wood County.

The hearing commenced as scheduled. The Wood County Commission and the Lubeck Public Service District were represented by Lawrence M. Ronning, and the Commission's Staff was represented by Ann Rodak of the Legal Division.

DISCUSSION

The hearing was well attended by members of the public. The 53 persons in attendance signed a sheet which noted their attendance and indicated whether they were in protest or in support of the proposed boundary expansion. All persons in attendance indicated that they supported the project, except two persons who did not indicate whether they either supported or protested the described boundary expansion.

The Lubeck Public Service District and the Wood County Commission first made statements on the record describing the rationale behind the proposed boundary expansion. Staff then went on record to voice its support for the proposed boundary expansion. Thereafter, members of the public were provided the opportunity to appear and make statements on the record either in support of or against the proposed boundary expansion.

James Cox, the District Manager for Lubeck Public Service District, generally described the territories covered by the proposed boundary expansion and the District's plans for providing water service to those territories. As shown on the map identified as Exhibit 1, the territories in question lie beyond the municipal boundaries of the City of Parkersburg, and they are not currently within the boundaries of any public service district. Both Lubeck Public Service District and Mineral Wells Public Service District have facilities and territories which are directly adjacent to the territories included in the proposed expansion. (Tr., pp. 10-12; Lubeck Exhibit No. 1).

The residents in these territories do not currently have access to a public water supply, and many must transport bottled water or take other measures to meet their water supply needs. These customers have repeatedly approached the City of Parkersburg, Mineral Wells Public Service District and Lubeck Public Service District in an effort to obtain public water to these territories, but to date they have been unable to secure public water from any of the adjacent public utilities. (Tr., pp. 29-35).

As described by Mr. Cox, Lubeck Public Service District is currently unable to extend its facilities by ordinary extensions to serve these territories, and it must upgrade its facilities and add a new treatment plant to be able to serve these customers. These residents have petitioned Lubeck Public Service District for water service, and Lubeck is in the process of performing engineering feasibility studies to determine how water service can best be extended to these territories. (Tr., pp. 6-10).

The Public Service Commission previously approved an engineering contract for the performance of feasibility studies to evaluate the growth and expansion of the Lubeck Public Service District to serve these territories. (Case No. 88-042-W-PC).

Based upon its initial evaluation, Lubeck Public Service District believes that it can extend service throughout these territories as part of a project to upgrade its system and add a new treatment plant to serve its existing facilities as well as the new territories. The District hopes to secure available grant money and low interest loans to finance

the construction of this contemplated project. It is ultimately hoped that service can be extended to these customers to provide quality service at reasonable rates. If everything goes according to schedule, Lubeck Public Service District hopes to submit a proposed project for the Commission's review and consideration as early as 1989. The Mid-Ohio Valley Regional Council and the Wood County Commission have evaluated the ability of both Lubeck Public Service District and Mineral Wells Public Service District to serve these territories, and they have concluded that the plan proposed by Lubeck Public Service District provides the most reasonable alternative for providing much needed water service to these territories. (Tr., pp. 11, 14-15).

Robert L. Skiles, Chief Utilities Manager for the Public Service District Division of the Public Service Commission, testified that Staff had reviewed the proposed boundary expansion and is in support of the enlargement of Lubeck Public Service District's boundaries. During its initial review of the filing, Staff was of the opinion that the proposed boundary expansion should be approved unless Mineral Wells Public Service District provided evidence that it could provide water service to the proposed area of expansion in a more feasible manner than the Lubeck Public Service District. Since Mineral Wells Public Service District had neither submitted a plan for Staff consideration nor appeared at the hearing in opposition to the expansion, Staff believed that it was best for the District to proceed with the expansion of its boundaries and the development of an acceptable project to serve the territory. The Staff believed that the District was taking reasonable measures to evaluate available alternatives for serving the territory, and the approval of the proposed boundary expansion was seen as the first step in providing safe, adequate and reasonably priced water service to these territories. (Tr., pp. 19-22).

Public statements in support of the proposed boundary expansion and the future development of the public water system in these territories were provided by Dale Sole, James E. Smith, David Van Kirk and Betty Bower. All of these customers related the residents' longstanding desire to obtain public water service to meet the needs of the territory, and the approval of the boundary expansion was seen as the first significant step towards securing adequate water service. The residents have been trying to obtain appropriate water service to this territory for over 15 years, and the residents had wide spread support for the development of water service to these territories by Lubeck Public Service District. (Tr., pp. 28-35).

Upon review of all of the above, the Administrative Law Judge is of the opinion that the July 7, 1988 Order of the Wood County Commission to enlarge the boundaries of Lubeck Public Service District is reasonable and appropriate and is consistent with the public interest. Therefore, the proposed boundary expansion shall be approved by this order. The proposed enlargement of the Lubeck Public Service District boundaries to include the territories of Lost Pavement, Missouri Run, Hope Hill, Homewood Road and Woodyard Creek Road appears to represent the initial step in securing a much needed public water supply to serve these territories.

While the residents of these areas are eager to get water service in this territory as soon as possible, the Administrative Law Judge notes that the Commission's approval of the described enlargement to Lubeck Public Service District's boundaries shall in no way constitute prior approval of any proposed project to serve these territories which is subsequently submitted by Lubeck Public Service District. When submitted, such a project would be reviewed on its own merits to insure that the described service and facilities were properly designed, the project is supported by adequate financing, rates and charges, and the project is consistent with the public interest.

Even though a specific project has yet to be submitted and reviewed, it is reasonable to grant the proposed boundary expansion at this time so that an acceptable project can be developed by Lubeck Public Service District as soon as possible to satisfy the public needs throughout these territories. If, for some reason, the contemplated project does not proceed to construction in a timely manner, and the approved expansion of Lubeck Public Service District's boundaries proves to be a hindrance to the development of alternate public water supplies to serve these territories, the Wood County Commission and the Public Service Commission would have to take appropriate steps to subsequently modify Lubeck Public Service District's boundaries as necessary to promote the development of alternate water projects.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Wood County Commission's order proposes to expand the boundaries of Lubeck Public Service District to include certain unincorporated territories adjacent to Lubeck Public Service District which currently have no source of water supply. (July 3, 1988 Application and attachments).

2. Lubeck Public Service District is in the process of evaluating a proposed project to include the expansion of service into these designated territories in conjunction with a project to expand the District's capacity and upgrade its facilities to meet the needs of existing and future customers. Lubeck Public Service District intends to seek available funding and file for a certificate of convenience and necessity from the Commission for such a project as soon as possible, hopefully as early as 1989. (Tr., pp. 11, 14-15).

3. Based upon preliminary estimates, it is anticipated that Lubeck Public Service District can provide quality water service at reasonable rates to these areas, and an appropriate project can be submitted for the Commission's review and approval. (Tr., pp. 11, 14-15).

4. Mineral Wells Public Service District, which is another water utility which serves adjacent territories, has not submitted an alternate proposal for serving the territory in question, and it did not appear in opposition to the proposed expansion of boundaries by Lubeck Public Service District. (Tr., pp. 10-12).

5. The general public in the affected territories supports the expansion of Lubeck Public Service District's boundaries. (Tr., pp. 28-35).

6. The Staff of the Public Service Commission supported the proposed boundary expansion, and believed the District was taking reasonable measures to evaluate available alternatives for serving the territory. (Tr., pp. 19-22).

CONCLUSION OF LAW

Upon consideration of all of the above, the Administrative Law Judge is of the opinion that the July 7, 1988 Order of the Wood County Commission to enlarge the boundaries of Lubeck Public Service District is reasonable and appropriate and consistent with the public interest. This approval shall in no manner constitute any prior approval for any project which is subsequently designed to serve these territories, and such a project, when developed, must be submitted to the Commission and reviewed on its own merits.

ORDER

IT IS, THEREFORE, ORDERED that the July 7, 1988 Order of the Wood County Commission to enlarge the boundaries of Lubeck Public Service District to include the territories of Lost Pavement, Missouri Run, Hope Hill, Homewood Road, and Woodyard Creek Road, is hereby approved. Any project which is subsequently developed to serve this territory shall be submitted to the Commission for review and approval on its own merits.

The Executive Secretary is hereby ordered to serve a copy of this order upon the Commission by hand delivery, and upon all parties of record by United States Certified Mail, return receipt requested.

Leave is hereby granted to the parties to file written exceptions supported by a brief with the Executive Secretary of the Commission within fifteen (15) days of the date this order is mailed. If exceptions are filed, the parties filing exceptions shall certify to the Executive Secretary that all parties of record have been served said exceptions.

If no exceptions are so filed this order shall become the order of the Commission, without further action or order, five (5) days following the expiration of the aforesaid fifteen (15) day time period, unless it is ordered stayed or postponed by the Commission.

Any party may request waiver of the right to file exceptions to an Administrative Law Judge's Order by filing an appropriate petition in writing with the Secretary. No such waiver will be effective until approved by order of the Commission, nor shall any such waiver operate to make any Administrative Law Judge's Order or Decision the order of the

Commission sooner than five (5) days after approval of such waiver by the Commission.

Robert F. Williams

Robert F. Williams
Administrative Law Judge

RFW:jas

ORDERS-Wood County Commission, West Virginia

WEDNESDAY, MARCH 19, 1997
TWENTY-SEVENTH DAY

JANUARY

Term

MARCH

19 97

IN RE: ENLARGEMENT AND RE-ADJUSTMENT OF THE BOUNDARIES OF LUBECK PUBLIC SERVICE DISTRICT.

ORDER

This 17th day of March, 1997, came Lubeck Public Service District and filed with the Clerk of the County Commission of Wood County, West Virginia, its Petition to enlarge and re-adjust the boundaries of said District; and the said Clerk presented such Petition to said County Commission at its regular meeting on this date, which Petition is ordered filed.

The County Commission, having considered the Petition and the testimony of witnesses in support thereof, finds that the facts contained in the Petition are true and that it is necessary, sensible and proper to enlarge the District to include the additional area of 33.9 square miles and to exclude 0.63 square mile to be included in the Mineral Wells District Territory; and the County Commission proposes inclusion of 33.9 square miles and exclusion of 0.63 square miles and does fix the 10th day of April, 1997, at 10:00 o'clock, A. M., at the office of the Wood County Commission in the Courthouse at Third and Market Streets, Parkersburg, West Virginia, as the time and place for a hearing on said Petition and proposal. Notice shall be published and posted as required by law.

(SEE PHOTOSTAT BOOK 64N, PAGE 77, FOR COPY OF PETITION, EXHIBIT A AND MAP IN ITS ENTIRETY)

ENTER:
COUNTY COMMISSION OF WOOD COUNTY
BY: s/ Holmes R. Shaver
Its President

There appearing no further business to claim the attention of this Commission, it is hereby ordered that this Commission do now adjourn to meet in Regular Session, Thursday, March 20, 1997, at 9:00 o'clock A. M. and meeting in Special Session, Wednesday, March 19, 1997, at 9:00 o'clock A. M., in regard to the preparation of the Budget for Fiscal Year 1997/1998.


President

WEDNESDAY, MARCH 19, 1997
TWENTY-SEVENTH DAY

JANUARY TERM

MARCH 1997

At a Special Session of the County Commission, continued and held for the County of Wood, at the Courthouse thereof, Wednesday, March 19, 1997, Present, Holmes R. Shaver, President of said Commission, and David A. Couch and Robert K. Tebay, Commissioners.

STATE OF WEST VIRGINIA,
COUNTY OF WOOD, TO-WIT:

I, JAMIE SIX, Clerk of the County Commission in and for the County of Wood and State of West Virginia, having a Seal, and the Officer in whose custody the files, books and records of said Office are required by laws of said State to be kept, do hereby certify that the attached and foregoing writing is a full, true and complete transcript and copy of IN RE: ENLARGEMENT AND RE-ADJUSTMENT OF THE BOUNDARIES OF LUBECK PUBLIC SERVICE DISTRICT

as the same appears of record in my said Office in COURT ORDER BOOK 60, Page 80

IN WITNESS WHEREOF, I have hereunto set my hand and the Seal of said Office, at the City of Parkersburg, County of Wood and State of West Virginia, this the 20th day of MARCH, 19 97

JAMIE SIX

CLERK WOOD COUNTY COMMISSION

By: *Beanda Lambert*

Deputy

✓ IN RE: A RESOLUTION AND ORDER ENLARGING AND RE-ADJUSTING THE BOUNDARIES OF LUBECK PUBLIC SERVICE DISTRICT
IN WOOD COUNTY, WEST VIRGINIA

WHEREAS, the Wood County Commission did heretofore by order entered on March 17, 1997, fix the 10th day of April, 1997, as a date for a public hearing on the enlargement and re-adjustment of the boundaries of Lubeck Public Service District, and notice of said hearing was published and posted as required by Article 13-A, Chapter 16 of the West Virginia Code, and in said notice it was provided that the meeting is open to the public and

WHEREAS, the Wood County Commission proceeded to hold said public hearing on the 10th day of April, 1997, at 10:00 o'clock A.M., at which hearing the Commission receiving neither written protest nor oral protest to said enlargement or boundary re-adjustment, and all persons present favoring said enlargement and re-adjustment,
NOW THEREFORE BE IT RESOLVED AND ORDERED that the affidavits of The Parkersburg News and Parkersburg Sentinel of the publication of the notice of public hearing, together with the affidavits of John Kirk as to the posting within the area to be included within Lubeck Public Service District and the area to be excluded, be and the same are hereby filed.

BE IT FURTHER RESOLVED AND ORDERED that it will be conducive to the preservation of public health, comfort and convenience of the area to be included, that Lubeck Public Service District can adequately serve said area, and that said enlargement is feasible and proper to provide services to the following described area:

BEGINNING at the Ohio River near the head of Newberry Island at a point having a Latitude of N. 39° 13' 16"

and a Longitude of W. 81° 41' 22"; thence along the existing southerly boundary of the Lubeck Public Service District, S. 32° 28' E. 3,958 feet to a point having a Latitude of N. 39° 12' 43" and a Longitude of W. 81° 39' 07"; thence east 22,383 feet to a point in the westerly line of the Mineral Wells Public Service District having a Latitude of N. 39° 11' 13" and a Longitude of W. 81° 34' 20"; thence with the boundary of the Mineral Wells Public Service District, S. 36° 44' W. 53,680 feet to a point in the Wood/Jackson County line having a Latitude of N. 39° 04' 08" and a Longitude of W. 81° 41' 08"; thence with the said County line, N. 61° 01' W. 19,016 feet to a point at the confluence of Pond Creek and the Ohio River having a Latitude of N. 39° 05' 39" and a Longitude of W. 81° 44' 39"; thence with the meanders of the Ohio River approximately 10.8 miles to the place of beginning; containing 53.80 square miles (34,500 acres).

IT IS FURTHER RESOLVED AND ORDERED that Lubeck Public Service District cannot adequately serve the following area, that it can be adequately served by Mineral Wells Public Service District, and that said area be excluded from Lubeck Public Service District's service area, which area to be excluded is described as follows:

BEGINNING as a point in the easterly boundary the Lubeck Public Service District having a Latitude of N. 39° 12' 21" and Longitude of W. 81° 33' 15"; thence along the existing boundary of the Lubeck Public Service District, W. 6,880 feet to a point having a Latitude of N. 39° 11' 13" and a Longitude of W. 81° 33' 15"; thence W. 5,134 feet to a point having a Latitude of N. 39° 11' 13" and a Longitude of West 81° 34' 20"; thence N. 36° 44' E. 8,383 feet to the place of beginning, containing 0.63 square miles (403.44 acres).

IT IS FURTHER ORDERED that from and after the date of the entry of this Order said additional area of 32.9 square miles (34,500 acres) shall be a part of Lubeck Public Service District, and that the 0.63 square mile (403.44 acres) shall be excluded from Lubeck Public Service District's service area.

BE IT FURTHER ORDERED that within ten (10) days after the entry of this Order a certified copy thereof be filed for review and approval with the Public Service Commission of West Virginia as required by Article 13-A, Chapter 16, of the West Virginia Code.

ENTERED this 10th day of April, 1997.

s/ Holmes R. Shaver
Holmes R. Shaver, Commissioner President
s/ Robert E. Tabay
Robert E. Tabay, Commissioner
David A. Couch, Commissioner, Absent

Order Book 60
Page 92

ORIGINAL

~~ENTERED~~
97P

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

FINAL
9-22-97

Entered: ~~September~~ 2, 1997

CASE NO. 97-0297-PSWD-PC

WOOD COUNTY COMMISSION

Petition for consent and approval
for enlargement of the boundaries of
the Mineral Wells Public Service District.

CASE NO. 97-0483-PSWD-PC

WOOD COUNTY COMMISSION

Petition for consent and approval to
enlarge and readjust the boundaries
of Lubeck Public Service District.

RECOMMENDED DECISION

Case No. 97-0297-PSWD-PC

On March 19, 1997, the Wood County Commission filed a petition seeking Commission approval for the enlargement of the boundaries of the Mineral Wells Public Service District. Such enlargement would incorporate areas in Steele, Slate and Tygart Magisterial Districts of Wood County.

Case No. 97-0483-PSWD-PC

On April 25, 1997, the Wood County Commission filed a petition seeking Commission approval to enlarge and readjust the boundaries of the Lubeck Public Service District.

By Order dated June 6, 1997, Case Nos. 97-0483-PSWD-PC and 97-0297-PSWD-PC were consolidated and referred to the Division of Administrative Law Judges for a decision to be rendered on or before October 15, 1997.

In Final Joint Memoranda filed in these cases on May 22 and June 3, 1997, Staff Attorney J. Joseph Watkins, Esquire, indicated that, in both cases, Staff recommended approval of the Wood County Commission's petitions and that the matters be set for hearing as required by West Virginia Code §16-13A-2.

By Order dated July 16, 1997, these matters were set for hearing to be held in the Court Room, Second Floor, City-County Complex, Parkersburg, West Virginia, on August 13, 1997. Said order also required that the Wood County Commission give notice of the date, time and place of the hearing by publishing a Notice of Hearing once in a newspaper, duly qualified by the

Secretary of State, published and of general circulation in Wood County. The hearing was held as scheduled. The Wood County Commission appeared by its counsel Ellen Madeglio, Esquire. The Lubeck Public Service District appeared by its counsel Lawrence Ronning, Esquire. Commission Staff was represented by Staff Attorney J. Joseph Watkins.

No one appeared at the hearing in protest after proper publication had been made, as evidenced by the affidavit of publication dated August 4, 1997, which was filed with the Commission on August 11, 1997.

FINDINGS OF FACT

1. In Case No. 97-0297-PSWD-PC, on March 19, 1997, the Wood County Commission filed a petition seeking Commission approval for the enlargement of the boundaries of the Mineral Wells Public Service District. (See, petition).

2. In Case No. 97-0483-PSWD-PC, on April 25, 1997, the Wood County Commission filed a petition seeking Commission approval to enlarge and readjust the boundaries of Lubeck Public Service District. (See, petition).

3. In a Final Joint Staff Memorandum filed in these cases on May 22 and June 3, 1997, Staff Attorney J. Joseph Watkins advised that, in both cases, Staff recommended approval of the Wood County Commission's petitions. (See, Final Joint Staff Memorandum filed May 22, 1997 and June 3, 1997).

4. By Order dated July 16, 1997, these matters were set for hearing to be held in the Court Room, Second Floor, City-County Complex, Parkersburg, West Virginia, on August 13, 1997. Said Order also required that the Wood County Commission give notice of the hearing by publishing a Notice of Hearing once in a newspaper, duly qualified by the Secretary of State, published and of general circulation in Wood County. (See, Order dated July 16, 1997).

5. The Wood County Commission published the Notice of Hearing in Wood County in accordance with the Commission's requirements. (See, affidavit of publication filed August 11, 1997).

6. At the hearing held in these cases on August 13, 1997, no one appeared in protest to the orders of the Wood County Commission. (See, Tr., p. 5).

CONCLUSION OF LAW

The Administrative Law Judge is of the opinion and finds that, since the Wood County Commission gave proper notice of the hearing to be held in these cases, and no one appeared in protest to the petitions at the hearing held on August 13, 1997; the orders of the Wood County Commission in these cases can be approved as unprotested.

ORDER

IT IS, THEREFORE, ORDERED that the order of the Wood County Commission dated April 10, 1997, filed in Case Nos. 97-0297-PSWD-PC and 97-0483-PSWD-PC, adjusting the boundaries of Mineral Wells Public Service District and Lubeck Public Service District, be, and the same hereby is, approved.

The Executive Secretary is hereby ordered to serve a copy of this order upon the Commission by hand delivery, and upon all parties of record by United States Certified Mail, return receipt requested.

Leave is hereby granted to the parties to file written exceptions supported by a brief with the Executive Secretary of the Commission within fifteen (15) days of the date this order is mailed. If exceptions are filed, the parties filing exceptions shall certify to the Executive Secretary that all parties of record have been served said exceptions.

If no exceptions are so filed this order shall become the order of the Commission, without further action or order, five (5) days following the expiration of the aforesaid fifteen (15) day time period, unless it is ordered stayed or postponed by the Commission.

Any party may request waiver of the right to file exceptions to an Administrative Law Judge's Order by filing an appropriate petition in writing with the Secretary. No such waiver will be effective until approved by order of the Commission, nor shall any such waiver operate to make any Administrative Law Judge's Order or Decision the order of the Commission sooner than five (5) days after approval of such waiver by the Commission.



Robert W. Glass
Administrative Law Judge

RWG:pst

ORDER BOOK 69/580

IN RE: THE COUNTY COMMISSION REAPPOINTED JERRY MARTIN TO THE LUBECK PUBLIC SERVICE DISTRICT.

ORDER

On this date, the County Commission of Wood County, upon a motion made by Wayne Dunn, seconded by Stephen Gainer and made unanimous by David Blair Couch, announced reappointed Jerry Martin to the Lubeck Public Service District. Said vacancy is due to the fact that Mr. Martin's term will expire December 31, 2011. Said vacancy is pursuant to an Order appearing in Order Book 51, at Page 433 and bearing the date of April 1, 1991, dealing with the procedure policy for appointments to Boards and Authorities. Mr. Martin's new term will expire December 31, 2017.

Approved:

THE COUNTY COMMISSION OF WOOD COUNTY

s/David Blair Couch

David Blair Couch, President

s/Wayne Dunn

Wayne Dunn, Commissioner

s/Stephen Gainer

Stephen Gainer, Commissioner

THE COUNTY COMMISSION OF WOOD COUNTY
PARKERSBURG, WEST VIRGINIA



To all to whom these presents shall come, GREETING:

Know ye, that the County Commission of Wood County of the Great State of West Virginia, reposing special confidence in the intelligence, integrity, and discretion of

John Sines

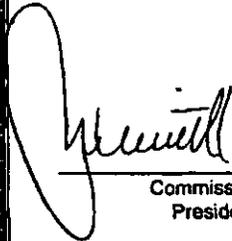
In pursuance of the authority vested in the County Commission of Wood County, do hereby appoint to

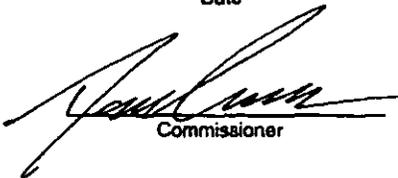
The Lubeck Public Service District

To hold said office and execute the duties thereof subject to the conditions prescribed by law.

December 28, 2009

Date


Commissioner
President


Commissioner


Commissioner

12-28-09
69/101

DECEMBER 28, 2009

IN THE COUNTY COMMISSION OF WOOD COUNTY, WEST VIRGINIA

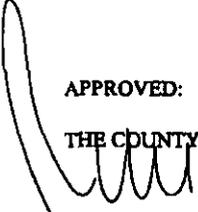
IN RE: THE COUNTY COMMISSION APPOINTED JOHN SINES TO THE
LUBECK PUBLIC SERVICE DISTRICT BOARD.

ORDER

On this date, the County Commission of Wood County, upon a motion made by David Blair Couch, seconded by Wayne Dunn and made unanimous by Rick Modesitt, APPOINTED John Sines to the Lubbeck Public Service District Board. Mr. Sines term will expire on December 31, 2015. Said appointment is pursuant to an Order appearing in Order Book 51, at Page 433 and bearing the date of April 1, 1991, dealing with the procedure policy for appointments to Boards and Authorities.

APPROVED:

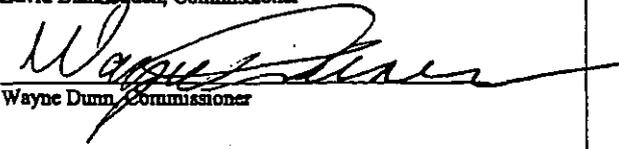
THE COUNTY COMMISSION OF WOOD COUNTY



Rick Modesitt, President



David Blair Couch, Commissioner



Wayne Dunn, Commissioner

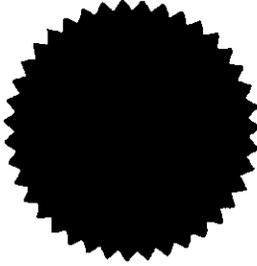
M/761

State of West Virginia Certificate

This Is To Certify That On February 4—6, 2010

John H. Sines

Successfully Completed The PSD Board Members Mandatory
Training Seminar Held At The Wingate Inn, South Charleston, WV



Amy S. Swann
West Virginia Public Service Commission

J. J. Z. Zant
West Virginia Bureau of Public Health

Kosaku M. Brodwin
West Virginia Department of Environmental
Protection

THE COUNTY COMMISSION OF WOOD COUNTY



PARKERSBURG, WEST VIRGINIA

To all to whom these presents shall come, GREETING:

Know ye, that the County Commission of Wood County of the Great State of West Virginia, reposing special confidence in the intelligence, integrity, and discretion of

Roger Dale Martin

In pursuance of the authority vested in the County Commission of Wood County, do hereby appoint to

The Lubeck Public Service District

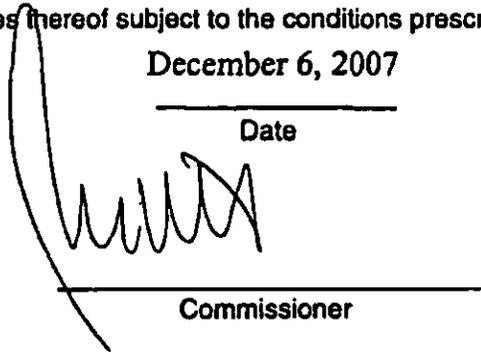
To hold said office and execute the duties thereof subject to the conditions prescribed by law.

December 6, 2007

Date



Commissioner
President



Commissioner



Commissioner

COPY

NOVEMBER 17, 2005

IN THE COUNTY COMMISSION OF WOOD COUNTY, WEST VIRGINIA

IN RE: THE COUNTY COMMISSION REAPPOINTED JERRY MARTIN
TO THE LUBECK PUBLIC SERVICE DISTRICT BOARD.

ORDER

On this date, the County Commission of Wood County, upon a motion made by Rick Modesitt, seconded by Gary D. Deem and passed, reappointed Jerry Martin to the Lubeck Public Service District Board. Said appointment is due to the expiration of the term of Mr. Martin and is further pursuant to an Order appearing in Order Book 51, at Page 433 and bearing the date of April 1, 1991, dealing with the procedure policy for appointments to Boards and Authorities.

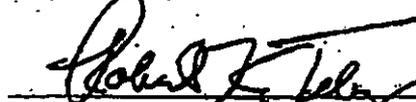
Mr. Martin's new term will expire December 31, 2011.

APPROVED:

THE COUNTY COMMISSION OF WOOD COUNTY



Gary D. Deem, President



Robert K. Tebay, Commissioner



Rick Modesitt, Commissioner

A/261

IN RE: ROGER D. MARTIN—OATH OF OFFICE—REAPPOINTED MEMBER LUBECK PUBLIC SERVICE DISTRICT BOARD.

STATE OF WEST VIRGINIA,
COUNTY OF WOOD, TO-WIT:

I, ROGER D. MARTIN, do solemnly swear or affirm that I will support the Constitution of the United States, the Constitution of West Virginia, and that I will faithfully and impartially discharge the duties of the office of REAPPOINTED MEMBER LUBECK PUBLIC SERVICE DISTRICT BOARD in and for Wood County, West Virginia, to the best of my skill and judgment, during my continuance in the same, SO HELP ME GOD.

s/Roger D. Martin

Subscribed and sworn to, before the County Commission, of Wood County, West Virginia, this 10th day of December, 2007.

Jamie Six

Clerk Wood County Court

By: Brenda Blondin, Deputy

IN RE: JERRY R. MARTIN—OATH OF OFFICE—MEMBER LUBECK PUBLIC SERVICE DISTRICT BOARD.
STATE OF WEST VIRGINIA,
COUNTY OF WOOD, TO-WIT:

I, JERRY R. MARTIN do solemnly swear that I will support the Constitution of the United States, the Constitution of West Virginia, and that I will faithfully and impartially discharge the duties of the office of MEMBER LUBECK PUBLIC SERVICE DISTRICT BOARD, in and for Wood County, West Virginia, to the best of my skill and judgment, during my continuance in the same; SO HELP ME GOD.

s/Jerry R. Martin

Subscribed and sworn to, before the County Commission of Wood County, West Virginia, this 7th day of July, 2005

Jamie Six,
Clerk Wood County Commission
By: Brenda Blondin, Deputy

STATE OF WEST VIRGINIA
COUNTY OF WOOD }

TO -WIT:

I, John Sines, do solemnly swear that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and that I will faithfully and impartially discharge the duties of the office of the Lubeck Public Service District Board in and for Wood County, West Virginia, to the best of my skill and judgment, during my continuance in the same; SO HELP ME GOD.



Subscribed and sworn to, before County Commission of Wood County, West Virginia, this 11th
day of January, 2010.



Clerk of Wood County Commission

RULES OF PROCEDURE

1.5

LUBECK PUBLIC SERVICE DISTRICT

ARTICLE I

NAME AND PLACE OF BUSINESS

Section 1. The name of this Public Service District shall be LUBECK PUBLIC SERVICE DISTRICT (the "District").

Section 2. The principal office of the District will be located in Washington, West Virginia.

Section 3. The official seal of the District shall consist of 2 concentric circles between which circles shall be inscribed Lubeck Public Service District, and in the center "seal" as follows:

Section 4. The fiscal year of the District shall begin on the 1st day of July in each year and shall end on June 30 of the following year.

ARTICLE II

PURPOSE

Section 1. The District is organized and operated exclusively for the purposes set forth in Chapter 16, Article 13A of the Code of West Virginia, 1931, as amended (the "Act").

ARTICLE III

MEMBERSHIP

Section 1. The members of the Public Service Board of the District (the "Board") shall be those persons appointed by The County Commission of Wood County, West Virginia (the "County Commission"), 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 Board resign or otherwise become legally disqualified to serve as a member of the Board, the District 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 Board, the District 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 Board.

Section 3. The District shall provide to the Public Service Commission of West Virginia, within 30 days of the appointment, the following information: the new board member's name, home address, home and office phone numbers, date of appointment, length of term, who the new member replaces and if the new appointee has previously served on the board, and such other information required under the Act.

Section 4. Each board member shall, within 6 months of taking office, successfully complete the training program established and administered by the Public Service Commission of West Virginia in conjunction with the West Virginia Department of Environmental Protection and the West Virginia Bureau for Public Health.

Section 5. Board members shall not be or become pecuniarily interested, directly or indirectly, in the proceeds of any contract or service, or in furnishing any supplies or materials to the District, nor shall a former board member be hired by the District in any capacity within a minimum of 12 months after such board member's term has expired or after such board member has resigned from the Board.

Section 6. Salaries of the board members shall be established as provided in Chapter 16, Article 13A, Section 4 of the Act. The District shall certify the number of customers served to the Public Service Commission of West Virginia on the first day of July each year. Board members may be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their duties.

Section 7. The members of the Board are not personally liable or responsible for any obligations of the District or the Board but are answerable only for willful misconduct in the performance of their duties.

ARTICLE IV

MEETINGS OF THE BOARD

Section 1. The members of the Board shall hold regular monthly meetings on such days of each month and 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 Board may be called at any time by the Chairperson or by a quorum of the Board.

Section 2. At any meeting of the Board, a majority of the members of the Board shall constitute a quorum. Each member of the Board shall have one vote at any meeting and if a quorum is not present, those present may adjourn the meeting to a later date.

Section 3. Unless otherwise waived, notice to members of regular meetings shall be by letter or telephone. Unless otherwise waived, notice to members of each special meeting shall be by letter or telephone not less than 72 hours 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 at such meeting, and no business other than that stated in the notice shall be transacted at such special meeting.

Section 4. Pursuant to Chapter 6, Article 9A, Section 3 of the Code of West Virginia, 1931, as amended, notice of the date, time, place and agenda of all regularly scheduled meetings of the Board, and the date, time, place and purpose of all special meetings of the Board, shall be made available, in advance, to the public and news media as follows:

Rule No. 1. Notice of Regularly Scheduled Meetings. Immediately after adoption of these Rules of Procedure and in January of each year thereafter, the Board shall instruct the Secretary to, and the Secretary shall, post, and leave posted throughout the year to which it applies, at the regular meeting place of the Board and at the Wood County Courthouse, where notices customarily are posted, a notice setting forth the date, time and place of the Board's regularly scheduled meetings for the ensuing year. In addition, a copy of the agenda for each regularly scheduled meeting shall also be posted at the same location by the Secretary not less than 72 hours before such regular meeting is to be held.

The Board shall also instruct the Secretary to, and the Secretary shall, distribute to each of the newspapers and other news media listed below a notice identical to that posted:

<u>News Media</u>	<u>Fax Number</u>
The Parkersburg News and The Parkersburg Sentinel	(304) 485-5122
WXIL	(304) 424-6955
WNUS	(304) 295-4389
WTAP	(304) 422-3920

A notice shall be considered distributed to a news medium when it has been faxed to such news medium at the fax number listed above. In January of each year after the adoption of these Rules of Procedure, the Board shall review the above list and shall amend such list as needed, in the opinion of the Board, to reflect properly all the newspapers and other news media that customarily cover news of the area served by the Board. In addition, a copy of the agenda for each regularly scheduled meeting shall also be distributed to the news media by the Secretary not less than 72 hours before such regular meeting is to be held.

In the event of any modification to the date, time, place or agenda of a regularly scheduled meeting of the Board, notice of such modification shall immediately be given to the public and news media by posting at the places and distributing to the news media in the manner set forth above not less than 48 hours before such regular meeting is to be held. A copy of the notice of such modification shall be attached to and made a part of the minutes of the meeting for which such notice was given.

Rule No. 2. Notice of Special Meetings. Not less than 72 hours prior to the date set for any special meeting of the Board, the Board shall instruct the Secretary to, and the Secretary shall, post at the regular meeting place of the Board and at the Wood County Courthouse, where notices customarily are posted, a notice setting forth the date, time, place and purpose or purposes of such special meeting. Business at such special meeting shall be limited to the purpose or purposes specified in said notice.

As soon as practical after the posting of said notice, but not less than 72 hours prior to the date set for such special meeting, the Secretary shall distribute to each of the newspapers and other news media listed in Rule No. 1 hereof, a notice identical to that posted. Amendments made to such news media list, as provided for in said Rule No. 1, shall be incorporated by reference in this Rule No. 2. A notice shall be considered distributed to a news medium when it has been addressed to such news medium at the address listed in said Rule No. 1, or at such other address as the news medium has in writing requested be used, marked or stamped with first class postage and deposited in the United States mail.

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

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

Rule No. 4. Executive Sessions. The Board may hold an executive session during a regular, special or emergency meeting in accordance with Chapter 6, Article 9A, Section 4 of the Code of West Virginia, 1931, as amended. During the open portion of the meeting, prior to convening an executive session, the Chairperson shall identify the authorization under Chapter 6, Article 9A, Section 4 of the Code of West Virginia, 1931, as amended, for holding the executive session and present it to the Board and to the general public, but no decision may be made in the executive session. An executive session may be held only upon a majority affirmative vote of the Board members present. The Board may hold an executive session and exclude the public only when a closed session is required for any of the actions permitted under Chapter 6, Article 9A, Section 4 of the Code of West Virginia, 1931, as amended.

Rule No. 5. Minutes. The Board shall provide for the preparation of written minutes of all of its meetings. Subject to the exceptions set forth in Chapter 6, Article 9A, Section 4 of the Code of West Virginia, 1931, as amended, minutes of all meetings except minutes of executive sessions, if any are taken, shall be available to the public within a reasonable time after the meeting and shall include, at least, the following information:

- (1) The date, time and place of the meeting;
- (2) The name of each Board member present and absent;
- (3) All motions, proposals, resolutions, orders, ordinances and measures proposed, the name of the person proposing the same and their disposition; and
- (4) The results of all votes and, upon the request of a Board member, the vote of each Board member, by name.

Rule No. 6. No Actions by Reference. Except as otherwise expressly provided by law, the Board may not deliberate, vote, or otherwise take official action upon any matter by reference to a letter, number or other designation or other secret device or method, which may render it difficult for persons attending a meeting to understand what is being deliberated,

voted or acted upon. However, this rule does not prohibit the Board from deliberating, voting or otherwise taking action by reference to an agenda, if copies of the agenda, sufficiently worded to enable the public to understand what is being deliberated, voted or acted upon, are available for public inspection at the meeting. The Board may not vote by secret or written ballot.

Rule No. 7. Broadcasting of Meetings. Except as otherwise provided in this rule, any radio or television station is entitled to broadcast all or any part of a Board meeting required to be open. The Board may regulate the placement and use of equipment necessary for broadcasting, photographing, filming or recording a meeting, so as to prevent undue interference with the meeting. The Board shall allow the equipment to be placed within the meeting room in such a way as to permit its intended use, and the ordinary use of the equipment may not be declared to constitute undue interference; provided, that if the Board, in good faith, determines that the size of the meeting room is such that all the members of the public present and the equipment and personnel necessary for broadcasting, photographing, filming and tape-recording the meeting cannot be accommodated in the meeting room without unduly interfering with the meeting and an adequate alternative meeting room is not readily available, then the Board, acting in good faith and consistent with the purposes of this rule, may require the pooling of the equipment and the personnel operating it.

Rule No. 8. Telephonic Meetings. Board meetings may be held by telephone conference or other electronic means. All Board members participating by telephone or other electronic means must be audible to all those personally present.

Section 5. All meetings of any committee of the Board shall be subject to the Rules of Procedure set forth in Section 4 above.

ARTICLE V

OFFICERS

Section 1. The officers of the Board shall be a Chairperson, Secretary and Treasurer. The Chairperson shall be elected from the members of the Board. The Secretary and Treasurer need not be members of the Board.

Section 2. The officers of the Board shall be elected each year by the members at the first meeting after the first day of January of each 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 Board at a regular or special meeting. Persons selected to fill vacancies shall

serve until the next annual organizational meeting of the Board when their successors shall be elected as hereinabove provided.

ARTICLE VI

DUTIES OF OFFICERS

Section 1. When present, the Chairperson shall preside as Chairperson at all meetings of the Board. The Chairperson shall, together with the Secretary, sign the minutes of all meetings at which the Chairperson shall preside. The Chairperson shall attend generally to the executive business of the Board and exercise such powers as may be conferred upon the Chairperson by the Board, by these Rules of Procedure, or prescribed by law. The Chairperson shall execute, and if necessary, acknowledge for record, any deeds, deeds of trust, contracts, notes, bonds, agreements, or other documents 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. If the Chairperson is absent from any meeting, the remaining members of the Board shall select a temporary chairperson.

Section 3. The Secretary shall keep a record of all proceedings of the Board which shall be available for inspection as other public records. Duplicate records shall be filed with the County Commission and shall include the minutes of all Board meetings. The Secretary shall, together with the Chairperson, sign the minutes of the meetings at which the Secretary is present. The Secretary shall have charge of the minute book, be the custodian of deeds and other documents and papers of the Board. The Secretary shall also perform such other duties as may be required of the Secretary by law or as may be conferred upon the Secretary from time to time by the members of the Board.

Section 4. The Treasurer shall be the lawful custodian of all funds of the District and shall pay same out 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 the Treasurer 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. The Treasurer shall keep and preserve all financial records of the District for 10 years and shall at all times have such records readily available for public inspection. At the end of the Treasurer's term of office, the Treasurer shall promptly deliver all financial records of the District to his successor in office. The Treasurer shall also perform such other duties as may be required of the Treasurer by law or as may be conferred

upon the Treasurer from time to time by the members of the Board. The Treasurer shall furnish bond in an amount to be fixed by the Board for the use and benefit of the District.

Section 5. No money may be paid out by the District except upon an order signed by the Chairperson and Secretary, or such other person or persons authorized by the Chairperson or the Secretary, as the case may be, to sign such orders on their behalf. Each order for the payment of money shall specify the purposes for which the amount thereof is to be paid, with sufficient clearness to indicate the purpose for which the order is issued, and there shall be endorsed thereon the name of the particular fund out of which it is payable and it shall be payable from the fund constituted for such purpose, and no other. All such orders shall be reflected in the minutes of the next meeting of the Board.

Section 6. The members and officers of the Board shall make available to the County Commission, at all times, all of its books and records pertaining to the District's operation, finances and affairs, for inspection and audit.

ARTICLE VII

AMENDMENTS TO RULES OF PROCEDURE

Section 1. These Rules of Procedure may be altered, changed, amended or added to at any regular or special meeting of the Board when a quorum is present and a majority of those present vote for the alteration, change, amendment or addition; but no such alteration, change, amendment or addition shall be made at any special meeting unless notice of the intention to propose such alteration, change, amendment or addition and a clear statement of the substance thereof be included in the written notice calling such special meeting.

Adopted this 26th day of May, 2005.



Chairperson and Member



Member

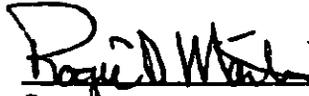
Member

CERTIFICATION

Certified a true copy of the Rules of Procedure duly adopted by the Board of Lubeck Public Service District on May 26, 2005.

Dated this 17th day of June, 2005.

[SEAL]



Secretary

05/20/05
101090/00308

M0411783.1

Lubeck Public Service District

January 12, 2012

Jerry R. Martin, Chairman

Roger D. Martin, Treasurer

John H. Sines, Secretary

Attending : Jerry Martin, Roger Martin, John Sines, Jack McIntosh, Phil Postlewait, Pam VanMeter, Gary Brode, Judy Boston

NO. OF CUSTOMERS:	Section		Sewer	Water
	1	Lake Washington Road	317	519
	2	Lubeck	348	454
	3	Riverhill - Blenn Hgts	287	401
	4	DuPont Rd	296	316
	5	Larkmead Rd.	115	362
	6	LMH - Homewood Rd.	0	323
	7	Washington Bottom	301	400
	8	New England Ridge	182	334
	9	Lubeck South	203	330
	10	Larkmead Area - Marrtown	78	354
	11	Rt 68 South - Hopewell	0	265
	12	Mitchell's	98	101
	13	Westover & Wakefield	30	32
	14	Ball School/Lost Pavement	0	25
		Total Customers	2255	4216

TREASURER'S REPORT:

Revenue Fund WV Central	\$(131,816.04)
O & M Fund WV Central	\$ 11,015.69
RUS Construction Acct	\$0.00
IJDC Construction Acct	\$0.00

Transfer From Revenue to O&M Checking Acct	\$ 13,500.00
Transfer From Revenue to O&M Checking Acct	\$ 6,500.00
Transfer From Revenue to O&M Checking Acct	\$0.00

The following transfers were made to cover payroll since the last board meeting:

Transfer From Revenue to O&M Checking Acct	\$ 16,018.30
Transfer From Revenue to WesBance Tax Acct	\$ 5,914.12
Transfer From Revenue to O&M Checking Acct	\$16,829.49
Transfer From Revenue to WesBance Tax Acct	\$5,791.07
Transfer From Revenue to O&M Checking Acct	\$0.00
Transfer From Revenue to WesBance Tax Acct	\$0.00

LUBECK PUBLIC SERVICE DISTRICT
BOARD MEETING INFORMATION
JANUARY 12, 2012

FIRST ORDER OF BUSINESS:

- A) Prayer by Jerry Martin followed by the Pledge.

- B) Moved by John Sines, seconded by Roger Martin that the minutes of the Board meeting of December 8, 2011 be approved. Passed unanimously.

- C) Election of officers: Moved by John Sines, seconded by Roger Martin that the Board members positions will be, Chairman Roger Martin, Treasurer John Sines, and Secretary Jerry Martin. Passed unanimously.

DISCUSSION OF DISTRICT HAPPENINGS:

It was reported what the field has been doing in the District:

- A) Installed 2 water taps since the last Board meeting. There are 0 water taps to be installed. This gave us 46 water taps for 2011 and 0 water taps for 2012. The District has installed 1 sewer tap since the last Board meeting. There are 0 sewer taps to be installed. This gave us 4 sewer taps for 2011 and 0 sewer taps for 2012.

- B) Repaired 2 main line leaks and 7 service line leaks.

- C) Did Turn offs and turn ons.

- D) Tested water meters.

- E) Worked on setting posts at entrance to Wastewater Plant.

- F) Cleaned Garage and Equipment, Inventory Follow-up.

- F) Worked on connecting customers on Wadesville project, 4 hooked up. Total 58.

- G) Completed work orders, spotted lines, set meters.

It was reported what Bill and Rod have been working on:

December Water Pumped to System:	23,535,200 Gallons
Homewood Booster Station:	1,724,263 Gallons
New England Booster Station:	1,761,442 Gallons
High Water Usage and Day:	1,108,400 on 12/29

Low Water Usage and Day:	518,100 on 12/13
Water Leaks, Fire Dept., Flushing Total:	1,501,500 Gallons
Water Sold:	19,503,200 Gallons
% Water Loss:	10%

Matt Lamp of WWRWA has been in performing Leak detection and has found 4 water leaks.

GENERAL BUSINESS:

- A) Moved by Roger Martin, seconded by John Sines that all bills be approved as reviewed by management and the Board, in addition to all fund transfers as presented. Passed unanimously.
- B) Moved by John Sines, seconded by Roger Martin that Financial Statements be approved as submitted by Phil Postlewait CPA. Passed unanimously.
- C) Lake Washington Club Sewer – Waiting on DEP for approval to Bid. Dec.28 email from DEP
- D) Wadesville Water Project – The work is progressing. Payment Request #9, **\$61,496.34**. Stonegate \$19,405.49; B&N Engineers \$42,090.85.
Moved by John Sines, seconded by Roger Martin to approve Pay Request #9. Passed unanimously.
- E) Lost Pavement Road Water Project – The men continue to try and lay pipe as the weather permits, 500 feet to go for tie in. This leaves 300 feet for Bobcat Hollow and 1000 feet on Farmview. Total feet left 1800.
- F) Belleville Water Project – Waiting on Jackson Kelley and Phil Postlewait to recommend financial package.
- G) Water Rate Increase – Motion by John Sines, seconded by Roger Martin to authorize Phil Postlewait to start on Water Rate Increase.
- H) *Executive Session – Personnel Policy*
Moved by Roger Martin, seconded by John Sines to go into executive session to discuss Personnel Policy, Passed unanimously.

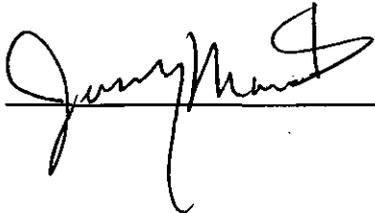
Moved by John Sines, seconded by Roger Martin to end out of Executive session, Passed unanimously.
No action taken.
- I) Moved by John Sines, seconded by Roger Martin to accept John McIntosh resignation effective January 31, 2012, passed unanimously.

Continuation of Minutes for January 12, 2012

Moved by John Sines, seconded by Roger Martin to review resumes from past candidates to see if they are interested. Passed unanimously

- I) PSD Board Member Training PSC - John Sines will be attending.
- J) February 23 Board Meeting Change – Due to PSD Board Member Class Moved by Roger Martin, seconded by John Sines to reschedule February 23 Board Meeting to February 22. Passed Unanimously.
- K) Brian McPherson CDL Passed – Motion by Roger Martin, seconded by John Sines to have Brian employed Full-Time. Passed Unanimously.
- L) Motion by John Sines, seconded by Roger Martin to accept corrected financials for September and October 2011. Passed unanimously.

Adjourn

 APPROVED  ATTESTED

**PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON**

Entered: November 9, 2011

FINAL

11/29/2011

CASE NO. 09-0925-PSD-CN (REOPENED)

LUBECK PUBLIC SERVICE DISTRICT

Application for a certificate of convenience and necessity for an extension of wastewater collection and treatment facilities for Lake Washington, Vaught's Run and Hy-View Terrace in Wood County, West Virginia.

RECOMMENDED DECISION

This Recommended Decision approves the attached Joint Stipulation and Agreement for Settlement, thereby granting the certificate application, approving the project funding and approving the stipulated rates.

PROCEDURE

On June 5, 2009, Lubeck Public Service District (District or Applicant), a public sewer utility, filed an application with the Public Service Commission of West Virginia under *West Virginia Code (Code)* §24-2-11 for a certificate of public convenience and necessity to improve its wastewater collection and treatment facilities for Lake Washington, Vaught's Run and Hy-View Terrace in Wood County, West Virginia. The District estimated that the project would cost approximately \$3,860,000, to be fully funded with a \$3,860,000 grant from the West Virginia Department of Environmental Protection Clean Water State Revolving Fund (SRF) supplement under The American Recovery and Reinvestment Act (ARRA). The project, as originally proposed and funded, would not increase the District's rates for its existing customers.¹

By Order entered on June 5, 2009, as corrected, the Commission required that the District publish the Amended Notice of Filing once in a newspaper duly qualified under *Code* §59-3-1, *et seq.*, published and generally circulated in Wood County, providing a 30-day protest period. The Amended Notice of Filing also provided that, if no substantial protests were received within the 30-day protest period, the Commission may waive formal hearing and grant the certificate based upon its review of the evidence submitted with the application. On July 6, 2009, the District submitted a publication affidavit showing that the Amended Notice of Filing was published on June 29, 2009, in *The Parkersburg News and Sentinel*.

¹See, letter filed on September 22, 2010, by the District, with the attached letter from the DEP stating its understanding that the rates for the customers for 4,000 gallons would be \$64.87 per month, which included a monthly surcharge of \$21.50, applicable to the new customers only, that would be in effect over the life of the loan.

No protests were filed.

By the June 17, 2009 Referral Order, the Commission referred this case to the Division of Administrative Law Judges (ALJ Division) for decision on or before October 19, 2009, if substantial protest was not filed, or by November 17, 2009, if the matter was substantially protested.

On July 8, 2009, Staff Attorney Ronald E. Robertson, Jr., submitted the Initial Joint Staff Memorandum, attaching the June 29, 2009 Initial Internal Staff Memorandum from Staff Engineer Jonathan Fowler, P.E., Engineering Division, and Utilities Analyst Pete Lopez, Water and Wastewater Division. Staff related that the District needed to furnish it with several important documents before Staff could complete its investigation into this matter.

On September 3, 2009, Staff Attorney Robertson submitted a Further Joint Staff Memorandum, indicating that Staff did not object to the Commission tolling the statute.

By the September 3, 2009 Commission Order, responding to a request from the District for additional time to secure additional financing and possibly publish a new filing notice, the Commission tolled the statutory deadline, Staff's report due date and the decision due date for the Administrative Law Judge (ALJ) by 60 days. Staff was to file its report by November 2, 2009, and the ALJ was to render his written recommended decision no later than December 18, 2009.

By the Procedural Order issued on September 25, 2009, the ALJ held that no procedural schedule was required at the time, since the District was attempting to secure additional financing and possibly would change the scope of the project. The September 25, 2009 Order admonished the District that, unless it obtained financing that would not cause an increase in rates, additional publication of the filing notice would be required. If the District obtained financing which did not affect rates, no additional publication would be required.

On October 23, 2009, the District again moved the Commission to extend the Staff report due date and the ALJ's decision due date, since an additional funding source had been identified and the District needed some additional time to pull all of the details of this project together.

By the Commission Order entered on October 28, 2009, the Commission tolled the statutory deadline by sixty days, until April 1, 2010. Accordingly, the Commission granted Commission Staff until January 4, 2010, to render its report and granted the ALJ until February 16, 2010, to render his written recommended decision.

By the Order Adopting Procedural Schedule issued on October 30, 2009, the ALJ adopted a procedural schedule to process and resolve this matter, including a Tuesday, January 5, 2009 hearing date.

On December 21, 2009, the District moved the Commission to again toll the statutory suspension deadline and extend the decision due date, so that the requirements of the West Virginia

Department of Environmental Protection (DEP) could be fully satisfied, including a public hearing scheduled for January 14, 2010, for those affected by the project.

On December 23, 2009, the District submitted a publication affidavit showing that a notice of a public meeting to be convened on January 14, 2010, was published in *The Parkersburg News and Sentinel* on December 21, 2009. This notice indicated that the District intended to cover its debt service related to the project by implementing a surcharge for the new customers to be added by the project, i.e., existing customers' rates would not be affected, but any future customer benefitting from the project would pay a surcharge. The notice did not specify how much of a surcharge the District intended to charge those new customers.

By the Commission Order entered on December 30, 2009, the Commission tolled the statutory deadline for this case until May 31, 2010, and directed that Commission Staff submit its final substantive recommendation by March 5, 2010, and granted the ALJ until April 19, 2010, to render his written recommended decision.

By the Order Canceling Hearing and Requiring Filing of Proposed Amended Notice of Filing issued on December 30, 2009, the ALJ canceled the procedural schedule adopted by the October 30, 2009 Order, including the January 5, 2010 hearing date, and indicated that he would reschedule this matter with a separate order. Also, the December 30, 2009 Order required that the District submit a proposed Amended Notice of Filing to the Executive Secretary no later than Wednesday, January 13, 2010, so that an order could be entered requiring publication of the Amended Notice of Filing. The ALJ would have drafted an Amended Notice of Filing, but, with the lack of information contained in the Commission's file of this case, the ALJ had no basis for drafting such a document, e.g., the ALJ did not know how the proposed project was to be funded, nor did he know how much of a surcharge the District was proposing.

As of January 14, 2010, the District had not yet filed the proposed Amended Notice of Filing with the Executive Secretary, nor had the District submitted information sufficient for Commission Staff to properly analyze the proposed project, including such items as how much the project will now cost, how the project will be financed and the proposed surcharge to be charged to new customers to be added by the project.

By the Order Adopting Procedural Schedule and Requiring Filing of Proposed Amended Notice of Filing issued on January 14, 2010, the ALJ adopted a new procedural schedule to process and resolve this matter, including a Tuesday, March 9, 2010 hearing date. The Order also admonished the District that, if it could not comply with the foregoing procedural schedule, it should give serious consideration to requesting that the case be dismissed, without prejudice, so that it can properly prosecute the application once it secures the financing and otherwise has the project ready for Commission Staff to review, or, in the alternative, the District should attempt to secure another tolling of the statutory deadlines in this matter.

On February 8, 2010, Staff Attorney Robertson submitted the Final Joint Staff Memorandum, attaching the February 3, 2010 Utilities and Engineering Divisions Final Memorandum from Mr. Lopez and Mr. Fowler. Together, these Memoranda comprised

Commission Staff's final substantive recommendation in this matter. Commission Staff outlined how the District had been unable to provide Staff with all of the information necessary to complete the review of this matter and how the District was unable to secure all of the financing needed for the project. Commission Staff recommended that the matter be dismissed, without prejudice, so that the District could reapply for the certificate once it had completed all actions necessary to obtain the certificate.

Also on February 8, 2010, the Executive Secretary served the District with a copy of Commission Staff's final substantive recommendation in this matter, thereby granting it 10 days to respond, in writing, and notifying the District that, if it did not respond within 10 days, the Commission may make a final decision without further notice or hearing.

The District did not respond to Staff's February 8, 2010 final substantive recommendation.

By the Order Canceling Hearing issued on February 24, 2010, the ALJ canceled the procedural schedule adopted by the January 14, 2010 Order, including the Tuesday, March 9, 2009 hearing date.

Also by Recommended Decision entered on February 24, 2010, since the District was unable to submit all of the information necessary for Staff to complete its review; since the District had not secured all of the financing necessary to obtain a certificate; and since the District did not object to Staff's recommendation of dismissal, without prejudice, after being granted the opportunity to do so, the ALJ dismissed the certificate application, without prejudice, indicating that the District could reapply for the certificate once it obtains all of the information and funding necessary.

On August 12, 2010, the District petitioned the Commission to reopen the application, supporting its motion with voluminous documentation, and, on August 26, 2010, the District submitted a Revised Notice of Filing.

By the Commission Order entered on August 31, 2010, the Commission required that the District publish the Notice of Filing attached to the Order once in a newspaper duly qualified under Code §59-3-1, *et seq.*, published and generally circulated in Wood County, providing a 30-day protest period, making due return to the Commission of proper certification of publication within 30 days of the date of publication. The Commission also required that, within 30 days from August 31, 2010, the District complete the mailing of separate notices to each of its customers by one or a combination of the following methods: (i) inclusion of the Form No. 14 Notice of Filing as a bill insert; (ii) separately mailing the Form No. 14 Notice of Filing; or (iii) only for utilities that bill by postcard instead of in an envelope, and who elect not to separately mail the Form No. 14 Notice of Filing, inclusion of a statement on a postcard billing as follows: "This utility is seeking a rate increase. Details available in newspaper publications or at the utility office after August 31, 2010, by calling 304-863-3341," and shall have made due return to the Commission of its affidavit certifying that it had completed the notice requirements. The Notice of Filing also provided that, if no substantial protests were received within the 30-day protest period, the Commission may waive

formal hearing and grant the certificate based upon its review of the evidence submitted with the application.

On September 23, 2010, the District submitted a publication affidavit showing that the Notice of Filing dated August 31, 2010, was published on September 13, 2010, in *The Parkersburg News and Sentinel*.

No protests were filed.

On September 14, 2010, Staff Attorney Robertson filed the Initial Joint Staff Memorandum, attaching the September 3, 2010 Utilities and Engineering Divisions Initial Memorandum prepared by Utilities Analyst Pam Latocha, Utilities Division, and by Mr. Fowler, recommending that the Commission reopen the certificate application and indicating that, once it had completed its review and investigation of the matter, Staff would submit a final substantive recommendation.

On September 22, 2010, the District submitted a letter responding to a discovery request from Staff. Attached to the letter was a letter dated September 9, 2010, from the West Virginia Department of Environmental Protection (DEP) confirming its intention of providing the District with long-term financing through the SRF program for the wastewater improvement project, i.e., the letter indicated the DEP's commitment to provide the District with two loans totaling \$3,150,000, comprised of one repayable loan of \$1,150,000 bearing interest at 0% and an administrative fee of 0.5% for a term of 38 years and one forgivable loan of \$2,000,000. The DEP explained that the District qualifies for the loans so long as the 4,000-gallon average sewer rate is equal to or greater than \$55.34 per month. The DEP stated its understanding that the rates for these customers for 4,000 gallons would be \$64.87 per month, which includes a monthly surcharge of \$21.50 that will be in effect over the life of the loan. Finally, the DEP stated that, if the bonds have not been issued to the SRF prior to March 9, 2011, the DEP "reserves the right to discontinue processing the District's application, and, on that day, will have no further responsibilities or obligations."

By the Commission Referral Order entered on September 28, 2010, as amended by the Commission Corrective Order entered on September 29, 2010, acknowledging that, as a reopened certificate application, the case does not have a statutory deadline, the Commission referred this case to the ALJ Division for decision on or before February 1, 2011.

By Procedural Order issued on October 22, 2010, the ALJ adopted a new procedural schedule to process and resolve this matter, including a Tuesday, December 14, 2010 hearing date. The October 22, 2010 Order also required that, since the District had not filed the affidavit required by the August 31, 2010 Order and Rule 10.3.c.3. of the Commission's *Rules of Practice and Procedure (Procedural Rules)*, certifying that it had completed the mailings notifying each of its customers of the proposed rate increase, the ALJ required that the District submit the affidavit showing compliance with the notice requirement by Friday, October 29, 2010.

On October 28, 2010, the District submitted an affidavit purporting to comply with the provisions of Procedural Rule 10.3.c.3. and the requirement contained in the October 22, 2010

Order. The affidavit stated that the District mailed a copy of the required notice to each of its customers by stating on its postcard billing, "This utility is seeking a rate increase. Details available in newspaper publications or at the utility office after August 12, 2010, or by calling Lubeck Public Service District at 304-863-3341. This is only for the area of the Lake Washington/Vaught's Run Sewer Extensions project."

By Order Changing Hearing Date issued on November 17, 2010, the ALJ changed the hearing date to December 16, 2010.

On December 7, 2010, Staff Attorney Robertson filed the Final Joint Staff Memorandum, attaching the December 2, 2010 Utilities and Engineering Divisions Final Recommendation from Mr. Fowler and Ms. Latocha. Together, these Memoranda comprised Commission Staff's final substantive recommendation at the time. Staff recommended that the Commission deny the certificate application based on the following:

1. The surcharge proposed by the Applicant is unreasonable and would subject rate payers in the project area to burdensome, mandatory charges;
2. The District's proposed rates are inadequate;
3. The cost per customer is nearly \$48,000, which is exceptionally expensive;
4. The District has failed to adequately establish the need for this particular project; and
5. Given the high cost per customer, a more detailed analysis of a broad range of alternatives should be undertaken.

On December 14, 2010, the District filed a letter requesting that, since this case has brought to light a need for a general rate case, in order to not lose loan forgiveness and grant funding, the ALJ cancel the hearing and the Commission extend the ALJ's decision due date until November 12, 2011. The District opined that, since this is a reopened certificate application, it has no statutory deadline.

By Order Canceling Hearing issued on December 15, 2010, the ALJ canceled the hearing.

By Commission Order Extending Administrative Law Judge's Decision Due Date issued on December 15, 2010, the Commission granted the ALJ until November 10, 2011, since November 12, 2011, is a Saturday and November 11, 2011, is a holiday, to render his written recommended decision.

Also on December 15, 2010, the District filed an extensive written response to Staff's December 7, 2010 final substantive recommendation.

On June 3, 2011, the District filed a Revised Rule 42 Exhibit.

On July 1, 2011, the District filed a letter stating that it had a meeting with the prospective customers to be served by the project and none of them objected to the proposed \$21.50 per month surcharge. It requested that the matter be handled expeditiously.

On August 19, 2011, Staff Attorney Robertson filed the Further Final Joint Staff Memorandum, attaching the August 12, 2011 Utilities and Engineering Divisions Further Final Recommendations from Ms. Latocha and Mr. Fowler. Together, these Memoranda comprise Commission Staff's final substantive recommendation. Staff recommended that the Commission approve the reopened certificate application. However, Staff disagreed with the proposed surcharge method to pay for the project. Staff explained that, with the intervening general rate case, the District is now proposing only a \$15 per month surcharge for the new customers served by the project's line extension. The project will increase operation and maintenance (O&M) expenses by approximately \$13,500 and the debt service requirements by approximately \$30,263. Rather than adopt the surcharge rate design proposed by the District, Staff designed rates that would increase the rates of all customers, i.e., the District's current customers and the prospective customers to be added as a result of the project or any other future customers, by approximately 1.1% above the District's current rates. The Staff-recommended rate increase would generate total available cash of approximately \$1,262,953 and cover all O&M expenses and debt service requirements, including those related to the project, providing a 110.10% debt service coverage ratio and \$61,040 for capital additions, i.e., \$30,946 from the renewal and replacement fund and \$30,094 from a cash flow surplus. Mr. Robertson opined that the previous notice given by the District is not sufficient, since it proposed no rate increase for existing customers and proposed the surcharge for the additional customers to be served by the project. Staff recommended that the District be required to publish a new notice of filing to advise all existing and proposed customers of the Staff-recommended 1.1% across-the-board rate increase, as opposed to the District's rate design that would impose a surcharge only on new customers added as a result of the project.

On August 29, 2011, the District submitted a letter from counsel opposing the Staff-recommended rate design and additional notice requirements.

By Order Requiring Publication issued on September 7, 2011, as corrected on September 8, 2011, the ALJ directed that the District provide notice to its customers of the revised project financing and the Staff-recommended rate design by publishing the Revised Notice of Filing, attached to those Orders as a Class I legal advertisement, once in a newspaper qualified under Code §59-3-1, *et seq.*, published and generally circulated in Wood County, and provide the notice required under *Procedural Rule* 10.3.c.3., for seeking a rate increase in conjunction with a certificate application, i.e., notifying all existing customers by direct mail in one of the manners prescribed by *Procedural Rule* 10.3.c.3. The Orders indicated that the ALJ would not schedule a hearing in this matter unless requested by the District or Staff, or unless required due to substantial protests. Since the ALJ's decision due date was November 10, 2011, the ALJ directed that the District file the publication affidavit and the affidavit showing compliance with *Procedural Rule* 10.3.c.3. no later than September 15, 2011, since the District would also have to publish a notice of hearing as a Class II legal advertisement if substantial protests are filed, in which case the hearing and briefing schedule would have to be expedited.

By Commission Order Extending Administrative Law Judge Decision Due Date entered on September 9, 2011, responding to a request from the District, the Commission granted the ALJ until January 11, 2012, to render his written Recommended Decision in this matter.

By Order Vacating Publication Requirement issued on September 9, 2011, upon request from the parties indicating that the matter could be resolved without the need for a hearing or additional notice to the public, the ALJ vacated the publication requirement contained in the September 7 and 8, 2011 Orders.

On October 28, 2011, Staff Attorney Robertson, on behalf of the District and Commission Staff, filed a Joint Stipulation and Agreement for Settlement (Settlement), duly executed by Mr. Robertson on behalf of Commission Staff and by John Philip Melick, Esquire, on behalf of the District. The Settlement, attached to this Recommended Decision as Appendix A, recites the procedural history and provides that the District and Staff agree and joint recommended to the ALJ that he enter a Recommended Decision that:

- a. Certify the project as publicly convenient and necessary.
- b. Approve the project funding in the total amount of \$3,860,000, consisting of the \$2,000,000 forgiveness program SRF loan; the \$1,500,000 SRF loan (0%, 0.25% administrative fee, 40 years); and the \$710,000 IJDC grant.
- c. Approve upon substantial completion of the project the stipulated rates and charges shown on Attachment 1 [of the Settlement], based on the stipulated revenue requirement show on Attachment 2 [of the Settlement].
- d. Require the District to provide a copy of the engineer's certified bid tabulations for all contracts related to the project as soon as they become available.
- e. Require the District to submit the certificate(s) of substantial completion for the project as soon as they become available.

DISCUSSION

Having considered all of the above, since no dispute remains to be resolved in this proceeding, as evidenced by the Settlement, the ALJ will consider the parties to have waived their rights under *West Virginia Code* §24-1-9(b) to file proposed findings of fact and conclusions of law, or briefs, in this proceeding, or to a hearing.

The ALJ holds that, since, after the District gave proper notice of the filing of the certificate application, this certificate application was not protested; since Staff recommended that the Commission approve the reopened certificate application, as amended by the Settlement; since the project has IJDC approval; since the project will extend public sewer service to approximately 81 potential new customers in the Lake Washington and Vaught's Run areas in northwest Wood

County who have no access to public sewer service and whose existing method of disposing of sewage is through failing septic systems and other inadequate means; since the soil composition is not conducive to septic systems and leach fields; since the project will eliminate contamination and pollution of the environment and will correct a public health issue cited by the DEP, the ALJ holds that the public convenience and necessity require the project and he will approve the application.

Also, since the District has obtained funding approval for the project, the ALJ will approve the financing package for the project.

Finally, since the stipulated rates attached to the Settlement resolve any problems Staff initially had with the District's proposed rate design; since the stipulated rate increase will generate total available cash of approximately \$1,262,387 and cover all O&M expenses and debt service requirements, including those related to the project, while providing a 110.87% debt service coverage ratio and \$66,011 for capital additions, i.e., \$30,932 from the renewal and replacement fund and \$30,079 from a cash flow surplus; since Commission Staff and the District have entered into a Settlement resolving any and all previous disputes that may have existed in this proceeding; and since the stipulated rates are not greater than those contained in public notices and are sufficient to cover all O&M expenses and debt service requirements and provide a 110.87% debt service coverage ratio and a \$66,011 surplus for capital additions, the ALJ will approve the stipulated revenue requirement and the stipulated rates attached to the Settlement that is attached hereto as Appendix A.

FINDINGS OF FACT

1. Lubeck Public Service District filed an application with the Commission under Code §24-2-11 for a certificate of public convenience and necessity to improve its wastewater collection and treatment facilities for Lake Washington, Vaught's Run and Hy-View Terrace in Wood County, West Virginia. The District estimated that the project would cost approximately \$3,860,000, to be fully funded with a SRF \$3,860,000 grant obtained through the ARRA. The project, as originally proposed and funded, would not increase the District's rates. (See, application filed on June 5, 2009).

2. The Amended Notice of Filing was published on June 29, 2009, in *The Parkersburg News and Sentinel*. (See, publication affidavit filed on July 6, 2009).

3. The District submitted a publication affidavit showing that a notice of a public meeting to be convened on January 14, 2010, was published in *The Parkersburg News and Sentinel* on December 21, 2009. This notice indicated that the District intended to cover its debt service related to the project by implementing a surcharge for the new customers to be added by the project, i.e., existing customers' rates would not be affected, but any future customer benefitting from the project would pay a surcharge. The notice did not specify how much of a surcharge the District intended to charge those new customers. (See, publication affidavit filed on December 23, 2009).

4. The District submitted a publication affidavit showing that the Notice of Filing dated August 31, 2010, was published on September 13, 2010, in *The Parkersburg News and Sentinel*.

This publication provided correct information about the project and rates to support the project. (See, publication affidavit filed on September 23, 2010).

5. No one protested the certificate application. (See, Commission's file).

6. The project has IJDC approval. The project will extend public sewer service to approximately 81 potential new customers in the Lake Washington and Vaught's Run areas in northwest Wood County who have no access to public sewer service and whose existing method of disposing of sewage is through failing septic systems and other inadequate means. The soil composition is not conducive to septic systems and leach field. The project will eliminate contamination and pollution of the environment and will correct a public health issue cited by the DEP. (See, application filed on June 5, 2009; Final Joint Memorandum, with attachments, filed on August 19, 2011).

7. On October 28, 2011, Staff Attorney Robertson, on behalf of the District and Commission Staff, filed a Joint Stipulation and Agreement for Settlement (Settlement), duly executed by Mr. Robertson on behalf of Commission Staff and by John Philip Melick, Esquire, on behalf of the District. The Settlement, attached to this Recommended Decision as Appendix A, recites the procedural history and provides that the District and Staff agree and jointly recommended to the ALJ that he enter a Recommended Decision that:

- a. Certifies the project as publicly convenient and necessary;
- b. Approves the project funding in the total amount of \$3,860,000, consisting of the \$2,000,000 forgiveness program SRF loan; the \$1,500,000 SRF loan (0%, 0.25% administrative fee, 40 years); and the \$710,000 IJDC grant;
- c. Approves upon substantial completion of the project the stipulated rates and charges shown on Attachment 1 [of the Settlement], based on the stipulated revenue requirement shown on Attachment 2 [of the Settlement];
- d. Requires the District to provide a copy of the engineer's certified bid tabulations for all contracts related to the project as soon as they become available; and
- e. Requires the District to submit the certificate(s) of substantial completion for the project as soon as they become available.

(See, Joint Stipulation and Agreement for Settlement, filed on October 28, 2011)

8. The stipulated rates and charges contain a surcharge for new customers to be served by the project of \$15 per customer per month. The Notice of Filing contained a surcharge of \$21.50 per customer per month. The Notice of Filing contains a customer charge for all customers of \$8.49 for each bill and a usage charge of \$8.72 per 1,000 gallons

usage. The stipulated rates contained in the Settlement contain a customer charge of \$8.78 for each bill, which is also the minimum charge, and a usage charge of \$9.02 per 1,000 gallons, which is the rate currently charged by the District pursuant to an intervening rate case, i.e., the only customers who will experience a "rate increase" due to the project are new customers added because of the project. Existing customers' rates will remain the same. (See, publication affidavit filed September 23, 2010; Settlement filed on October 28, 2011; Case No. 11-0033-PSD-42T, *Lubeck Public Service District*, Recommended Decision entered on April 8, 2011, final April 28, 2011).

CONCLUSIONS OF LAW

1. The public convenience and necessity require the proposed project.
2. The proposed financing for the project should be approved.
3. The District's existing rates are not sufficient to support the proposed project.
4. The stipulated rates and charges, including the \$15 surcharge, are sufficient, but not more than sufficient, to cover the District's O&M expenses and debt service requirements while providing a 110.87% debt service coverage ratio and a reasonable cash surplus for capital additions.
5. It is reasonable to approve the surcharge for new customers added by the project, since the surcharge makes it possible to not increase the rates of existing customers who will not directly benefit from the project line extension and since the rates for the new customers, including the surcharge, will enable the District to pay for the project from revenues obtained by adding new customers as a result of the project.
6. Should the scope, plans or financing for the project change, the District must obtain prior Commission approval before commencing construction. Changes in project costs or funding do not require separate approval if those changes do not affect rates and the District submits an affidavit from a certified public accountant to this effect.

ORDER

IT IS, THEREFORE, ORDERED that the application for a certificate of public convenience and necessity filed with the Commission on June 5, 2009, by Lubeck Public Service District pursuant to *Code* §24-2-11 to improve its wastewater collection and treatment facilities for Lake Washington, Vaught's Run and Hy-View Terrace in Wood County, be, and hereby is, granted.

IT IS FURTHER ORDERED that the proposed financing for the project, which totals approximately \$3,860,000 and is comprised of a \$2,000,000 loan from the West Virginia Clean Water Clean Water State Revolving Fund through The American Recovery and Reinvestment Act loan forgiveness program; a \$1,150,000 SRF loan bearing 0% interest and a 0.25% administrative fee for a term of 40 years; and a \$710,000 West Virginia Infrastructure and Jobs Development Act grant, be, and hereby is, approved.

IT IS FURTHER ORDERED that, should the scope or plans for the project change, Lubeck Public Service District obtain prior Commission approval before commencing construction. Changes in project cost and financing do not require separate approval if those changes do not affect rates and the District submits an affidavit from a certified public accountant to this effect.

IT IS FURTHER ORDERED that Lubeck Public Service District submit a copy of the certified tabulation of bids to the Commission for each contract associated with the project, making the bids a part of the Commission's file in this case, as soon as the bids are tabulated.

IT IS FURTHER ORDERED that Lubeck Public Service District notify the Commission when the project engineer has performed the substantial completion inspection and submit the certificate of substantial completion to the Commission as soon as it becomes available.

IT IS FURTHER ORDERED that, if this project requires the use of Division of Highways' rights-of-way, Lubeck Public Service District comply with all rules and regulations of the Division of Highways regarding the use of those rights-of-way.

IT IS FURTHER ORDERED that, upon substantial completion of the certificate project, Lubeck Public Service District is authorized to use those rates and charges set forth in Appendix B attached to this Recommended Decision.

IT IS FURTHER ORDERED that, within 30 days of the certificate of substantial completion being filed with the Commission, Lubeck Public Service District file an original and at least five copies of a proper tariff setting forth the rates and charges hereby approved for use upon substantial completion of the project.

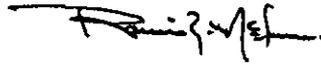
IT IS FURTHER ORDERED that this matter be, and hereby is, removed from the Commission's docket of open cases.

IT IS FURTHER ORDERED that the Executive Secretary serve a copy of this order upon the Commission by hand delivery; by electronic service upon all parties of record who have filed an e-service agreement with the Commission; and by United States Certified Mail, return receipt requested, upon all parties of record who have not filed an e-service agreement with the Commission.

Leave hereby is granted to the parties to file written exceptions supported by a brief with the Executive Secretary of the Commission within fifteen (15) days of the date this Recommended Decision is mailed. If exceptions are filed, the parties filing exceptions shall certify to the Executive Secretary that all parties of record have been served said exceptions.

If no exceptions are so filed this Recommended Decision shall become the order of the Commission, without further action or order, five (5) days following the expiration of the aforesaid fifteen (15) day time period, unless it is ordered stayed or postponed by the Commission.

Any party may request waiver of the right to file exceptions to an Administrative Law Judge's recommended decision by filing an appropriate petition in writing with the Executive Secretary. No such waiver will be effective until approved by order of the Commission.



Ronnie Z. McCann
Deputy Chief Administrative Law Judge

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PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

CASE NO. 09-0925-PSD-CN (REOPENED)
LUBECK PUBLIC SERVICE DISTRICT

Application for a certificate of convenience and
necessity for an extension of wastewater collection
and treatment facilities for Lake Washington, Vaught's
Run and Hy-View Terrace in Wood County, West Virginia.

JOINT STIPULATION AND
AGREEMENT FOR SETTLEMENT

Pursuant to West Virginia Code §24-1-9 and Rules 11 and 13.4 of the Commission's *Rules of Practice and Procedure*, Lubeck Public Service District (District) and the Staff of the Public Service Commission of West Virginia (Staff) join in this Joint Stipulation and Agreement for Settlement (Joint Stipulation), and, in support thereof, respectfully represent:

I. PROCEDURAL BACKGROUND

1. On June 5, 2009, the District filed an application to certify as publicly convenient and necessary the improvement and extension of its wastewater collection and treatment facilities for Lake Washington, Vaught's Run and Hy-View Terrace in Wood County, West Virginia ("Project"). The District estimated that the Project would cost approximately \$3,860,000, and the rates of existing customers would not be affected.
2. Consideration of the Project and the District's application was delayed while the District sought and obtained, as suggested by Staff, an increase in its rates in Case No. 11-0033-PSD-42T.
3. Pursuant to previous Commission Orders in this proceeding, the District has caused to be published and mailed notice of its application. No substantial public protest to the Project has been received by the Commission. *See* "Order Requiring Publication," September 7, 2011.
4. On August 19, 2011, Staff filed a memorandum supportive of the Project, but recommending a further increase in the District's rates to be paid by all customers, as opposed to the rate structure proposed by the District that would not affect the rates of existing customers.

5. On August 29, 2011, the District filed an objection to the Staffs proposed rate structure and advised the Commission that it intended to meet with Staff to attempt to resolve the parties' disagreement.

6. The District and Staff met in Charleston on September 8, 2011.

7. At the District's request, and with the support of Staff, on September 9, 2011, the Commission and the Administrative Law Judge ("ALJ") entered orders respectively extending the deadline for a recommended decision and vacating previous orders requiring publication of the rates recommended by Staff, in order to allow for further discussions between the parties.

8. The parties have reached agreement on the resolution of this proceeding, as set forth below.

II. SETTLEMENT PROVISIONS

The District and Staff agree and jointly recommend to the *ALJ* and Commission entry of order(s) that:

- a. Certify the Project as publicly convenient and necessary.
- b. Approve the Project funding in the total amount of \$3,860,000, consisting of the \$2,000,000 forgiveness program SRF Loan; the \$1,150,000 SRF Loan (0% interest, 0.25% administrative fee, 40 years); and the \$710,000 WVIJDC grant.
- c. Approve upon substantial completion of the Project the stipulated rates and charges shown on Attachment 1, based on the stipulated revenue requirement shown on Attachment 2.
- d. Require the District to provide a copy of the Engineer's certified Bid Tabulation(s) for all Project contracts as soon as they become available.
- e. Require the District to submit certificate(s) of substantial completion for the Project as soon as they become available.

III. CONCLUSION

This Joint Stipulation is entered into subject to the acceptance and approval of the Commission. It results from a review of the filings in this proceeding, the parties' discovery and discussions, and Commission Orders. The Settlement Provisions reflect substantial compromise by the parties and the withdrawal or amendment of their respective positions previously asserted in this

case. The Settlement Provisions are proposed to expedite and simplify the resolution of this proceeding, without any admission or prejudice to the rights of any party to adopt any position during subsequent litigation, except as such rights are elsewhere limited in this Joint Stipulation. The parties adopt this Joint Stipulation as being in the public interest.

The parties acknowledge that it is the prerogative of the Commission to accept, reject or modify any stipulation. However, in the event that this Joint Stipulation is rejected or modified, it is expressly understood by the parties that they are not bound to accept this Joint Stipulation as modified or rejected and may avail themselves of whatever rights are available to them by law in the Commission's Rules of Practice and Procedure, including proceeding with exceptions to any recommended decision or reconsideration or appeal of any Commission order.

WHEREFORE, on the basis of the foregoing, the parties respectfully request that the ALJ and Commission make appropriate findings of fact and conclusions of law adopting and approving this Joint Stipulation and Agreement for Settlement.

Respectfully submitted this ____ day of October, 2011.

LUBECK PUBLIC SERVICE DISTRICT

By Counsel

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STAFF OF THE PUBLIC SERVICE COMMISSION

By Counsel

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Public Service Commission of West Virginia
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**LUBECK PUBLIC SERVICE DISTRICT
Stipulated Tariff**

APPLICABILITY

Available within entire territory served:

AVAILABILITY OF SERVICE

Available for general domestic, commercial and industrial service.

RATES

Volumetric Charge of \$9.02 per 1,000 gallons

Customer Charge of \$8.78 for each bill

MINIMUM CHARGE

\$8.78

(N) SURCHARGE

\$15.00 per customer bill for a period not to exceed the total repayment of the West Virginia Department of Environmental Protection Clean Water State Revolving Fund (SRF) loan in the amount of \$1,150,000 for the customers of the Lake Washington Sewer Extension funded by this loan.

CUSTOMERS WHO ARE NON-WATER USERS

All users of the Sanitary Sewer disposal service who are not users of the District's water service will be required to have a water meter installed on the private water system, at the District's cost, for the purpose of determining the sewer charge.

DELAYED PAYMENT PENALTY

The above tariff is net. On all accounts not paid in full within twenty (20) days of date of bill, ten percent (10%) will be added to the net amount shown. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

TAP FEE

Five Hundred Dollars (\$500.00)

RETURNED CHECK CHARGE FOR UNMETERED CUSTOMERS ONLY

The District may not collect any fee greater than that charged to it by a banking institution and under no circumstances shall the fee collected by the District exceed \$25.00.

LUBECK PUBLIC SERVICE DISTRICT
Stipulated Tariff

ROOF CONNECTIONS

The connection of surface drains to the sanitary sewer system is prohibited by Rule 5.4,19 of the Public Service Commission's *Rules for Government of Sewer Utilities*. After a thirty day notice to disconnect, if the customer has not disconnected, the District shall bill at standard rates the inflow treated from such source. Said gallonage shall be computed by determining the square footage of the structure or source involved and the precipitation during the billing cycle period. The resulting gallonage quantity shall be the basis for this additional billing. Failure to disconnect said connection within six months of notice shall be basis for service termination.

METER TESTING REQUESTED BY CUSTOMER

A customer requesting that their water meter be tested will be charged Forty Dollars (\$40.00). If the meter is found to be more than 2% in error, the amount advanced shall be promptly refunded to the customer or credited to the customer's account. If the meter is not found to be more than 2% in error, the Utility shall retain the amount advanced by the customer for the test.

FAILURE OF CUSTOMER TO CONNECT TO SANITARY SEWER

Any customer who fails to connect to available sanitary sewer service shall be liable for a sewer bill based upon water consumption. Available service is defined in the Sewer Use Resolution as adopted and reviewed by the Lubeck Public Service District Board of Commissioners. The District shall notify such customer of said liability by certified mail, sixty (60) days before billing shall commence.

LEAK ADJUSTMENT INCREMENT

\$1.09 per 1,000 Gallons. To be used when the bill reflects unusual consumption which can be attributed to eligible leakage on customer's side of the meter. This rate is used to calculate consumption above the customer's historical average usage.

SECURITY DEPOSIT

Not to exceed two-twelfths (2/12) of the annual usage of the applicant's specific customer class or fifty dollars (\$50.00), whichever is greater. This fee may be changed by applicable statutory provisions.

ADMINISTRATIVE FEE

In the event the District collects payment in full of a delinquent water bill at the customer's premises in lieu of a discontinuance of service for nonpayment, an administrative fee of \$15.00 shall also be collected in addition to the delinquent sewer bill.

ATTACHMENT 2

**LUBECK PUBLIC SERVICE DISTRICT
STIPULATED REVENUE REQUIREMENTS
LAKE WASHINGTON SEWER PROJGECT**

Available Cash

Sales Revenues		1,237,291
Penalties		23,156
Other Income (Interest)		<u>1,940</u>
Total Available Cash		<u>1,262,387</u>

Cash Requirements

Operation and Maintenance Expenses		547,127
Taxes Other Than Income Taxes		<u>11,000</u>
Total Cash Requirements		<u>558,127</u>
Cash Available for Debt Service	(A)	704,260
Debt Service Requirements		
Interest and Principal		<u>635,223</u>
Sub-Total	(B)	635,223
Debt Service Reserve		3,026
Total Debt Service Reserve Requirement Before Renewal & Replacement Fund		<u>638,249</u>
Remaining Cash Surplus (Deficit)		<u>66,011</u>
Cash Surplus Available for Capital Additions		
Renew & Replacement Reserves (2.5%)		30,932
Remaining Surplus After R & R Fund		<u>35,079</u>
Total Cash Available for Capital Additions		66,011
Debt Service Coverage	(A/B)	110.87%

CERTIFICATE OF SERVICE

I, RONALD E. ROBERTSON, JR., Staff Counsel for the Public Service Commission of West Virginia, hereby certify that I have served a copy of the foregoing "Joint Stipulation and Agreement for Settlement" upon all parties of record by First Class United States Mail, postage prepaid this 28th day of October, 2011.

John Philip Melick, Esq.
Counsel, Lubeck Public Service District
Jackson Kelly PLLC
PO Box 553
Charleston, WV 25322
RONALD E. ROBERTSON, JR.
WV State Bar No. 4658

RONALD E. ROBERTSON, JR.
WV State Bar No. 4658

**PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON**

CASE NO. 09-0925-PSD-CN (REOPENED)

LUBECK PUBLIC SERVICE DISTRICT

Application for a certificate of convenience and necessity for an extension of wastewater collection and treatment facilities for Lake Washington, Vaught's Run and Hy-View Terrace in Wood County, West Virginia.

APPROVED RATES

APPLICABILITY

Available within entire territory served:

AVAILABILITY OF SERVICE

Available for general domestic, commercial and industrial service.

RATES

Volumetric Charge of \$9.02 per 1,000 gallons
Customer Charge of \$8.78 for each bill

MINIMUM CHARGE

\$8.78

SURCHARGE

\$15.00 per customer bill for a period not to exceed the total repayment of the West Virginia Department of Environmental Protection Clean Water State Revolving Fund (SRF) loan in the amount of \$1,150,000 for the customers of the Lake Washington Sewer Extension funded by this loan.

CUSTOMERS WHO ARE NON-WATER USERS

All users of the Sanitary Sewer disposal service who are not users of the District's water service will be required to have a water meter installed on the private water system, at the District's cost, for the purpose of determining the sewer charge.

DELAYED PAYMENT PENALTY

The above tariff is net. On all accounts not paid in full within twenty (20) days of date of bill, ten percent (10%) will be added to the net amount shown. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

TAP FEE

Five Hundred Dollars (\$500.00)

RETURNED CHECK CHARGE FOR UNMETERED CUSTOMERS ONLY

The District may not collect any fee greater than that charged to it by a banking institution and under no circumstances shall the fee collected by the District exceed \$25.00.

ROOF CONNECTIONS

The connection of surface drains to the sanitary sewer system is prohibited by Rule 5.4, 19 of the Public Service Commission's *Rules for Government of Sewer Utilities*. After a thirty day notice to disconnect, if the customer has not disconnected, the District shall bill at standard rates the inflow treated from such source. Said gallonage shall be computed by determining the square footage of the structure or source involved and the precipitation during the billing cycle period. The resulting gallonage quantity shall be the basis for this additional billing. Failure to disconnect said connection within six months of notice shall be basis for service termination.

METER TESTING REQUESTED BY CUSTOMER

A customer requesting that their water meter be tested will be charged Forty Dollars (\$40.00). If the meter is found to be more than 2% in error, the amount advanced shall be promptly refunded to the customer or credited to the customer's account. If the meter is not found to be more than 2% in error, the Utility shall retain the amount advanced by the customer for the test.

FAILURE OF CUSTOMER TO CONNECT TO SANITARY SEWER

Any customer who fails to connect to available sanitary sewer service shall be liable for a sewer bill based upon water consumption. Available service is defined in the Sewer Use Resolution as adopted and reviewed by the Lubeck Public Service District Board of Commissioners. The District shall notify such customer of said liability by certified mail, sixty (60) days before billing shall commence.

LEAK ADJUSTMENT INCREMENT

\$1.09 per 1,000 Gallons. To be used when the bill reflects unusual consumption which can be attributed to eligible leakage on customer's side of the meter. This rate is used to calculate consumption above the customer's historical average usage.

SECURITY DEPOSIT

Not to exceed two-twelfths (2/122) of the annual usage of the applicant's specific customer class or fifty dollars (\$50.00), whichever is greater. This fee may be changed by applicable statutory provisions.

ADMINISTRATIVE FEE

In the event the District collects payment in full of a delinquent water bill at the customer's premises in lieu of a discontinuance of service for nonpayment, an administrative fee of \$15.00 shall also be collected in addition to the delinquent sewer bill.

**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 31st day of May 2012.

CASE NO. 09-0925-PSD-CN (REOPENED)

LUBECK PUBLIC SERVICE DISTRICT

Application for a certificate of convenience and necessity for an extension of wastewater collection and treatment facilities for Lake Washington, Vaught's Run and Hy-View Terrace in Wood County, West Virginia.

COMMISSION ORDER

The Commission reopens this case and approves revised financing and a reduced project-related customer surcharge.

Background

By Order issued November 29, 2011, the Commission granted Lubeck Public Service District (Lubeck) a certificate of public convenience and necessity to improve its wastewater collection and treatment facilities for Lake Washington, Vaught's Run and Hy-View Terrace in Wood County. The Commission also approved financing for the project totaling \$3,860,000 consisting of a \$2,000,000 forgivable loan from the West Virginia Clean Water State Revolving Fund (SRF); a \$1,150,000 SRF loan bearing zero percent interest and a 0.25 percent administrative fee for a term of forty years; and a \$710,000 West Virginia Infrastructure and Jobs Development Council (WVIJDC) grant. The Commission also approved project related rates including a surcharge for new customers to be served by the project of \$15 per customer per month, a customer charge of \$8.78 for each bill, which is also the minimum charge, and a volumetric charge of \$9.02 per 1,000 gallons. Only customers added by the project were to experience the project-related rate increase. Existing customers' rates were to remain the same.

On May 7, 2012, Lubeck filed a petition to reopen this certificate proceeding to reduce the \$15 monthly surcharge to \$2 and to revise project financing. The petition explained that bids received on the project were substantially lower than expected. As a result, Lubeck proposed to reduce the total financing to \$2,918,285, consisting of the previously approved SRF forgivable loan of \$2,000,000; a \$716,272 SRF loan bearing zero percent interest with a 0.50 percent administrative fee for a term of forty years; and a

\$202,013 WVIJDC grant. The two changes in the financing are 1) reduction of the \$1,150,000 SRF loan to \$716,272, and 2) reduction of the WVIJDC grant from \$710,000 to \$202,013.

Lubeck requested that the Commission issue an order prior to June 26, 2012, revising the November 29, 2011 Order to approve the revised financing, and approving the lower project-related customer surcharge of \$2 instead of \$15.

On May 22, 2012, Lubeck filed with the Commission a copy of a letter from Program Manager, Katheryn D. Emery, P.E., of the West Virginia Clean Water State Revolving Fund, committing to both the \$2,000,000 principal forgiveness loan and the \$716,272 loan bearing zero percent interest with a 0.50 percent administrative fee for a term of forty years.

On May 24, 2012, Lubeck filed a letter from the WVIJDC committing to the revised grant amount of \$202,013.

On May 24, 2012, Commission Staff filed a memorandum recommending that the Commission approve the revised financing and the lower surcharge.

DISCUSSION

The construction bids received by Lubeck were significantly lower than expected. It is reasonable to reopen this certificate case to approve the revised financing and a lower customer surcharge.

FINDINGS OF FACT

1. The Commission originally approved financing for this project totaling \$3,860,000 consisting of a \$2,000,000 forgivable loan from SRF; a \$1,150,000 SRF loan bearing zero percent interest and a 0.25 percent administrative fee for a term of forty years; and a \$710,000 WVIJDC grant. Comm'n Order November 29, 2011.

2. The Commission originally approved project-related rates including a surcharge for new customers to be served by the project of \$15 per customer per month. Id.

3. Bids received by Lubeck for construction of the project were substantially lower than expected. District petition May 7, 2012.

4. Lubeck proposed to reduce the total financing to \$2,918,285, consisting of the \$2,000,000 forgiveness loan from SRF; a \$716,272 SRF loan bearing zero percent

interest with a 0.50 percent administrative fee for a term of forty years; and a \$202,013 WVIJDC grant.

5. Lubeck requested approval of revised project-related rates with a \$2 surcharge instead of the \$15 surcharge.

6. Lubeck has filed the revised commitment letters from SRF and WVIJDC. District filings May 22 and May 24, 2012.

CONCLUSION OF LAW

The Commission will grant the petition to reopen, approve the revised financing and the reduced customer surcharge.

ORDER

IT IS THEREFORE ORDERED that this certificate case is reopened.

IT IS FURTHER ORDERED that the second ordering paragraph of the November 29, 2011 Commission Order in this proceeding is replaced as follows:

IT IS FURTHER ORDERED that the proposed financing for the project which totals approximately \$2,918,285 and is comprised of a \$2,000,000 principal forgiveness loan from the West Virginia Clean Water State Revolving Fund (SRF) program; a \$716,272 SRF loan bearing zero percent interest with a 0.50 percent administrative fee for a term of forty years; and a \$202,013 West Virginia Infrastructure and Jobs Development Council grant, is hereby approved.

IT IS FURTHER ORDERED that Appendix B, Attachment 1, to the stipulation approved in the November 29, 2011 Commission Order is revised with respect to the surcharge as follows.

(N) SURCHARGE

\$2.00 per customer bill for a period not to exceed the total repayment of the West Virginia Department of Environmental Protection Clean Water State Revolving Fund (SRF) loan in the amount of \$716,272 for the customers of the Lake Washington Sewer Extension funded by this loan.

IT IS FURTHER ORDERED that the incorrect references in the November 29, 2011 Commission Order to a 0.25 percent administrative fee for the SRF loan and to The American Recovery and Reinvestment Act, are stricken.

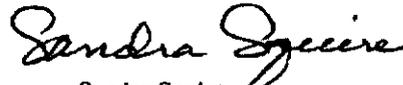
IT IS FURTHER ORDERED that with the corrections noted in the prior ordering paragraph and with the amendments regarding the approved financing and the surcharge provision in the adopted tariff, the November 29, 2011 Order remains in effect.

IT IS FURTHER ORDERED that within thirty days of the date of this Order, Lubeck file an original and six copies of revised tariff sheets, consistent with this Order, and designated to be effective for service rendered on and after the date the project has been certified as substantially complete. These tariff sheets will replace those currently on file that are so designated.

IT IS FURTHER ORDERED that on entry of this Order, this case is closed and removed from the Commission docket of open cases.

IT IS FURTHER ORDERED that the Commission Executive Secretary serve a copy of this Order on all parties of record that have filed an e-service agreement, or by United States First Class Mail on parties that have not provided the Commission with an e-mail address, and on Staff by hand delivery.

A True Copy, Teste:

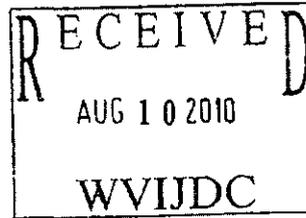

Sandra Squire
Executive Secretary

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WEST VIRGINIA

Infrastructure & Jobs Development Council



Gov. Joe Manchin, III
Chairman

Kenneth Lowe, Jr.
Public Member

David "Bones" McComas
Public Member

Ron Justice
Public Member

James W. Ellars, P.E.
Executive Director

Barbara J. Pauley
Administrative Secretary

August 5, 2010

James M. Cox, Manager
Lubeck Public Service District
P.O. Box 700
Washington, WV 26181

Re: Lubeck Public Service District
2009S-1096 Binding Commitment
(Action Required by August 31, 2010)

Dear Mr. Cox:

At its August 4, 2010 meeting, the West Virginia Infrastructure and Jobs Development Council (Infrastructure Council) voted to approve that the Lubeck Public Service District (District) receive a binding commitment for a \$710,000 Infrastructure Fund grant (Grant). This project will design and construct approximately 17,000 feet of gravity sewer pipe, 2,430 feet of force main, 121 manholes, two major pumps stations, service laterals and other related items. The Grant will be subject to the terms set forth on Schedule A attached hereto and incorporated herein by reference. The final Grant amount will be established after the District has received acceptable bids for the Project. The Infrastructure Council will set aside a portion of the Infrastructure Fund to make the Grant upon the District's compliance with the program requirements.

If the District has any questions regarding this commitment, please contact Jim Ellars at 304-558-4607 (X201).

Sincerely,

Kenneth Lowe, Jr.

cc: Mike Johnson, P.E., DEP (via e-mail)
Samme Gee, Jackson Kelly (via e-mail)
Randall Lewis, V.P., E.L. Robinson Engineering Co. (via e-mail)

James M. Cox
August 5, 2010
Page 2 of 3

NOTE: This letter is sent in triplicate. Please acknowledge receipt and immediately return two copies to the Infrastructure Council.

LUBECK PUBLIC SERVICE DISTRICT

By: James M. Cox
Its: Manager
Date: August 6, 2010

WEST VIRGINIA INFRASTRUCTURE & JOBS DEVELOPMENT COUNCIL

Lubeck Public Service District
Sewer Project 2009S-1096
August 5, 2010

SCHEDULE A

A. Approximate Amount: \$710,000 Grant

B. Grant: \$710,000

Grant Advancement Date(s): Upon receipt of proper requisition.

NOTICE: The terms set forth above are subject to change following the receipt of construction bids.

C. Other Funding:	CWSRF loan (0%, 38 yrs)	\$1,150,000
	CWSRF debt forgiveness	<u>2,000,000</u>
D. Total Project Cost:		<u>\$3,860,000</u>

E. Proposed User Rates: Approximately \$64.87 / 4000 gallons (includes a \$21.50 surcharge)

SRF-BPA-1
(10/11)

BOND PURCHASE AGREEMENT

THIS WATER POLLUTION CONTROL REVOLVING FUND BOND PURCHASE AGREEMENT (the "Bond Purchase 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 DEPARTMENT OF ENVIRONMENTAL PROTECTION (the "DEP"), and the local government designated below (the "Local Government").

LUBECK PUBLIC SERVICE DISTRICT
(SRF C544453/2009S-1096)
(Local Government)

W I T N E S S E T H:

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 acquire bonds of 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 utilize moneys from the Fund to purchase the bonds of local governments to provide the financing 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 acquire, construct, improve, operate and maintain a wastewater treatment project and to finance the cost of acquisition and construction of 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 Purchase of Bonds with attachments and exhibits and an Amended Application for Purchase of Bonds also with attachments and exhibits (together, as further revised and supplemented, the “Application”), which Application is incorporated herein by this reference;

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; and

WHEREAS, the Local Government meets the “disadvantaged community” provisions of the SRF Regulations.

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 “Local Act” means the official action of the Local Government required by Section 4.1 hereof, authorizing the Local Bonds.

1.4 “Local Bonds” means the revenue bonds to be issued by the Local Government pursuant to the provisions of the Local Statute, as hereinafter defined, and to be purchased by the Authority with money held in the Fund, all in accordance with the provisions of this Bond Purchase Agreement.

1.5 “Local Statute” means the specific provisions of the Code of West Virginia, 1931, as amended, pursuant to which the Local Bonds are issued.

1.6 “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.

1.7 “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.

1.8 “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.

1.9 “SRF Regulations” means the regulations set forth in Title 47, Series 31 of the West Virginia Code of State Regulations, as amended.

1.10 “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.

1.11 Additional terms and phrases are defined in this Bond Purchase 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 Bond Purchase Agreement and 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, during 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 Local Bonds proceeds 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 and shall verify or have verified such bonds prior to commencement of construction.

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 and shall verify or have verified such insurance prior to commencement of construction. 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 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 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 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 Record Drawings, 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 or updated Operation and Maintenance Manual, if necessary as defined in the SRF Regulations, to DEP when the Project is 90% completed. The Local Government shall at all times provide operation and maintenance of the System in compliance with any and all State and federal standards. The Local Government shall employ a state certified plant operator prior to the Project being 50% complete and notify the DEP of such employment. The Local Government shall retain the operator(s) to operate the System during the entire term of this Loan Agreement.

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 acquisition or construction of the Project and for two years following the completion of acquisition or construction 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 20th of each month to the DEP and 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 such forms to DEP in compliance with the Local Government's construction schedule.

ARTICLE III

Conditions to Purchase of Local Bonds; Issuance of Local Bonds

3.1 The agreement of the Authority and DEP to purchase the Local Bonds 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 and DEP a report listing the specific purposes for which the proceeds of the Local Bonds will be expended and the procedures as to the disbursement of bond 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 Bond Purchase 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 proceeds of the Local Bonds will refund an interim construction financing, the Local Government must either be constructing or have constructed its Project for a cost and as

(C2331298.1)

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") and the West Virginia Infrastructure and Jobs Development Council necessary for the construction of the Project and operation of the System, with all requisite appeal periods having expired without successful appeal and the Authority 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 without successful appeal, 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 Subsections 4.1(a) and 4.1(b)(ii) hereof, and the Authority and DEP shall have received a certificate of the accountant 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 Bond Purchase 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 purchase the Local Bonds of the Local Government and the Local Government shall issue and sell the Local Bonds to the Authority, and in furtherance thereof it is agreed that the Local Government shall sell to the Authority and the Authority shall purchase 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 Local Bonds shall be secured and shall be repaid in the manner hereinafter provided in this Bond Purchase 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 Closing."

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 financing of wastewater treatment projects and that the obligation of the Authority to purchase the Local Bonds is subject to the Local Government's fulfilling all of the terms and conditions of this

Bond Purchase Agreement on or prior to the Date of 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 bonds will be purchased in conjunction with the SRF Regulations and with the prior approval of DEP.

3.6 The Local Government shall provide DEP with the appropriate documentation to comply with the special conditions regarding the public release and audit requirements, established by federal and State regulations as set forth in Exhibit E attached hereto at such times as are set forth therein.

ARTICLE IV

Local Bonds; Security for Local Bonds;
Repayment of Local Bonds; Interest on Local Bonds;
Fees and Charges

4.1 The Local Government shall, as one of the conditions of the Authority and DEP to purchase the Local Bonds, 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 adopted or 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. Such gross revenues 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 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 a pledge of either the net or gross revenues of the System as provided in the Local Act;

(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 is funded (whether by Local Bond proceeds, monthly deposits or otherwise) at an amount equal to 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 shall complete the Project and operate and maintain the System in good condition;

(iv) That, except as otherwise required by State law or the SRF Regulations, the System may not be sold, mortgaged, leased or otherwise disposed of, except 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 prior 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 the Authority may, by proper legal action, compel the performance of the duties of the Local Government under the Local Act, including the making and collection of sufficient rates or charges for services rendered by the System, and shall also have, in the event of a default in payment of principal of or interest on the Local Bonds, the right to obtain the appointment of a receiver to administer the System or construction of the Project, or both, as provided by law and all rights as set forth in Section 5 of the Act;

(ix) That, to the extent authorized by the laws of the State and the rules and regulations of the PSC, all delinquent rates and charges, if not paid when due, shall become a lien on the premises served by the System;

(x) That, to the extent legally allowable, the Local Government will not grant any franchise to provide any services which would compete with the System;

(xi) That the Local Government shall annually cause the records of the System to be audited by an independent certified public accountant or independent public accountant and shall submit the report of said audit to the Authority and DEP, which report shall include a statement that notes whether the results of tests disclosed instances of noncompliance that are required to be reported under government auditing standards and, if they are, describes the instances of noncompliance and the audited financial statements shall include a statement that notes whether the Local Government's revenues are adequate to meet its Operating Expenses and debt service and reserve 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) and/or (b) be used to pay (or redeem) bond anticipation notes or other interim financing 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 West Virginia Municipal Bond Commission (the "Commission") shall serve as paying agent for all Local Bonds;

(xvii) 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 Commission the required interest, principal and reserve account 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 or electronic transfer to the Authority by the 5th day of such calendar month;

(xviii) That, unless it qualifies for an exception to the provisions of Section 148 of the Internal Revenue Code of 1986, as amended, 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 Internal Revenue Code of 1986, as amended, 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 and DEP, the Project is adequate for the purposes for which it was designed, the funding plan as submitted to the Authority and 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;

(xx) That the Local Government shall, to the full extent permitted by applicable law and the rules and regulations of the PSC, 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; and

(xxi) That the Local Government shall submit all proposed change orders to the DEP for written approval. The Local Government shall obtain the written approval of the DEP before expending any proceeds of the Local Bonds held in "contingency" as set forth in the final Schedule A attached to the certificate of the Consulting Engineer. The Local Government shall obtain the written approval of the DEP before

expending any proceeds of the Local Bonds available due to bid/construction/project underruns.

The Local Government hereby represents and warrants that the Local Act has been or shall be duly adopted or enacted 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, validity, 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 Local Bonds 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 Closing. The remaining proceeds of the Local Bonds shall be advanced by the DEP 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 purchase the Local Bonds 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 purchase the Local Bonds.

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 Bond Purchase Agreement and the Local Act. The Local Government hereby further irrevocably covenants and agrees that, as one of the conditions of the Authority to purchase the Local Bonds, it has fixed and collected, or will fix and collect, the rates, fees and other charges for the use of the System and will take all such actions necessary to provide funds sufficient to produce the required sums set forth in the Local Act and in compliance with the provisions of Subsections 4.1(a) and 4.1(b)(ii) hereof.

5.2 In the event, for any reason, the schedule of rates, fees and charges initially established for the System in connection with the Local Bonds shall prove to be insufficient to produce the required sums set forth in the Local Act and this Bond Purchase Agreement, 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 (or where applicable, immediately file with the PSC for a rate increase) and take all such actions necessary to provide funds sufficient to produce the required sums set forth in the Local Act and this Bond Purchase Agreement.

5.3 In the event the Local Government defaults in any payment due to the Authority pursuant to this Bond Purchase Agreement, the amount of such default shall bear interest at the interest rate of the installment of the Local Bonds 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 charges 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 the Local Government in the terms and covenants of this Bond Purchase Agreement, 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 Bond Purchase Agreement.

6.2 The Local Government hereby warrants and represents that all information provided to the Authority and DEP in this Bond Purchase 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 purchasing and receiving the Local Bonds, the Authority and DEP shall have the right to cancel all or any of their obligations under this Bond Purchase Agreement if (a) any representation made to the Authority and DEP by the Local Government in connection with the issuance of the Local Bonds 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 Act, the SRF Regulations or this Bond Purchase Agreement.

6.3 The Local Government hereby agrees to repay on or prior to the Date of 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 Local Bonds.

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 System, 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 and DEP 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 Schedules X and Y shall be attached to this Bond Purchase Agreement by the Authority as soon as practicable after the Date of 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 Bond Purchase 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 Bond Purchase Agreement, and this Bond Purchase Agreement shall be construed and enforced as if such invalid or unenforceable provision had not been contained herein.

7.3 This Bond Purchase 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 Bond Purchase Agreement.

7.4 No waiver by any party of any term or condition of this Bond Purchase 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 Bond Purchase Agreement.

7.5 This Bond Purchase Agreement supersedes all prior negotiations, representations and agreements between the parties hereto relating to the Local Bonds and constitutes the entire agreement between the parties hereto in respect thereof.

7.6 By execution and delivery of this Bond Purchase 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 Bond Purchase Agreement shall terminate upon the earlier of:

(i) written notice of termination to the Local Government from either the Authority or DEP;

(ii) the end of ninety (90) days after the date of execution hereof by the Authority or such later date as is agreed to in writing by DEP if the Local Government has failed to deliver the Local Bonds to the Authority;

(iii) termination by the Authority and DEP pursuant to Section 6.2 hereof; or

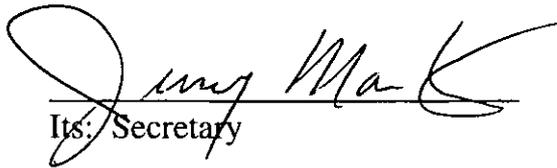
(iv) payment in full of the principal of and interest on the Local Bonds and of any fees and charges owed by the Local Government to the Authority or DEP; provided that the amount of the Local Bonds purchased under this Bond Purchase Agreement in any succeeding fiscal year is contingent upon funds being appropriated by the State legislature or otherwise being available to purchase the Local Bonds. In the event funds are not appropriated or otherwise available to purchase all of the Local Bonds, the responsibility of the Authority and DEP to purchase the Local Bonds is terminated; provided further that the obligation of the Local Government to repay the outstanding amount of the Local Bonds is not terminated due to such non-funding on any balance of the Local Bonds. The DEP agrees to use its best efforts to have the amount contemplated under this Bond Purchase Agreement included in its budget. Non-appropriation or non-funding of the Loan shall not be considered an event of default under this Bond Purchase Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Bond Purchase Agreement to be executed by their respective duly authorized officers as of the date executed below by the Authority.

LUBECK PUBLIC SERVICE DISTRICT

(SEAL)

Attest:


Its: Secretary

By: 

Its: Chairman

Date: June 22, 2012

WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION, DIVISION OF WATER AND WASTE MANAGEMENT

By: 

Its: Director

Date: June 22, 2012

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

(SEAL)

Attest:


Its: Authorized Officer

By: 
Its: Executive Director
Date: June 22, 2012

EXHIBIT A

FORM OF PERFORMANCE CERTIFICATE

[To Be Provided By DEP]



EXHIBIT B

MONTHLY FINANCIAL REPORT

Name of Local Government _____
 Name of Bond Issue(s) _____
 Type of Project _____ Water _____ Wastewater
 Fiscal Year _____ Report Month _____

<u>Item</u>	<u>Current Month</u>	<u>Total Year To Date</u>	<u>Budget Year To Date</u>	<u>Budget Year To Date Minus Total Year To Date</u>
1. Gross Revenues	_____	_____	_____	_____
2. Operating Expenses	_____	_____	_____	_____
3. Bond Payments:				
<u>Type of Issue</u>				
Clean Water SRF	_____	_____	_____	_____
Drinking Water TRF	_____	_____	_____	_____
Infrastructure Fund	_____	_____	_____	_____
Water Development Authority	_____	_____	_____	_____
Rural Utilities Service	_____	_____	_____	_____
Economic Development Administration	_____	_____	_____	_____
Other (Identify)	_____	_____	_____	_____
_____	_____	_____	_____	_____
4. Renewal and Replacement Fund Deposits	_____	_____	_____	_____

Name of Person Completing Form

Address

Telephone

INSTRUCTIONS FOR COMPLETING MONTHLY FINANCIAL REPORT

Item 1 You will need a copy of the current fiscal year budget adopted by the Local Government to complete Items 1 and 2. In Item 1, provide the amount of actual **Gross Revenues** for the current month and the total amount year-to-date in the respective columns. Divide the budgeted annual Gross Revenues by 12. For example, if Gross Revenues of \$1,200 are anticipated to be received for the year, each month the base would be increased by \$100 ($\$1,200/12$). This is the incremental amount for the Budget Year-to-Date column.

Item 2 Provide the amount of actual **Operating Expenses** for the current month and the total amount year-to-date in the respective columns. Any administrative fee should be included in the Operating Expenses. Divide the budgeted annual Operating Expenses by 12. For example, if Operating Expenses of \$900 are anticipated to be incurred for the year, each month the base would be increased by \$75 ($\$900/12$). This is the incremental amount for the Budget Year-to-Date column.

Item 3 Provide the **Bond Payments (principal, interest and reserve account)** for all the outstanding bonds of the Local Government according to the source of funding. For example, Clean Water State Revolving Fund loan from Department of Environmental Protection, Drinking Water Treatment Revolving Fund loan from Bureau for Public Health, Infrastructure Fund loan from Infrastructure and Jobs Development Council, or a loan from the Water Development Authority, etc.

Item 4 Provide the amount deposited into the **Renewal and Replacement Fund** each month. This amount is equal to 2.5% of Gross Revenues minus the total reserve account payments included in Item 3. If Gross Revenues are \$1,200, then \$30 (2.5% of \$1,200), LESS the amount of all reserve account payments in Item 3 should be deposited into the Renewal and Replacement Fund. The money in the Renewal and Replacement Fund should be kept separate and apart from all other funds of the Local Government.

The Local Government must complete the Monthly Financial Report and forward it to the Water Development Authority by the 20th day of each month, commencing on the date contracts are executed for the acquisition or construction of the Project and for two years following the completion of acquisition or construction of the Project.

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 as follows:

1. My firm is engineer for the acquisition and construction of _____ to the _____ system (the "Project") of _____ (the "Issuer"), to be constructed primarily in _____ County, West Virginia, which acquisition and construction are being permanently financed in part by the above-captioned bonds (the "Bonds") of the Issuer. Capitalized words not defined herein shall have the same meaning set forth in the bond _____ adopted or enacted by the Issuer on _____, and the Bond Purchase Agreement by and among the Issuer, the West Virginia Water Development Authority (the "Authority"), and the West Virginia Department of Environmental Protection (the "DEP"), dated _____.

2. The Bonds are being issued for the purposes of (i) _____, and (ii) paying certain issuance and other costs in connection therewith.

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 any change orders approved by the Issuer, 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 _____ years, if properly 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 attached hereto as Exhibit A, and my firm¹ 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 all critical 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 operation of the System; (ix) as of the effective date thereof², the rates and charges for the System as adopted by the Issuer will be sufficient to comply with the provisions of the Bond Purchase 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 - Total Cost of Project; Sources of Funds and Cost of Financing" for the Project.

4. The Project will serve _____ new customers in the _____ area.

WITNESS my signature and seal on this _____ day of _____, _____.

By _____
West Virginia License No. __

[SEAL]

¹If another responsible party, such as the Issuer's attorney, reviews the insurance and payment bonds, then insert the following: [and in reliance upon the opinion of _____, Esq.] and delete "my firm has ascertained that".

²If the Rule 42 Exhibit and/or rate structure was prepared by an accountant, then insert the following: "In reliance upon the certificate of _____ of even date herewith," at the beginning of (ix).

EXHIBIT E

SPECIAL CONDITIONS

A. **PUBLIC RELEASE REQUIREMENT** – The Local Government agrees to include, when issuing statements, press releases, requests for proposals, bid solicitations, ground breaking or project dedication program documents 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)) – Effective October 1, 2003, the Local Government that receives \$500,000 or more (in federal funds) in a fiscal year must obtain audits in accordance with the Single Audit Act and the applicable OMB Circular or any successor thereto. Financial statement audits are required once all funds have been received by the Local Government.

C. **ASSET MANAGEMENT** – The Local Government shall submit an acceptable asset management plan or where applicable, updated plans, to DEP no later than six months following substantial completion of the Project. This requirement shall be included in the bond closing documents.

D. **WAGE RATES** – The Local Government shall require that all laborers and mechanics employed by its contractors and subcontractors be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor (DOL) in accordance with subchapter IV of chapter 32 of title 40, United States Code. The Local Government must require that contractors and subcontractors obtain wage determinations from DOL and comply with DOL guidance and regulations implementing wage rate requirements.

E. **CLOSING REQUIREMENTS** – The Closing is contingent on the DEP's receipt of a PSC Order approving the revised financing structure of the Project.

EXHIBIT F

MONTHLY PAYMENT FORM

West Virginia Water Development Authority
180 Association Drive
Charleston, WV 25311

Re: [Name of bond issue]

Ladies and Gentlemen:

The following deposits were made to the West Virginia Municipal Bond Commission on behalf of [Name of Local Government] on [Date].

Sinking Fund:

Interest \$ _____

Principal \$ _____

Total: \$ _____

Reserve Account: \$ _____

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 Closing]

West Virginia Water Development Authority
180 Association Drive
Charleston, WV 25311

West Virginia Department of Environmental Protection
601 57th Street
Charleston, WV 25304

Ladies and Gentlemen:

We are bond counsel to _____ (the "Local Government"), a
_____.

We have examined a certified copy of proceedings and other papers relating to the authorization of (i) a bond purchase agreement dated ____, ____, including all schedules and exhibits attached thereto (the "Bond Purchase Agreement"), among the Local Government, the West Virginia Water Development Authority (the "Authority") and the West Virginia Department of Environmental Protection (the "DEP"), and (ii) the issue of a series of revenue bonds of the Local Government, dated _____, ____ (the "Local Bonds"), to be purchased by the Authority in accordance with the provisions of the Bond Purchase Agreement. The Local Bonds are issued in the principal amount of \$_____, in the form of one bond, registered as to principal only to the Authority, with principal payable quarterly on March 1, June 1, September 1, and December 1 of each year, beginning ____ 1, ____, and ending __ 1, ____, all as set forth in the "Schedule Y" attached to the Bond Purchase Agreement and incorporated in and made a part of the Local Bonds.

The Local Bonds are issued for the purposes of (i) _____, and (ii) 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 adopted or enacted by the Local Government on _____, as supplemented by the

supplemental resolution duly adopted by the Local Government on _____ (collectively, the "Local Act"), pursuant to and under which Local Statute and Local Act the Local Bonds are authorized and issued, and the Bond Purchase Agreement has been undertaken. The Local Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Local Act and the Bond Purchase 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 Bond Purchase 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 Bond Purchase Agreement inures to the benefit of the Authority and the DEP and cannot be amended so as to affect adversely the rights of the Authority or the DEP or diminish the obligations of the Local Government without the consent of the Authority and the DEP.

3. The Local Government is a duly organized and validly existing _____, with full power and authority to acquire and construct the Project, to operate and maintain the System, to adopt or enact the Local Act and to issue and sell the Local Bonds, all under the Local Statute and other applicable provisions of law.

4. The Local Act and all other necessary orders and resolutions have been legally and effectively adopted or enacted by the Local Government and constitute valid and binding obligations of the Local Government, enforceable against the Local Government in accordance with their terms. The Local Act contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Bond Purchase Agreement.

5. The Local Bonds have been duly authorized, issued, executed and delivered by the Local Government to the Authority and are valid, legally enforceable and binding special obligations of the Local Government, payable from the net or gross revenues of the System set forth in the Local Act and secured by a first lien on and pledge of the net or gross revenues of the System, all in accordance with the terms of the Local Bonds and the Local Act.

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 the 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 LOCAL BONDS

A.	Series A Bonds (CWSRF Base Program)	
	Principal Amount of Local Bonds	\$716,272
	Purchase Price of Local Bonds	\$716,272

The Local Bonds shall bear no interest. Commencing June 1, 2014, principal of the Local Bonds is payable quarterly, with an administrative fee of 0.5%. Quarterly payments will be made on March 1, June 1, September 1 and December 1 of each year as set forth on the Schedule Y attached hereto and incorporated herein by reference.

The Local Government shall submit its payments monthly to the Commission with instructions that the Commission will make quarterly payments to the Authority at such address as is given to the Commission in writing by the Authority. If the Reserve Account 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 Commission. The Local Government shall instruct the 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 Local Bonds are fully registered in the name of the Authority as to principal only and the Local Bonds shall grant the Authority a first lien on the net or gross revenues of the Local Government's system as provided in the Local Act.

The Local Government may prepay the Local 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 Local Bonds which request must be filed at least 60 days prior to the intended date of issuance.

Number of Proposed New Customers to Be Served: 81
Location: Vaughts Run and Lake Washington Area

As of the date of the Loan Agreement, the Local Bonds are on a parity as to liens, pledge and source of and security for payment with the following obligations of the Local Government:

- (i) Lubeck Public Service District Sewerage System Revenue Bonds, Series 1999 A (West Virginia SRF Program);
- (ii) Lubeck Public Service District Sewerage System Revenue Bonds, Series 1999 B (West Virginia Infrastructure Fund);
- (iii) Lubeck Public Service District Sewer Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund);
- (iv) Lubeck Public Service District Sewer Revenue Bonds, Series 2005 B (West Virginia Infrastructure Fund); and
- (v) Lubeck Public Service District Sewer Revenue Bonds, Series 2010 A (West Virginia Infrastructure Fund).

B. Series B Bonds (CWSRF Forgiveness)

Principal Amount of Local Bonds	\$2,000,000
Purchase Price of Local Bonds	\$2,000,000

The Local Bonds shall bear no interest. The Authority at the direction of the DEP shall forgive the principal amount of the Local Bonds. The principal amounts advanced under the Series B Bonds will be deemed forgiven on the 30th day of June in the fiscal year in which advanced. The Series B Bonds shall be deemed no longer outstanding after the last advance is forgiven.

The Local Bonds are fully registered in the name of the Authority.

The Local Government shall make monthly payments into the Renewal and Replacement Fund as required by Section 4.1 of this Agreement for at least the term of the Local Bonds.

The Local Government shall notify the Authority and the Council of any proposed bond indebtedness secured by the revenues of the System.

SCHEDULE Y DEBT SERVICE SCHEDULE

Net Debt Service					
Lubeck PSD					
\$716,272					
SRF					
0% Interest Rate, 0.5% Administrative fee					
40 Years from Closing Date					
				Dated Date	6/22/2012
				Delivery Date	6/22/2012
Date	Principal	Interest	Total Debt Service	Admin Fee	Net Debt Service
3/1/2014					
6/1/2014	4,713		4,713	450.60	5,163.60
9/1/2014	4,713		4,713	450.60	5,163.60
12/1/2014	4,713		4,713	450.60	5,163.60
3/1/2015	4,713		4,713	450.60	5,163.60
6/1/2015	4,713		4,713	450.60	5,163.60
9/1/2015	4,713		4,713	450.60	5,163.60
12/1/2015	4,713		4,713	450.60	5,163.60
3/1/2016	4,713		4,713	450.60	5,163.60
6/1/2016	4,713		4,713	450.60	5,163.60
9/1/2016	4,713		4,713	450.60	5,163.60
12/1/2016	4,713		4,713	450.60	5,163.60
3/1/2017	4,713		4,713	450.60	5,163.60
6/1/2017	4,713		4,713	450.60	5,163.60
9/1/2017	4,713		4,713	450.60	5,163.60
12/1/2017	4,713		4,713	450.60	5,163.60
3/1/2018	4,713		4,713	450.60	5,163.60
6/1/2018	4,713		4,713	450.60	5,163.60
9/1/2018	4,713		4,713	450.60	5,163.60
12/1/2018	4,713		4,713	450.60	5,163.60
3/1/2019	4,713		4,713	450.60	5,163.60
6/1/2019	4,713		4,713	450.60	5,163.60
9/1/2019	4,713		4,713	450.60	5,163.60
12/1/2019	4,713		4,713	450.60	5,163.60
3/1/2020	4,713		4,713	450.60	5,163.60
6/1/2020	4,713		4,713	450.60	5,163.60
9/1/2020	4,713		4,713	450.60	5,163.60
12/1/2020	4,713		4,713	450.60	5,163.60
3/1/2021	4,713		4,713	450.60	5,163.60
6/1/2021	4,713		4,713	450.60	5,163.60
9/1/2021	4,713		4,713	450.60	5,163.60
12/1/2021	4,713		4,713	450.60	5,163.60
3/1/2022	4,713		4,713	450.60	5,163.60
6/1/2022	4,713		4,713	450.60	5,163.60
9/1/2022	4,713		4,713	450.60	5,163.60
12/1/2022	4,713		4,713	450.60	5,163.60
3/1/2023	4,713		4,713	450.60	5,163.60

Net Debt Service
Lubeck PSD
\$716,272
SRF

Date	Principal	Interest	Total Debt Service	Admin Fee	Net Debt Service
6/1/2023	4,713		4,713	450.60	5,163.60
9/1/2023	4,713		4,713	450.60	5,163.60
12/1/2023	4,713		4,713	450.60	5,163.60
3/1/2024	4,713		4,713	450.60	5,163.60
6/1/2024	4,713		4,713	450.60	5,163.60
9/1/2024	4,713		4,713	450.60	5,163.60
12/1/2024	4,713		4,713	450.60	5,163.60
3/1/2025	4,713		4,713	450.60	5,163.60
6/1/2025	4,713		4,713	450.60	5,163.60
9/1/2025	4,713		4,713	450.60	5,163.60
12/1/2025	4,713		4,713	450.60	5,163.60
3/1/2026	4,712		4,712	450.60	5,162.60
6/1/2026	4,712		4,712	450.60	5,162.60
9/1/2026	4,712		4,712	450.60	5,162.60
12/1/2026	4,712		4,712	450.60	5,162.60
3/1/2027	4,712		4,712	450.60	5,162.60
6/1/2027	4,712		4,712	450.60	5,162.60
9/1/2027	4,712		4,712	450.60	5,162.60
12/1/2027	4,712		4,712	450.60	5,162.60
3/1/2028	4,712		4,712	450.60	5,162.60
6/1/2028	4,712		4,712	450.60	5,162.60
9/1/2028	4,712		4,712	450.60	5,162.60
12/1/2028	4,712		4,712	450.60	5,162.60
3/1/2029	4,712		4,712	450.60	5,162.60
6/1/2029	4,712		4,712	450.60	5,162.60
9/1/2029	4,712		4,712	450.60	5,162.60
12/1/2029	4,712		4,712	450.60	5,162.60
3/1/2030	4,712		4,712	450.60	5,162.60
6/1/2030	4,712		4,712	450.60	5,162.60
9/1/2030	4,712		4,712	450.60	5,162.60
12/1/2030	4,712		4,712	450.60	5,162.60
3/1/2031	4,712		4,712	450.60	5,162.60
6/1/2031	4,712		4,712	450.60	5,162.60
9/1/2031	4,712		4,712	450.60	5,162.60
12/1/2031	4,712		4,712	450.60	5,162.60
3/1/2032	4,712		4,712	450.60	5,162.60
6/1/2032	4,712		4,712	450.60	5,162.60
9/1/2032	4,712		4,712	450.60	5,162.60
12/1/2032	4,712		4,712	450.60	5,162.60
3/1/2033	4,712		4,712	450.60	5,162.60
6/1/2033	4,712		4,712	450.60	5,162.60
9/1/2033	4,712		4,712	450.60	5,162.60
12/1/2033	4,712		4,712	450.60	5,162.60
3/1/2034	4,712		4,712	450.60	5,162.60

Net Debt Service

Lubeck PSD

\$716,272

SRF

0% Interest Rate, 0.5% Administrative Fee

40 Years from Closing Date

Date	Principal	Interest	Total Debt Service	Admin Fee	Net Debt Service
6/1/2034	4,712		4,712	450.60	5,162.60
9/1/2034	4,712		4,712	450.60	5,162.60
12/1/2034	4,712		4,712	450.60	5,162.60
3/1/2035	4,712		4,712	450.60	5,162.60
6/1/2035	4,712		4,712	450.60	5,162.60
9/1/2035	4,712		4,712	450.60	5,162.60
12/1/2035	4,712		4,712	450.60	5,162.60
3/1/2036	4,712		4,712	450.60	5,162.60
6/1/2036	4,712		4,712	450.60	5,162.60
9/1/2036	4,712		4,712	450.60	5,162.60
12/1/2036	4,712		4,712	450.60	5,162.60
3/1/2037	4,712		4,712	450.60	5,162.60
6/1/2037	4,712		4,712	450.60	5,162.60
9/1/2037	4,712		4,712	450.60	5,162.60
12/1/2037	4,712		4,712	450.60	5,162.60
3/1/2038	4,712		4,712	450.60	5,162.60
6/1/2038	4,712		4,712	450.60	5,162.60
9/1/2038	4,712		4,712	450.60	5,162.60
12/1/2038	4,712		4,712	450.60	5,162.60
3/1/2039	4,712		4,712	450.60	5,162.60
6/1/2039	4,712		4,712	450.60	5,162.60
9/1/2039	4,712		4,712	450.60	5,162.60
12/1/2039	4,712		4,712	450.60	5,162.60
3/1/2040	4,712		4,712	450.60	5,162.60
6/1/2040	4,712		4,712	450.60	5,162.60
9/1/2040	4,712		4,712	450.60	5,162.60
12/1/2040	4,712		4,712	450.60	5,162.60
3/1/2041	4,712		4,712	450.60	5,162.60
6/1/2041	4,712		4,712	450.60	5,162.60
9/1/2041	4,712		4,712	450.60	5,162.60
12/1/2041	4,712		4,712	450.60	5,162.60
3/1/2042	4,712		4,712	450.60	5,162.60
6/1/2042	4,712		4,712	450.60	5,162.60
9/1/2042	4,712		4,712	450.60	5,162.60
12/1/2042	4,712		4,712	450.60	5,162.60
3/1/2043	4,712		4,712	450.60	5,162.60
6/1/2043	4,712		4,712	450.60	5,162.60
9/1/2043	4,712		4,712	450.60	5,162.60
12/1/2043	4,712		4,712	450.60	5,162.60
3/1/2044	4,712		4,712	450.60	5,162.60

Net Debt Service

Lubeck PSD

\$716,272

SRF

Date	Principal	Interest	Total Debt Service	Admin Fee	Net Debt Service
6/1/2044	4,712		4,712	450.60	5,162.60
9/1/2044	4,712		4,712	450.60	5,162.60
12/1/2044	4,712		4,712	450.60	5,162.60
3/1/2045	4,712		4,712	450.60	5,162.60
6/1/2045	4,712		4,712	450.60	5,162.60
9/1/2045	4,712		4,712	450.60	5,162.60
12/1/2045	4,712		4,712	450.60	5,162.60
3/1/2046	4,712		4,712	450.60	5,162.60
6/1/2046	4,712		4,712	450.60	5,162.60
9/1/2046	4,712		4,712	450.60	5,162.60
12/1/2046	4,712		4,712	450.60	5,162.60
3/1/2047	4,712		4,712	450.60	5,162.60
6/1/2047	4,712		4,712	450.60	5,162.60
9/1/2047	4,712		4,712	450.60	5,162.60
12/1/2047	4,712		4,712	450.60	5,162.60
3/1/2048	4,712		4,712	450.60	5,162.60
6/1/2048	4,712		4,712	450.60	5,162.60
9/1/2048	4,712		4,712	450.60	5,162.60
12/1/2048	4,712		4,712	450.60	5,162.60
3/1/2049	4,712		4,712	450.60	5,162.60
6/1/2049	4,712		4,712	450.60	5,162.60
9/1/2049	4,712		4,712	450.60	5,162.60
12/1/2049	4,712		4,712	450.60	5,162.60
3/1/2050	4,712		4,712	450.60	5,162.60
6/1/2050	4,712		4,712	450.60	5,162.60
9/1/2050	4,712		4,712	450.60	5,162.60
12/1/2050	4,712		4,712	450.60	5,162.60
3/1/2051	4,712		4,712	450.60	5,162.60
6/1/2051	4,712		4,712	450.60	5,162.60
9/1/2051	4,712		4,712	450.60	5,162.60
12/1/2051	4,712		4,712	450.60	5,162.60
3/1/2052	4,713		4,713	450.60	5,163.60
	716,272		716,272	68,491.20	784,763.20

Note: Quarterly Admin Fee calculated based on 0.5% of bond value computed quarterly paid in equal quarterly payments reflecting a total administrative expense of \$68,491.20

LUBECK PUBLIC SERVICE DISTRICT

2.4

SEWER REVENUE BONDS, SERIES 2012 A
(WEST VIRGINIA CLEAN WATER SRF PROGRAM)
SEWER REVENUE BONDS, SERIES 2012 B
(WEST VIRGINIA CLEAN WATER SRF PROGRAM)

BOND RESOLUTION

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LUBECK PUBLIC SERVICE DISTRICT

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN IMPROVEMENTS AND EXTENSIONS TO THE EXISTING PUBLIC SEWER FACILITIES OF LUBECK PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE DISTRICT OF \$716,272 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2012 A (WEST VIRGINIA CLEAN WATER SRF PROGRAM) AND \$2,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS SERIES 2012 B (WEST VIRGINIA CLEAN WATER 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 THE BOND PURCHASE 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 LUBECK 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 (as hereinafter defined), or both, the "Bond Legislation") is adopted pursuant to the provisions of (i) Chapter 16, Article 13A and (ii) 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. Lubeck Public Service District (the "Issuer") is a public service district, public corporation and political subdivision of the State of West Virginia in Wood County of said State.

B. The Issuer presently owns and operates the System (as hereinafter defined). 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 extensions, additions, betterments and improvements to the System, a description of which is attached hereto as Exhibit A and incorporated herein by reference (collectively, the "Project"), in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have heretofore been filed with the West Virginia Department of Environmental Protection (the "DEP").

C. The Issuer intends to permanently finance a portion of the costs 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 pursuant to the Act.

D. It is deemed necessary for the Issuer to issue its Sewer Revenue Bonds in the total aggregate principal amount of \$2,716,272, in two series, being the (1) Sewer Revenue Bonds, Series 2012 A (West Virginia Clean Water SRF Program), in the aggregate principal amount of \$716,272 (the "Series 2012 A Bonds"), and the (2) Sewer Revenue Bonds, Series 2012 B (West Virginia Clean Water SRF Program), in the aggregate principal amount of \$2,000,000 (the "Series 2012 B Bonds") (the Series 2012 A Bonds and the Series 2012 B Bonds collectively, the "Series 2012 Bonds"), to permanently finance the costs of the Project. The remaining costs of the Project shall be funded from the sources set forth in Section 2.01 hereof, if any. Said costs shall be deemed to include the cost of acquisition or construction of any public service properties and any improvements and extensions thereto, the cost of all property rights, easements and franchises deemed necessary or convenient therefor; interest, if any, upon the Series 2012 Bonds prior to and during acquisition and installation of the Project and for a period not exceeding 6 months after completion of acquisition and installation 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 2012 Bonds and such other expenses as may be necessary or incidental to the financing herein authorized, the acquisition or installation 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 2012 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 2012 A Bonds and Series 2012 B Bonds be sold to the Authority pursuant to the terms and provisions of a bond purchase agreement by and among the Issuer, the Authority and the DEP, the agreement in form satisfactory to the respective parties (the "Bond Purchase Agreement"), approved hereby if not previously approved by resolution of the Issuer.

G. The Issuer has outstanding its Sewerage System Bond Anticipation Notes, Series 2010 (West Virginia Infrastructure Fund) (the "Series 2010 Notes"). The Series 2010 Notes are not secured by a pledge of the Revenues of the System.

H. The Series 2012 Bonds shall be issued on a parity with the Prior Bonds (as hereinafter defined) with respect to liens, pledge and source of and security for payment and in all other respects. The Issuer has met the parity and coverage requirements of the Prior Bonds and the Prior Resolutions (as hereinafter defined) and has substantially complied with all other parity requirements, except to the extent that noncompliance with any such other parity requirements is not of a material nature. Prior to the issuance of the Series 2012 Bonds, the Issuer will obtain (1) the certificate of an Independent Certified Public Accountant stating that the parity and coverage tests of the Prior Bonds have been met; (2) the written consent of the Registered Owners (as hereinafter defined) of the Prior Bonds to the issuance of the Series 2012 Bonds on a parity with the Prior Bonds and (3) the written consent of the Registered Owners of the Series 2010 Notes to the issuance of the Series 2012 Bonds without paying the Series 2010 Notes. Other than the Prior Bonds (as hereinafter defined), there are no outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System.

I. 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 and the principal of and interest, if any, on the Series 2012 Bonds, the Series 2012 A Bonds and the Prior Bonds, and to make payments into all funds and accounts and other payments provided for herein.

J. The Issuer has complied with all requirements of West Virginia law and the Bond Purchase Agreement relating to authorization of the Project, including without limitation, the acquisition, installation and operation of the Project and the System and issuance of the Series 2012 Bonds, or will have so complied prior to issuance of any thereof, including, among other things and without limitation, the approval of the Project and the financing thereof by the 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 Series 2012 Bonds or such final order will not be subject to appeal or rehearing.

K. 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 2012 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 2012 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, (i) Chapter 16, Article 13A and (ii) 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 2012 Bonds, or any other agency, board or department of the State of West Virginia that succeeds to the functions of the Authority, acting in its administrative capacity and upon authorization from the DEP and the Council under the Act.

“Authorized Officer” means the Chairperson of the Governing Body of the Issuer or any temporary Chairperson 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 Purchase Agreement” means the bond purchase 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 2012 A Bonds and Series 2012 B Bonds from the Issuer by the Authority, being substantially in the form attached hereto as Exhibit B, with such changes, insertions and omissions, if any, as may be approved by the Chairperson; and the execution of such final Bond Purchase Agreement by the Chairperson shall be conclusive evidence of such approval.

“Bonds” means, collectively, the Series 2012 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.

“Chairperson” means the Chairperson of the Governing Body of the Issuer.

“Closing Date” means the date upon which there is an exchange of the Series 2012 Bonds for all or a portion of the proceeds of the Series 2012 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.

“Consulting Engineers” means E. L. Robinson Engineering Co., Charleston, West Virginia, 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 1.02E hereof to be a part of the cost of the Project.

“CWSRF 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.

“DEP” means the West Virginia Department of Environmental Protection 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.

“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 Lubeck Public Service District, a public service district, public corporation and political subdivision of the State of West Virginia in Wood County, West Virginia, and, unless the context clearly indicates otherwise, includes the Governing Body of the Issuer.

“Net Proceeds” means the face amount of the Series 2012 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 of or redemption premium, if any, or interest on the Bonds, charges for depreciation, losses from the sale or other disposition of, or from any decrease in the value of, capital assets, 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 monies, 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 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 2012 Bonds in the Supplemental Resolution.

"Prior Bonds" means, collectively, the Issuer's Sewerage System Revenue Bonds, Series 1999 A (West Virginia SRF Program), Sewerage System Revenue Bonds, Series 1999 B (West Virginia Infrastructure Fund), Sewer Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund), and Sewer Revenue Bonds, Series 2005 B (West Virginia Infrastructure Fund) and Sewer Revenue Bonds, Series 2010 A (West Virginia Infrastructure Fund).

"Prior Bonds Sinking Funds" means the Sinking Funds established for the Prior Bonds by the Prior Resolutions.

"Prior Bonds Reserve Accounts" means the Reserve Accounts established for the Prior Bonds by the Prior Resolutions.

"Prior Resolutions" means, collectively, the Resolutions authorizing the Prior 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 Board of Treasury Investments pursuant to Chapter 12, Article 6C 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.

“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.

“Registrar” means the bank or other entity designated as such in the Supplemental Resolution, and its successors and assigns.

“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 continued by Section 5.01 hereof.

“Reserve Accounts” means, collectively, the respective reserve accounts established for the Series 2012 Bonds and the Prior Bonds.

“Reserve Requirement” means, collectively, the respective amounts required to be on deposit in the Reserve Accounts of the Series 2012 Bonds and the Prior Bonds.

“Revenue Fund” means the Revenue Fund established by the Prior Resolutions and continued by Section 5.01 hereof.

“Secretary” means the Secretary of the Governing Body of the Issuer.

“Series 2012 Bonds” means, collectively, the Series 2012 A Bonds and the Series 2012 B Bonds.

“Series 2012 Bonds Project Fund” means the Series 2012 Bonds Project Fund established by Section 5.01 hereof.

“Series 2012 A Bonds” means the Sewer Revenue Bonds, Series 2012 A (West Virginia Clean Water SRF Program), of the Issuer, authorized by this Resolution.

“Series 2012 A Bonds Reserve Account” means the Series 2012 A Bonds Reserve Account established by Section 5.02 hereof

“Series 2012 A Bonds Reserve Requirement” means as of any date of calculation, the maximum amount of principal and interest, if any, which will become due on the Series 2012 A Bonds in the then current year or any succeeding year.

“Series 2012 A Bonds Sinking Fund” means the Series 2012 A Bonds Sinking Fund established by Section 5.02 hereof.

“Series 2012 B Bonds” means the Sewer Revenue Bonds, Series 2012 B (West Virginia Clean Water SRF Program), of the Issuer, authorized by this Resolution.

“Series 2012 B Bonds Reserve Account” means the Series 2012 B Bonds Reserve Account authorized to be established by Section 5.02 hereof

“Series 2012 B Bonds Reserve Requirement” means as of any date of calculation, the maximum amount of principal and interest, if any, which will become due on the Series 2012 B Bonds in the then current year or any succeeding year.

“Series 2012 B Bonds Sinking Fund” means the Series 2012 B Bonds Sinking Fund authorized to be established by Section 5.02 hereof.

“Series 2010 Notes” means the Sewerage System Bond Anticipation Notes, Series 2010 (West Virginia Infrastructure Fund).

“Sinking Funds” means, collectively, the respective Sinking Funds established for the Series 2012 Bonds and the Prior Bonds.

“SRF Administrative Fee” means any administrative fee required to be paid under the Bond Purchase Agreement for the Series 2012 A Bonds and Series 2012 B 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 2012 Bonds; provided that any matter intended by this Resolution to be included in the Supplemental Resolution with respect to the Series 2012 Bonds, and no 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 2012 Bonds, the Prior Bonds or any other obligations of the Issuer, including, without limitation, the Renewal and Replacement Fund, the Sinking Funds and the Reserve Accounts.

“System” means the complete public service properties of the Issuer for the diversion, development, pumping, impounding, treatment, storage, distribution or furnishing of sewer to or for the public for industrial, public, private or other uses 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 THE PROJECT

Section 2.01. Authorization of the Project. There is hereby authorized and ordered the implementation of the Project at an estimated cost of not to exceed \$2,918,285, which includes the acquisition and installation of the Project 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 2012 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 installation of the Project, in an amount and otherwise compatible with the financing plan submitted to the Authority and the DEP.

The cost of the Project is estimated not to exceed \$2,918,285, of which an amount not to exceed \$716,272 will be obtained from proceeds of the Series 2012 A Bonds, an amount not to exceed \$2,000,000 will be obtained from proceeds of the Series 2012 B Bonds, and an amount of \$202,013 will be obtained from an Infrastructure Council Grant.

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, if any, on the Series 2012 Bonds, funding the Reserve Account for the Series 2012 B Bonds, paying Costs of the Project not otherwise provided for and paying certain costs of issuance of the Series 2012 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 negotiable Series 2012 Bonds of the Issuer. The Series 2012 Bonds shall be issued in two series, each as a single bond, designated respectively as "Sewer Revenue Bonds, Series 2012 A (West Virginia Clean Water SRF Program)," in the principal amount not to exceed \$716,272 and as "Sewer Revenue Bonds, Series 2012 B (West Virginia Clean Water SRF Program)" in the principal amount not to exceed \$2,000,000, and each Series shall have such terms as set forth hereinafter and in the Supplemental Resolution. The proceeds of the Series 2012 Bonds remaining after funding of the Reserve Accounts therefore (if funded from Bond proceeds) and capitalizing interest, if any, on the Series 2012 Bonds, shall be deposited in or credited to the Series 2012 Bonds Project Fund established by Section 5.01 hereof and applied as set forth in Article VI hereof.

Section 3.02. Terms of Bonds. The Series 2012 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 Bond Purchase Agreement. The Series 2012 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 2012 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 2012 Bonds shall be issued in the form of a single bond, for each series fully registered to the Authority, with a record of advances and a debt service schedule attached, representing the aggregate principal amount of the Series 2012 Bonds. The Series 2012 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 bear interest, if any, and shall be dated as set forth in a Supplemental Resolution.

Section 3.03. Execution of Bonds. The Series 2012 Bonds shall be executed in the name of the Issuer by the Chairperson, and the seal of the Issuer, if any, 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 2012 Bonds shall cease to be such officer of the Issuer before the Series 2012 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 2012 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. The Bond Registrar for the Series 2012 Bonds shall be the bank or other entity designated as such in the Supplemental Resolution and its successors and assigns. No Series 2012 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 Series 2012 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 2012 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 2012 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 2012 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 2012 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 2012 Bonds or transferring the registered Series 2012 Bonds is exercised, all Series 2012 Bonds shall be delivered in accordance with the provisions of this Bond Legislation. All Series 2012 Bonds surrendered in any such exchanges or transfers shall forthwith be canceled by the Bond Registrar. For every such exchange or transfer of Series 2012 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, if any, on the Series 2012 Bonds or, in the case of any proposed redemption of Series 2012 Bonds, next preceding the date of the selection of Bonds to be redeemed, and ending on such interest payment date, if any, or redemption date.

Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Series 2012 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 2012 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 2012 Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer, if any, to pay the Series 2012 Bonds or the interest, if any, thereon.

Section 3.08. Bonds Secured by Pledge of Net Revenues: Lien Positions with Respect to Prior Bonds. The payment of the debt service of the Series 2012 A Bonds and the Series 2012 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 the lien on such Net Revenues in favor of the Holders of the Prior Bonds. Such Net Revenues in an amount sufficient to pay the

principal of and interest, if any, on and other payments for the Series 2012 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 2012 Bonds to the Bond Registrar, and the Bond Registrar shall authenticate, register and deliver the Series 2012 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 2012 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 2012 Bonds to the original purchasers;

C. An executed and certified copy of the Bond Legislation;

D. An executed copy of the Bond Purchase Agreement; and

E. The unqualified approving opinion of bond counsel on the Series 2012 Bonds.

Section 3.10. Form of Bonds. The text of each series of the Series 2012 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:

[Remainder of Page Intentionally Blank]

(FORM OF SERIES 2012 A BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
LUBECK PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2012 A
(WEST VIRGINIA CLEAN WATER SRF PROGRAM)

No. AR-1

\$ _____

KNOW ALL MEN BY THESE PRESENTS: The ____ day of _____ 2012, that LUBECK PUBLIC SERVICE DISTRICT, a public service district, public corporation and political subdivision of the State of West Virginia in Wood 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 _____, 20__, to and including _____, 20__, as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference. The SRF Administrative Fee of _____% (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 _____, 20__, as set forth on said EXHIBIT B.

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 Bond Purchase Agreement by and among the Issuer, the Authority and the DEP, dated _____, 2012.

This Bond is issued (i) to pay a portion of the costs of acquisition, construction and installation of improvements and extensions to the existing public sewer 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 of the Bonds of this Series (the "Bonds") and related costs. The existing public sewer 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 (collectively, the "Act"), and a Bond Resolution duly adopted by the Issuer on _____, and a Supplemental Resolution duly adopted by the Issuer on _____ (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 RESPECTS WITH THE ISSUER'S (1) SEWERAGE SYSTEM REVENUE BONDS, SERIES 1999 A (WEST VIRGINIA SRF PROGRAM), DATED MARCH 9, 1999, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$7,950,000; (2) SEWERAGE SYSTEM REVENUE BONDS, SERIES 1999 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED MARCH 9, 1999, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$2,000,000; (3) SEWER REVENUE BONDS, SERIES 2005 A (WEST VIRGINIA INFRASTRUCTURE FUND), DATED SEPTEMBER 27, 2005, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$7,879,443; (4) SEWER REVENUE BONDS, SERIES 2005 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED SEPTEMBER 27, 2005, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$2,411,178; (5) SEWER REVENUE BONDS, SERIES 2010 A (WEST VIRGINIA INFRASTRUCTURE FUND), DATED FEBRUARY 25, 2010, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$2,136,720; AND (6) SEWER REVENUE BONDS, SERIES 2012 B (WEST VIRGINIA CLAN WATER SRF PROGRAM) ISSUED SIMULTANEOUSLY HERewith IN THE ORIGINAL PRINCIPAL AMOUNT OF \$_____ (THE "SERIES 2012 B BONDS") (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 Series 2012 B Bonds and the Prior Bonds and from monies in the reserve account created under the Bond Legislation for the Bonds (the "Series 2012 B Bonds Reserve Account") and unexpended proceeds of the Bonds. 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 an 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 monies in the Series 2012 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, if any, on the Bonds and all other obligations secured by a lien on or payable from such revenues prior to, on a parity with or junior to the Bonds, including the Series 2012 B Bonds and the Prior Bonds; provided however, that so long as there exists in the Series 2012 A 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 or junior to the 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 United Bank, Inc., 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 monies, 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, LUBECK PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairperson and its corporate seal, if any, to be hereunto affixed and attested by its Secretary, and has caused this Bond to be dated the day and year first written above.

[SEAL, IF ANY]

Chairperson

ATTEST:

Secretary

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2012 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: _____, 2012.

**UNITED BANK, INC.,
as Registrar**

Authorized Officer

EXHIBIT B
DEBT SERVICE SCHEDULE

(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 2012 B BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
LUBECK PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2012 B
(WEST VIRGINIA CLEAN WATER SRF PROGRAM)

No. BR-1

\$ _____

KNOW ALL MEN BY THESE PRESENTS: The ___ of _____, 2012, that LUBECK PUBLIC SERVICE DISTRICT, a public service district, public corporation and political subdivision of the State of West Virginia in Wood 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. This Bond shall bear no interest. The principal amounts will be deemed forgiven on the 30th day of June of the fiscal year in which advanced. The Bond shall be deemed no longer outstanding after the last advance is forgiven. This Bond shall not be subject to the CWSRF Administrative Fee.

This Bond shall bear no interest. Principal installments of this Bond are 100% forgivable as set forth in the Bond Purchase Agreement.

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 Bond Purchase Agreement by and among the Issuer, the Authority and the DEP, dated _____, 2012.

This Bond is issued (i) to pay a portion of the costs of acquisition, construction and installation of improvements and extensions to the existing public sewer facilities of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of the Bonds of this Series (the "Bonds") and related costs. The existing public sewer 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 (collectively, the "Act"), and a Bond Resolution duly

adopted by the Issuer on _____, as supplemented by a Supplemental Resolution duly adopted by the Issuer on _____ (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 RESPECTS WITH THE ISSUER'S (1) SEWERAGE SYSTEM REVENUE BONDS, SERIES 1999 A (WEST VIRGINIA SRF PROGRAM), DATED MARCH 9, 1999, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$7,950,000; (2) SEWERAGE SYSTEM REVENUE BONDS, SERIES 1999 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED MARCH 9, 1999, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$2,000,000; (3) SEWER REVENUE BONDS, SERIES 2005 A (WEST VIRGINIA INFRASTRUCTURE FUND), DATED SEPTEMBER 27, 2005, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$7,879,443; (4) SEWER REVENUE BONDS, SERIES 2005 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED SEPTEMBER 27, 2005, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$2,411,178; (5) SEWER REVENUE BONDS, SERIES 2010 A (WEST VIRGINIA INFRASTRUCTURE FUND), DATED FEBRUARY 25, 2010, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$2,136,720; AND (6) SEWER REVENUE BONDS, SERIES 2012 A (WEST VIRGINIA CLAN WATER SRF PROGRAM) ISSUED SIMULTANEOUSLY HEREWITH IN THE ORIGINAL PRINCIPAL AMOUNT OF \$ _____ (THE "SERIES 2012 A BONDS") (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 Series 2012 A Bonds and the Prior Bonds, from any monies in the reserve account authorized to be created under the Bond Legislation for the Bonds (the "Series 2012 B Bonds Reserve Account") and unexpended proceeds of the Bonds. 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 an 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 monies in the Series 2012 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, if any, on the Bonds and all other obligations secured by a lien on or

payable from such revenues prior to, on a parity with or junior to the Bonds, including the Series 2012 A Bonds and the Prior Bonds; provided however, that so long as there exists in the Series 2012 B 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 or junior to the 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 United Bank, Inc., 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 monies, 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, LUBECK PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairperson and its corporate seal, if any, to be hereunto affixed and attested by its Secretary, and has caused this Bond to be dated the day and year first written above.

[SEAL, IF ANY]

Chairperson

ATTEST:

Secretary

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2012 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: _____, 2012.

**UNITED BANK, INC.,
as Registrar**

Authorized Officer

(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 Bond Purchase Agreement. The Series 2012 Bonds shall be sold to the Authority, pursuant to the terms and conditions of the Bond Purchase Agreement. If not so authorized by previous resolution, the Chairperson is specifically authorized and directed to execute the Bond Purchase 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, if any, attest the same and deliver the Bond Purchase Agreement to the Authority, and any such prior execution and delivery is hereby authorized, approved, ratified and confirmed. The Bond Purchase Agreement, including all schedules and exhibits attached thereto, are hereby approved and incorporated into this Bond Legislation. Without limiting the generality of the foregoing, the Issuer hereby specifically approves Schedules X and Y attached to the Bond Purchase Agreement, and a certified copy of this Resolution, indicating such approval, shall be submitted to the Authority.

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 (or continued) 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 Prior Resolution);
- (2) Renewal and Replacement Fund (established by Prior Resolution); and
- (3) Series 2012 Bonds Project Fund;

Section 5.02. Establishment of Funds and Accounts with Commission. The following special funds or accounts are hereby created (or continued) or authorized to be created upon any requirement therefor 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) Prior Bonds Sinking Funds (established by Prior Resolution);
- (2) Prior Bonds Reserve Accounts (established by Prior Resolution);
- (3) Series 2012 A Bonds Sinking Fund;
- (4) Series 2012 A Bonds Reserve Account;
- (5) Series 2012 B Bonds Sinking Fund;
- (6) Series 2012 B 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. All revenues at any time on deposit in the Revenue Fund shall be disposed of only in the following order of priority:

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

(2) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and remit to the Commission, as appropriate, the amounts required to pay interest on the Prior Bonds in the amounts and on the dates required by the Prior Resolutions.

(3) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously (i) remit to the Commission, as appropriate, the amounts required to pay principal on the Prior Bonds, as required by the Prior Resolutions; (ii) remit to the Commission, commencing 4 months prior to the first date of payment of principal of the Series 2012 A Bonds, for deposit in the Series 2012 A Bonds Sinking Fund, an amount equal to 1/3rd of the amount of principal which will mature and become due on the Series 2012 A 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 2012 A 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; and (iii) remit to the Commission, commencing 4 months prior to the first date of payment of principal of the Series 2012 B Bonds, if any, for deposit in the Series 2012 B Bonds Sinking Fund, an amount equal to 1/3rd of the amount of principal, if any, which will mature and become due on the Series 2012 B 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 2012 B 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 (i) remit to the Commission, as appropriate, the amounts required by the Prior Resolutions for deposit in the respective Reserve Accounts for the Prior Bonds in the amounts and on the dates required by the Prior Resolutions; (ii) remit to the Commission, commencing 4 months prior to the first date of payment of principal of the Series 2012 A Bonds, if not fully funded upon issuance of the Series 2012 A Bonds, for deposit in the Series 2012 A Bonds Reserve Account, an amount equal to 1/120th of the Series 2012 A Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 2012 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 2012 A Bonds Reserve Requirement; and (iii) remit to the Commission, commencing 4 months prior to the first date of payment of principal of the Series 2012 B Bonds, if not fully funded upon issuance of the Series 2012 B Bonds, for deposit in the Series 2012 B Bonds Reserve Account, an amount equal to 1/120th of the Series 2012 B Bonds Reserve Requirement, if any; provided that, no further payments shall be made into the Series 2012 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 2012 B 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 monies from the Renewal and Replacement Fund.

Monies in the Series 2012 A Bonds Sinking Fund and the Series 2012 B Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest, if any, on the Series 2012 A Bonds and the Series 2012 B Bonds, respectively, as the same shall become due. Monies in the Series 2012 A Bonds Reserve Account and the Series 2012 B Bonds Reserve Account shall be used only for the purpose of paying principal of and interest, if any, on the Series 2012 A Bonds and the Series 2012 B Bonds, respectively, as the same shall come due, when other monies in the Series 2012 A Bonds Sinking Fund and the Series 2012 B Bonds Sinking Fund, respectively, are insufficient therefor, and for no other purpose.

All investment earnings on monies in the Series 2012 A Bonds Sinking Fund, the Series 2012 A Bonds Reserve Account, the Series 2012 B Bonds Sinking Fund, and the Series 2012 B Bonds Reserve Account shall be returned, not less than once each year, by the Commission to the Issuer, and such amounts shall, during installation of the Project, be deposited in the respective Bond Project Fund, and following completion of installation 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 2012 A Bonds and the Series 2012 B Bonds, respectively, and then to the next ensuing principal payment due thereon, all on a pro rata basis.

Any withdrawals from the Series 2012 A Bonds Reserve Account and the Series 2012 B Bonds Reserve Account which result in a reduction in the balance therein to below the respective Reserve Requirements 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 2012 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 requirement thereof.

The Issuer shall not be required to make any further payments into the Series 2012 A Bonds Sinking Fund, the Series 2012 A Bonds Reserve Account, the Series 2012 B Bonds Sinking Fund, or the Series 2012 B Bonds Reserve Account when the aggregate amount of funds therein are at least equal to the respective aggregate principal amount of the Series 2012

A Bonds and the Series 2012 B Bonds issued pursuant to this Bond Legislation then Outstanding and all interest, if any, to accrue until the maturity thereof.

The Commission is hereby designated as the fiscal agent for the administration of the Series 2012 A Bonds Sinking Fund, the Series 2012 A Bonds Reserve Account, the Series 2012 B Bonds Sinking Fund, and the Series 2012 B 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.

Monies in the Series 2012 A Bonds Sinking Fund, the Series 2012 A Bonds Reserve Account, the Series 2012 B Bonds Sinking Fund, and the Series 2012 B Bonds Reserve Account shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof

The Series 2012 A Bonds Sinking Fund, the Series 2012 A Bonds Reserve Account, the Series 2012 B Bonds Sinking Fund, and the Series 2012 B Bonds Reserve Account shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Series 2012 A Bonds and the Series 2012 B Bonds, respectively, under the conditions and restrictions set forth herein.

B. The Issuer 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 Commission the required principal, interest, if any, and reserve account payments with respect to the Series 2012 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. All remittances made by the Issuer to the Commission shall clearly identify the fund or account into which each amount is to be deposited. The Issuer shall also 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 Commission the SRF Administrative Fee as set forth in the Schedule Y attached to the Bond Purchase Agreement for the Series 2012 A Bonds.

C. The Issuer shall complete the "Monthly Payment Form," a form of which is attached to the Bond Purchase Agreement, 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 respective parties 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 monies in excess of 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. Also if on any monthly payment date the revenues are insufficient to place the required amount in each of the accounts described in Subsections (A)(3) or (4), respectively, the deposits into each of the accounts shall be made in proportion to the amounts due.

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

ARTICLE VI

BOND PROCEEDS; PROJECT DISBURSEMENTS

Section 6.01. Application of Bond Proceeds; Pledge of Unexpended Proceeds. From the monies received from the sale of the Series 2012 Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. From the proceeds of the Series 2012 A Bonds, there shall first be deposited with the Commission in the Series 2012 A 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 2012 A Bonds for the period commencing on the date of issuance of the Series 2012 A Bonds and ending 6 months after the estimated date of completion of installation of the Project.

B. From the proceeds of the Series 2012 B Bonds, there shall first be deposited with the Commission in the Series 2012 B 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 2012 B Bonds for the period commencing on the date of issuance of the Series 2012 B Bonds and ending 6 months after the estimated date of completion of construction of the Project.

C. Next, from the proceeds of the Series 2012 A Bonds, there shall be deposited with the Commission in the Series 2012 A Bonds Reserve Account, the amount, if any set forth in the Supplemental Resolution for funding the Series 2012 A Bonds Reserve Account.

D. Next, from the proceeds of the Series 2012 B Bonds, there shall be deposited with the Commission in the Series 2012 B Bonds Reserve Account, the amount, if any set forth in the Supplemental Resolution for funding the Series 2012 B Bonds Reserve Account.

E. As the Issuer receives advances of the remaining monies derived from the sale of the Series 2012 A Bonds, such monies shall be deposited with the Depository Bank in the Series 2012 Bonds Project 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 2012 A Bonds.

G. As the Issuer receives advances of the remaining monies derived from the sale of the Series 2012 B Bonds, such monies shall be deposited with the Depository Bank in the Series 2012 Bonds Project 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 2012 B Bonds.

H. 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 2012 Bonds shall be applied as directed by the DEP.

Section 6.02. Disbursements From the Bond Project Fund.

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 2012 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 2012 Bonds Project Fund shall be made only after submission to and approval from the DEP, of a completed and signed "Payment Requisition Form," a form of which is attached to the Bond Purchase Agreement for the Series 2012 Bonds, in compliance with the construction schedule.

Pending such application, monies in the Series 2012 Bond Project Funds 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 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 2012 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 2012 Bonds or the interest, if any, thereon is Outstanding and unpaid.

Section 7.02. Bonds Not to be Indebtedness of the Issuer. The Series 2012 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 the Bond Legislation. No Registered Owner of the Series 2012 Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 2012 Bonds or the interest thereon.

Section 7.03. Bonds Secured by Pledge of Net Revenues; Lien Positions with Respect to Bonds. The payment of the debt service of the Series 2012 A Bonds and the Series 2012 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 the lien on such Net Revenues in favor of the Holders of the Prior Bonds. Such Net Revenues in an amount sufficient to pay the principal of and interest, if any, on and other payments for the Series 2012 Bonds and the Prior Bonds and to make all other payments provided for in this Bond Legislation and the Prior Resolutions, are hereby irrevocably pledged to such payments as they become due.

Section 7.04. Initial Schedule of Rates and Charges. The Issuer has obtained any and all approvals of rates and charges required by State law and has taken any other action required to establish and impose such rates and charges, with all requisite appeal periods having expired without successful appeal and shall provide an opinion of counsel to the Issuer of such effect. Such rates and charges shall be sufficient to comply with the requirements of the Bond Purchase Agreement and the Issuer shall supply a certificate of certified public accountant to such effect.

So long as the Series 2012 Bonds are outstanding, the Issuer covenants and agrees to fix and collect rates, fees and other charges for the use of the System and to take all such actions necessary to provide funds sufficient to produce the required sums set forth in the Bond Legislation and in compliance with the Bond Purchase Agreement. In the event the schedule of rates, fees and charges initially established for the System in connection with the Series 2012 Bonds shall prove to be insufficient to produce the required sums set forth in this Bond Legislation and the Bond Purchase 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, fees and charges and take all such actions necessary to provide funds sufficient to produce the required sums set forth in this Bond Legislation and the Bond Purchase Agreement.

The Issuer covenants not to reduce its approved customer rates for at least 18 months after completion of the Project or (a) until such time as a cost of service study has been completed establishing the actual operation and maintenance expenses or (b) new rates have been established by order of the Public Service Commission of West Virginia. The Issuer shall notify the Authority and the DEP of any action to reduce rates during the 18 months following completion of the Project.

Section 7.05. Sale of the System. So long as the Series 2012 Bonds and the Prior Bonds are outstanding and except as otherwise required by law or with the written consent of the DEP and the Authority, the System may not be sold, mortgaged, leased or otherwise disposed of, except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to 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 2012 Bonds, immediately be remitted to the Commission for deposit in the Sinking Funds, and, with the written permission of the DEP and 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 of and interest, if any, on the Series 2012 Bonds. Any balance remaining after the payment of the Series 2012 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 in accordance with the laws of the State. The proceeds of any such sale shall be deposited in the Renewal and Replacement Fund. The payment of such proceeds into the Renewal and

Replacement Fund shall not reduce the amount required to be paid into said fund 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 2012 Bonds and the Prior Bonds; provided, however, that Parity Bonds may be issued as provided for in Section 7.07 hereof and in the Prior Resolutions (so long as the Prior Bonds are Outstanding). All obligations issued by the Issuer after the issuance of the Series 2012 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 2012 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 2012 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 2012 Bonds and the interest thereon, if any, in this Bond Legislation, or upon the System or any part thereof.

The Issuer shall give the DEP and 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. So long as the Prior Bonds are outstanding, the limitations on the issuance of parity obligations set forth in the Prior Resolution shall be applicable. In addition, no Parity Bonds, payable out of the revenues of the System, shall be issued after the issuance of the Series 2012 Bonds pursuant to this Bond Legislation, without the prior written consent of the Authority and the DEP and without complying with the conditions and requirements herein provided.

All Parity Bonds issued hereunder shall be on a parity in all respects with the Series 2012 Bonds.

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

No Parity Bonds shall be issued at any time, 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 eighteen (18) months immediately preceding the date of the actual issuance of such Parity Bonds, plus the estimated average increased annual Net Revenues expected to be received in each of the three (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 expected to be received in each of the 3 succeeding years,” as that term is used in the computation provided in the above paragraph, shall refer only to the increased Net Revenues estimated to be derived from the improvements to be financed by such Parity Bonds and any increase in rates adopted by the Issuer and approved by the Public Service Commission of West Virginia, the time for appeal of which shall have expired prior to the 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 herein above referred to may be adjusted by adding to such Net Revenues such additional Net Revenues which would have been received, in the opinion of the Independent Certified Public Accountants, on account of increased rates, rentals, fees and charges for the System adopted by the Issuer, the time for appeal of which shall have 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 subsequently issued from time to time within the limitations of and in compliance with this section. All Bonds, 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 over any other. 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 2012 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 2012 Bonds.

No Parity Bonds shall be issued at any time, however, unless all of 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 the Parity Bonds, and the Issuer 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 DEP and the Authority, 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 DEP and the Authority such documents and information as they may reasonably require in connection with the acquisition 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 DEP and the Authority, or their agents and representatives, to inspect all records pertaining to the operation and maintenance of the System at all reasonable times following completion of installation 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 installation.

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 DEP and the Authority, or any other original purchaser of the Series 2012 Bonds, and shall mail in each year to any Holder or Holders of the Series 2012 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 to the extent legally required, in compliance with the applicable OMB Circular and the Single Audit Act, or any successor thereto), and shall mail upon request, and make available generally, the report of the Independent Certified Public Accountants, or a summary thereof, to any Holder or Holders of the Series 2012 Bonds, and shall submit said report to the DEP and the Authority, or any other original purchaser of the Series 2012 Bonds. Such audit report submitted to the DEP and the Council shall include a statement that the Issuer is in compliance with the terms and provisions of the Act, the Bond Purchase 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 Bond Purchase 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 install 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 after such acquisition be and remain the property of the Issuer.

The Issuer shall permit the DEP and the Authority, 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 installation of the Project, the Issuer shall also provide

the DEP and the Authority, 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 DEP and the Authority 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 Bond Purchase Agreement for the Series 2012 A Bonds or as promulgated from time to time.

Section 7.09. Rates. So long as the Prior Bonds are outstanding, any requirement for rates set forth in the Prior Resolutions shall be met. Prior to the issuance of the Series 2012 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 2012 Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Series 2012 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 2012 A Bonds Reserve Account, the Series 2012 B Reserve Account and the reserve accounts for obligations on a parity with or junior to the Series 2012 Bonds, including the Prior Bonds, are funded at least at the requirement therefore, 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 2012 Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Series 2012 Bonds, including the Prior 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 DEP and 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 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 DEP and 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 DEP and the Authority 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 Bond Purchase Agreement, and forward a copy of such report to the DEP and 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 Bond Purchase 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 DEP and the Authority, the Project is adequate for the purposes for which it was designed, the funding plan as submitted to the DEP and 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 engineering services satisfactory to the DEP and the Authority covering the supervision and inspection of the development and installation 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 engineer shall certify to the DEP, the Authority and the Issuer at the completion of installation that installation 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 Record Drawings, 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 Bond Purchase Agreement for the Series 2012 A 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 Site Regulations, to the DEP when the Project is 90% completed. The Issuer shall at all times provide operation and maintenance of the System in compliance with all State and federal standards.

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 to operate the System during the entire term of the Bond Purchase 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 20 days after the same shall become due and payable, the user of the services and facilities shall be delinquent until such time as all such rates and charges are fully paid. 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. Except as required by law, 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 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 Bond Purchase Agreement, during installation 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 installation 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 installation 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 verify such bonds prior to commencement of construction.

The Issuer shall also require all contractors engaged in the installation 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 and the Issuer shall verify such insurance prior to commencement of construction. In the event the Bond Purchase 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 sewerage facilities portion of the System is essential and necessary for the protection and preservation of the public health, comfort, safety, convenience and welfare of the inhabitants and residents of, and the economy of, the issuer and in order to assure the rendering harmless of sewage and 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 and Operation 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 has obtained 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 and the Council necessary for the acquisition and construction of the Project, the operation of the System and all approvals for issuance of the Bonds required by State law, with all requisite appeal periods having expired without successful appeal and the Issuer shall provide an opinion of counsel to such effect.

Section 7.18. Reserved.

Section 7.19. Statutory Mortgage Lien. For the further protection of the Holders of the Series 2012 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 2012 Bonds and shall be on a parity with the Prior Bonds.

Section 7.20. Compliance with Bond Purchase Agreement and Law. The Issuer shall perform, satisfy and comply with all the terms and conditions of the Bond Purchase Agreement and the Act. 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 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. The Issuer shall perform an annual maintenance audit which maintenance audit shall be submitted to the Authority and the Public Service Commission of West Virginia.

Section 7.21. Reserved.

Section 7.22. Contracts; Change Orders; Public Releases. A. The Issuer shall, simultaneously with the delivery of the Series 2012 Bonds or immediately thereafter, enter into written contracts for the immediate acquisition or installation 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 2012 Bonds held in "contingency" as set forth in the respective schedules attached to the certificate of the Consulting Engineer. The Issuer shall also obtain the written approval of

the DEP before expending any proceeds of the Series 2012 Bonds made available due to bid or construction or project underruns.

C. The Issuer shall list the funding provided by the DEP and the 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 monies 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 monies 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 monies were originally held, and the interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. The 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, 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 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 2012 Bonds are Outstanding and as long thereafter as necessary to assure the exclusion of interest, if any, on the Series 2012 Bonds from gross income for federal income tax purposes.

Section 8.02. Certificate as to Use of Proceeds; Covenants as to Use of Proceeds. The Issuer shall deliver a certificate as to use of proceeds or other similar certificate to be prepared by nationally recognized bond counsel relating to restrictions on the use of proceeds of the Series 2012 Bonds as a condition to issuance of the Series 2012 Bonds. In addition, the Issuer covenants (i) to comply with the Code and all Regulations from time to time in effect and applicable to the Series 2012 Bonds as may be necessary in order to maintain the status of the Series 2012 Bonds as public purpose bonds; (ii) that it shall not take, or permit or suffer to be taken, any action with respect to the Issuer's use of the proceeds of the Series 2012 Bonds which would cause any bonds, the interest on which is exempt from federal income taxation under Section 103(a) of the Code, issued by the Authority or the DEP, as the case may be, from which

the proceeds of the Series 2012 Bonds are derived, to lose their status as tax-exempt bonds; and (iii) to take such action, or refrain from taking such action, as shall be deemed necessary by the Issuer, or requested by the Authority or the DEP, to ensure compliance with the covenants and agreements set forth in this Section, regardless of whether such actions may be contrary to any of the provisions of this Resolution.

The Issuer shall annually furnish to the Authority information with respect to the Issuer's use of the proceeds of the Series 2012 Bonds and any additional information requested by the Authority.

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 2012 Bonds:

- (1) If default occurs in the due and punctual payment of the principal of or interest, if any, on the Series 2012 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 2012 Bonds set forth in this Bond Legislation, any supplemental resolution or in the Series 2012 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;
- (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 the Prior Bonds.

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 Series 2012 Bonds shall be on a parity with the Holders of the Prior 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 installation 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

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 2012 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 monies and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series 2012 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, if any, on the Series 2012 Bonds from gross income for federal income tax purposes.

ARTICLE XI

MISCELLANEOUS

Section 11.01. Amendment or Modification of Bond Legislation. Prior to issuance of the Series 2012 Bonds, this Resolution may be amended or supplemented in any way by a Supplemental Resolution. Following issuance of the Series 2012 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 2012 Bonds shall be made without the consent in writing of the Registered Owners of the Series 2012 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 therefore 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 2012 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 2012 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, a Supplemental Resolution, or the Series 2012 Bonds.

Section 11.04. Headings. 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 Prior Resolutions, the Prior Resolutions shall control (unless less restrictive), so long as the Prior Bonds are Outstanding.

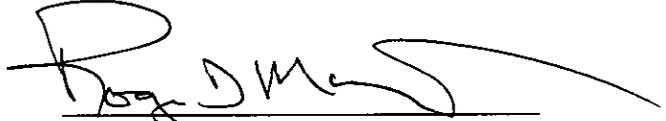
Section 11.06. Covenant of Due Procedure, Etc. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the adoption of this Resolution do exist, have happened, have been

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 Chairperson, 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 following adoption and the public hearing.

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Adopted this 14th day of June, 2012.



Chairperson

CERTIFICATION

Certified a true copy of a Resolution duly adopted by the Public Service Board of LUBECK PUBLIC SERVICE DISTRICT on the 14th day of June, 2012.

Dated: June 22, 2012.


Secretary

EXHIBIT A

PROJECT DESCRIPTION

The Project consists of acquisition and construction of certain extensions, additions, betterments and improvements to the System including an extension of wastewater collection and treatment facilities for Lake Washington, Vaught's Run and Hy-View Terrace in Wood County.

EXHIBIT B

Bond Purchase Agreement included in bond transcript as Document 2.3.

LUBECK PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2012 A
(WEST VIRGINIA CLEAN WATER SRF PROGRAM),
SEWER REVENUE BONDS, SERIES 2012 B
(WEST VIRGINIA CLEAN WATER SRF PROGRAM)

2.5

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO THE PRINCIPAL AMOUNT, DATE, MATURITY DATE, INTEREST RATE, PAYMENT SCHEDULE, SALE PRICE AND OTHER TERMS OF THE LUBECK PUBLIC SERVICE DISTRICT SEWER REVENUE BONDS, SERIES 2012 A (WEST VIRGINIA CLEAN WATER SRF PROGRAM), SEWER REVENUE BONDS, SERIES 2012 B (WEST VIRGINIA CLEAN WATER SRF PROGRAM); DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the Public Service Board of Lubeck Public Service District (the "Issuer") has duly and officially passed a Bond Resolution on June 14, 2012 (the "Bond Resolution"), entitled:

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN IMPROVEMENTS AND EXTENSIONS TO THE EXISTING PUBLIC SEWER FACILITIES OF LUBECK PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE DISTRICT OF \$716,272 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2012 A (WEST VIRGINIA CLEAN WATER SRF PROGRAM) AND \$2,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS SERIES 2012 B (WEST VIRGINIA CLEAN WATER 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 THE BOND PURCHASE 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, the capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Ordinance when used herein;

WHEREAS, the Bond Resolution provides for the issuance of Sewer Revenue Bonds, Series 2012 A (West Virginia Clean Water SRF Program), in an aggregate principal amount of \$716,272 (the "Series 2012 A Bonds") and Sewer Revenue Bonds, Series 2012 B (West Virginia Clean Water SRF Program), in an aggregate principal amount not to exceed \$2,000,000 (the "Series 2012 B Bonds" and together with the Series 2012 A Bonds, the "Bonds"), and has authorized the execution and delivery of the bond purchase agreement relating to the Series 2012 A Bonds and the Series 2012 B Bonds, by and among the Issuer, the West Virginia Water Development Authority (the "Authority") and the West Virginia Department of Environmental Protection (the "DEP") (the "Bond Purchase Agreement"), all in accordance with Chapter 16, Article 13A and Chapter 22C, Article 2 of the Code of West Virginia, 1931, as amended (collectively, the "Act"); and in the Bond Resolution it is provided that the exact principal amount, date, maturity date, interest rate, payment schedule, sale price and other terms of each series of the Bonds should be established by a supplemental resolution, and that other matters relating to the Bonds be herein provided for;

WHEREAS, the Issuer desires to issue the Bonds pursuant to the Ordinance;

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

WHEREAS, the Bond Purchase Agreement has been presented to the Issuer at this meeting.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF LUBECK PUBLIC SERVICE DISTRICT, AS FOLLOWS:

Section 1. Pursuant to the Bond Resolution, there are hereby authorized to issue the following Bonds of the Issuer:

A. **Series 2012 A Bonds.** Sewer Revenue Bonds, Series 2012 A (West Virginia Clean Water SRF Program) shall be in the form of a single bond, numbered AR-1, in the principal amount of \$716,272. The Series 2012 A Bonds shall be dated the date of delivery thereof, shall finally mature March 1, 2052, and shall bear no interest. The principal of the Series 2012 A Bonds shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing June 1, 2014, to and including March 1, 2052, and in the amounts as set forth in the "Schedule Y" attached to the Bond Purchase Agreement and incorporated in and made a part of the Series 2012 A Bonds. The Series 2012 A 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 Bond Purchase Agreement, so long as the Authority shall be the registered owner of the Series 2012 A Bonds. The Issuer does hereby approve and shall pay the SRF Administrative Fee equal to 0.5% of the principal amount of the Series 2012 A Bonds set forth in the "Schedule Y" attached to the Bond Purchase Agreement.

B. **Series 2012 B Bonds.** Sewer Revenue Bonds, Series 2012 B (West Virginia Clean Water SRF Program) of the Issuer, shall be in the form of a single bond, numbered BR-1, shall be issued in the principal amount of \$2,000,000, shall be dated such date when the last amounts are deemed forgiven, shall bear no interest. The principal amounts advanced under the Series 2012 B Bonds will be deemed forgiven on the 30th day of June in the fiscal year in which advanced. The Series 2012 B Bonds shall be deemed no longer outstanding after the last advance is forgiven. The Series 2012 B 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 Bond Purchase Agreement, so long as the Authority shall be the registered owner of the Series 2012 B Bonds.

Section 2. The Issuer hereby appoints and designates West Virginia Central Credit Union, Parkersburg, West Virginia, to serve as Depository Bank for the Bonds under the Bond Resolution.

Section 3. The Municipal Bond Commission (the "Commission") is appointed as Paying Agent for the Bonds.

Section 4. 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 5. The Bond Purchase Agreement and the execution and delivery by the Chairperson thereof shall be and the same are hereby authorized, approved, and directed. The Chairperson shall execute and deliver the Bond Purchase Agreement with such changes, insertions and omissions as may be approved by the Chairperson. The execution of the Bond Purchase Agreement by the Chairperson shall be conclusive evidence of any approval required by this Section, and authorization of any action required by the Bond Purchase Agreement relating to the issuance and sale of the Bonds, including the payment of all necessary fees and expenses in connection therewith.

Section 6. The Issuer hereby appoints and designates United Bank, Inc., to serve as Registrar (the "Registrar") for the Bonds under the Bond Resolution and approves and accepts 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 Chairperson, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, directed and approved.

Section 7. The Chairperson is hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Bonds hereby and by the Bond Resolution approved and provided for, to the end that the Bonds may be delivered to the West Virginia Water Development Authority pursuant to the Bond Purchase Agreement on or about June 22, 2012.

Section 8. The Issuer hereby determines to invest all moneys in the funds and accounts established by the Bond Resolution held by the Depository Bank until expended, in money market accounts secured by a pledge of direct obligations of, or obligations the timely payment of principals of and interest on which is guaranteed by, the United States of America, and therefore, the Issuer hereby directs the Depository Bank to invest all moneys in such money market accounts until further directed in writing by the Issuer.

Section 9. The Issuer shall serve the additional customers at the location(s) as set forth in Certificate of Engineer. The Issuer shall not reduce the amount of additional customers served by the project without the prior written approval of the Board of the Water Development Authority (the "Authority"). Following completion of the Project the Issuer shall certify to the Authority the number of customers added to the System.

Section 10. The Issuer authorizes the deposit of \$18,848 from the proceeds of the Series 2012 A Bonds to be deposited in the Series 2012 A Reserve Account.

Section 11. The Issuer hereby approves and accepts all contracts relating to the financing, acquisition and construction of the Project.

Section 12. The Issuer hereby approves the costs of issuance and authorizes the payment of the same.

Section 13. This Supplemental Resolution shall be effective immediately following adoption hereof.

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Adopted this 14th day of June, 2012.

LUBECK PUBLIC SERVICE DISTRICT

A handwritten signature in black ink, appearing to read "D. W. ...", is written over a solid horizontal line.

Its: Chairperson

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Public Service Board of Lubeck Public Service District on the 14th day of June, 2012.

Dated this 22nd day of June, 2012.

[SEAL]


Secretary

LUBECK PUBLIC SERVICE DISTRICT
POST OFFICE BOX 700
301 OX JOHNSON LANE
WASHINGTON, WEST VIRGINIA 26181
PHONE: 304-863-3341
FAX: 304-863-3791

June 11th, 2012

Meeting Date
June 14th, 2012
7:00 P.M.

AGENDA:

1. APPROVAL OF REGULAR BOARD MEETING MINUTES ✓
2. DISCUSSION OF DISTRICT HAPPENINGS ✓
3. APPROVAL OF PAYMENT OF BILLS AND TRANSFERS ✓
4. DISCUSSION OF LAKE WASHINGTON CLUB SEWER EXTENSION ✓
5. DISCUSSION OF WADESVILLE WATER PROJECT ✓
6. DISCUSSION OF BELLEVILLE WATER PROJECT ✓
7. ADJOURN

Cc: Jerry Martin Parkersburg News
Roger Martin Parkersburg Sentinel
John Sines Wood County Commission
Craig Richards WNUS
Tim Miller WTAP
Blaine Myers WXIL
Phil Postlewait

LUBECK PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2012 A
(WEST VIRGINIA CLEAN WATER SRF PROGRAM)
SEWER REVENUE BONDS, SERIES 2012 B
(WEST VIRGINIA CLEAN WATER SRF PROGRAM)

2.6

MINUTES ON ADOPTION OF BOND RESOLUTION
AND SUPPLEMENTAL RESOLUTION

On this 14th day of June, 2012, the undersigned duly appointed Secretary of the Public Service Board of Lubeck Public Service District hereby certifies that the following is a true and correct excerpt of the minutes of a regular meeting of said Public Service Board:

The Public Service Board of Lubeck Public Service District met in regular session, pursuant to notice duly published and posted, on the 14th day of June, 2012, in Washington, West Virginia, at the hour of 7:00 p.m.

PRESENT: Roger D. Martin - Chairperson
Jerry R. Martin - Secretary
John H. Sines Treasurer

ABSENT: None

Roger D. Martin, Chairperson, presided, and Jerry R. Martin, acted as Secretary. The Chairperson announced that a quorum of members was present and that the meeting was open for any business properly before it.

Next, the Chairperson presented a proposed Bond Resolution in writing entitled:

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN IMPROVEMENTS AND EXTENSIONS TO THE EXISTING PUBLIC SEWER FACILITIES OF LUBECK PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE DISTRICT OF \$716,272 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2012 A (WEST VIRGINIA CLEAN WATER SRF PROGRAM) AND \$2,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS SERIES 2012 B (WEST VIRGINIA CLEAN WATER 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 THE BOND PURCHASE 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. Upon motion duly made by Jerry Martin and seconded by John Sines, it was unanimously ordered that said Bond Resolution be adopted and be in full force and effect on and from the date hereof.

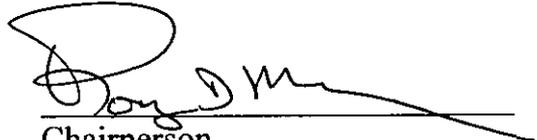
Next, the Chairperson presented a proposed Supplemental Resolution in writing entitled:

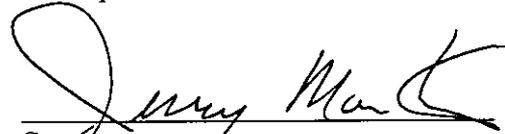
SUPPLEMENTAL RESOLUTION PROVIDING AS TO THE PRINCIPAL AMOUNT, DATE, MATURITY DATE, INTEREST RATE, PAYMENT SCHEDULE, SALE PRICE AND OTHER TERMS OF THE LUBECK PUBLIC SERVICE DISTRICT SEWER REVENUE BONDS, SERIES 2012 A (WEST VIRGINIA CLEAN WATER SRF PROGRAM), SEWER REVENUE BONDS, SERIES 2012 B (WEST VIRGINIA CLEAN WATER SRF PROGRAM); 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. Upon motion duly made by Jerry Martin and seconded by John Sines, it was unanimously ordered that said Supplemental Resolution be adopted and be in full force and effect on and from the date hereof.

Next, the Chairperson presented a proposed Sweep Resolution and caused the same to be read and there was discussion. Upon motion duly made by John Sines and seconded by Jerry Martin, it was unanimously ordered that said Sweep 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 be adjourned.

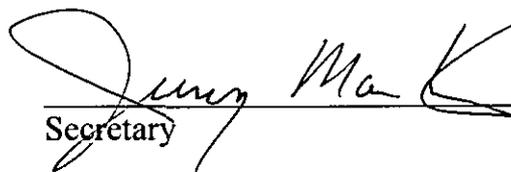

Chairperson

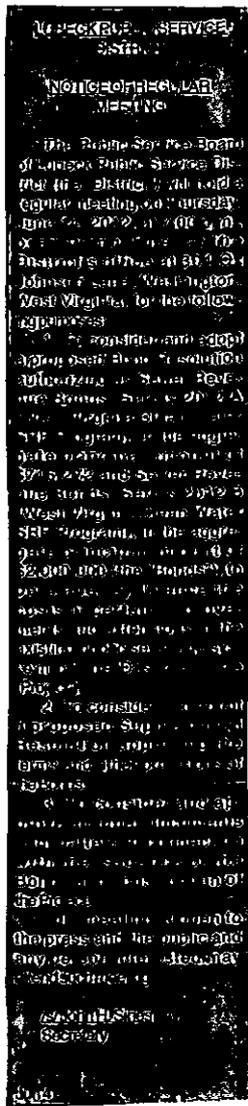

Secretary

CERTIFICATION

I hereby certify that the foregoing action of LUBECK PUBLIC SERVICE DISTRICT remains in full force and effect and has not been amended, rescinded, superseded, repealed or changed.

WITNESS my signature as of the date first written above.


Secretary



.....MARY J BUCK.....

Being first duly sworn, says that the
"NOTICE OF REGULAR MEETING".....

.....
Hereto attached was printed in the

..XX...The Parkersburg News and Sentinel,

.....The Marietta AM,

A daily newspaper published in the City of Parkersburg,
Wood County, West Virginia, for ...ONE..... successive
Week(s), the first publication and posting thereon being on
the4TH...day of ...JUNE..... 2012., and
subsequent publication on the
day (s) of 20.....

Printer's Fee \$...36.40...

Notarized Signature \$....2.00...

Additional Copy Fee \$.....

Total Due: \$....38.40...

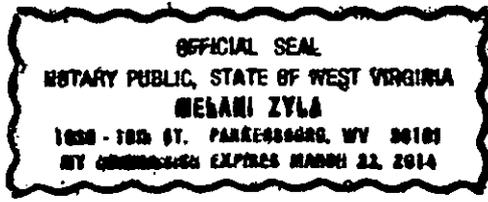
By: *Mary J Buck*.....

Subscribed and sworn to before me this

5th... day of *June*..... 20*12*.

.....
Melani Zyla
Notary Public for Wood County, West Virginia

My commission expires *3-23-14*.....



AR-1



SPECIMEN

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
LUBECK PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2012 A
(WEST VIRGINIA CLEAN WATER SRF PROGRAM)

No. AR-1

\$716,272

KNOW ALL MEN BY THESE PRESENTS: The 22nd day of June 2012, that LUBECK PUBLIC SERVICE DISTRICT, a public service district, public corporation and political subdivision of the State of West Virginia in Wood 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 SEVEN HUNDRED SIXTEEN THOUSAND TWO HUNDRED SEVENTY-TWO DOLLARS (\$716,272), 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, 2014, to and including March 1, 2052, as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference. The SRF Administrative Fee of 0.5% (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, 2014, as set forth on said EXHIBIT B.

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 Bond Purchase Agreement by and among the Issuer, the Authority and the DEP, dated June 22, 2012.

This Bond is issued (i) to pay a portion of the costs of acquisition, construction and installation of improvements and extensions to the existing public sewer 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 of the Bonds of this Series (the "Bonds") and related costs. The existing public sewer 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 (collectively, the "Act"), and a Bond Resolution duly adopted by the Issuer on June 14, 2012, and a Supplemental Resolution duly adopted by the Issuer on June 14, 2012 (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 RESPECTS WITH THE ISSUER'S (1) SEWERAGE SYSTEM REVENUE BONDS, SERIES 1999 A (WEST VIRGINIA SRF PROGRAM), DATED MARCH 9, 1999, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$7,950,000; (2) SEWERAGE SYSTEM REVENUE BONDS, SERIES 1999 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED MARCH 9, 1999, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$2,000,000; (3) SEWER REVENUE BONDS, SERIES 2005 A (WEST VIRGINIA INFRASTRUCTURE FUND), DATED SEPTEMBER 27, 2005, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$7,879,443; (4) SEWER REVENUE BONDS, SERIES 2005 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED SEPTEMBER 27, 2005, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$2,411,178; (5) SEWER REVENUE BONDS, SERIES 2010 A (WEST VIRGINIA INFRASTRUCTURE FUND), DATED FEBRUARY 25, 2010, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$2,136,720; AND (6) SEWER REVENUE BONDS, SERIES 2012 B (WEST VIRGINIA CLAN WATER SRF PROGRAM) ISSUED SIMULTANEOUSLY HERewith IN THE ORIGINAL PRINCIPAL AMOUNT OF \$2,000,000 (THE "SERIES 2012 B BONDS") (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 Series 2012 B Bonds and the Prior Bonds and from monies in the reserve account created under the Bond Legislation for the Bonds (the "Series 2012 B Bonds Reserve Account") and unexpended proceeds of the Bonds. 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 an 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 monies in the Series 2012 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, if any, on the Bonds and all other obligations secured by a lien on or payable from such revenues prior to, on a parity with or junior to the Bonds, including the Series 2012 B Bonds and the Prior Bonds; provided however, that so long as there exists in the Series 2012 A 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 or junior to the 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 United Bank, Inc., 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 monies, 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.

AR-1

IN WITNESS WHEREOF, LUBECK PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairperson and its corporate seal, if any, to be hereunto affixed and attested by its Secretary, and has caused this Bond to be dated the day and year first written above.



Chairperson

ATTEST:



Secretary

~~SPECIMEN~~

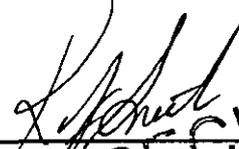
AR-1

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2012 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: June 22, 2012.

UNITED BANK, INC.,
as Registrar



Authorized Officer

SPECIMEN

AR-1
EXHIBIT A

RECORD OF ADVANCES SPECIMEN

<u>AMOUNT</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>DATE</u>
(1) \$160,665	June 22, 2012	(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 \$ _____

AR-1
EXHIBIT B

SPECIMEN

DEBT SERVICE SCHEDULE

Net Debt Service
Lubeck PSD
\$716,272
SRF
0% Interest Rate, 0.5% Administrative fee
40 Years from Closing Date

Dated Date 6/22/2012
Delivery Date 6/22/2012

Date	Principal	Interest	Total Debt Service	Admin Fee	Net Debt Service
3/1/2014					
6/1/2014	4,713		4,713	450.60	5,163.60
9/1/2014	4,713		4,713	450.60	5,163.60
12/1/2014	4,713		4,713	450.60	5,163.60
3/1/2015	4,713		4,713	450.60	5,163.60
6/1/2015	4,713		4,713	450.60	5,163.60
9/1/2015	4,713		4,713	450.60	5,163.60
12/1/2015	4,713		4,713	450.60	5,163.60
3/1/2016	4,713		4,713	450.60	5,163.60
6/1/2016	4,713		4,713	450.60	5,163.60
9/1/2016	4,713		4,713	450.60	5,163.60
12/1/2016	4,713		4,713	450.60	5,163.60
3/1/2017	4,713		4,713	450.60	5,163.60
6/1/2017	4,713		4,713	450.60	5,163.60
9/1/2017	4,713		4,713	450.60	5,163.60
12/1/2017	4,713		4,713	450.60	5,163.60
3/1/2018	4,713		4,713	450.60	5,163.60
6/1/2018	4,713		4,713	450.60	5,163.60
9/1/2018	4,713		4,713	450.60	5,163.60
12/1/2018	4,713		4,713	450.60	5,163.60
3/1/2019	4,713		4,713	450.60	5,163.60
6/1/2019	4,713		4,713	450.60	5,163.60
9/1/2019	4,713		4,713	450.60	5,163.60
12/1/2019	4,713		4,713	450.60	5,163.60
3/1/2020	4,713		4,713	450.60	5,163.60
6/1/2020	4,713		4,713	450.60	5,163.60
9/1/2020	4,713		4,713	450.60	5,163.60
12/1/2020	4,713		4,713	450.60	5,163.60
3/1/2021	4,713		4,713	450.60	5,163.60
6/1/2021	4,713		4,713	450.60	5,163.60
9/1/2021	4,713		4,713	450.60	5,163.60
12/1/2021	4,713		4,713	450.60	5,163.60
3/1/2022	4,713		4,713	450.60	5,163.60
6/1/2022	4,713		4,713	450.60	5,163.60
9/1/2022	4,713		4,713	450.60	5,163.60
12/1/2022	4,713		4,713	450.60	5,163.60
3/1/2023	4,713		4,713	450.60	5,163.60

AR-1 SPECIMEN

Net Debt Service
Lubeck PSD
\$716,272
SRF

Date	Principal	Interest	Total Debt Service	Admin Fee	Net Debt Service
6/1/2023	4,713		4,713	450.60	5,163.60
9/1/2023	4,713		4,713	450.60	5,163.60
12/1/2023	4,713		4,713	450.60	5,163.60
3/1/2024	4,713		4,713	450.60	5,163.60
6/1/2024	4,713		4,713	450.60	5,163.60
9/1/2024	4,713		4,713	450.60	5,163.60
12/1/2024	4,713		4,713	450.60	5,163.60
3/1/2025	4,713		4,713	450.60	5,163.60
6/1/2025	4,713		4,713	450.60	5,163.60
9/1/2025	4,713		4,713	450.60	5,163.60
12/1/2025	4,713		4,713	450.60	5,163.60
3/1/2026	4,712		4,712	450.60	5,162.60
6/1/2026	4,712		4,712	450.60	5,162.60
9/1/2026	4,712		4,712	450.60	5,162.60
12/1/2026	4,712		4,712	450.60	5,162.60
3/1/2027	4,712		4,712	450.60	5,162.60
6/1/2027	4,712		4,712	450.60	5,162.60
9/1/2027	4,712		4,712	450.60	5,162.60
12/1/2027	4,712		4,712	450.60	5,162.60
3/1/2028	4,712		4,712	450.60	5,162.60
6/1/2028	4,712		4,712	450.60	5,162.60
9/1/2028	4,712		4,712	450.60	5,162.60
12/1/2028	4,712		4,712	450.60	5,162.60
3/1/2029	4,712		4,712	450.60	5,162.60
6/1/2029	4,712		4,712	450.60	5,162.60
9/1/2029	4,712		4,712	450.60	5,162.60
12/1/2029	4,712		4,712	450.60	5,162.60
3/1/2030	4,712		4,712	450.60	5,162.60
6/1/2030	4,712		4,712	450.60	5,162.60
9/1/2030	4,712		4,712	450.60	5,162.60
12/1/2030	4,712		4,712	450.60	5,162.60
3/1/2031	4,712		4,712	450.60	5,162.60
6/1/2031	4,712		4,712	450.60	5,162.60
9/1/2031	4,712		4,712	450.60	5,162.60
12/1/2031	4,712		4,712	450.60	5,162.60
3/1/2032	4,712		4,712	450.60	5,162.60
6/1/2032	4,712		4,712	450.60	5,162.60
9/1/2032	4,712		4,712	450.60	5,162.60
12/1/2032	4,712		4,712	450.60	5,162.60
3/1/2033	4,712		4,712	450.60	5,162.60
6/1/2033	4,712		4,712	450.60	5,162.60
9/1/2033	4,712		4,712	450.60	5,162.60
12/1/2033	4,712		4,712	450.60	5,162.60
3/1/2034	4,712		4,712	450.60	5,162.60

AR-1

Net Debt Service
Lubeck PSD
\$716,272
SRF

SPECIMEN

0% Interest Rate, 0.5% Administrative Fee
40 Years from Closing Date

Date	Principal	Interest	Total Debt Service	Admin Fee	Net Debt Service
6/1/2034	4,712		4,712	450.60	5,162.60
9/1/2034	4,712		4,712	450.60	5,162.60
12/1/2034	4,712		4,712	450.60	5,162.60
3/1/2035	4,712		4,712	450.60	5,162.60
6/1/2035	4,712		4,712	450.60	5,162.60
9/1/2035	4,712		4,712	450.60	5,162.60
12/1/2035	4,712		4,712	450.60	5,162.60
3/1/2036	4,712		4,712	450.60	5,162.60
6/1/2036	4,712		4,712	450.60	5,162.60
9/1/2036	4,712		4,712	450.60	5,162.60
12/1/2036	4,712		4,712	450.60	5,162.60
3/1/2037	4,712		4,712	450.60	5,162.60
6/1/2037	4,712		4,712	450.60	5,162.60
9/1/2037	4,712		4,712	450.60	5,162.60
12/1/2037	4,712		4,712	450.60	5,162.60
3/1/2038	4,712		4,712	450.60	5,162.60
6/1/2038	4,712		4,712	450.60	5,162.60
9/1/2038	4,712		4,712	450.60	5,162.60
12/1/2038	4,712		4,712	450.60	5,162.60
3/1/2039	4,712		4,712	450.60	5,162.60
6/1/2039	4,712		4,712	450.60	5,162.60
9/1/2039	4,712		4,712	450.60	5,162.60
12/1/2039	4,712		4,712	450.60	5,162.60
3/1/2040	4,712		4,712	450.60	5,162.60
6/1/2040	4,712		4,712	450.60	5,162.60
9/1/2040	4,712		4,712	450.60	5,162.60
12/1/2040	4,712		4,712	450.60	5,162.60
3/1/2041	4,712		4,712	450.60	5,162.60
6/1/2041	4,712		4,712	450.60	5,162.60
9/1/2041	4,712		4,712	450.60	5,162.60
12/1/2041	4,712		4,712	450.60	5,162.60
3/1/2042	4,712		4,712	450.60	5,162.60
6/1/2042	4,712		4,712	450.60	5,162.60
9/1/2042	4,712		4,712	450.60	5,162.60
12/1/2042	4,712		4,712	450.60	5,162.60
3/1/2043	4,712		4,712	450.60	5,162.60
6/1/2043	4,712		4,712	450.60	5,162.60
9/1/2043	4,712		4,712	450.60	5,162.60
12/1/2043	4,712		4,712	450.60	5,162.60
3/1/2044	4,712		4,712	450.60	5,162.60

AR-1

Net Debt Service
Lubeck PSD
\$716,272
SRF

SPECIMEN

Date	Principal	Interest	Total Debt Service	Admin Fee	Net Debt Service
6/1/2044	4,712		4,712	450.60	5,162.60
9/1/2044	4,712		4,712	450.60	5,162.60
12/1/2044	4,712		4,712	450.60	5,162.60
3/1/2045	4,712		4,712	450.60	5,162.60
6/1/2045	4,712		4,712	450.60	5,162.60
9/1/2045	4,712		4,712	450.60	5,162.60
12/1/2045	4,712		4,712	450.60	5,162.60
3/1/2046	4,712		4,712	450.60	5,162.60
6/1/2046	4,712		4,712	450.60	5,162.60
9/1/2046	4,712		4,712	450.60	5,162.60
12/1/2046	4,712		4,712	450.60	5,162.60
3/1/2047	4,712		4,712	450.60	5,162.60
6/1/2047	4,712		4,712	450.60	5,162.60
9/1/2047	4,712		4,712	450.60	5,162.60
12/1/2047	4,712		4,712	450.60	5,162.60
3/1/2048	4,712		4,712	450.60	5,162.60
6/1/2048	4,712		4,712	450.60	5,162.60
9/1/2048	4,712		4,712	450.60	5,162.60
12/1/2048	4,712		4,712	450.60	5,162.60
3/1/2049	4,712		4,712	450.60	5,162.60
6/1/2049	4,712		4,712	450.60	5,162.60
9/1/2049	4,712		4,712	450.60	5,162.60
12/1/2049	4,712		4,712	450.60	5,162.60
3/1/2050	4,712		4,712	450.60	5,162.60
6/1/2050	4,712		4,712	450.60	5,162.60
9/1/2050	4,712		4,712	450.60	5,162.60
12/1/2050	4,712		4,712	450.60	5,162.60
3/1/2051	4,712		4,712	450.60	5,162.60
6/1/2051	4,712		4,712	450.60	5,162.60
9/1/2051	4,712		4,712	450.60	5,162.60
12/1/2051	4,712		4,712	450.60	5,162.60
3/1/2052	4,713		4,713	450.60	5,163.60
	716,272		716,272	68,491.20	784,763.20

Note: Quarterly Admin Fee calculated based on 0.5% of bond value computed quarterly paid in equal quarterly payments reflecting a total administrative expense of \$68,491.20

AR-1
(Form of)

ASSIGNMENT

SPECIMEN

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:

BR-1



SPECIMEN

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
LUBECK PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2012 B
(WEST VIRGINIA CLEAN WATER SRF PROGRAM)

No. BR-1

\$2,000,000

KNOW ALL MEN BY THESE PRESENTS: The 22nd of June, 2012, that LUBECK PUBLIC SERVICE DISTRICT, a public service district, public corporation and political subdivision of the State of West Virginia in Wood 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 TWO MILLION DOLLARS (\$2,000,000), 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. This Bond shall bear no interest. The principal amounts will be deemed forgiven on the 30th day of June of the fiscal year in which advanced. The Bond shall be deemed no longer outstanding after the last advance is forgiven. This Bond shall not be subject to the CWSRF Administrative Fee.

This Bond shall bear no interest. Principal installments of this Bond are 100% forgivable as set forth in the Bond Purchase Agreement.

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 Bond Purchase Agreement by and among the Issuer, the Authority and the DEP, dated June 22, 2012.

This Bond is issued (i) to pay a portion of the costs of acquisition, construction and installation of improvements and extensions to the existing public sewer facilities of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of the Bonds of this Series (the "Bonds") and related costs. The existing public sewer 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

NUMBER

BR-SPECIMEN

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 June 14, 2012, as supplemented by a Supplemental Resolution duly adopted by the Issuer on June 14, 2012 (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 RESPECTS WITH THE ISSUER'S (1) SEWERAGE SYSTEM REVENUE BONDS, SERIES 1999 A (WEST VIRGINIA SRF PROGRAM), DATED MARCH 9, 1999, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$7,950,000; (2) SEWERAGE SYSTEM REVENUE BONDS, SERIES 1999 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED MARCH 9, 1999, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$2,000,000; (3) SEWER REVENUE BONDS, SERIES 2005 A (WEST VIRGINIA INFRASTRUCTURE FUND), DATED SEPTEMBER 27, 2005, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$7,879,443; (4) SEWER REVENUE BONDS, SERIES 2005 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED SEPTEMBER 27, 2005, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$2,411,178; (5) SEWER REVENUE BONDS, SERIES 2010 A (WEST VIRGINIA INFRASTRUCTURE FUND), DATED FEBRUARY 25, 2010, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$2,136,720; AND (6) SEWER REVENUE BONDS, SERIES 2012 A (WEST VIRGINIA CLAN WATER SRF PROGRAM) ISSUED SIMULTANEOUSLY HEREWITH IN THE ORIGINAL PRINCIPAL AMOUNT OF \$716,272, (THE "SERIES 2012 A BONDS") (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 Series 2012 A Bonds and the Prior Bonds, from any monies in the reserve account authorized to be created under the Bond Legislation for the Bonds (the "Series 2012 B Bonds Reserve Account") and unexpended proceeds of the Bonds. 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 an 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 monies in the Series 2012 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, if any, on the Bonds and all other obligations secured by a lien on or payable from such revenues prior to, on a parity with or junior to the Bonds, including the Series

BR-1 SPECIMEN

2012 A Bonds and the Prior Bonds; provided however, that so long as there exists in the Series 2012 B 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 or junior to the 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 United Bank, Inc., 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 monies, 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.

BR-1

IN WITNESS WHEREOF, LUBECK PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairperson and its corporate seal, if any, to be hereunto affixed and attested by its Secretary, and has caused this Bond to be dated the day and year first written above.


Chairperson
SPECIMEN

ATTEST:


Secretary
SPECIMEN

BR-1

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2012 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: June 22, 2012.

UNITED BANK, INC.,
as Registrar



Authorized Officer

BR-1

EXHIBIT A

SPECIMEN

RECORD OF ADVANCES

AMOUNT

DATE

AMOUNT

DATE

- (1) \$
- (2) \$
- (3) \$
- (4) \$
- (5) \$
- (6) \$
- (7) \$
- (8) \$
- (9) \$
- (10) \$
- (11) \$
- (12) \$
- (13) \$
- (14) \$
- (15) \$
- (16) \$
- (17) \$
- (18) \$

- (19) \$
- (20) \$
- (21) \$
- (22) \$
- (23) \$
- (24) \$
- (25) \$
- (26) \$
- (27) \$
- (28) \$
- (29) \$
- (30) \$
- (31) \$
- (32) \$
- (33) \$
- (34) \$
- (35) \$
- (36) \$

\$ _____

TOTAL

BR-1
(Form of)

SPECIMEN

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:

BOND REGISTER

2.9(A)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
LUBECK PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2012 A
(WEST VIRGINIA CLEAN WATER SRF PROGRAM)

<u>Bond Number</u>	<u>Principal Amount</u>	<u>Date of Bond</u>
No. AR-1	\$716,272	June 22, 2012

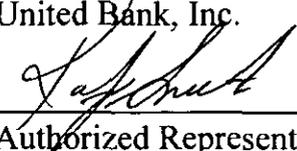
NO WRITING ON THIS BOND REGISTER EXCEPT BY THE REGISTRAR

Name of Registered Owner:

West Virginia Water Development Authority
180 Association Drive
Charleston, West Virginia 25311

Signature of Registrar:

United Bank, Inc.



Authorized Representative

BOND REGISTER

2.9 (B)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
LUBECK PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2012 B
(WEST VIRGINIA CLEAN WATER SRF PROGRAM)

<u>Bond Number</u>	<u>Principal Amount</u>	<u>Date of Bond</u>
No. BR-1	\$2,000,000	June 22, 2012

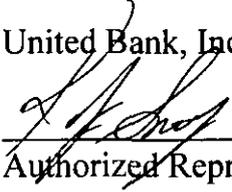
NO WRITING ON THIS BOND REGISTER EXCEPT BY THE REGISTRAR

Name of Registered Owner:

West Virginia Water Development Authority
180 Association Drive
Charleston, West Virginia 25311

Signature of Registrar:

United Bank, Inc.



Authorized Representative

LUBECK PUBLIC SERVICE DISTRICT

SEWERAGE SYSTEM REVENUE BONDS, SERIES 1999 A

SEWERAGE SYSTEM REVENUE BONDS, SERIES 1999 B

SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 1999

BOND AND NOTE RESOLUTION

LUBECK PUBLIC SERVICE DISTRICT
SEWERAGE SYSTEM REVENUE BONDS,
SERIES 1999 A AND SERIES 1999 B, AND
SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 1999

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Exhibit A - Project Description

BOND AND NOTE RESOLUTION

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING SEWERAGE SYSTEM OF THE LUBECK PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF, THROUGH THE ISSUANCE BY THE DISTRICT OF SEWERAGE SYSTEM REVENUE BONDS AND SEWERAGE SYSTEM BOND ANTICIPATION NOTES; AUTHORIZING THE ISSUANCE OF TWO SEPARATE SERIES OF SEWERAGE SYSTEM REVENUE BONDS OF THE DISTRICT IN AN AGGREGATE PRINCIPAL AMOUNT OF \$9,950,000 AND THE ISSUANCE OF ONE OR MORE SERIES OF SEWERAGE SYSTEM BOND ANTICIPATION NOTES OF THE DISTRICT IN AN AGGREGATE PRINCIPAL AMOUNT OF \$16,550,000, SUCH BONDS AND NOTES TO BE USED, ALONG WITH OTHER FUNDS AND MONEYS OF, OR AVAILABLE TO, THE DISTRICT WHICH MAY BE LAWFULLY EXPENDED FOR SUCH PURPOSES, TO FINANCE THE COST OF SUCH ACQUISITION AND CONSTRUCTION AND TO PAY OTHER COSTS IN CONNECTION THEREWITH; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE OWNERS OF SUCH BONDS AND NOTES; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS AND NOTES; APPROVING, RATIFYING AND CONFIRMING LOAN AGREEMENTS RELATING TO SUCH BONDS AND NOTES; AND ADOPTING OTHER PROVISIONS RELATED THERETO.

BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF LUBECK PUBLIC SERVICE DISTRICT:

ARTICLE I

STATUTORY AUTHORITY, DEFINITIONS AND FINDINGS

Section 1.01. Authority of this Resolution. This Resolution is enacted pursuant to the provisions of Chapter 16, Article 13A, Chapter 22C, Article 2 and Chapter

31, Article 15A of the Code of West Virginia, 1931, as amended, and other applicable provisions of law.

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

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

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

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

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

"Bond Construction Trust Fund" shall mean the fund created by Section 6.01 hereof.

"Bond Registrar" shall mean the bank or other entity to be designated as such in the Supplemental Resolution and its successors and assigns for the purpose of authentication and registration of the Bonds.

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

"Bonds" shall mean the Original Bonds and any pari passu additional Bonds hereafter issued within the terms, restrictions and conditions contained in this Resolution.

"Certificate of Authentication and Registration" means the certificate of authentication and registration on the Bonds in substantially the form set forth in Section 3.08 hereof, or, as appropriate, the certificate of authentication and registration on the Notes in substantially the form set forth in Section 4.05 hereof.

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

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

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

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

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

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

"Cost of Project" or "Costs" shall mean those costs described in Section 1.04(F) hereof to be a part of the cost of the acquisition and construction of the Project.

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

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

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

"Event of Default" means any event or occurrence specified in Section 9.01 hereof.

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

"Fiscal Year" shall mean each twelve month period beginning on July 1 and ending on the succeeding June 30.

"Fund" shall mean the "West Virginia Water Pollution Control Revolving Fund" established by the State, administered by the DEP and funded by capitalization grants awarded to the State pursuant to the federal Clean Water Act, as amended, for the purpose of establishing and maintaining a permanent perpetual fund for the construction, acquisition and improvement of wastewater treatment facilities.

"Government Obligations" means direct obligations of, or obligations the timely payment of the principal of and interest on which is guaranteed by, the United States of America, including (i) such obligations which have been stripped from their unmatured interest coupons, interest coupons stripped from such obligations and receipts or certificates evidencing payments from such obligations or interest coupons stripped from such obligations, (ii) evidences of ownership of a proportionate interest in specified direct obligations of, or specified obligations which are unconditionally and fully guaranteed by, the United States of America, which obligations are held by a bank or trust company organized and existing under the laws of the United States of America or any state thereof in the capacity of custodian and (iii) obligations, the sole source of the payment of the principal of and interest on which are obligations of the nature of those described in clause (i), which are irrevocably pledged for such purposes.

"Gross Revenues" shall mean the aggregate gross operating and non-operating revenues of the System determined in accordance with generally accepted accounting principles, after deduction of prompt payment discounts, if any, and reasonable provision for uncollectible accounts; provided, that "Gross Revenues" does not include any gains from the sale or other disposition of, or from any increase in the value of, capital assets (including Qualified Investments, as hereinafter defined) or any Tap Fees, as hereinafter defined, and for the furnishing by the Issuer of miscellaneous services.

"Independent Accountants" shall mean any certified public accountant or firm of certified public accountants which shall be retained by the Issuer as independent accountants for the System or for any other purpose except keeping the accounts of the System in the normal operation of its business and affairs.

"Infrastructure Council" means the West Virginia Infrastructure and Jobs Development Council or any successor thereto.

"Infrastructure Council Act" means Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended, and in effect on the date of the enactment of this Resolution.

"Issuer" or "District" means Lubeck Public Service District, a public corporation and political subdivision of the State.

"Loan Agreement" or "Loan Agreements" shall mean, as appropriate, (a) the Water Pollution Control Revolving Fund Loan Agreement by and among the Authority, the DEP and the Issuer providing for the purchase of the Series 1999 A Bonds from the Issuer

by the Authority; (b) the loan agreement to be entered into between the Authority and the Issuer providing for the purchase of the Series 1999 B Bonds from the Issuer by the Authority; and/or (c) the loan agreement to be entered into between the Authority and the Issuer providing for the purchase of the Series 1999 Bond Anticipation Notes from the Issuer by the Authority.

"Net Revenues" shall mean the balance of the Gross Revenues remaining after deduction of Operating Expenses, as hereafter defined.

"Notes" or "Series 1999 Notes" shall mean the \$16,550,000 in aggregate principal amount of the Issuer's Series 1999 Bond Anticipation Notes, to be issued for the purpose of paying a portion of the Costs of the acquisition and construction of the Project and for such other purposes permitted hereby and authorized by a resolution supplemental hereto.

"Notes Registrar" shall mean the bank or other entity to be designated as such in the Supplemental Resolution and its successors and assigns for the purpose of authentication and registration of the Notes.

"Operating Expenses" shall mean the reasonable, proper and necessary costs of repair, maintenance and operation of the System and includes, without limiting the generality of the foregoing, administrative, engineering, legal, auditing and insurance expenses (other than those capitalized as part of the Costs); fees and expenses of the Authority, DEP, the Infrastructure Council, fiscal agents, the Bond Registrar, the Notes Registrar and the Paying Agent (other than those capitalized as part of the Costs); payments to pension or retirement funds; taxes and such other reasonable operating costs and expenses as should normally and regularly be included under generally accepted accounting principles; provided, that "Operating Expenses" does not include payments on account of the principal of or redemption premium, if any, or interest on the Bonds; charges for depreciation, losses from the sale or other disposition of, or from any decrease in the value of, capital assets; and amortization of debt discount or such miscellaneous deductions as are applicable to prior accounting periods.

"Original Bonds" or "Bonds originally authorized hereby" or similar phrases shall mean the \$9,950,000 in aggregate principal amount of the Issuer's Sewerage System Revenue Bonds, Series 1999 A and Series 1999 B, to be issued for the purpose of paying a portion of the Costs of the acquisition and construction of the Project and for such other purposes permitted hereby and authorized by a resolution supplemental hereto.

"Outstanding" when used with reference to Bonds or Notes, as of any particular date, describes all such Bonds or Notes theretofore and thereupon having been authenticated and delivered except (i) any such Bond or Note canceled by the appropriate Registrar, at or prior to said date; (ii) any such Bond or Note for the payment of which moneys, equal to its principal amount, with interest to the date of maturity of any such Bond or Note, shall be in trust hereunder and set aside for such payment (whether upon or prior

to maturity); (iii) any such Bond or Note 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 or Noteholders, any such Bond or Note registered to the Issuer.

"Parity Bonds" shall mean additional Bonds issued under the provisions and within the limitations prescribed by Section 7.08 hereof, payable from Net Revenues on a parity with the Original Bonds.

"Paying Agent" shall mean the West Virginia Municipal Bond Commission or such other entity or authority as may be designated as a paying agent by the Issuer and the Supplemental Resolution with the written consent of the Authority and the DEP.

"Prior Obligations" shall mean the Issuer's 1992 Sewer Revenue Bonds in the approximate outstanding principal amount of \$75,193.43; the outstanding Step I Design Loan of the Parkersburg Sanitary Board in the approximate outstanding principal amount of \$10,544.41; and the Step II Design Loan of the Issuer in the approximate outstanding principal amount of \$178,981.65

"Program" shall mean the wastewater treatment facility acquisition, construction and improvement program coordinated through the capitalization grants program established under the Clean Water Act and administered by the DEP.

"Project" shall mean the acquisition and construction of certain extensions, additions, betterments and improvements to the System, a description of which is attached hereto as Exhibit A and incorporated herein by reference.

"PSC" means the Public Service Commission of West Virginia and any successor to the functions thereto.

"PSC Order" means the Recommended Decision of the PSC in Case No. 98-0009-W-CN, which was entered by an Administrative Law Judge of the PSC on July 31, 1998, and which became the Final Order of the PSC on August 11, 1998, granting the Issuer a Certificate of Convenience and Necessity to construct the Project and approving the financing thereof.

"Qualified Investments" shall mean and include any of the following:

- (a) Government Obligations;
- (b) Government Obligations which have been stripped of their unmatured interest coupons, interest coupons stripped from Government Obligations, and receipts or certificates evidencing payments from Government Obligations or interest coupons stripped from Government Obligations;

(c) Bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Banks for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Bank System; Export-Import Bank of the United States; Federal Land Banks; Government National Mortgage Association; the Tennessee Valley Authority; or the Washington Metropolitan Area Transit Authority;

(d) Any bond, debenture, note, participation certificate or other similar obligation issued by the Federal National Mortgage Association to the extent such obligation is guaranteed by the Government National Mortgage Association or issued by any other federal agency and backed by the full faith and credit of the United States of America;

(e) Time accounts (including accounts evidenced by time certificates of deposit, time deposits or other similar banking arrangements) which, to the extent not insured by the Federal Deposit Insurance Corporation ("FDIC"), shall be secured by a pledge of Government Obligations, provided, that said Government Obligations pledged either must mature as nearly as practicable coincident with the maturity of said time accounts or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said time accounts;

(f) Money market funds or similar funds whose only assets are investments of the type described in paragraphs (a) through (e) above;

(g) Repurchase agreements, fully secured by investments of the types described in paragraphs (a) through (e), above, with banks or national banking associations which are members of FDIC or with government bond dealers recognized as primary dealers by the Federal Reserve Bank of New York, provided, that said investments securing said repurchase agreements either must mature as nearly as practicable coincident with the maturity of said repurchase agreements or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said repurchase agreements, and provided further that the owner of such repurchase agreement shall have a prior perfected security interest in the collateral therefor; must have (or its agent must have) possession of such collateral; and such collateral must be free of all claims by third parties;

(h) The "consolidated fund" (or any distinct portion thereof) managed by the West Virginia Investment Management Board pursuant to Article 6, Chapter 12 of the Code of West Virginia, 1931, as amended; and

(i) Obligations of states or political subdivisions or agencies thereof, the interest on which is exempt from federal income taxation, and which are rated at least "A" by Moody's Investor Service, Inc., or Standard and Poor's Corporation.

"Registrar" shall mean, as appropriate, the Bond Registrar, the Notes Registrar or both.

"Regulations" shall mean the regulations promulgated under the Code.

"Renewal and Replacement Fund" shall mean the fund created by Section 5.01(2) hereof.

"Reserve Accounts" shall mean the Reserve Accounts created by Section 5.02(1)(a) hereof, and when preceded by a designated series of Bonds, shall mean the individual Reserve Account created for such series of Bonds.

"Reserve Requirement" shall mean, with respect to a designated series of Original Bonds and as of any date of calculation, the maximum amount of principal and interest, if any, which will become due on such series of the Bonds in the then current or any succeeding Fiscal Year.

"Resolution" means this resolution, as from time to time amended or supplemented.

"Revenue Fund" shall mean the fund created by or continued in Section 5.01(1) hereof.

"SRF Administrative Fee" shall mean any administrative fee required to be paid pursuant to the Loan Agreement.

"SRF Act" shall mean Chapter 22C, Article 2 of the Code of West Virginia, 1931, as amended, and in effect on the date of the enactment of this Resolution.

"SRF Loan Agreement" shall mean the Loan Agreement for the Series 1999 A Bonds.

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

"Secretary" means the Secretary of the Board of the Issuer.

"Series 1999 Bond Anticipation Notes Payment Fund" shall mean the fund established by Section 4.09 hereof and created in Section 5.02(3) hereof on account of the Notes.

"Series 1999 A Bonds" or "Series A Bonds" shall mean the \$7,950,000 in aggregate principal amount of Sewerage System Revenue Bonds, Series 1999 A, to be purchased by the Authority on behalf of the Fund.

"Series 1999 B Bonds" or "Series B Bonds" shall mean the \$2,000,000 in aggregate principal amount of Sewerage System Revenue Bonds, Series 1999 B, to be purchased by the Authority on behalf of the Infrastructure Council.

"Series 1999 Notes Loan Agreement" shall mean the loan agreement between the Authority and the Issuer with respect to the Series 1999 Notes.

"Sinking Funds" shall mean the Sinking Funds created by Section 5.02 hereof, and when preceded by a designated series of Bonds, shall mean the individual Sinking Fund created for such series of Bonds.

"State" shall mean the State of West Virginia.

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

"Surplus Revenues" shall mean the net revenues not required by this Resolution to be set aside and held for the payment of or security for the Bonds, including the reserve accounts and the Renewal and Replacement Fund.

"System" shall mean the existing wastewater collection and treatment system, both within and without said Issuer, and shall include any extensions, additions, betterments and improvements thereto.

Words importing singular number shall include the plural number in each case and vice versa, and words importing persons shall include firms and corporations. Words importing the masculine gender include all other genders.

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

The terms "herein", "hereunder", "hereby", "hereto", "hereof" and any similar terms refer to this Resolution; and the term "hereafter" means after the date of the adoption of this Resolution.

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

Section 1.03. Resolution Constitutes Contract. In consideration of the acceptance of the Original Bonds and Notes and any other bonds or notes authorized to be

issued hereunder by those who shall own the same from time to time, this Resolution shall be deemed to be and shall constitute a contract between the Issuer and such Bondholders and Noteholders, and the covenants and agreements herein set forth to be performed by said Issuer shall be for the equal benefit, protection and security of the legal owners of any and all of such Bonds and Notes, all of which shall be of equal rank and without preference, priority or distinction between any one Bond or Note and any other Bond or Note by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

Section 1.04. Findings. It is hereby found, determined and declared as follows:

A. The Issuer is a public corporation and political subdivision of the State in Wood County of said State. The Issuer now owns and operates a public wastewater collection and treatment system furnishing service to residences, premises and businesses residing or located within the territory of the Issuer. However, the Issuer has experienced numerous environmental problems in connection with the operation of the various package wastewater treatment plants within its territory, most of which are in poor condition and in need of repair. In addition, many residences within the service territory of the Issuer are served only by private septic systems, many of which are not working well. The deficiencies in the package plants and private septic systems described above are causing extreme environmental damage and serious health concerns.

B. It is deemed necessary and desirable for the health, welfare and safety of the inhabitants of the Issuer that there be acquired and constructed the Project, generally consisting of the acquisition and construction of approximately forty miles of sanitary sewer collection lines and appurtenances and a 1.5 million gallon per day wastewater treatment plant at an estimated cost of \$26,500,000, in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have been approved by DEP and are on file with the Issuer. The Project is generally described in Exhibit A attached hereto and incorporated by reference herein. The Project has an estimated useful life in excess of forty years.

C. The Issuer derives Net Revenues from the System. The Net Revenues are currently encumbered by two outstanding obligations. These obligations include the Issuer's 1992 Sewer Revenue Bonds in the approximate outstanding principal amount of \$75,193.43; the outstanding Step I Design Loan of the Parkersburg Sanitary Board in the approximate outstanding principal amount of \$10,544.41; and the Step II Design Loan of the Issuer in the approximate outstanding principal amount of \$178,981.65 (collectively, the "Prior Obligations"). The Issuer deems it advisable and hereby authorizes the payment in full of the outstanding principal and interest, if any, of the Prior Obligations from the proceeds of the Series 1999 B Bonds. Other than the Prior Obligations, the Net Revenues of the System are not encumbered in any manner.

D. The Issuer intends to permanently finance a portion of the costs of acquisition and construction of the Project and to pay in full the Prior Obligations through

the issuance of its revenue bonds to the Authority. The Issuer intends to temporarily finance a portion of the costs of acquisition and construction of the Project through the issuance of bond anticipation notes to the Authority.

E. The estimated revenues to be derived in each year after the enactment of this Resolution from the operation of the System will be sufficient to pay all the costs of the operation and maintenance of said System, the principal of and interest on each series of Original Bonds of the Issuer and all sinking fund and other payments provided for in this Resolution.

F. It is deemed necessary for the Issuer to issue its Original Bonds in the aggregate principal amount of \$9,950,000 to finance the costs of the acquisition and construction of the Project herein described through the Program and the Infrastructure Council and to finance the payment in full of the outstanding principal of and interest, if any, on the Prior Obligations. It is also deemed necessary for the Issuer to issue its Notes in the aggregate principal amount of not more than \$16,550,000 to temporarily finance a portion of the costs of acquisition and construction of the Project. Said costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor; interest on the Original Bonds prior to and during construction or acquisition and for six months after completion of construction of the Project, if any; engineering, fiscal and legal expenses; expenses for estimates of cost and revenue; expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise; administrative expense, any fees or expenses of the Authority, DEP and the Infrastructure Council, commitment fees, discount, initial fees for the service of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Original Bonds, and such other expenses as may be necessary or incidental to the financing herein authorized, the construction or acquisition of the Project and the placing of the same in operation, and the performance of the things herein required or permitted, in connection with any thereof; provided, that reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Original Bonds or the repayment of the indebtedness incurred by the Issuer for such purposes shall be deemed part of the Cost of the Project.

G. The Infrastructure Council has approved the Project and has authorized the Authority to purchase bonds of the Issuer to permanently finance a portion of the Costs of the Project and to issue bond anticipation notes of the Issuer to temporarily finance a portion of the Costs of the Project. It is in the best interests of the Issuer that its Series 1999 A Bonds, Series 1999 B Bonds and Series 1999 Bond Anticipation Notes be sold to the Authority pursuant to the terms and provisions of the respective Loan Agreements.

H. The Issuer has complied with all requirements of West Virginia law relating to authorization of the construction, acquisition and operation of the Project and issuance of the Original Bonds and Notes, or will have so complied prior to the issuance of any thereof, including, among other things, the obtaining of a Certificate of Convenience and Necessity from the PSC by Final Order, the time for rehearing and appeal of which has expired.

ARTICLE II

AUTHORIZATION OF EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO SYSTEM

Section 2.01. Authorization of Extensions, Additions, Betterments and Improvements. There is hereby authorized the acquisition and construction of the Project in accordance with plans and specifications prepared by the Consulting Engineers, approved by DEP, the Infrastructure Council and the Issuer, and on file in the office of the Board; provided, however, that such plans and specifications, and the construction and acquisition of the Project in accordance therewith, are subject to the specific authorization by the Board pursuant to a Supplemental Resolution.

Prior to issuing the Original Bonds for the acquisition and construction of the Project, the Issuer must receive acceptable bids or enter into contracts for the acquisition and construction of the Project, compatible with the financing plan submitted to the Program and the Infrastructure Council.

Section 2.02. Authorization of Payment of Prior Obligations. There is hereby authorized the payment in full of the Prior Obligations from the proceeds of the issuance of the Series 1999 B Bonds authorized hereunder.

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ARTICLE III

AUTHORIZATION, TERMS, EXECUTION AND REGISTRATION OF BONDS

Section 3.01. Authorization and Terms of Original Bonds. For the purposes of funding the reserve accounts, paying costs of issuance, financing a portion of the costs of the acquisition and construction of the Project not otherwise provided for, paying in full the outstanding principal of and interest, if any, on the Prior Obligations, or any one or more of such items, there shall be issued the Original Bonds of the Issuer. The Original Bonds shall be issued in two series, with the first series to be designated "Sewerage System Revenue Bonds, Series 1999 A" and so on, in an aggregate principal amount of \$9,950,000. Each series of Original Bonds shall be dated as of the date of delivery thereof, shall bear such interest, shall mature at such times, not exceeding forty (40) years after the date of issuance, and in such amount or amounts as shall be set out in the respective Loan Agreements. The Original Bonds shall bear no interest. The Series 1999 A Bonds shall be subject to the SRF Administrative Fee. The repayment of principal on the Original Bonds shall be as set forth on Schedule Y to the respective Loan Agreements. The Original Bonds shall contain such other terms, provisions, conditions and limitations, all as provided by this Resolution and the Loan Agreements and as the Board shall prescribe by a supplemental or amendatory resolution hereto adopted in connection with the sale of such Original Bonds.

The Original Bonds shall be payable as to principal, at the principal office of the Paying Agent, in any coin or currency which, on the dates of payment of principal is legal tender for the payment of public or private debts under the laws of the United States of America.

Unless otherwise provided in the Supplemental Resolution, the Original Bonds shall be issued in the form of a single bond for each series, fully registered to the Authority, with a record of advances and a payment record attached, representing the aggregate principal amount, and shall mature in principal installments, all as provided in the Loan Agreements and said Supplemental Resolution. Bonds shall be exchangeable at the option and expense of the Bondholder for other fully registered Bonds in aggregate principal amount equal to the amount of said Bonds then Outstanding, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of said Bonds; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

Subsequent series of Bonds may be issued in fully registered form, in the denomination of \$5,000 or any integral multiple thereof, all as determined by a Supplemental Resolution. Said Bonds shall be dated as of the date specified in said Supplemental Resolution.

Section 3.02. Execution of Bonds. Said Bonds shall be executed in the name of the Issuer by the Chairman and attested by the Secretary, and the seal of the Issuer shall be affixed thereto or imprinted thereon. In case any one or more of the officers who shall have signed or sealed any of the Bonds shall cease to be such officer of the Issuer before the Bonds so signed and sealed have been sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Bonds may be signed and sealed on behalf of the Issuer by such person as, at the actual time of the execution of such Bonds, shall hold the proper office in the Issuer, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

Section 3.03. Authentication and Registration. No Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Resolution unless and until the Certificate of Authentication and Registration on such Bond, substantially in the form set forth in Section 3.08, shall have been duly manually executed by the 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 Resolution. 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 3.04. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Bonds shall be, and have all of the qualities and incidents of, negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive owner, in accepting any of said Bonds shall be conclusively deemed to have agreed that such Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive owner shall further be conclusively deemed to have agreed that said Bonds shall be incontestable in the hands of a bona fide holder for value in the manner provided hereinafter in the form of said Bonds.

So long as any of the Bonds remain Outstanding, the Issuer, through the Bond Registrar, shall keep and maintain books for the registration and transfer of the Bonds.

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

In all cases in which the privilege of exchanging Bonds or transferring Bonds is exercised, Bonds shall be delivered in accordance with the provisions of this Resolution. All Bonds surrendered in any such exchanges or transfers shall forthwith be canceled by the 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 15 days preceding an interest payment date on the Bonds, or, in the case of any proposed redemption of Bonds, next preceding the date of the selection of Bonds to be redeemed.

Section 3.05. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue and deliver a new Bond in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Owner's furnishing the Issuer proof of ownership thereof and satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer may incur and the Bond Registrar shall authenticate the new Bond. All Bonds so surrendered shall be canceled by the Bond Registrar and held for the account of the Issuer. If such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the Issuer may pay the same, upon being indemnified as aforesaid, and, if such Bond be lost, stolen, or destroyed, without surrender therefor.

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

Section 3.06. Bonds not to be Indebtedness of the Issuer. The Bonds shall not, in any event, be or constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Net Revenues derived from the operation of the System as herein provided. No Owner or Owners of any of the Bonds shall ever have the right to compel the exercise of the taxing power, if any, of the Issuer to pay the Bonds or any interest thereon.

Section 3.07. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of all the Original Bonds shall be secured forthwith equally and ratably with each other by a first lien on the Net Revenues derived from the System. Such Net Revenues in an amount sufficient to pay the principal of and interest, if any, on and other payments for the Bonds and to make the payments into the sinking funds and the reserve accounts therein and in the Renewal and Replacement Fund hereinafter established are hereby irrevocably pledged to the payment of the principal of and any interest on the Bonds as the same become due.

Section 3.08. Form of Original Bonds. The text of each series of Original Bonds shall be of substantially the following tenor, with such omissions, insertions and

variations as may be necessary and desirable and authorized or permitted by this Resolution or any subsequent resolution adopted prior to the issuance thereof.

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[FORM OF THE SERIES 1999 A BOND]

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
COUNTY OF WOOD
LUBECK PUBLIC SERVICE DISTRICT
SEWERAGE SYSTEM
REVENUE BONDS, SERIES 1999 A
(WEST VIRGINIA SRF PROGRAM)

No. AR-1

\$_____

KNOW ALL MEN BY THESE PRESENTS: That LUBECK PUBLIC SERVICE DISTRICT, a public corporation and political subdivision organized and existing under the laws of the State of West Virginia, in Wood 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 is set forth on the Record of Advances attached hereto as Exhibit A and incorporated herein by reference, in quarterly installments on the 1st day of March, the 1st day of June, the 1st day of September and the 1st day of December in each year beginning ____, 200__, as set forth on the "Schedule of Debt Service" attached as Exhibit A hereto and incorporated herein by reference, with interest on each installment at the rate per annum set forth on said Exhibit A. The SRF Administrative Fee (as defined in the hereinafter described Bond Resolution) shall also be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing _____ 1, 200__, 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 principal, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the Paying Agent.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and as otherwise provided by the Loan Agreement dated December 29, 1998, among the Authority, the DEP and the Issuer.

This Bond is issued to permanently finance a portion of the costs of the acquisition and construction of certain extensions, additions, betterments and improvements to the existing system of the Issuer (the "Project," and together with any further extensions, additions, betterments and improvements thereto, the "System") and to pay certain costs of issuance hereof and related costs. This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13A of the West Virginia Code of 1931, as amended (the

"Act"), a Resolution duly enacted by the Issuer on the ___ day of _____, 1999, and a Supplemental Resolution adopted by the Issuer on the ___ day of _____, 1999 (collectively, the "Resolution"), and is subject to all the terms and conditions thereof. The Resolution provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Resolution.

THIS BOND RANKS EQUALLY AS TO LIEN AND SECURITY WITH THE ISSUER'S SEWERAGE SYSTEM REVENUE BONDS, SERIES 1999 B (THE "PARITY BONDS").

This Bond is payable only from and secured by a pledge of a first lien on the Net Revenues, on a parity with the lien of the Parity Bonds, to be derived from the operation of the System, moneys in the Series 1999 A Reserve Account created under the Resolution and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest thereon except from said special fund provided from the Net Revenues, the moneys in the Reserve Account and unexpended Bond proceeds. Pursuant to the Resolution, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the amount required to pay the maximum amount due in any ensuing fiscal year of principal of and interest on all obligations on a parity with the Bonds, payable from such revenues, provided however, that so long as there exists in the Series 1999 A Reserve Account an amount equal to the maximum amount of principal and interest which will become due on the Bonds and any bonds on a parity therewith in any succeeding fiscal year, respectively, an amount equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds, for the terms of which, reference is made to the Resolution. Remedies provided the registered owners of the Bonds are exclusively as provided in the Resolution, to which reference is here made for a detailed description thereof.

This Bond is transferable, as provided in the Resolution, only upon the books of _____, _____, West Virginia, (the "Registrar"), kept for that purpose at the office of the Registrar, by the registered owner or its attorney duly authorized in writing, upon the surrender of this Bond together, with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

This Bond, under the provision of the Act is, and has provided all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law, shall be applied solely to the payment of the Costs of the Project described in the Resolution or to the appurtenant sinking fund, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the owner of this Bond.

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

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

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, LUBECK PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairman and its corporate seal to be hereunto affixed or imprinted hereon and attested by its Secretary, and has caused this Bond to be dated the ___ day of _____, 1999.

[SEAL]

Chairman

ATTEST:

Secretary

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Original Bonds described in the within-mentioned Resolution and has been duly registered in the name of the registered owner set forth above.

By _____
Its Authorized Officer

Dated: _____

EXHIBIT A
RECORD OF ADVANCES

Amount	Date	Amount	Date
(1) \$		(7) \$	
(2) \$		(8) \$	
(3) \$		(9) \$	
(4) \$		(10) \$	
(5) \$		(11) \$	
(6) \$		(12) \$	

Total \$ _____

EXHIBIT B

SCHEDULE OF ANNUAL DEBT SERVICE

[Form of Assignment]

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto

the within Bond and does hereby irrevocably constitute and appoint _____,
Attorney to transfer the said Bond on the books kept for registration of the within Bond of
the said Issuer, with full power of substitution in the premises.

Dated: _____, ____.

In the presence of:

[FORM OF THE SERIES 1999 B BOND]

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
COUNTY OF WOOD
LUBECK PUBLIC SERVICE DISTRICT
SEWERAGE SYSTEM
REVENUE BONDS, SERIES 1999 B
(WEST VIRGINIA INFRASTRUCTURE FUND)

No. BR-1

\$ _____

KNOW ALL MEN BY THESE PRESENTS: That LUBECK PUBLIC SERVICE DISTRICT, a public corporation and political subdivision organized and existing under the laws of the State of West Virginia, in Wood 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"), on behalf of the West Virginia Infrastructure and Jobs Development Council, or registered assigns, the sum of _____ (\$ _____), or such lesser amount as is set forth on the Record of Advances attached hereto as Exhibit A and incorporated herein by reference, in quarterly installments on the 1st day of March, the 1st day of June, the 1st day of September and the 1st day of December in each year beginning _____, 200_, as set forth on the "Schedule of Debt Service" attached as Exhibit B hereto and incorporated herein by reference, with interest on each installment at the rate per annum set forth on said Exhibit B.

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 principal, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the Paying Agent.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and as otherwise provided by the Loan Agreement dated _____, 1999, between the Authority and the Issuer.

This Bond is issued to permanently finance a portion of the costs of the acquisition and construction of certain extensions, additions, betterments and improvements to the existing system of the Issuer (the "Project," and together with any further extensions, additions, betterments and improvements thereto, the "System"), to pay in full the outstanding principal of and interest, if any, on the Prior Obligations (as defined in the hereinafter defined Resolution) and to pay certain costs of issuance hereof and related costs. This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13A of the

West Virginia Code of 1931, as amended (the "Act"), a Resolution duly enacted by the Issuer on the ___ day of _____, 1999, and a Supplemental Resolution adopted by the Issuer on the ___ day of _____, 1999 (collectively called the "Resolution"), and is subject to all the terms and conditions thereof. The Resolution provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Resolution.

THIS BOND RANKS EQUALLY AS TO LIEN AND SECURITY WITH THE ISSUER'S SEWERAGE SYSTEM REVENUE BONDS, SERIES 1999 A (THE "PARITY BONDS").

This Bond is payable only from and secured by a pledge of a first lien on the Net Revenues, on a parity with the lien of the Parity Bonds, to be derived from the operation of the System, moneys in the Series 1999 B Reserve Account created under the Resolution and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest thereon except from said special fund provided from the Net Revenues, the moneys in the Reserve Account and unexpended Bond proceeds. Pursuant to the Resolution, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the amount required to pay the maximum amount due in any ensuing fiscal year of principal of and interest on all obligations on a parity with the Bonds, payable from such revenues, provided however, that so long as there exists in the Series 1999 B Reserve Account an amount equal to the maximum amount of principal and interest which will become due on the Bonds and any bonds on a parity therewith in any succeeding fiscal year, respectively, an amount equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds, for the terms of which, reference is made to the Resolution. Remedies provided the registered owners of the Bonds are exclusively as provided in the Resolution, to which reference is here made for a detailed description thereof.

This Bond is transferable, as provided in the Resolution, only upon the books of _____, _____, West Virginia, (the "Registrar"), kept for that purpose at the office of the Registrar, by the registered owner or its attorney duly authorized in writing, upon the surrender of this Bond together, with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

This Bond, under the provision of the Act is, and has provided all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law, shall be applied solely to the payment of the Costs of the Project described in the Resolution or to the appurtenant sinking fund, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the owner of this Bond.

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

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

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, LUBECK PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairman and its corporate seal to be hereunto affixed or imprinted hereon and attested by its Secretary, and has caused this Bond to be dated the ___ day of _____, 1999.

[SEAL]

Chairman

ATTEST:

Secretary

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Original Bonds described in the within-mentioned Resolution and has been duly registered in the name of the registered owner set forth above.

By _____
Its Authorized Officer

Dated: _____

EXHIBIT A
RECORD OF ADVANCES

<u>Amount</u>	<u>Date</u>	<u>Amount</u>	<u>Date</u>
(1) \$		(7) \$	
(2) \$		(8) \$	
(3) \$		(9) \$	
(4) \$		(10) \$	
(5) \$		(11) \$	
(6) \$		(12) \$	
		Total \$ _____	

EXHIBIT B

SCHEDULE OF ANNUAL DEBT SERVICE

[Form of Assignment]

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto

**the within Bond and does hereby irrevocably constitute and appoint _____,
Attorney to transfer the said Bond on the books kept for registration of the within Bond of
the said Issuer, with full power of substitution in the premises.**

Dated: _____, ____.

In the presence of:

Section 3.09. Sale of Original Bonds; Ratification and Execution of Loan Agreements. The Original Bonds shall be sold to the Authority, pursuant to the terms and conditions of the respective Loan Agreements. As a ratification of the resolution or resolutions of the Board authorizing execution of the Loan Agreements, the Chairman is specifically authorized and directed to execute the Loan Agreements and the Secretary is directed to affix the seal of the Issuer, attest the same and deliver the Loan Agreements to the Authority. The Loan Agreements are specifically incorporated into this Resolution.

Section 3.10. Certificate of Consulting Engineers. Prior to the issuance of the Original Bonds, the Issuer must obtain the certificate of the Consulting Engineers, in the form attached to the SRF Loan Agreement, to the effect that the Project has been designed as provided in the Program application and will be constructed in accordance with the approved plans, specifications and design as submitted to the DEP and the Authority, as the case may be, that the Project will be adequate for the purposes for which it was designed, and the funding plan as submitted to the DEP and the Authority is sufficient to pay the costs of the acquisition and construction of the Project. Prior to the issuance of the Original Bonds, the Issuer will provide to the Infrastructure Council such certificates of the Consulting Engineers as the Infrastructure Council shall require.

Section 3.11. Amended Schedule A Filing. Within 60 days following the Completion Date, the Issuer will file with the Authority its schedule, in substantially the form of "Amended Schedule A" to the SRF Loan Agreement, setting forth the actual costs of the Project and sources of funds used therefor.

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ARTICLE IV

AUTHORIZATION, TERMS, EXECUTION AND REGISTRATION OF BOND ANTICIPATION NOTES

Section 4.01. Authorization and Terms of Notes. In order to pay certain Costs of the Project pending receipt of proceeds from the issuance of additional sewerage system revenue bonds for the System or proceeds of additional grants (other than Infrastructure Council grants) received for the System, there shall be issued the Notes of the Issuer. The Notes shall be issued in one series, designated "Bond Anticipation Notes, Series 1999," in the aggregate principal amount of \$16,550,000, and numbered R-1. The Notes shall be dated as of the date of delivery thereof, shall mature at such time and in such amount or amounts as shall be set forth in the Series 1999 Notes Loan Agreement and the Supplemental Resolution. The Notes shall bear no interest. The repayment of principal on the Notes shall be as set forth on Schedule Y to the Series 1999 Notes Loan Agreement and the Supplemental Resolution. The Notes shall contain such other terms, provisions, conditions and limitations, all as provided by this Resolution and the Series 1999 Notes Loan Agreement and as the Board may prescribe by a supplementary or amendatory resolution hereto in connection with the sale of the Notes.

The Notes shall be payable as to principal at the principal office of the Paying Agent, in any coin or currency which, on the date of payment of principal is legal tender for the payment of public and private debts under the laws of the United States of America.

Unless otherwise provided in the Supplemental Resolution, the Notes shall be issued in the form of a single note, fully registered to the Authority, with a record of advances attached, all as provided in the Series 1999 Note Loan Agreement and said Supplemental Resolution. The Notes shall be exchangeable at the option and expense of the Bondholder for other fully registered Notes in aggregate principal amount equal to the amount of said Notes then Outstanding, with a maturity corresponding to the dates of maturity of the Notes; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

Section 4.02. Execution of Notes. The Notes shall be executed in the name of the Issuer by the Chairman and attested by the Secretary, and the seal of the Issuer shall be affixed thereto or imprinted thereon. In case any one or more of the officers who shall have signed or sealed the Notes shall cease to be such officer of the Issuer before the Notes so signed and sealed have been sold and delivered, such Notes may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Notes had not ceased to hold such office. The Notes may be signed and sealed on behalf of the Issuer by such person as, at the actual time of the execution of the Notes, shall hold the proper office in the Issuer, although at the date of the Notes such person may not have held such office or may not have been so authorized.

Section 4.03. Authentication and Registration. No Note shall be valid or obligatory for any purpose or entitled to any security or benefit under this Resolution unless and until the Certificate of Authentication and Registration on such Note, substantially in the form set forth in Section 4.08, shall have been duly manually executed by the Notes Registrar. Any such executed Certificate of Authentication and Registration upon any such Note shall be conclusive evidence that such Note has been authenticated, registered and delivered under this Resolution. The Certificate of Authentication and Registration on any Bond shall be deemed to have been executed by the Notes Registrar if manually signed by an authorized officer of the Notes Registrar.

Section 4.04. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Notes shall be, and have all of the qualities and incidents of, negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive owner, in accepting any of said Notes shall be conclusively deemed to have agreed that such Notes shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive owner shall further be conclusively deemed to have agreed that said Notes shall be incontestable in the hands of a bona fide holder for value in the manner provided hereinafter in the form of said Notes.

So long as the Notes remain Outstanding, the Issuer, through the Notes Registrar, shall keep and maintain books for the registration and transfer of the Notes.

The Notes shall be transferable only upon the books of the Notes Registrar, by the registered Owner thereof in person or by the Owner's attorney duly authorized in writing, upon surrender thereto together with a written instrument of transfer satisfactory to the Notes Registrar, duly executed by the registered Owner or the Owner's duly authorized attorney.

In all cases in which the privilege of exchanging the Notes or transferring the Notes is exercised, the Notes shall be delivered in accordance with the provisions of this Resolution. All Notes surrendered in any such exchanges or transfers shall forthwith be canceled by the Notes Registrar. For every such exchange or transfer of Bonds, the Notes 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 Note upon each exchange or transfer, and any other expenses of the Notes Registrar incurred in connection therewith, which sum or sums shall be paid by the Issuer.

Section 4.05. Notes Mutilated, Destroyed, Stolen or Lost. In case any Note shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue and deliver a new Note in exchange and substitution for such mutilated Note, upon surrender and cancellation of such mutilated Note, or in lieu of and substitution for the Note destroyed, stolen or lost, and upon the Owner's furnishing the Issuer proof of ownership thereof and satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer may incur and the Notes Registrar shall authenticate the new Note. All Notes so surrendered shall be

canceled by the Notes Registrar and held for the account of the Issuer. If such Note shall have matured or be about to mature, instead of issuing a substitute Note, the Issuer may pay the same, upon being indemnified as aforesaid, and, if such Note be lost, stolen, or destroyed, without surrender therefor.

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

Section 4.06. Notes are Special Obligations. The Notes shall be special obligations of the Issuer payable as to principal and interest, if any, solely from proceeds of any additional sewerage system revenue bonds or refunding revenue bonds of the Issuer which may be issued for the Project, any additional grants (other than Infrastructure Council grants) which the Issuer may receive for the Project and any additional bond anticipation notes which the Issuer may issue from time to time upon maturity of the Notes. If, on the fortieth anniversary of the date of issuance of the Notes, the Issuer has not (i) issued any additional sewerage system revenue bonds, refunding revenue bonds, or bond anticipation notes pursuant to the terms of this Resolution or (ii) received any additional grants (other than Infrastructure Council grants) for the Project, then the Infrastructure Council shall instruct the Authority to convert the outstanding principal amount of the Note or Notes then Outstanding to a grant and to cancel the Note or Notes then Outstanding; provided, that in no event shall an amount of the principal amount of the Notes greater than \$8,600,000 be converted to a grant.

The Notes do not and shall not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions. The general funds of the Issuer are not liable, and neither the full faith and credit nor the taxing power, if any, of the Issuer is pledged for the payment of the Notes. The Holder of the Notes shall never have the right to compel the forfeiture of any property of the Issuer. The Notes shall not be a debt of the Issuer, nor a legal or equitable pledge, charge, lien or encumbrance upon any property of the Issuer or upon any of its income, receipts or revenues except as may be set forth in the Supplemental Resolution.

Section 4.07. Covenants of Resolution Applicable to Notes. All covenants and restrictions contained in the Resolution, where appropriate and to the extent required by the Infrastructure Council, the Authority or the Series 1999 Notes Loan Agreement, are recognized and agreed by the Issuer to be applicable to the Notes.

Section 4.08. Form of Notes. The text of the Notes shall be of substantially the following tenor, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted by this Resolution or any subsequent resolution adopted prior to the issuance thereof.

[FORM OF THE BOND ANTICIPATION NOTE, SERIES 1999]

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
COUNTY OF WOOD
LUBECK PUBLIC SERVICE DISTRICT
SEWERAGE SYSTEM
BOND ANTICIPATION NOTE, SERIES 1999
(WEST VIRGINIA INFRASTRUCTURE FUND)

No. R-1

\$ _____

KNOW ALL MEN BY THESE PRESENTS: That LUBECK PUBLIC SERVICE DISTRICT, a public corporation and political subdivision organized and existing under the laws of the State of West Virginia, in Wood 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") on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Infrastructure Council"), or registered assigns, the principal sum of _____ (\$ _____), or such lesser amount as shall have been advanced hereunder and not previously repaid, as set forth on the Record of Advances attached hereto as Exhibit A and incorporated herein by reference, in annual installments of One Hundred Dollars (\$100) on the 1st day of _____ of each year beginning _____, 200_, with the entire outstanding principal sum payable in full on the ___ day of _____, 200_. Notwithstanding the foregoing, if the Program (as defined in the hereinafter-defined Resolution) is amended prior to the maturity date of the Notes to permit the Authority and the DEP to authorize and make loans under the Program for terms in excess of twenty years, the Authority, acting on behalf of the Infrastructure Council and upon providing reasonable written notice to the Issuer, may declare all or any portion of the outstanding principal amount of the Notes to be due and payable prior to maturity.

This Note shall bear no interest. The principal of this Note is payable in any coin or currency which on the date of payment thereof is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the Paying Agent.

This Note 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 under the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement dated _____, 1999, between the Issuer and the Authority, on behalf of the Infrastructure Council.

This Note is issued to temporarily finance a portion of the costs of the acquisition and construction of certain extensions, additions, betterments and improvements to the existing system of the Issuer (the "Project," and together with any further extensions, additions, betterments and improvements thereto, the "System") and to pay certain costs of issuance hereof and related costs. This Note is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13A of the West Virginia Code of 1931, as amended (the "Act"), a Resolution duly enacted by the Issuer on the ___ day of _____, 1999, and a Supplemental Resolution adopted by the Issuer on the ___ day of _____, 1999 (collectively called the "Resolution"), and is subject to all the terms and conditions thereof.

This Note is payable solely from proceeds of any additional sewerage system revenue bonds or refunding revenue bonds of the Issuer which may be issued for the Project, any additional grants (other than Infrastructure Council grants) which the Issuer may receive for the Project and any additional bond anticipation notes which the Issuer may issue upon maturity of the Note. Money from these sources shall be deposited in the Series 1999 Notes Payment Fund established under the Resolution for the prompt payment of the principal of this Note. If, on the fortieth anniversary of the date of issuance of the Notes, the Issuer has not (i) issued any additional sewerage system revenue bonds, refunding revenue bonds, or bond anticipation notes pursuant to the terms of the Resolution or (ii) received any additional grants (other than Infrastructure Council grants) for the Project, then the Infrastructure Council shall instruct the Authority to convert the outstanding principal amount of the Note or Notes then Outstanding to a grant and to cancel the Note or Notes then Outstanding; provided, that in no event shall an amount of the principal amount of the Notes greater than \$8,600,000 be converted to a grant.

This Note does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest thereon except from the sources set forth above. Pursuant to the Resolution, the Issuer has entered into certain covenants with the Authority, acting on behalf of the Infrastructure Council, for the terms of which reference is made to the Resolution.

This Note is transferable, as provided in the Resolution, only upon the books of _____, West Virginia, (the "Registrar"), kept for that purpose at the office of the Registrar, by the registered owner or its attorney duly authorized in writing, upon the surrender of this Note together, with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

This Note, under the provision of the Act is, and has provided all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this Note, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law, shall be applied solely to the payment of the Costs of the Project described in the Resolution, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the owner of this Note.

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 Note have existed, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Note, 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.

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

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IN WITNESS WHEREOF, LUBECK PUBLIC SERVICE DISTRICT has caused this Note to be signed by its Chairman and its corporate seal to be hereunto affixed or imprinted hereon and attested by its Secretary, and has caused this Note to be dated the ___ day of _____, 1999.

[SEAL]

Chairman

ATTEST:

Secretary

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Note is one of the Notes described in the within-mentioned Resolution and has been duly registered in the name of the registered owner set forth above.

By _____
Its Authorized Officer

Dated: _____

EXHIBIT A

RECORD OF ADVANCES

Amount	Date	Amount	Date
(1) \$		(7) \$	
(2) \$		(8) \$	
(3) \$		(9) \$	
(4) \$		(10) \$	
(5) \$		(11) \$	
(6) \$		(12) \$	
		Total \$	_____

[Form of Assignment]

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto

the within Note and does hereby irrevocably constitute and appoint _____
Attorney to transfer the said Note on the books kept for registration of the within Note of the
said Issuer, with full power of substitution in the premises.

Dated: _____, ____.

In the presence of:

Section 4.09. Application of Notes Proceeds. The moneys derived from the sale of the Notes shall be deposited with the Depository Bank in the Series 1999 Bond and Note Construction Trust Fund and applied solely to the payment of the costs of the Project and the costs of issuance and related costs.

Section 4.10. Establishment of Series 1999 Bond Anticipation Notes Payment Fund. There is hereby created and established with the Commission, to be held by the Commission separate and apart from all other funds or accounts of the Commission and from all other funds or accounts of the Issuer, the Series 1999 Bond Anticipation Notes Payment Fund. Upon receipt of proceeds of any grants (other than an Infrastructure Council grants) for the System, any sewerage system revenue bonds or revenue refunding bonds of the Issuer, or any additional bond anticipation notes which the Issuer may issue upon maturity of the Notes pursuant to Section 4.11 hereof, an amount of the proceeds of such grants, revenue bonds or additional bond anticipation notes sufficient to pay all or a portion of the entire outstanding principal of the Notes shall be deposited in the Series 1999 Bond Anticipation Notes Payment Fund. All moneys so deposited in the Series 1999 Bond Anticipation Notes Payment Fund shall be paid by the Commission to the Authority on the maturity date of the Notes, if such moneys have been so deposited prior to the maturity date of the Notes, or on an earlier date if so requested by the Authority on behalf of the Infrastructure Council and if so directed by the Issuer, in full or partial payment of the outstanding principal of the Notes. All moneys deposited in the Series 1999 Bond Anticipation Notes Payment Fund shall be held in trust for the Authority on behalf of the Infrastructure Council, and the Issuer shall have no rights with respect thereto except to receive the balance therein after payment of the Notes in full and the charges, if any, of the Paying Agent.

Any moneys remaining in the Series 1999 Bond Anticipation Notes Payment Fund, after the payment of the Notes in full and all charges of the Paying Agent, shall be used as directed in writing by the Authority and the Infrastructure Council.

Section 4.11. Conversion of Notes to Permanent Financing and/or Additional Bond Anticipation Notes.

A. In the event proceeds of any grants (other than Infrastructure Council grants) for the Project, any sewerage system revenue bonds or revenue refunding bonds of the Issuer or any other obligations of the Issuer issued subsequent to the issuance of the Notes are not sufficient or available on a timely basis to pay the Notes in full by the maturity date of the Notes, the Issuer covenants and agrees to issue and sell its revenue bonds and/or additional bond anticipation notes in an amount sufficient to pay the Notes in full pursuant to the requirements of this Section 4.11.

B. The Issuer covenants that no later than twelve months prior to the maturity date of the Notes, the Issuer will retain an Independent Certified Public Accountant to prepare a report (the "Customer Growth Report") setting forth the following information:

(i) the amount of additional Net Revenues of the System attributable to the annual customer growth experienced by the System during the period between the date of issuance of the Notes and the date of the report, taking into account any rebates required to be repaid to new customers for construction advances pursuant to applicable PSC regulations;

(ii) the existing maximum annual debt service requirements of all bonds, notes, and other obligations then Outstanding payable from the Net Revenues of the System, taking into account the periodic payments required to be made into the various sinking fund, reserve account, renewal and replacement fund payments required by this Resolution on account of the Bonds and by any other resolution authorizing the issuance of such bonds, notes and other obligations;

(iii) the increases in operation and maintenance expenses experienced by the System during the period between the date of issuance of the Notes and the date of the report, and the additional increases in operation and maintenance expenses that are expected to be experienced by the System as a result of future customer growth, the effects of inflation, or otherwise;

(iv) the rate coverage requirements established by Section 7.04 of this Resolution and any more stringent rate coverage requirements established in any resolution adopted after this Resolution authorizing the issuance of other bonds, notes or other obligations of the Issuer then Outstanding;

(v) the then-current rates and charges of the Issuer;

(vi) the sources of permanent financing potentially available to the Issuer during the succeeding six months, including, for each such source, the applicable principal amount available to be loaned to the Issuer, the applicable interest rate, the existence and amount of any administrative or similar fee to be imposed by the lender, and the term of the loan; and

(vii) whether, considering the factors stated in subdivisions (ii), (iii), (iv) and (v) above and the terms of the available sources of permanent financing stated in subdivision (vi) above, the additional Net Revenues of the System attributable to the annual customer growth experienced by the System stated in subdivision (i) are sufficient to permit the Issuer to issue additional revenue bonds payable from the Net Revenues of the System to repay all or a portion of the Outstanding principal amount of the Notes and, if so, the principal amount of such additional revenue bonds that could be so issued.

No later than twelve months prior to the maturity date of the Notes, the Issuer will contact all available governmental funding sources to secure the information required to be set forth in subdivision (vi) above.

C. The Issuer will provide the Customer Growth Report to the Authority and the Infrastructure Council no later than ten and one-half months prior to the maturity date of the Notes. Based on its review of the Customer Growth Report, the Infrastructure Council will recommend that the Issuer take one or both of the following actions:

(i) that the Issuer issue additional revenue bonds, notes or other obligations of the System and that the proceeds of such additional revenue bonds, notes or other obligations be deposited in the Series 1999 Bond Anticipation Notes Payment Fund prior to the maturity date of the Notes to be applied to the payment of all or a portion of the Outstanding principal amount of the Notes; or

(ii) to the extent that the proceeds of such additional revenue bonds, notes or other obligations be deposited in the Series 1999 Bond Anticipation Notes Payment Fund will be sufficient to repay only a portion of the Outstanding principal amount of the Notes, that on the maturity date of the notes, the Issuer issue an additional bond anticipation note or notes to the Authority on behalf of the Infrastructure Council, containing such terms as the Authority and the Infrastructure Council may request, with an aggregate principal amount equal to the principal amount of the Notes not paid in full on the maturity date of the Notes.

D. Upon receipt of the Infrastructure Council's recommendations offered in response to the Customer Growth Report, the Issuer will take such actions as are necessary and convenient to implement the recommendations of the Infrastructure Council, including the adoption of a bond and/or note resolution, the issuance of additional revenue bonds, notes or other obligations payable from the Net Revenues of the System or the issuance of additional bond anticipation notes or both in principal amounts sufficient to convert all of the Outstanding principal amount of the Notes to permanent financing or additional bond anticipation notes.

E. Notwithstanding any other provision of this Resolution, if the Program is amended prior to the maturity date of the Notes to permit the Authority and the DEP to authorize and make loans under the Program for terms in excess of twenty years, the Authority, acting on behalf of the Infrastructure Council and upon providing reasonable written notice to the Issuer, may declare all or any portion of the outstanding principal amount of the Notes to be due and payable prior to maturity.

Section 4.12. Prohibition of Other Debt. So long as the Notes are outstanding, no bonds, notes or other evidences of indebtedness secured by the System or the proceeds of any grants, revenue bonds or bond anticipation notes for the System, shall be issued by the Issuer other than pursuant to Section 4.11 hereof without the prior written consent of the Authority and the Infrastructure Council.

Section 4.13. Investment of Funds. Pending application as provided above, any moneys held in the Series 1999 Bond and Note Construction Trust Fund on account of the proceeds of the Notes and in the Series 1999 Bond Anticipation Notes Payment Fund shall

be invested and reinvested by the Depository Bank or the Commission, as applicable, at the direction of the Issuer to the fullest extent possible under applicable laws, and to the extent practicable, in Qualified Investments having maturities consonant with the required use thereof.

The Depository Bank shall keep complete and accurate records of all funds, accounts and investments, and shall distribute to the Issuer, at least once a 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 Notes are Outstanding and as long thereafter as necessary to comply with the Code and assure the exclusion of interest, if any, on the Notes from gross income for federal income tax purposes.

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ARTICLE V

SYSTEM REVENUES AND APPLICATION THEREOF

Section 5.01. Establishment of Continuation of Funds and Accounts with Depository Bank. The following special funds or accounts are created with (or, if established by a resolution prior to this resolution, continued hereby) and shall be held by the Depository Bank:

- (1) Revenue Fund;
- (2) Renewal and Replacement Fund; and
- (3) Series 1999 Bond and Note Construction Trust Fund (with a separate subaccount to be established for each series of Original Bonds and for the Notes).

Section 5.02. Establishment of Funds and Accounts with Commission. The following special funds or accounts are hereby established with the Commission:

- (1) Series 1999 A Bonds Sinking Fund;
 - (a) Within the Series 1999 A Bonds Sinking Fund, the Series 1999 A Bonds Reserve Account;
- (2) Series 1999 B Bonds Sinking Fund;
 - (a) Within the Series 1999 B Bonds Sinking Fund, the Series 1999 B Bonds Reserve Account; and
- (3) Series 1999 Notes Payment Account.

Section 5.03. System Revenues; Flow of Funds. A. The entire Gross Revenues derived from the operation of the System shall be deposited upon receipt in the Revenue Fund. The Revenue Fund shall constitute a trust fund for the purposes provided in this Resolution and shall be kept separate and distinct from all other funds of the Issuer and the Depository Bank and used only for the purposes and in the manner therein and herein provided.

- (1) The Issuer shall, each month, transfer from the Revenue Fund an amount sufficient to pay current Operating Expenses of the System.
- (2) The Issuer shall next, on the first day of each month (i) commencing 4 months prior to the first date of payment of interest, if any, on the respective series of Bonds for which interest has not been capitalized, apportion and set apart out of the

Revenue Fund and remit to the Commission, for deposit in the respective Sinking Funds, a sum equal to 1/3rd of the amount of interest which will become due on the respective series of Bonds on the next ensuing quarterly interest payment date; **provided**, that, in the event the period to elapse between the date of such initial deposit in the respective Sinking Fund and the next quarterly interest payment date is less than 4 months, then such monthly payments shall be increased proportionately to provide, one month prior to the next quarterly interest payment date, the required amount of interest coming due on such date, and (ii) on the first day of each month, commencing 4 months prior to the first date of payment of principal on the respective series of Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the respective Sinking Funds, a sum equal to 1/3rd of the amount of principal which will mature and become due on the respective series of Bonds on the next ensuing quarterly principal payment date; **provided** that, in the event the period to elapse between the date of such initial deposit in the respective Sinking Fund and the next quarterly principal payment date is less than 4 months, then such monthly payments shall be increased proportionately to provide, one month prior to the next quarterly principal payment date, the required amount of principal coming due on such date. When additional series of Original Bonds are issued, the payment of interest and principal on said bonds shall be made simultaneously with the payments described in this Section 5.03A(2) and to the extent that Revenues are insufficient to make all of the payments, such payments shall be made, pro rata, among each series of Bonds.

(3) The Issuer shall next transfer from the Revenue Fund and pay to the Commission on the first day of each month, commencing 3 months prior to the first date of payment of principal of each respective series of Bonds, if not fully funded upon issuance of such series of Bonds, for deposit in the respective Reserve Account, an amount equal to 1/120 of the respective Reserve Requirement; **provided**, that no further payments shall be made into the respective Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the respective Reserve Requirement. When additional series of Original Bonds are issued, the payment of interest and principal on said bonds shall be made simultaneously with the payments described in this Section 5.03A(3) and to the extent that Revenues are insufficient to make all of the payments, such payments shall be made, pro rata, among each series of Bonds.

(4) The Issuer shall next, from the moneys remaining in the Revenue Fund, on the first day of each month, transfer to the Renewal and Replacement Fund a sum equal to 2 1/2% of the Gross Revenues each month, exclusive of any payments for account of any Reserve Account. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in accordance with Article VIII hereof. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, emergency repairs, improvements or extensions to the System; **provided**, that any deficiencies in the Reserve Account (except to the extent such deficiency exists because the required payments into such account have not, as of the date of determination of a deficiency, funded such account to the

maximum extent required hereof) shall be promptly eliminated with moneys from the Renewal and Replacement Fund.

Moneys in the respective Sinking Funds shall be used only for the purposes of paying principal of and interest on the respective series of Bonds as the same shall become due. Moneys in the Reserve Account in the respective Sinking Funds shall be used only for the purpose of paying principal of or interest on the respective series of Bonds, as the same shall come due, when other moneys in the respective Sinking Fund are insufficient therefor, and for no other purpose. Except for the funds required to be deposited in the Rebate Fund, all investment earnings on moneys in the respective Reserve Accounts shall be transferred, not less than once each year, to the respective Bond Construction Trust Funds prior to completion of the Project and thereafter, pro rata, to the respective Sinking Funds.

Any withdrawals from the Reserve Accounts which result in a reduction in the balance of any Reserve Account to an amount below the applicable Reserve Requirement shall be subsequently restored from the first Net Revenues available after all required payments to the Sinking Funds for payment of debt service on the Bonds have been made in full.

B. As and when additional Bonds ranking on a parity with the Original Bonds are issued, provision shall be made for additional payments into the Sinking Fund sufficient to pay any interest on such additional Bonds and accomplish retirement thereof at maturity and to accumulate a balance in the Reserve Account in an amount equal to the Reserve Requirement.

The Commission is hereby designated as the fiscal agent for the administration of the Sinking Funds created hereunder, and all amounts required for said Sinking Funds shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein.

The payments into the Sinking Funds shall be made on the first day of each month, except that when the first day of any month shall be a Sunday or legal holiday then such payments shall be made on the next succeeding business day, and all such payments shall be remitted to the Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of this Resolution.

Moneys in the Reserve Accounts shall be invested and reinvested by the Commission in accordance with Article VIII hereof.

The Sinking Funds, including the Reserve Accounts therein, shall be used solely and only for, and are hereby pledged for, the purpose of servicing the respective series of Bonds and any additional Bonds ranking on a parity with them that may be issued and Outstanding under the conditions and restrictions hereinafter set forth.

C. Whenever all of the required and provided transfers and payments from the Revenue Fund into the several special funds, as hereinabove provided, are current and there remains in said Revenue Fund a balance in excess of the estimated amounts required to be so transferred and paid into the Sinking Funds, including the Reserve Accounts therein, and the Renewal and Replacement Fund during the following month or such longer period as shall be required by the Act, such excess shall be considered as surplus revenues (the "Surplus Revenue"). Surplus Revenues may be used for any lawful purpose of the System.

D. The Issuer shall remit from the Revenue Fund to the Commission or the Depository Bank, on such dates as the Commission or the Depository Bank, as the case may be, shall require, such additional sums as shall be necessary to pay any Depository Bank's charges then due.

Simultaneously with the deposits made to the Commission pursuant to Section 5.03A(2) and (3) the Issuer shall remit to the Commission the SRF Administrative Fee.

The Issuer shall complete the "monthly payment form," which form is attached to the Loan Agreement as Exhibit F, and submit a copy of said form along with a copy of its payment check to the Authority by the fifth day of each calendar month.

E. The moneys in excess of the maximum amounts insured by FDIC in the Revenue Fund and the Renewal and Replacement Fund shall at all times be secured, to the full extent thereof in excess of such insured sum, by Qualified Investments as shall be eligible as security for deposits of state and municipal funds under the laws of the State.

F. If, on any monthly payment date, the revenues are insufficient to place the required amount in any of the funds and accounts as hereinabove provided, the deficiency shall be made up in the subsequent payments, in addition to the payments which would otherwise be required to be made into the funds and accounts on the subsequent payment dates.

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

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

Section 5.04. Excess Bond and Note Proceeds. Upon completion of construction of the Project, as certified by the Consulting Engineers, and after all costs have been paid, any remaining proceeds of the Series 1999 A Bonds shall be used as directed in writing by the Authority and the DEP and any remaining proceeds of the Series 1999 B Bonds or the Notes shall be used as directed in writing by the Authority and the Infrastructure Council.

ARTICLE VI

APPLICATION OF ORIGINAL BOND AND NOTE PROCEEDS; FUNDS AND ACCOUNTS

Section 6.01. Application of Original Bond and Note Proceeds. From the moneys received from time to time from the sale of any or all of the Original Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. From the proceeds of the Bonds, there shall be deposited with the Commission in the respective Reserve Accounts the sums, if any, set forth in the Supplemental Resolution for funding of said Reserve Accounts.

B. The remaining moneys derived from the sale of the Original Bonds and the Notes shall be deposited by the Issuer, as received from time to time, in the Bond and Note Construction Trust Fund hereinafter established.

C. There is hereby created and established with the Depository Bank a special fund, designated the "Series 1999 Bond and Note Construction Trust Fund," with a separate subaccount to be established for each series of Original Bonds and for the Notes. The Depository Bank shall act as a trustee and fiduciary for the Bondholders and Noteholders with respect to the Bond and Note Construction Trust Fund and shall comply with all requirements with respect to the disposition of the Bond and Note Construction Trust Fund set forth in this Resolution. Moneys in the Bond and Note 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 Bond and Note Construction Trust Fund.

A. With respect to the proceeds of the Series 1999 A Bonds, on or before the Closing Date, the Issuer shall have delivered to the Authority a report listing the specific purposes for which the proceeds of the Series 1999 A Bonds will be expended and the disbursement procedures for such proceeds, including an estimated monthly draw schedule.

Except as provided in Section 6.01 hereof, disbursements from the Bond and Note Construction Trust Fund from proceeds of the Series 1999 A Bonds (except for the cost of issuance of the Series 1999 A Bonds which shall be made upon request of the Issuer) shall be made only after submission to, and approval from, the Authority and the DEP of the following:

- (1) A "Payment Requisition Form," attached to the SRF Loan Agreement,
and

(2) a certificate, signed by the Chairman and the Consulting Engineers, stating:

(A) That none of the items for which the payment is proposed to be made has formed the basis for any disbursements theretofore made;

(B) That each item for which the payment is proposed to be made is or was necessary in connection with the Project and constitutes a Cost of the Project;

(C) That each of such costs has been otherwise properly incurred;
and

(D) That payment for each of the items proposed is then due and owing.

B. With respect to the proceeds of the Series 1999 B Bonds and the Notes, on or before the Closing Date, the Issuer shall have delivered to the Infrastructure Council a report listing the specific purposes for which the proceeds of the Series 1999 B will be expended and the disbursement procedures for such proceeds, including an estimated monthly draw schedule.

With respect to the proceeds of the Series 1999 B Bonds and the Notes, each month the Issuer shall provide the Infrastructure Council with a requisition for costs incurred for the Project with such documentation as the Infrastructure Council shall from time to time require. Upon receipt of the proceeds from the Authority, the Issuer shall deposit the proceeds in the Bond and Note Construction Trust Fund and pay any approved costs. Payments for Costs of the Project shall be made monthly.

Except as provided in Section 6.01 hereof, disbursements from the Bond and Note Construction Trust Fund (except for the cost of issuance of the Series 1999 B Bonds or the Notes, which shall be made upon request of the Issuer) shall be made only after submission to, and approval from, the Authority and the Infrastructure Council, of a certificate, signed by the Chairman and the Consulting Engineers, stating that:

(A) That none of the items for which the payment is proposed to be made has formed the basis for any disbursements theretofore made;

(B) That each item for which the payment is proposed to be made is or was necessary in connection with the Project and constitutes a Cost of the Project;

(C) That each of such costs has been otherwise properly incurred;
and

(D) That payment for each of the items proposed is then due and owing.

C. In case any contract provides for the retention of a portion of the contract price, the Depository Bank shall disburse from the Bond and Note Construction Trust Fund only the net amount remaining after deduction of any such portion. All payments made from the Bond and Note 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 Bond and Note 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 Bond and Note Construction Trust Fund, including any subaccounts therein, shall be invested and reinvested in Qualified Investments at the written direction of the Issuer.

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ARTICLE VII

ADDITIONAL COVENANTS OF THE ISSUER

Section 7.01. General Covenants of the Issuer. All the covenants, agreements and provisions set forth in this Resolution shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any owner or owners of the Bonds or the Notes. In addition to the other covenants, agreements and provisions of this Resolution, the Issuer hereby covenants and agrees with the owners of the Bonds and the Notes as hereinafter provided in this Article VII. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of said Bonds or Notes, or the interest, if any, thereon, is Outstanding and unpaid.

Section 7.02. Bonds and Notes not to be Indebtedness of the Issuer. The Bonds and Notes shall not be nor constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Resolution. No Holder or Holders of any Bonds shall ever have the right to compel the exercise of the taxing power, if any, of the Issuer to pay said Bonds or Notes or the interest, if any, thereon.

Section 7.03. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of the Original Bonds issued hereunder shall be secured forthwith, equally and ratably, by a first lien on the Net Revenues derived from the operation of the System. The revenues derived from the System, in an amount sufficient to pay the principal of and interest on the Bonds herein authorized and to make the payments into the Sinking Funds, including the Reserve Accounts therein, and all other payments provided for in this Resolution are hereby irrevocably pledged, in the manner provided herein, to the payment of the principal of and interest on the Bonds and for the other purposes provided in the Resolution.

Section 7.04. Rates. Prior to issuance of the Original Bonds and the Notes, equitable rates or charges for the use of and service rendered by the System will be established in the manner and form required by law, and copies of such rates and charges so established will be continuously on file with the Secretary, which copies will be open to inspection by all interested parties. The schedule of rates and charges shall at all times be adequate to produce Gross Revenues from said System sufficient to pay Operating Expenses and to make the prescribed payments into the funds created hereunder. Such schedule of rates and charges shall be changed and readjusted, whenever necessary, so that the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and continuous performance of this covenant, with a margin for contingencies and temporary unanticipated reductions in income and revenues, the Issuer hereby covenants and agrees that the schedule of rates or charges from time to time in effect shall be sufficient, together with other revenues of the System, (i) to provide for all reasonable expenses of operation, repair and maintenance of the System, including any reserves required by the PSC Order or any supplemental or amendments thereto, and (ii) to leave a balance each Fiscal Year equal to at least 115% of the maximum amount required in any succeeding Fiscal Year for payment

of principal of and interest on the Bonds; provided that, in the event that amounts at least equal to or in excess of the respective Reserve Requirements are on deposit in the respective Reserve Accounts, such balance each Fiscal Year need only equal at least 110% of the maximum amount required in any succeeding Fiscal Year for payment of principal of and interest on the Original Bonds.

Section 7.05. Completion, Operation and Maintenance; Schedule of Cost. The Issuer will expeditiously complete the Project and will maintain the System in good condition and will operate the same as a revenue-producing enterprise in an efficient and economical manner, making such expenditures, for equipment and for renewal, repair and replacement as may be proper for the economical operation and maintenance thereof, from the revenues of said System, in the manner provided in the Resolution.

Upon completion of the Project, the Issuer shall file with the Authority a schedule, in substantially the form of Amended Schedule A to the Program loan application, setting forth the actual costs of the Project and sources of funds therefor.

Section 7.06. Sale of the System. The System may be sold, mortgaged, leased or otherwise disposed of only as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient fully to pay or redeem at or prior to maturity all the Bonds and Notes Outstanding. The proceeds from such sale, mortgage, lease or other disposition of the System shall immediately be remitted to the Commission for deposit in the appropriate Sinking Funds for the Bonds and the Series 1999 Notes Payment Fund, and the Issuer shall direct the Commission to apply such proceeds to the payment of principal and any interest, if any, at maturity of Bonds and Notes about to mature and to the redemption prior to maturity, at the earliest date permitted hereby and at the redemption price, of all other Outstanding Bonds and Notes. Any balance remaining after the redemption or payment of all the Bonds and Notes and the 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. The Board may then, if it be so advised, as evidenced by certificates of the Consulting Engineers, by resolution duly adopted, approve and concur in such finding and provide for the sale of such property if the amount to be received therefor is not in excess of ten thousand dollars (\$10,000), or authorize such sale, lease or other disposition of such property, upon public bidding, if the amount to be received therefor is in excess of ten thousand dollars (\$10,000) but not in excess of fifty thousand dollars (\$50,000). The proceeds of any such sale, lease or other disposition of such property, not in excess of \$10,000, shall be deposited in the Renewal and Replacement Fund. The proceeds derived from any such sale, lease or other disposition of such property, in excess of \$10,000 and not in excess of \$50,000, shall be remitted by the Issuer to the Commission for deposit, or a pro rata basis, in the respective Sinking Funds for

the Bonds and the Series 1999 Notes Payment Fund, and shall be applied only (i) to the redemption of Bonds of the last maturities then Outstanding or to the purchase of Bonds of the last maturities then Outstanding at prices not greater than the redemption price of such Bonds and (ii) to the payment prior to maturity of the Notes. Such payments of such proceeds into the respective Sinking Funds, the Series 1999 Notes Payment Fund or the Renewal and Replacement Fund shall not reduce the amounts required to be paid into said funds by other provisions of this Resolution.

No sale, lease or other disposition of the properties of the System shall be made by the Issuer if the proceeds to be derived therefrom shall be in excess of fifty thousand dollars (\$50,000) and be insufficient to pay or redeem, prior to maturity, all the Bonds and Notes then Outstanding, without the prior approval and consent in writing of the owners, or their duly authorized representatives, of sixty-six and two-thirds percent (66-2/3%) in amount of the Bonds and Notes then Outstanding. The Issuer shall prepare the form of such approval and consent for execution by the then owners of the Bonds and Notes, for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 7.07. Issuance of Other Obligations Payable out of Revenues and General Covenant Against Encumbrances. The Issuer shall not issue any other obligations whatsoever, except *pari passu* additional Bonds provided for in Section 7.08 hereof, payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Bonds; provided, however, that additional Parity Bonds may be issued as provided in Section 7.08 hereafter. All obligations hereafter issued by the Issuer payable from the revenues of the System, except such additional Parity Bonds, shall contain an express statement that such obligations are junior and subordinate as to lien on and source of and security for payment from such revenues and in all other respects to the Bonds to the extent such are Outstanding; provided, that no such subordinate obligations shall be issued unless all payments required to be made into the respective Reserve Accounts and the Renewal and Replacement Fund, at the time of the issuance of such subordinate obligations, have been made and are current.

In addition to the provisions and limitations stated in the preceding paragraph, the Issuer shall not issue any other obligations whatsoever payable from the revenues of the System so long as any portion of principal amount of the Notes or any additional bond anticipation notes issued for the purpose of renewing a portion of the original principal amount of the Notes is outstanding, unless the Issuer has secured the prior written consent of the Infrastructure Council and the Authority. The limitations imposed by the preceding sentence shall apply equally (i) in the case all or any portion of the aggregate principal amount of the Bonds is Outstanding and the obligations sought to be issued would rank prior to, equally, or junior and subordinate to such Outstanding Bonds as to lien on and source and security for payment with such Bonds; or (ii) in the case the aggregate principal amount of the Bonds has been paid in full or defeased pursuant to Section 10.01 hereof.

Except as provided above, the Issuer shall not create, or cause or permit to be created, any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or, except with respect to said pari passu additional Bonds, being on a parity with the lien of the Bonds, and the interest thereon, upon any of the income and revenues of the System pledged for payment of the Bonds and the interest thereon in this Resolution or upon the System or any part thereof.

The Issuer shall give the Authority, the Infrastructure Council and the DEP prior written notice of its issuance of any other obligations to be used for the Project, payable from the revenues of the System or from any grants for the Project, or any other obligations related to the Project or the System.

Section 7.08. Parity Bonds. No Parity Bonds payable out of the revenues of the System shall be issued after the issuance of any Bonds pursuant to this Resolution, except under the conditions and in the manner herein provided and with the prior written consent of DEP, the Infrastructure Council and the Authority.

No Parity Bonds shall be issued, except for the purpose of financing the costs of the acquisition or construction of extensions, additions, betterments or improvements to the System or refunding the entirety of one or more issues or series of bonds or both such purposes.

No Parity Bonds shall be issued at any time, however, unless and until there has been procured and filed with the Secretary a written statement by Independent Accountants, based upon the necessary investigation and certification by the Consulting Engineers, reciting the conclusion that the net revenues actually derived, subject to the adjustments hereinafter provided, from the System during any twelve (12) consecutive months within the eighteen (18) months immediately preceding the date of the actual issuance of such Parity Bonds, plus the estimated average increased annual net revenues to be received in each of the three (3) succeeding years after the completion of the improvements to be financed by such additional Parity Bonds, shall not be less than one hundred fifteen percent (115%) of the maximum debt service in any succeeding year on the following:

- (1) Each series of Original Bonds then Outstanding;
- (2) Any Parity Bonds theretofore issued pursuant to the provisions contained in this Resolution then Outstanding; and
- (3) The Parity Bonds then proposed to be issued.

The "estimated average increased annual net revenues to be received in each of the three (3) succeeding years," as that term is used in the computation provided in the above paragraph, shall refer only to the increased net revenues estimated to be derived from any increase in rates enacted by the Issuer, the time for appeal of which shall have expired

prior to the date of delivery of such Parity Bonds, and shall not exceed the amount to be stated in a certificate of the Consulting Engineers, which shall be filed in the office of the Secretary prior to the issuance of such additional Parity Bonds.

The Net Revenues actually derived from the System during the twelve (12) consecutive month period hereinabove referred to may be adjusted by adding to such net revenues such additional net revenues which would have been received, in the opinion of the Consulting Engineers and the Independent Accountants as stated in a certificate jointly made and signed by the Consulting Engineers and the Independent Accountants, on account of increased rates, rentals, fees and charges for the System enacted by the Issuer, the time for appeal of which shall have expired prior to issuance of such Parity Bonds.

Not later than simultaneously with the delivery of such Parity Bonds, the Issuer shall have entered into written contracts for the immediate acquisition or construction of such extensions, additions, betterments or improvements to the System which are to be financed by such Parity Bonds.

All the covenants and other provisions of this Resolution (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the owners of the Original Bonds and the owners of any Parity Bonds subsequently issued, from time to time, within the limitations of and in compliance with this Section. All the Bonds, regardless of the time or times of their issuance shall rank equally with respect to their respective liens on the revenues of the System, and their respective sources of and security for payment from said revenues, without preference of any Bond over any other. The Issuer shall comply fully with all the increased payments into the various funds created in this Resolution required for and on account of such additional Bonds, in addition to the payments required for Bonds theretofore issued pursuant to this Resolution.

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

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

Section 7.09. Insurance and Construction Bonds. The Issuer will carry such insurance and in such amounts as is customarily carried with respect to works and properties similar to the System, with a reputable insurance carrier or carriers, against loss or damage

by fire, explosion, hurricane, earthquake, cyclone, occupancy or other hazards and risks. The Issuer will require that each of its contractors and all subcontractors maintain, during the life of the construction contract, workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Authority, the Infrastructure Council and the DEP, so long as the Authority is the Owner of the Bonds. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance (fire and extended coverage) on a one hundred percent (100%) basis (completed value form) on the insurable portion of the Project, to protect the interests of the Issuer, the Authority, the prime contractor and all subcontractors as their interests may appear, in accordance with the Loan Agreements, during construction of the Project in the full insurable value thereof. In time of war, the Issuer shall also carry in said amount such insurance as may be available against loss or damage by the risks and hazards of war. The proceeds of all such insurance policies shall be disposed of as provided in the Resolution and otherwise shall be placed in the Renewal and Replacement Fund and used only for the repair and restoration of the damaged or destroyed properties or for the other purposes provided herein for said Renewal and Replacement Fund. The Issuer shall also carry liability insurance for damage or injury to persons or property in amounts adequate for such purposes and customarily carried with respect to works and properties similar to the System. The Issuer shall carry such other insurance as is required by the Authority, the Infrastructure Council and DEP and as set forth in the Loan Agreements, including but not limited to flood insurance and business interruption insurance, to the extent available at reasonable cost to the Issuer.

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

Section 7.10. Consulting Engineers. The Issuer shall provide and maintain competent and adequate resident engineering services satisfactory to the Authority, the Infrastructure Council and the DEP covering the supervision and inspection of the development and construction of the Project and bearing the responsibility of assuring that construction conforms to the plans, specifications and designs prepared by the Consulting Engineers. Such resident engineer shall certify to the Authority, the DEP and the Issuer, at the completion of construction, that construction is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies. The Issuer shall require the Consulting Engineers to submit Recipient As-Built Plans, as defined in the SRF Regulations, to it within 60 days of the completion of the Project. The Issuer shall notify the DEP in writing of such receipt. The Issuer shall submit a Performance Certificate, the form of which is attached as Exhibit A to the SRF Loan Agreement and is incorporated herein by reference, to the DEP within 60 days of the end of the first year after the Project is completed.

The Issuer shall require the Consulting Engineers to submit the final Operation and Maintenance Manual, as defined in the SRF Regulations, to the DEP when the Project

is 90% completed. The Issuer agrees that it will, at all times, provide operation and maintenance of the System to comply with any and all State and federal standards. The Issuer agrees that qualified operating personnel, properly certified by the State, will be employed before the Project is 25% complete and agrees that it will retain such a certified operator(s) to operate the System during the entire term of the SRF Loan Agreement. The Issuer shall notify the DEP in writing of the certified operator employed at the 25% completion stage.

The Issuer agrees that qualified operating personnel, properly certified by the State, will be retained to operate the System during the entire terms of the Loan Agreements.

Section 7.11. Compliance With Loan Agreements, Rules and Regulations. The Issuer hereby covenants and agrees to perform and satisfy all terms and conditions of the Loan Agreements and to comply with all applicable laws, rules and regulations issued by the Authority, the Infrastructure Council, the DEP or other State, federal or local bodies in regard to the construction of the Project and operation, maintenance and use of the System. Notwithstanding anything herein to the contrary, the Issuer will provide the DEP and the Infrastructure Council with copies of all documents submitted to the Authority.

Section 7.12. No Free Services. The Issuer will not render or cause to be rendered any free services, of any nature, by its System; and, in the event the Issuer or any department, agency, instrumentality, officer or employee of the Issuer shall avail itself or himself or herself of the facilities or services provided by the System or any part thereof, the same rates, fees or charges applicable to other customers receiving like services under similar circumstances shall be charged the Issuer and any such department, agency, instrumentality, officer or employee. Such charges shall be paid as they accrue, and the Issuer shall transfer from its general funds sufficient sums to pay such charges for service to any of its departments or properties. The revenues so received shall be deemed to be revenues derived from the operation of the System and shall be deposited and accounted for in the same manner as other revenues derived from such operation of the System.

Section 7.13. Enforcement of Collections. The Issuer will diligently enforce and collect all fees, rates, rentals or other charges for the services and facilities of the System and take all steps, actions and proceedings for the enforcement and collection of such fees, rates, rentals or other charges that shall become delinquent to the full extent permitted or authorized by the laws of the State of West Virginia. All such rates and charges, if not paid when due, shall become a lien on the premises served by the System.

Whenever any rates, rentals or charges for the services or facilities of the System, or of the waterworks system or sewerage system constituting a part thereof, shall remain unpaid for a period of thirty (30) days after the same shall become due and payable, the property and the owner thereof, as well as the user of the services and facilities, shall be delinquent until such time as all such rates and charges are fully paid. The Issuer further covenants and agrees that it will, to the full extent permitted by law, and any rules and regulations promulgated by the PSC applicable thereto, discontinue and shut off both the

water and sewerage services and facilities of the System to all delinquent users of the services and facilities of the System, or of the waterworks system or sewerage system constituting a part thereof, and will not restore either water or sewerage services of the System until all delinquent charges for the service and facilities of the System, or of the waterworks system or sewerage system constituting a part thereof, plus reasonable interest penalty charges for the restoration of service, have been fully paid.

Section 7.14. No Competing Franchise. To the extent allowable by law, the Issuer will not grant or cause, consent to or allow the granting of, any franchise or permit to any person, firm, corporation or body, or agency or instrumentality whatsoever for the providing of any services which would compete with services provided by the System.

Section 7.15. Books, Records and Facilities. The Issuer shall keep complete and accurate records of the cost of acquiring the Project site and the costs of acquiring, constructing and installing the Project. The Issuer shall permit the Authority, the Infrastructure Council, and the DEP, or their agents and representatives, to inspect all books, documents, papers and records relating to the Project and the System, at all reasonable times, for the purpose of audit and examination. The Issuer shall submit to the Authority, the Infrastructure Council, and the DEP such documents and information as they may reasonably require in connection with the acquisition, construction and installation of the Project, the operation and maintenance of the System and the administration of the Loan Agreements or Grant Receipts or other sources of financing for the Project.

The Issuer shall permit the Authority, the Infrastructure Council and the DEP, or their agents and representatives, to inspect all records pertaining to the operation of the System, at all reasonable times, following completion of construction of the Project and commencement of operation thereof, or, if the Project is an improvement to an existing system, at any reasonable time following commencement of construction.

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

The accounting system for the System shall follow currently accepted accounting practices in accordance with the rules and regulations of the PSC and the Act. Separate control accounting records shall be maintained by the Issuer. Subsidiary records as may be required shall be kept in the manner, on the forms, in the books, and along with other bookkeeping records as prescribed by the Issuer. The Issuer shall prescribe and institute the manner by which subsidiary records of the accounting system which may be installed remote from the direct supervision of the Issuer shall be reported to such agent of the Issuer as the Board shall direct.

The Issuer shall file with the Consulting Engineers and the Authority, the Infrastructure Council and DEP, and shall mail in each year to any owner or owners of Bonds requesting the same, an annual report containing the following:

(A) A statement of Gross Revenues, Operating Expenses, Net Revenues and Surplus Revenues derived from and relating to the System.

(B) A balance sheet statement showing all deposits in all the funds and accounts provided for in this Resolution with respect to said Bonds and the status of all said funds and accounts.

(C) The amount of any Bonds or other obligations Outstanding and secured by a lien on the Net Revenues of the System.

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be completely audited by Independent Accountants in compliance with the applicable OMB Circular, or any successors thereto, and the Single Audit Act, or any successors thereto, and shall mail upon request, and make available generally, the report of said Independent Accountants, or a summary thereof, to any owner or owners of Bonds issued pursuant to this Resolution, and shall submit said report to the Authority, the Infrastructure Council and the DEP. The report of said audit shall include a statement that the Issuer is in compliance with the terms and provisions of the Act and the Loan Agreements and that the Issuer's revenues are adequate to meet its operation and maintenance expenses and debt service requirements.

The Issuer shall, commencing on the date contracts are executed for the construction of the Project and for two years following the completion of the Project, each month complete a Monthly Financial Report and forward a copy by the 10th of each month to the Authority, the Infrastructure Council and the DEP.

The Issuer shall, during construction of the Project, complete Payment Requisition Forms, the form of which is attached to the SRF Loan Agreement as Exhibit C and is incorporated herein by reference, and forward a copy to the DEP in compliance with the Issuer's construction schedule.

The Issuer shall provide the DEP with all appropriate documentation to comply with any special conditions established by federal and/or state regulations as set forth in Exhibit E of the SRF Loan Agreement or as promulgated from time to time.

The Issuer shall permit the Authority, the Infrastructure Council or the DEP, or their agents and representatives, to enter and inspect the Project site and Project facilities at all reasonable times. Prior to, during and after completion of construction of the Project, the Issuer shall also provide the Authority, the Infrastructure Council and the DEP, or their agents and representatives, with access to the System site and System facilities as may be

reasonably necessary to accomplish all of the powers and rights of the Authority, the Infrastructure Council and the DEP with respect to the System pursuant to the Act.

Section 7.16. Operating Budget. The Issuer shall, annually, at least 45 days preceding the beginning of each Fiscal Year, prepare and adopt by resolution a detailed, balanced budget of the estimated revenues and expenditures for operation and maintenance of the System during the succeeding Fiscal Year and shall submit a copy of such budget to the Authority, the Infrastructure Council and the DEP within thirty days of the adoption thereof. No expenditures for the operation and maintenance of the System shall be made in any Fiscal Year in excess of the amounts provided therefor in such budget without a written finding and recommendation by the Consulting Engineers, which finding and recommendation shall state in detail the purpose of and necessity for such increased expenditures for the operation and maintenance of the System, and no such increased expenditures shall be made until the Board shall have approved such finding and recommendation by a resolution duly adopted. No increased expenditures in excess of 10% of the amount of such budget shall be made, except upon the further certificate of the Consulting Engineers that such increased expenditures are necessary for the continued operation of the System. The Issuer shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the Authority and to any Holder of any Bonds who shall file his address with the Issuer and request in writing that copies of all such budgets and resolutions be furnished him and shall make available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to any Holder of any Bonds or anyone acting for and in behalf of such Holder of any Bonds.

Section 7.17. Mandatory Connection. The mandatory use of the System is essential and necessary to protect and preserve the public health, comfort, safety, convenience and welfare of the inhabitants and residents of, and the economy of, the Issuer and to assure the rendering harmless of sewage and water-borne waste matter produced or arising within the territory served by the System. Accordingly, every owner, tenant or occupant of any house, dwelling or building located near the System, where sewage will flow by gravity or be transported by such other methods approved by the State Bureau of Public Health from such house, dwelling or building into the System, to the extent permitted by the laws of the State and the rules and regulations of the PSC shall connect with and use the System and shall cease the use of all other means for the collection, treatment and disposal of sewage and waste matter from such house, dwelling or building where there is such gravity flow or transportation by such other method approved by the State Bureau of Public Health and such house, dwelling or building can be adequately served by the System, and every such owner, tenant or occupant shall, after a 30 day notice of the availability of the System, pay the rates and charges established therefor.

Any such house, dwelling or building from which emanates sewage or water-borne waste matter and which is not so connected with the System is hereby declared and found to be a hazard to the health, safety, comfort and welfare of the inhabitants of the Issuer

and a public nuisance, which shall be abated to the extent permitted by law and as promptly as possible by proceedings in a court of competent jurisdiction.

Section 7.18. Statutory Mortgage Lien. For the further protection of the Bondholders, a statutory mortgage lien upon the System is granted and created by the Bond Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding and shall take effect immediately upon delivery of the Bonds and shall be for the benefit of all Owners of the Bonds.

Section 7.19. PSC Order. The Issuer shall comply with the conditions of the PSC Order and any supplement or amendment thereto.

Section 7.20. Covenant to Amend Resolution. The Issuer retains the right to make any amendments, insertions or deletions by Supplemental Resolution of this Resolution as the Issuer deems necessary prior to the issuance of the Bonds to meet the requirements of the Authority and the Infrastructure Council.

Section 7.21. Compensation of the Issuer. The Issuer hereby covenants and agrees that no compensation for policy direction shall be paid to the members of the Board of the Issuer in excess of the amount permitted by the Act. Payment of any compensation to any such member for policy direction shall not be made if such payment would cause the Net Revenues to fall below the amount required to meet all payments provided for herein, nor when there is a default in the performance of or compliance with any covenants or provision hereof.

Section 7.22. Securities Law Compliance. The Issuer will provide the Authority, in a timely manner, with any and all information that may be requested of it (including its annual audit report, financial statements, related information and notices of changes in usage and customer base) so that the Authority may comply with the provisions of SEC Rule 15c2-12 (17 CFR Part 240).

ARTICLE VIII

INVESTMENT OF FUNDS

Section 8.01. Investments. Any moneys held as a part of the funds and accounts created by this Resolution, other than the Revenue Fund, shall be invested and reinvested by the Commission or the Depository Bank, as the case may be, at the written direction of the Issuer in any Qualified Investments to the fullest extent possible under applicable laws, this Resolution, the need for such moneys for the purposes set forth herein and the specific restrictions and provisions set forth in this Section 8.01.

Except as specifically provided herein, any investment shall be held in and at all times deemed a part of the fund or account in which such moneys were originally held, including but not limited to those in the Bond and Note Construction Trust Fund, and used for the purpose of such fund or account. The interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. The investments held for any fund or account shall be valued at the lower of cost or then current market value, or at the redemption price thereof if then redeemable at the option of the Owner, including the value of accrued interest and giving effect to the amortization of discount and investments in the "consolidated fund" of the West Virginia Board of Investments shall be valued at par. The Commission or the Depository Bank, as the case may be, shall sell and reduce to cash a sufficient amount of such investments whenever the cash balance in any fund or account is insufficient to make the payments required from such fund or account, regardless of the loss on such liquidation. Such Depository Bank may make any and all investments permitted by this Section through its own bond department and shall not be responsible for any losses from such investments, other than for its own negligence or willful misconduct.

Notwithstanding the foregoing, any investments made pursuant to this Resolution shall comply with the guidelines of the Authority and the Infrastructure Council.

ARTICLE IX

DEFAULT AND REMEDIES

Section 9.01. Events of Default. Each of the following events shall constitute an "Event of Default" with respect to the Bonds:

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

(B) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part relating to such Bonds set forth in this Resolution, any supplemental Resolution, or in such Bonds, and such default shall have continued for a period of 30 days after the Issuer shall have been given written notice of such default by any bank or banking association holding any fund or account hereunder or an owner of such Bonds; or

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

Section 9.02. Remedies. Upon the happening and continuance of any Event of Default with respect to any Bonds, any Registered Owner of such Bond may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his or her rights and, in particular, (i) bring suit for any unpaid principal or interest then due, (ii) by mandamus or other appropriate proceeding, enforce all rights of such registered Owners, including the right to require the Issuer to perform its duties under the Act and the Resolution relating thereto, including but not limited to the making and collection of sufficient rates or charges for services rendered by the System, (iii) bring suit upon such Bonds, (iv) by action at law or bill in equity, require the Issuer to account as if it were the trustee of an express trust for the registered Owners of such Bonds, and (v) by action or bill in equity, enjoin any acts in violation of the Resolution with respect to such Bonds, or the rights of such registered Owners.

Section 9.03. Appointment of Receiver. Any Bondholder may, by proper legal action, compel the performance of the duties of the Issuer under the Resolution and the Act, including the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any default in the payment of interest on any Bonds when the same shall become due, or in the payment of the principal of any Bond or Bonds, either at the specified date of maturity thereof or at a date set for redemption thereof, or otherwise in the performance of any covenant contained in the Resolution other than as to such payment and such default shall continue for a period of thirty (30) days after written notice to the Issuer of such default, any Bondholder shall, in addition to all other remedies or rights, have the right, by appropriate

legal proceedings, to obtain the appointment of a receiver to administer the System on behalf of the Issuer, with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of the Bonds and any interest thereon, the deposits into the funds and accounts hereby established as herein provided and the payment of Operating Expenses of the System and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of the Resolution and the Act.

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

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

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

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

ARTICLE X

DEFEASANCE

Section 10.01. Defeasance of Bonds. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the Owners of all Bonds the principal thereof, and redemption premium, if applicable, and interest due or to become due thereon, at the times and in the manner stipulated therein and in the Resolution, then the pledge of Net Revenues and any other moneys and securities pledged under this Resolution and all covenants, agreements and other obligations of the Issuer to the Bondholders shall thereupon cease, terminate and become void and be discharged and satisfied.

Bonds for the payment of which either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the Paying Agent at the same or earlier time, shall be sufficient to pay, as and when due, the principal of and interest on the Bonds shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this Section. All Bonds shall, prior to the maturity thereof, be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section if there shall have been deposited with the Commission or its agents, either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with other moneys, if any, deposited with the Commission at the same time, shall be sufficient to pay when due the principal installments and interest due and to become due on said Bonds on and prior to the maturity dates thereof. Neither securities nor moneys deposited with the Commission pursuant to this Section nor principal or interest payments on any such securities shall be withdrawn or used for any purposes other than, and shall be held in trust for, the payment of the principal of and redemption premium, if applicable, on and interest on said Bonds; provided, that any cash received from such principal or interest payments on such securities deposited with the Commission, if not then needed for such purpose, shall, to the extent practicable, be reinvested in securities maturing at times and in amounts sufficient to pay when due the principal of and redemption premium, if applicable, on and interest to become due on said Bonds on and prior to such redemption date or maturity date thereof, as the case may be, and interest earned from such reinvestments shall be paid over to the Issuer, as received by the Commission, free and clear of any trust, lien or pledge. For the purpose of this Section, securities shall mean and include only Government Obligations.

ARTICLE XI
MISCELLANEOUS

Section 11.01. Modification or Amendment. No material modification or amendment of this Resolution or of any resolution amendatory hereof or supplemental hereto which would materially and adversely affect the rights of Bondholders or Noteholders shall be made without the consent in writing of the owners of two-thirds (2/3) or more in principal amount of the Bonds or Notes then Outstanding and to be affected by said modification; provided, however, that no change shall be made in the maturity of any Bond or Note or the rates of interest, if any, thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest, if any, as provided in this Resolution without the consent of the owner thereof. No amendment or modification shall be made which would reduce the percentage of the principal amount of Bonds or Notes required for consent to the above permitted amendments or modifications.

Section 11.02. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Resolution shall be held invalid, such invalidity shall not affect any of the remaining provisions of this Resolution.

Section 11.03. Table of Contents and Headings. The Table of Contents and the headings of the articles, sections and subsections hereof are for convenience only and shall neither control nor affect in any way the meaning or construction of any of the provisions hereof.

Section 11.04. Repeal of Conflicting Resolutions. All resolutions, resolutions and orders, or parts thereof, in conflict with this Resolution are, to the extent of such conflict, repealed.

Section 11.05. Covenant of Due Procedure. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the final enactment and passage of this Resolution do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Chairman, the Secretary and members of the Board were at all times when any actions in connection with this Resolution occurred, and are, duly in office and duly qualified for such office.

Section 11.06. Effective Date. This Resolution shall take effect immediately upon its adoption.

LUBECK PUBLIC SERVICE DISTRICT

[SEAL]


Chairman, Public Service Board


Secretary, Public Service Board


Treasurer, Public Service Board

CHASFS3:137494-2

CERTIFICATION

**Certified as a true copy of the Resolution adopted by the Public Service Board
of Lubeck Public Service District.**


Secretary, Public Service Board

[SEAL]

EXHIBIT A

Project Description

The Project consists of the construction of additions, betterments and improvements to the existing wastewater collection system of the Lubeck Public Service District and the construction of a new wastewater treatment facility. These improvements are intended to offer service to approximately 1,200 additional customers. It is expected that 15 existing wastewater treatment facilities will be eliminated as a result of the Project.

The proposed wastewater collection system improvements include construction of approximately 65,200 linear feet of six inch gravity sewers; 116,600 linear feet of eight inch gravity sewers; 6,900 linear feet of ten inch gravity sewers; 9,100 linear feet of 12 inch gravity sewers; 3,000 linear feet of 15 inch gravity sewers; 1,100 linear feet of 16 inch gravity sewers; 11,400 linear feet of 24 inch gravity sewers; 3,000 linear feet of 27 inch gravity sewers; and 3,600 linear feet of 30 inch gravity sewers. Collection system improvements also include approximately 912 manholes, three wastewater pumping stations, 2,800 linear feet of four inch force main, 14,600 linear feet of 16 inch force main, and 2,700 linear feet of 18 inch force main.

The proposed wastewater treatment plant is designed for an average flow of 1.5 million gallons per day (MGD). The treatment facility consists of a mechanical bar screen, grit removal, two 700,000 gallon oxidation ditches, two 251,000 gallon clarifiers, ultraviolet light disinfection, a 270,000 gallon aerobic digester, a belt filter press, an effluent flow meter, and other necessary appurtenances.

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNTS, DATES, MATURITIES, INTEREST RATE, PRINCIPAL PAYMENT SCHEDULES, SALE PRICES AND OTHER TERMS OF THE LUBECK PUBLIC SERVICE DISTRICT SEWERAGE REVENUE BONDS, SERIES 1999 A AND SERIES 1999 B, AND THE LUBECK PUBLIC SERVICE DISTRICT SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 1999; AUTHORIZING AND APPROVING THE SALE AND DELIVERY OF SUCH BONDS AND NOTES TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK FOR THE BONDS AND NOTES; MAKING PROVISIONS FOR THE PAYMENT OF THE BONDS AND NOTES; AND MAKING OTHER PROVISIONS AS TO THE BONDS AND NOTES.

WHEREAS, the Public Service Board (the "Board") of Lubeck Public Service District (the "District"), has duly and officially adopted a Bond and Note Resolution on February 25, 1999 (the "Resolution"), entitled:

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING SEWERAGE SYSTEM OF THE LUBECK PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF, THROUGH THE ISSUANCE BY THE DISTRICT OF SEWERAGE SYSTEM REVENUE BONDS AND SEWERAGE SYSTEM BOND ANTICIPATION NOTES; AUTHORIZING THE ISSUANCE OF TWO SEPARATE SERIES OF SEWERAGE SYSTEM REVENUE BONDS OF THE DISTRICT IN AN AGGREGATE PRINCIPAL AMOUNT OF \$9,950,000 AND THE ISSUANCE OF ONE OR MORE SERIES OF SEWERAGE SYSTEM BOND ANTICIPATION NOTES OF THE DISTRICT IN AN AGGREGATE PRINCIPAL AMOUNT OF \$16,550,000, SUCH BONDS AND NOTES TO BE USED, ALONG WITH OTHER FUNDS AND MONEYS OF, OR AVAILABLE TO, THE DISTRICT WHICH MAY BE LAWFULLY EXPENDED FOR SUCH PURPOSES, TO FINANCE THE COST OF SUCH ACQUISITION AND CONSTRUCTION AND TO PAY OTHER COSTS IN CONNECTION THEREWITH; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE OWNERS OF SUCH BONDS AND NOTES; AUTHORIZING

EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS AND NOTES; APPROVING, RATIFYING AND CONFIRMING LOAN AGREEMENTS RELATING TO SUCH BONDS AND NOTES; AND ADOPTING OTHER PROVISIONS RELATED THERETO.

WHEREAS, the Resolution provides for the issuance of the Lubeck Public Service District Sewerage System Revenue Bonds, Series 1999 A and Series 1999 B (the "Bonds"), in the aggregate principal amount of \$9,500,000, and the issuance of the Lubeck Public Service District Sewerage System Bond Anticipation Notes, Series 1999 (the "Notes"), and has authorized the execution and delivery of loan agreements relating to the Bonds and Notes, including all amendments and supplements (collectively, the "Loan Agreements"), by and among the District and the West Virginia Water Development Authority (the "Authority") on behalf of the West Virginia Division of Environmental Protection ("DEP") and the West Virginia Infrastructure and Jobs Development Council (the "Council"), all in accordance with Chapter 16, Article 13A, Chapter 22C, Article 2, and Chapter 31, Article 15A, of the West Virginia Code of 1931, as amended (collectively, the "Act");

WHEREAS, in the Resolution it is provided that the exact principal amounts, maturity dates, interest rates, interest and principal payment dates, sale prices and other terms of the Bonds and Notes should be established by a supplemental resolution pertaining to the Bonds and Notes; and that other matters relating to the Bonds and Notes be herein provided for;

WHEREAS, the Board deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted and that the exact principal amounts, the prices, the maturity dates, the redemption provisions, the interest rates and the interest and principal payment dates of the Bonds and Notes be fixed hereby in the manner stated herein, and that other matters relating to the Bonds and Notes be herein provided for; and

WHEREAS, capitalized terms not otherwise defined shall have the meanings given such terms in the Resolution;

NOW, THEREFORE, BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF LUBECK PUBLIC SERVICE DISTRICT AS FOLLOWS:

Section 1. Pursuant to the Resolution and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the:

(A) Lubeck Public Service District Sewerage System Revenue Bonds, Series 1999 A, of the District, originally represented by a single Bond, numbered AR-1, in the principal amount of \$7,950,000 (the "Series 1999 A Bonds"). The Series 1999 A Bonds shall be dated the date of delivery thereof, shall finally mature March 1, 2021, and shall bear no interest. The principal on the Series 1999 A Bonds is payable quarterly on March 1, June

1, September 1 and December 1 of each year, commencing June 1, 2001. The Series 1999 A Bonds shall be subject to redemption upon the written consent of the Authority and the DEP, upon payment of the redemption premium, if any, and upon continued compliance with the SRF Loan Agreement, so long as the Authority shall be the registered owner of the Series 1999 A Bonds, and shall be payable in installments of principal in the amounts as set forth in "Schedule Y," attached thereto and incorporated herein by reference. The District shall pay the 1% SRF Administrative Fee as provided in the SRF Loan Agreement. ____

(B) Lubeck Public Service District Sewerage System Revenue Bonds, Series 1999 B, of the District, originally represented by a single Bond, numbered BR-1, in the principal amount of \$2,000,000 (the "Series 1999 B Bonds"). The Series 1999 B Bonds shall be dated the date of delivery thereof, shall finally mature March 1, 2039, and shall bear no interest. The principal on the Series 1999 B Bonds is payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing June 1, 2001. The Series 1999 B Bonds shall be subject to redemption upon the written consent of the Authority and the Infrastructure Council, upon payment of the redemption premium, if any, and upon continued compliance with the applicable Loan Agreement, so long as the Authority shall be the registered owner of the Series 1999 B Bonds, and shall be payable in installments of principal in the amounts as set forth in "Schedule Y," attached thereto and incorporated herein by reference.

(C) Lubeck Public Service District Sewerage System Bond Anticipation Notes, the Series 1999, of the District, originally represented by a single Note, numbered R-1, in the principal amount of \$16,550,000 (the "Notes"). The Notes shall be dated the day of delivery thereof, shall be payable in annual installments of \$100.00 (\$100.00) on the first day of June of each year beginning June 1, 2001, with the entire outstanding principal sum payable in full on the 1st day of March, 2006. The Notes shall bear no interest.

Section 2. The Bonds and Notes shall each be issued as a fully registered Bond or Note, both as to principal and interest, if any, and shall be registered to the Authority.

Section 3. All other provisions relating to the Bonds and Notes and the text of the Bonds and Notes shall be in substantially the form provided in the Resolution.

Section 4. The District does hereby ratify the Loan Agreements, copies of which are incorporated herein by reference, and the execution and delivery of the Chairman of the Loan Agreements, and the performance of the obligations contained therein, on behalf of the District are hereby authorized, directed, ratified and approved. The District hereby affirms all covenants and representations made in the Loan Agreements and in the Applications to the DEP, the Council and the Authority. The price of the Bonds and Notes shall be 100% of par value, there being no interest accrued thereon, provided that the proceeds will be advanced from time to time as requisitioned by the District.

Section 5. The District does hereby appoint and designate One Valley Bank, National Association, Charleston, West Virginia, as Registrar (the "Registrar") for the Bonds

and Notes and does approve and accept the Registrar's Agreement to be dated the date of delivery of the Bonds and Notes, by and between the District and the Registrar, in substantially the form attached hereto. The execution and delivery by the Chairman of the Registrar's Agreement, and the performance of the obligations contained therein on behalf of the District, are hereby authorized, approved and directed.

Section 6. The District does hereby appoint and direct the West Virginia Municipal Bond Commission, Charleston, West Virginia, to serve as Paying Agent for the Bonds and Notes.

Section 7. The District does hereby appoint One Valley Bank, National Association, Lubeck Branch, Lubeck, West Virginia, as Depository Bank under the Resolution.

Section 8. The District has established with the Depository Bank a Reserve Account for each series of Bonds pursuant to the Resolution. The Reserve Accounts will be funded with equal payments on a monthly basis, in accordance with and pursuant to the schedule set forth in Section 5.03 of the Resolution, until such Reserve Accounts hold an amount equal to the maximum amount of principal and interest which will mature and become due on each series of Bonds in the then current or any succeeding year. Moneys in the Reserve Accounts and the Sinking Funds (established for the annual payment of principal and interest, if any) will be used solely to pay principal of and interest on the Bonds and will not be available to pay costs of the Project.

Section 9. The proceeds of the Bonds and Notes, as advanced from time to time, shall be deposited in or credited to the Series 1999 Bond and Note Construction Trust Fund, as received from time to time for payment of Costs of the Project, including costs of issuance of the Bonds and Notes.

Section 10. The Chairman and Secretary are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Bonds and Notes hereby and by the Resolution approved and provided for, to the end that the Bonds and Notes may be delivered on or about March 9, 1999, to the Authority pursuant to the Loan Agreements.

Section 11. The financing of the Project in part with proceeds of the Bonds and Notes is in the public interest, serves a public purpose of the District and will promote the health, welfare and safety of the residents of the District.

Section 12. The District hereby determines to invest all moneys in the funds and accounts established by the Resolution held by the Depository Bank until expended, in money market accounts secured by a pledge of Government Obligations, and therefore, the District hereby directs the Depository Bank to take such actions as may be necessary to cause such moneys to be invested in such money market accounts until further directed in writing

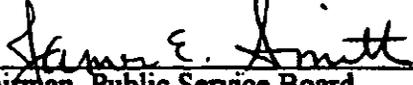
by the District. Moneys in the Sinking Funds, including the Reserve Accounts therein, shall be invested by the Municipal Bond Commission in the West Virginia Consolidated Fund.

Section 13. The District hereby approves the costs of issuance and authorizes the payment of the same.

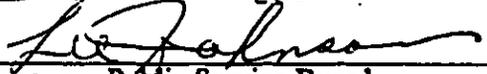
Section 14. This Supplemental Resolution shall be effective immediately following adoption hereof.

Dated: February 25, 1999

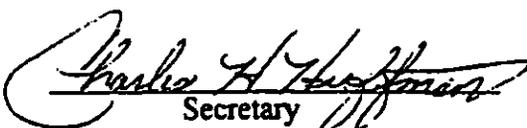
LUBECK PUBLIC SERVICE DISTRICT


Chairman, Public Service Board


Secretary, Public Service Board


Treasurer, Public Service Board

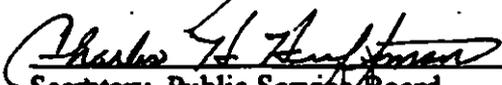
[SEAL]


Secretary

CHASFS3:139860

CERTIFICATION

Certified as a true copy of the Supplemental Resolution adopted by the Public Service Board of Lubeck Public Service District.


Secretary, Public Service Board

[SEAL]

CHASFS3:139860

LUBECK PUBLIC SERVICE DISTRICT

2.4

**Sewer Revenue Bonds, Series 2005 A
(West Virginia Infrastructure Fund),
Sewer Revenue Bonds, Series 2005 B
(West Virginia Infrastructure Fund)
and
Sewerage System Bond Anticipation Notes, Series 2005
(West Virginia Infrastructure Fund)**

BOND AND NOTE RESOLUTION

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LUBECK PUBLIC SERVICE DISTRICT

RESOLUTION AUTHORIZING THE REFUNDING OF THE SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 1999 (WEST VIRGINIA INFRASTRUCTURE FUND) OF LUBECK PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN \$7,879,443 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2005 A (WEST VIRGINIA INFRASTRUCTURE FUND); NOT MORE THAN \$2,411,178 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2005 B (WEST VIRGINIA INFRASTRUCTURE FUND); AND NOT MORE THAN \$6,278,679 IN AGGREGATE PRINCIPAL AMOUNT OF SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 2005 (WEST VIRGINIA INFRASTRUCTURE FUND); 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 THE LOAN AGREEMENTS 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 LUBECK 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 31, Article 15A of the Code of West Virginia, 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. Lubeck Public Service District (the "Issuer") is a public service district, a public corporation and political subdivision of the State of West Virginia in Wood County of said State.

B. The Issuer presently owns and operates a public sewerage system. However, for the health, safety, advantage, convenience and welfare of the inhabitants of the Issuer, the Issuer has heretofore acquired and constructed certain improvements and extensions to the existing public sewerage system of the Issuer, consisting of approximately 40 miles of sewer collection lines and a 1.5 million gallons per day wastewater treatment plant, together with all appurtenant facilities (collectively, the "Project") (the existing public sewerage facilities of the Issuer, 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 and filed with the Issuer.

C. The Issuer has heretofore temporarily financed a portion of the costs of the acquisition and construction of the Project through the issuance of its Sewerage System Bond Anticipation Notes, Series 1999 (West Virginia Infrastructure Fund), dated March 9, 1999, in the original aggregate principal amount of \$16,550,000, of which \$16,549,300 is presently outstanding (the "Prior Notes").

D. Pursuant to the Act, the Issuer is authorized and empowered to issue refunding revenue bonds for the purpose of refunding, retiring or refinancing the Prior Notes. The Issuer hereby determines that it is necessary and desirable to refund the Prior Notes.

E. The Issuer intends to refund the Prior Notes through the issuance of its revenue bonds and notes to the West Virginia Water Development Authority (the "Authority"), which administers the West Virginia Infrastructure Fund (the "Infrastructure Fund") for the West Virginia Infrastructure and Jobs Development Council (the "Council").

F. It is deemed necessary for the Issuer to issue its (i) Sewer Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund), in the aggregate principal amount of not more than \$7,879,443 (the "Series 2005 A Bonds"); (ii) Sewer Revenue Bonds, Series 2005 B (West Virginia Infrastructure Fund), in the aggregate principal amount of not more than \$2,411,178 (the "Series 2005 B Bonds"); and (iii) Sewerage System Bond Anticipation Notes, Series 2005 (West Virginia Infrastructure Fund), in the aggregate principal amount of not more than \$6,278,679 (the "Series 2005 Notes" or the "Notes"), to refund the Prior Notes and pay all costs relating thereto. 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 2005 Bonds prior to and during acquisition and construction of the Project and for a

period not exceeding six (6) months after completion of acquisition and construction of the Project; amounts which may be deposited in the respective Reserve Accounts (as hereinafter defined); costs of refunding the Prior Notes; 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 2005 Bonds and the Series 2005 Notes and such other expenses as may be necessary or incidental to the financing herein authorized, the cost of acquisition and construction of the Project, 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 2005 Bonds or the repayment of indebtedness incurred by the Issuer for such purposes shall be deemed Costs of the Project, as hereinafter defined.

G. The period of usefulness of the System after the refunding of the Prior Notes is not less than 40 years.

H. It is in the best interests of the Issuer that the Series 2005 Bonds and the Series 2005 Notes be sold to the Authority pursuant to the terms and provisions of the respective loan agreements by and between the Issuer and the Authority, on behalf of the Council, in forms satisfactory to the Issuer, the Authority and the Council (collectively, the "Loan Agreements"), all of which are approved hereby if not previously approved by resolution of the Issuer.

I. Upon the refunding of the Prior Notes, there are outstanding obligations of the Issuer which will rank on a parity with the Series 2005 Bonds as to liens, pledge and source of and security for payment, being the Sewerage System Revenue Bonds, Series 1999 A (West Virginia SRF Program), dated March 9, 1999, issued in the original aggregate principal amount of \$7,950,000 (the "Series 1999 A Bonds"); and Sewerage System Revenue Bonds, Series 1999 B (West Virginia Infrastructure Fund), dated March 9, 1999, issued in the original aggregate principal amount of \$2,000,000 (the "Series 1999 B Bonds") (collectively, the "Prior Bonds").

Prior to the issuance of the Series 2005 Bonds, the Issuer will obtain (i) the certificate of an Independent Certified Public Accountant stating that the coverage and parity tests of the Prior Bonds are met; and (ii) the written consent of the Registered Owners of the Prior Bonds to the issuance of the Series 2005 Bonds on a parity with the Prior Bonds. Other than the Prior Bonds, there are no other 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 Resolution.

The Series 2005 Notes shall be issued junior and subordinate to the Prior Bonds and the Series 2005 Bonds as to liens, pledge and source of and security for payment.

J. The estimated revenues to be derived in each year following the refunding of the Prior Notes from the operation of the System will be sufficient to pay all Operating Expenses of the System and the principal of and interest on the Series 2005 Bonds and the Prior Bonds, and all funds and accounts and other payments provided for herein, all as such terms are hereinafter defined.

K. The Issuer has complied with all requirements of West Virginia law and the Loan Agreements relating to authorization of the acquisition, construction and operation of the Project and the System and issuance of the Series 2005 Bonds and the Series 2005 Notes, or will have so complied prior to issuance of any thereof, including, among other things and without limitation, the approval of the financing hereof by the Council and the 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 2005 Bonds and the Series 2005 Notes or such final order will not be subject to appeal or rehearing.

L. The Project has been approved by the Council as required under Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended.

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Series 2005 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 2005 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.

In consideration of the acceptance of the Series 2005 Notes 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 2005 Notes, all which shall be of equal rank and without preference, priority or distinction between any one Note of a series and any other Notes 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 31, Article 15A of the Code of West Virginia, 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 2005 Bonds and the Series 2005 Notes, or any other agency of the State of West Virginia that succeeds to the functions of the Authority.

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

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

"Bond Registrar" means the bank or other entity to be designated as such for the Series 2005 Bonds 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 2005 Bonds, the Prior Bonds and, where appropriate, any bonds on a parity therewith subsequently authorized to be issued hereunder or by another resolution of the Issuer.

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

"Closing Date" means the date upon which there is an exchange of the Series 2005 Bonds and the Series 2005 Notes for the Prior Notes.

"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.

"Consulting Engineers" means Burgess & Niple, Inc., Parkersburg, West Virginia, 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.

"Costs" or "Costs of the Project" means those costs described in Section 1.02F hereof to be a part of the cost of refunding the Prior Notes.

"Council" means the West Virginia Infrastructure and Jobs Development Council or any other agency of the State of West Virginia that succeeds to the functions of the Council.

"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 monies received by the Issuer on account of any Grant or Grants 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) 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

(A) any security (within the meaning of Section 165(g)(2)(A) or (B) of the Code),

(B) any obligation,

(C) any annuity contract,

(D) any investment-type property, or

(E) in the case of a bond other than a private activity bond, any 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.

Except as provided in the following sentence, the term "Investment Property" does not include any tax-exempt bond. With respect to an issue other than an issue a part of which is a specified private activity bond (as defined in section 57(a)(5)(C) of the Code), the term "Investment Property" includes a specified private activity bond (as so defined).

"Issuer" means Lubeck Public Service District, a public service district, public corporation and political subdivision of the State of West Virginia in Wood County, West Virginia, and, unless the context clearly indicates otherwise, includes the Governing Body of the Issuer.

"Loan Agreements" or "Loan Agreement" means, collectively or individually, the Loan Agreements for each series of the Series 2005 Bonds and the Series 2005 Notes by and between the Issuer and the Authority, on behalf of the Council, the forms 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 2005 Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds, if any, deposited in the respective Series 2005 Bonds Reserve Accounts. 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 2005 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 as defined in Section 148(b) of the Code, that is not a purpose investment.

"Note Registrar" means the bank or other entity to be designated as such for the Series 2005 Notes in the Supplemental Resolution and its successors and assigns.

"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, 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, 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 Notes and as of any particular date, describes all Bonds or Notes theretofore and thereupon being authenticated and delivered, except (i) any Bond or Note cancelled by the Registrar at or prior to said date; (ii) any Bond or Note for the payment of which monies, 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 or Note 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 Registered Owners, any Bond or Note 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 2005 Bonds and the Series 2005 Notes in the Supplemental Resolution with the written consent of the Authority and the Council.

"Prior Bonds" means collectively, the Issuer's Sewerage System Revenue Bonds, Series 1999 A (West Virginia SRF Program), and Sewerage System Revenue Bonds, Series 1999 B (West Virginia Infrastructure Fund), as described in Section 1.02I hereof.

"Prior Notes" means the Issuer's Sewerage System Bond Anticipation Notes, Series 1999 (West Virginia Infrastructure Fund), as described in Section 1.02C hereof.

"Prior Resolution" means the resolution adopted by the Issuer on February 25, 1999, as supplemented by the supplemental resolution of the Issuer, authorizing the issuance of the Prior Bonds.

"Private Business Use" means use (directly or indirectly) in a trade or business carried on by any person other than a governmental unit; provided that use as a member of the general public shall not be taken into account.

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

"PSC" means the Public Service Commission of West Virginia and any successor to the functions thereof.

"PSC Order" means, collectively, the final order or orders of the PSC, approving the refunding of the Prior Notes through the issuance of the Series 2005 Bonds and the Series 2005 Notes and the rates of the System.

"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 or similar banking arrangements, fully secured by investments of the types described in paragraphs (a) through (e) above or fully insured by the FDIC, with member banks of the Federal Reserve system or 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 Code of West Virginia, 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.

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

"Registrar" means the Bond Registrar or the Note Registrar, designated in the Supplemental Resolution.

"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 the Prior Resolution and continued hereby.

"Reserve Accounts" means, collectively, the respective reserve accounts established for the Series 2005 Bonds and the Prior Bonds.

"Reserve Requirement" means, collectively, the respective amounts required to be on deposit in the Reserve Accounts for the Series 2005 Bonds and the Prior Bonds.

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

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

"Series 2005 Bonds" means, collectively, the Series 2005 A Bonds and the Series 2005 B Bonds of the Issuer, authorized by this Resolution.

"Series 2005 A Bonds" means the Sewer Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund), of the Issuer, authorized by this Resolution.

"Series 2005 A Bonds Reserve Account" means the Series 2005 A Bonds Reserve Account established by Section 5.02 hereof.

"Series 2005 A Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest, if any, which will become due on the Series 2005 A Bonds in the then current or any succeeding year.

"Series 2005 A Bonds Sinking Fund" means the Series 2005 A Bonds Sinking Fund established by Section 5.02 hereof.

"Series 2005 B Bonds" means the Sewer Revenue Bonds, Series 2005 B (West Virginia Infrastructure Fund), of the Issuer, authorized by this Resolution.

"Series 2005 B Bonds Reserve Account" means the Series 2005 B Bonds Reserve Account established by Section 5.02 hereof.

"Series 2005 B Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest, if any, which will become due on the Series 2005 B Bonds in the then current or any succeeding year.

"Series 2005 B Bonds Sinking Fund" means the Series 2005 B Bonds Sinking Fund established by Section 5.02 hereof.

"Series 2005 Notes" or the **"Notes"** means the Sewerage System Bond Anticipation Notes, Series 2005 (West Virginia Infrastructure Fund), of the Issuer, authorized by this Resolution.

"Series 2005 Notes Payment Fund" means the Series 2005 Notes Payment Fund established by Section 4.12 hereof.

"Sinking Funds" means, collectively, the respective sinking funds established for the Series 2005 Bonds and the Prior Bonds.

"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 2005 Bonds and the Series 2005 Notes; provided, that any matter intended by this Resolution to be included in the Supplemental Resolution with respect to the Series 2005 Bonds or the Series 2005 Notes, 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 Prior Bonds, the Series 2005 Bonds or any other obligations of the Issuer, including, without limitation, the Renewal and Replacement Fund, the Sinking Funds and the Reserve Accounts.

"System" means the complete public sewerage system of the Issuer, as presently existing in its entirety or any integral part thereof, and all sewerage facilities owned by the Issuer and all facilities and other property of every nature, real or personal, now or hereafter owned, held or used in connection with the sewerage system; and shall also include any and all extensions, additions, betterments and improvements thereto hereafter acquired or constructed for the sewerage system from any sources whatsoever.

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

“West Virginia Infrastructure Fund” means the West Virginia Infrastructure Fund established in accordance with Chapter 31, Article 15A, Section 9 of the Code of West Virginia, 1931, as amended and in effect on the date adopted hereof.

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; 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 REFUNDING OF PRIOR NOTES

Section 2.01. Authorization of Refunding of Prior Notes. There is hereby authorized and ordered the refunding of all the Prior Notes Outstanding on the Closing Date, through the exchange of the Prior Bonds with the Series 2005 Bonds and the Series 2005 Notes. Upon the refunding of the Prior Notes, the pledge of funds in favor of the Registered Owners of the Prior Notes imposed by the Prior Resolution and the monies in the funds and accounts created by the Prior Resolution pledged to the payment of the Prior Notes are hereby ordered terminated, discharged and released.

ARTICLE III

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

Section 3.01. Authorization of Bonds. For the purposes of capitalizing interest on the Series 2005 Bonds, refunding the Prior Notes, funding the reserve accounts for the Series 2005 Bonds, and paying certain costs of issuance of the Series 2005 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 negotiable Series 2005 Bonds of the Issuer. The Series 2005 Bonds shall be issued in two series. The Series 2005 A Bonds shall be issued as a single bond, designated as "Sewer Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund)," in an aggregate principal amount of not more than \$7,879,443, and shall have such terms as set forth hereinafter and in the Supplemental Resolution. The Series 2005 B Bonds shall be issued as a single bond, designated as "Sewer Revenue Bonds, Series 2005 B (West Virginia Infrastructure Fund), in an aggregate amount of not more than \$2,411,178, and shall have such terms as set forth hereinafter and in the Supplemental Resolution.

Section 3.02. Terms of Bonds. The Series 2005 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 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 respective Loan Agreements. The Series 2005 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 2005 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 respective Series 2005 Bonds shall be issued in the form of a single bond for each series, fully registered to the Authority, with a debt service schedule attached, representing the aggregate principal amount of each respective series of Series 2005 Bonds, and shall mature in principal installments, all as provided in the Supplemental Resolution. The Series 2005 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 have such terms as set forth in a Supplemental Resolution.

Section 3.03. Execution of Bonds. The Series 2005 Bonds shall be executed in the name of the Issuer by the Chairperson, 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 2005 Bonds shall cease to be such officer of the Issuer before the Series 2005 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 2005 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 2005 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 2005 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 2005 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 Registered Owner, in accepting the Series 2005 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 Registered Owner shall further be conclusively deemed to have agreed that such Bonds shall be incontestable in the hands of a bona fide registered owner for value.

So long as the Series 2005 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 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 canceled 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, register 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 Registered Owner's furnishing the Issuer proof of ownership thereof and satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer and the Bond Registrar may incur. All Bonds so surrendered shall be canceled 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 2005 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 Registered Owner of the Series 2005 Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer, if any, to pay the Series 2005 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 2005 Bonds shall be secured by a first lien on the Net Revenues derived from the System on a parity with the lien on the Net Revenues in favor of the Registered Owners 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 2005 Bonds and the Prior Bonds and to make all other payments provided for in the Bond Legislation and the Prior Resolution, 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 2005 Bonds to the Bond Registrar, and the Bond Registrar shall authenticate, register and deliver the Series 2005 Bonds to the original purchasers upon receipt of a request and authorization to the Bond Registrar on behalf of the Issuer, signed by an Authorized Officer, to authenticate, register and deliver the Series 2005 Bonds to the original purchasers.

Section 3.10. Form of Bonds. The text of the respective Series 2005 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 2005 A BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
LUBECK PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND, SERIES 2005 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

No. AR-1

\$ _____

KNOW ALL MEN BY THESE PRESENTS: That on this ___ day of _____, 2005, LUBECK PUBLIC SERVICE DISTRICT, a public service district, public corporation and political subdivision of the State of West Virginia in Wood 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 (\$ _____), in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing _____ 1, 200_, as set forth on the "Debt Service Schedule" attached as EXHIBIT A hereto and incorporated herein by reference.

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 Infrastructure and Jobs Development Council (the "Council"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement by and between the Issuer and the Authority, on behalf of the Council, dated _____, 2005.

This Bond is issued to refund the Issuer's Sewerage System Bond Anticipation Notes, Series 1999 (West Virginia Infrastructure Fund) (the "Prior Notes"). The existing public sewerage facilities of the Issuer 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 31, Article 15A of the Code of West Virginia, 1931, as amended (collectively, the "Act"), a Resolution duly adopted by the Issuer on _____, 2005, and a Supplemental Resolution duly adopted by the Issuer on _____, 2005.

_____, 2005 (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 this Bond 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 RESPECTS WITH THE ISSUER'S (1) SEWERAGE SYSTEM REVENUE BONDS, SERIES 1999 A (WEST VIRGINIA SRF PROGRAM), DATED MARCH 9, 1999, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$7,950,000; (2) SEWERAGE SYSTEM REVENUE BONDS, SERIES 1999 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED MARCH 9, 1999, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$2,000,000; AND (3) SEWER REVENUE BONDS, SERIES 2005 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED _____, 2005, ISSUED CONCURRENTLY HERewith IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$ _____ (COLLECTIVELY, THE "FIRST LIEN 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 First Lien Bonds and from monies in the reserve account created under the Bond Legislation for this Bond (the "Series 2005 A Bonds Reserve Account") and unexpended proceeds of this Bond. 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 an 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, if any, hereon, except from said special fund provided from the Net Revenues, the monies in the Series 2005 A Bonds Reserve Account and unexpended proceeds of this Bond. 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 this Bond and all other obligations secured by a lien on or payable from such revenues on a parity with this Bond, including the First Lien Bonds; provided however, that so long as there exists in the Series 2005 A Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on this Bond in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with this Bond, including the First Lien 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 this Bond for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of this Bond 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 (as defined in the Bond Legislation) 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 monies 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 refunding the Prior Notes as described in the Bond Legislation, and there shall be and hereby is created and granted a lien upon such monies, 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, LUBECK PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairperson and its corporate seal to be hereunto affixed and attested by its Secretary, and has caused this Bond to be dated as of the date first written above.

[SEAL]

Chairperson

ATTEST:

Secretary

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2005 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: _____, 2005.

as Registrar

Authorized Officer

EXHIBIT A

DEBT SERVICE SCHEDULE

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 2005 B BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
LUBECK PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND, SERIES 2005 B
(WEST VIRGINIA INFRASTRUCTURE FUND)

No. BR-1

\$ _____

KNOW ALL MEN BY THESE PRESENTS: That on this ____ day of _____, 2005, LUBECK PUBLIC SERVICE DISTRICT, a public service district, public corporation and political subdivision of the State of West Virginia in Wood 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 (\$ _____), in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing _____ 1, 200_, as set forth on the "Debt Service Schedule" attached as EXHIBIT A hereto and incorporated herein by reference.

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 Infrastructure and Jobs Development Council (the "Council"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement by and between the Issuer and the Authority, on behalf of the Council, dated _____, 2005.

This Bond is issued to refund the Issuer's Sewerage System Bond Anticipation Notes, Series 1999 (West Virginia Infrastructure Fund) (the "Prior Notes"). The existing public sewerage facilities of the Issuer 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 31, Article 15A of the Code of West Virginia, 1931, as amended (collectively, the "Act"), a Resolution duly adopted by the Issuer on _____, 2005, and a Supplemental Resolution duly adopted by the Issuer on _____, 2005 (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 this Bond 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 RESPECTS WITH THE ISSUER'S (1) SEWERAGE SYSTEM REVENUE BONDS, SERIES 1999 A (WEST VIRGINIA SRF PROGRAM), DATED MARCH 9, 1999, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$7,950,000; (2) SEWERAGE SYSTEM REVENUE BONDS, SERIES 1999 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED MARCH 9, 1999, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$2,000,000; AND (3) SEWER REVENUE BONDS, SERIES 2005 A (WEST VIRGINIA INFRASTRUCTURE FUND), DATED _____, 2005, ISSUED CONCURRENTLY HERewith IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$ _____ (COLLECTIVELY, THE "FIRST LIEN 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 First Lien Bonds and from monies in the reserve account created under the Bond Legislation for this Bond (the "Series 2005 B Bonds Reserve Account") and unexpended proceeds of this Bond. 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 an 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, if any, hereon, except from said special fund provided from the Net Revenues, the monies in the Series 2005 B Bonds Reserve Account and unexpended proceeds of this Bond. 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 this Bond and all other obligations secured by a lien on or payable from such revenues on a parity with this Bond, including the First Lien Bonds; provided however, that so long as there exists in the Series 2005 B Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on this Bond in the then current or any succeeding year, and in

the respective reserve accounts established for any other obligations outstanding on a parity with this Bond, including the First Lien 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 this Bond for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of this Bond 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 (as defined in the Bond Legislation) 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 monies 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 refunding the Prior Notes as described in the Bond Legislation, and there shall be and hereby is created and granted a lien upon such monies, 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, LUBECK PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairperson and its corporate seal to be hereunto affixed and attested by its Secretary, and has caused this Bond to be dated as of the date first written above.

[SEAL]

Chairperson

ATTEST:

Secretary

0

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2005 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: _____, 2005.

as Registrar

Authorized Officer

EXHIBIT A
DEBT SERVICE SCHEDULE

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 Agreements. The Loan Agreements for the Series 2005 Bonds, including all schedules and exhibits attached thereto, are hereby approved and incorporated into this Resolution. The Series 2005 Bonds shall be sold to the Authority, pursuant to the terms and conditions of the Loan Agreements. If not so authorized by previous resolution, the Chairperson is specifically authorized and directed to execute the Loan Agreements and the Secretary is directed to affix the seal of the Issuer, attest the same and deliver the Loan Agreements to the Authority, and any such prior execution and delivery is hereby authorized, approved, ratified and confirmed.

Section 3.12. Filing of Amended Schedule. The Issuer will file with the Council and the Authority a schedule for the Series 2005 Bonds and the Series 2005 Notes, the form of which will be provided by the Council, setting forth the sources and uses of funds therefor.

ARTICLE IV

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

Section 4.01. Authorization of Notes. For the purposes of refunding the Prior Notes and paying certain costs of issuance of the Notes and related costs, there shall be and hereby are authorized to be issued negotiable Notes of the Issuer. The Notes shall be issued as a single note, designated "Sewerage System Bond Anticipation Notes, Series 2005 (West Virginia Infrastructure Fund)," in the aggregate principal amount of not more than \$6,278,679, and shall have such terms as set forth hereinafter and in the Supplemental Resolution.

Section 4.02. Terms of Notes. The Notes 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 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 the Supplemental Resolution or as specifically provided in the Loan Agreement. The Notes shall be payable as to principal at the principal office of the Paying Agent, in any coin or currency which, on the date of payment of principal is legal tender for the payment of public and private debts under the laws of the United States of America.

Unless otherwise provided in the Supplemental Resolution, the Notes shall be issued in the form of a single note, fully registered to the Authority, all as provided in the Loan Agreement and the Supplemental Resolution. The Notes shall be exchangeable at the option and expense of the Registered Owner for other fully registered Notes in aggregate principal amount equal to the amount of said Notes then Outstanding, with a maturity corresponding to the dates of maturity of the Notes; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

Section 4.03. Execution of Notes. The Notes shall be executed in the name of the Issuer by the Chairperson, 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 Notes shall cease to be such officer of the Issuer before the Notes so signed and sealed have been sold and delivered, such Notes may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Notes had not ceased to hold such office. The Notes may be signed and sealed on behalf of the Issuer by such person as, at the actual time of the execution of the Notes, shall hold the proper office in the Issuer, although at the date of the Notes such person may not have held such office or may not have been so authorized.

Section 4.04. Authentication and Registration. No Note shall be valid or obligatory for any purpose or entitled to any security or benefit under this Resolution unless and until the Certificate of Authentication and Registration on such Note, substantially in the form set forth in Section 4.10, shall have been duly manually executed by the Notes Registrar. Any such executed Certificate of Authentication and Registration upon any such Note shall be conclusive evidence that such Note has been authenticated, registered and delivered under this Resolution. The Certificate of Authentication and Registration on any Note shall be deemed to have been executed by the Notes Registrar if manually signed by an authorized officer of the Notes Registrar, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all the Notes issued hereunder.

Section 4.05. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Notes 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 Registered Owner, in accepting any of the Notes shall be conclusively deemed to have agreed that such Notes 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 Registered Owner shall further be conclusively deemed to have agreed that such Notes shall be incontestable in the hands of a bona fide registered owner for value.

So long as the Notes remain Outstanding, the Issuer, through the Notes Registrar as its agent, shall keep and maintain books for the registration and transfer of the Notes.

The registered Notes shall be transferable only upon the books of the Notes 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 Notes Registrar, duly executed by the Registered Owner or his duly authorized attorney.

In all cases in which the privilege of exchanging the Notes or transferring the Notes is exercised, the Notes shall be delivered in accordance with the provisions of this Resolution. All Notes surrendered in any such exchanges or transfers shall forthwith be canceled by the Notes Registrar. For every such exchange or transfer of Notes, the Notes 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 Note upon each exchange or transfer, and any other expenses of the Notes Registrar incurred in connection therewith, which sum or sums shall be paid by the Issuer.

Section 4.06. Notes Mutilated, Destroyed, Stolen or Lost. In case any Note shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue, and the Notes Registrar shall, if so advised by the Issuer, authenticate, register and deliver a

new Note of the same series and of like tenor as the Notes so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Note, upon surrender and cancellation of such mutilated Note, or in lieu of and substitution for the Note destroyed, stolen or lost, and upon the Registered Owner's furnishing the Issuer proof of ownership thereof and satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer and the Notes Registrar may incur. All Notes so surrendered shall be canceled by the Notes Registrar and held for the account of the Issuer. If such Note shall have matured or be about to mature, instead of issuing a substitute Note, the Issuer may pay the same, upon being indemnified as aforesaid, and, if such Note be lost, stolen, or destroyed, without surrender therefor.

Section 4.07. Pledge of Security for the Notes. The Notes shall be payable solely from proceeds of any additional sewerage system revenue bonds or refunding revenue bonds of the Issuer, any additional grants (other than Council grants) which the Issuer may receive and any additional bond anticipation notes which the Issuer may issue from time to time upon maturity of the Notes.

Section 4.08. Notes Not to be Indebtedness of Issuer. The Notes shall be special obligations of the Issuer, payable solely from the sources set forth in Section 4.07 hereof. The Notes do not and shall not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation. The general funds of the Issuer are not liable, and neither the full faith and credit nor the taxing power, if any, of the Issuer is pledged for the payment of the Notes. The Registered Owner of the Notes shall never have the right to compel the forfeiture of any property of the Issuer. The Notes shall not be a debt of the Issuer, nor a legal or equitable pledge, charge, lien or encumbrance upon any property of the Issuer or upon any of its income, receipts or revenues.

Section 4.09. Covenants of Resolution Applicable to Notes. All covenants and restrictions contained in the Resolution, where appropriate and to the extent required by the Council, the Authority or the Loan Agreement for the Notes, are recognized and agreed by the Issuer to be applicable to the Notes.

Section 4.10. Form of Notes. The text of the Notes 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 NOTE)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
LUBECK PUBLIC SERVICE DISTRICT
SEWERAGE SYSTEM BOND ANTICIPATION NOTE, SERIES 2005
(WEST VIRGINIA INFRASTRUCTURE FUND)

No. R-1

\$ _____

KNOW ALL MEN BY THESE PRESENTS: That on this ___ day of _____, 2005, LUBECK PUBLIC SERVICE DISTRICT, a public service district, public corporation and political subdivision of the State of West Virginia, in Wood 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 (\$ _____), in annual installments of One Hundred Dollars (\$100) on June 1, 2006, June 1, 2007, June 1, 2008, and June 1, 2009, and with the entire outstanding principal amount payable in full on March 1, 2010.

This Note shall bear no interest. The principal of this Note is payable in any coin or currency which on the date of payment thereof 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 Note 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 Infrastructure and Jobs Development Council (the "Council") and under the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement dated _____, 2005, between the Issuer and the Authority, on behalf of the Council.

This Note is issued to refund the Issuer's Sewerage System Bond Anticipation Notes, Series 1999 (West Virginia Infrastructure Fund) (the "Prior Notes") and to pay certain costs of issuance hereof and related costs. This Note 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 31, Article 15A of the Code of West Virginia, 1931, as amended (collectively, the "Act"), a Resolution duly adopted by the Issuer on _____, 2005, and a Supplemental Resolution duly adopted by the Issuer on _____, 2005 (collectively, the "Resolution"), and is subject to all the terms and conditions thereof.

THIS NOTE IS ISSUED JUNIOR AND SUBORDINATE WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS TO THE ISSUER'S (1) SEWERAGE SYSTEM REVENUE BONDS, SERIES 1999 A (WEST VIRGINIA SRF PROGRAM), DATED MARCH 9, 1999, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$7,950,000; (2) SEWERAGE SYSTEM REVENUE BONDS, SERIES 1999 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED MARCH 9, 1999, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$2,000,000; (3) SEWER REVENUE BONDS, SERIES 2005 A (WEST VIRGINIA INFRASTRUCTURE FUND), DATED _____, 2005, ISSUED CONCURRENTLY HEREWITH IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$_____; AND (4) SEWER REVENUE BONDS, SERIES 2005 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED _____, 2005, ISSUED CONCURRENTLY HEREWITH IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$_____.

This Note is payable solely from proceeds of any additional sewerage system revenue bonds or refunding revenue bonds of the Issuer, any additional grants (other than Council grants) which the Issuer may receive and any additional bond anticipation notes which the Issuer may issue from time to time upon maturity of this Note. Money from these sources shall be deposited in the Series 2005 Notes Payment Fund established under the Resolution for the prompt payment of this Note.

This Note does not constitute an 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 the sources set forth above. Pursuant to the Resolution, the Issuer has entered into certain covenants with the Authority, for the terms of which reference is made to the Resolution. Remedies provided the Authority are exclusively as provided in the Resolution, to which reference is here made for a detailed description thereof.

This Note is transferable, as provided in the Resolution, only upon the books of the Registrar (as defined in the Resolution) by the registered owner or its attorney duly authorized in writing, upon the surrender of this Note, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

This Note, 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 Note, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law, shall be applied solely to the payment of the costs of refunding the Prior Notes and costs of issuance

hereof as described in the Resolution, 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 Note.

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 Note do exist, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Note, 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.

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

IN WITNESS WHEREOF, LUBECK PUBLIC SERVICE DISTRICT has caused this Note to be signed by its Chairperson and its corporate seal to be hereunto affixed or imprinted hereon and attested by its Secretary, and has caused this Note to be dated as of the date first written above.

[SEAL]

Chairperson

ATTEST:

Secretary

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Note is one of the Notes described in the within-mentioned Resolution and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: _____, 2005

as Registrar

Authorized Officer

ASSIGNMENT

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto _____

the within Note and does hereby irrevocably constitute and appoint _____, Attorney to transfer the said Note on the books kept for registration of the within Note of the said Issuer, with full power of substitution in the premises.

Dated: _____

In the presence of:

Section 4.11. Sale of Notes: Approval and Ratification of Execution of Loan Agreement. The Loan Agreement for the Series 2005 Notes, including all schedules and exhibits attached thereto, are hereby approved and incorporated into this Resolution. The Series 2005 Notes shall be sold to the Authority, pursuant to the terms and conditions of the Loan Agreement. If not so authorized by previous resolution, the Chairperson is specifically authorized and directed to execute the Loan Agreement 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 4.12. Establishment of Notes Payment Fund. There is hereby created and established with the Commission, to be held by the Commission separate and apart from all other funds or accounts of the Commission and from all other funds or accounts of the Issuer, the Series 2005 Notes Payment Fund as set forth in Section 5.02 hereof. Upon receipt of proceeds of any grants (other than Council grants) for the System, any sewerage system revenue bonds or refunding revenue bonds of the Issuer, or any additional bond anticipation notes which the Issuer may issue upon maturity of the Notes, an amount of the proceeds of such grants, revenue bonds or bond anticipation notes sufficient to pay all or a portion of the entire outstanding principal of the Notes shall be deposited in the Series 2005 Notes Payment Fund. All moneys so deposited in the Series 2005 Notes Payment Fund shall be immediately paid by the Commission to the Authority in full or partial payment of the outstanding principal of the Notes. All moneys deposited in the Series 2005 Notes Payment Fund shall be held in trust for the Authority, and the Issuer shall have no rights with respect thereto except to receive the balance therein after payment of the Notes in full and the charges, if any, of the Paying Agent.

Any moneys remaining in the Series 2005 Notes Payment Fund, after the payment of the Notes in full and all charges of the Paying Agent, shall be used as directed in writing by the Authority and the Infrastructure Council.

Section 4.13. Prohibition of Other Debt. So long as the Notes are outstanding, no bonds, notes or other evidences of indebtedness secured by the System or the proceeds of any grants, revenue bonds or bond anticipation notes for the System, shall be issued by the Issuer without the prior written consent of the Authority and the Council.

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 Resolution) 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 Resolution); and
- (2) Renewal and Replacement Fund (established by the Prior Resolution).

Section 5.02. Establishment of Funds and Accounts with Commission. The following special funds or accounts are hereby created 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 2005 A Bonds Sinking Fund;
- (2) Series 2005 A Bonds Reserve Account;
- (3) Series 2005 B Bonds Sinking Fund;
- (4) Series 2005 B Bonds Reserve Account; and
- (5) Series 2005 Notes Payment Fund.

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. All revenues at any time on deposit in the Revenue Fund shall be disposed of only in the following manner and order of priority:

- (1) The Issuer shall first, each month, 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 (i) for deposit in the Sinking Funds for the Prior Bonds, the amounts required to pay principal of the Prior Bonds as required by the Prior Resolution; (ii) commencing 3 months prior to the first date of payment of principal of the Series 2005 A Bonds, for deposit in the Series 2005 A Bonds Sinking Fund, an amount equal to 1/3rd of the amount of principal which will mature and become due on the Series 2005 A 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 2005 A Bonds Sinking Fund and the next quarterly principal payment date is less than 3 months, then such monthly payment 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; and (iii) commencing 3 months prior to the first date of payment of principal of the Series 2005 B Bonds, for deposit in the Series 2005 B Bonds Sinking Fund, an amount equal to 1/3rd of the amount of principal which will mature and become due on the Series 2005 B 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 2005 B Bonds Sinking Fund and the next quarterly principal payment date is less than 3 months, then such monthly payment 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.

(3) The Issuer shall next, (i) on the first day of each month, transfer from the Revenue Fund and remit to the Commission for deposit in the Reserve Accounts for the Prior Bonds, the amounts required by the Prior Resolution to be deposited therein; (ii) on March 1, 2021, after the Series 1999 A Bonds have been paid in full, the Issuer hereby authorizes and directs the Commission to transfer \$437,747 from the Series 1999 A Bonds Reserve Account into the Series 2005 A Bonds Reserve Account to fully fund such account in an amount equal to the Series 2005 A Bonds Reserve Requirement; and (iii) on the first day of each month, commencing June 1, 2009, transfer from the Revenue Fund and remit to the Commission for deposit in the Series 2005 B Bonds Reserve Account, an amount equal to 1/120th of the Series 2005 B Bonds Reserve Requirement, until the amount in the Series 2005 B Bonds Reserve Account equals the Series 2005 B Bonds Reserve Requirement; provided that, no further payments shall be made into the respective Series 2005 Bonds Reserve Accounts when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the respective Series 2005 Bonds Reserve Requirement. In the event any amount is withdrawn from any of the Series 2005 Bonds Reserve Account, the Issuer shall transfer from the Revenue Fund and restore the deficient Series 2005 Bonds Reserve Account to an amount equal to the Series 2005 Bonds Reserve Requirement.

(4) 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 Resolution 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 monies from the Renewal and Replacement Fund.

Monies in the Series 2005 A Bonds Sinking Fund and the Series 2005 B Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest, if any, on the Series 2005 A Bonds and the Series 2005 B Bonds, respectively, as the same shall become due. Monies in the Series 2005 A Bonds Reserve Account and the Series 2005 B Bonds Reserve Account shall be used only for the purposes of paying principal of and interest, if any, on the Series 2005 A Bonds and the Series 2005 B Bonds, respectively, as the same shall come due, when other monies in the Series 2005 A Bonds Sinking Fund and the Series 2005 B Bonds Sinking Fund are insufficient therefor, and for no other purpose.

All investment earnings on monies in the Series 2005 A Bonds Sinking Fund, the Series 2005 A Bonds Reserve Account, the Series 2005 B Bonds Sinking Fund and the Series 2005 B Bonds Reserve Account shall be returned, not less than once each year, by the Commission to the Issuer, and such amounts shall be deposited in the Revenue Fund and applied in full, first to the next ensuing interest payment due on the Series 2005 Bonds, respectively, and then to the next ensuing principal payment due thereon, all on a pro rata basis.

Any withdrawals from the Series 2005 A Bonds Reserve Account and the Series 2005 B Bonds Reserve Account which result in a reduction in the balance of such accounts to below the respective Reserve Requirements thereof, shall be 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 2005 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 respective reserve accounts in an amount equal to the requirement therefor.

The Issuer shall not be required to make any further payments into the respective Series 2005 Bonds Sinking Funds or the respective Series 2005 Bonds Reserve Accounts therein when the aggregate amount of funds therein are at least equal to the aggregate principal

amount of the Series 2005 Bonds issued pursuant to this Bond Legislation then Outstanding and all interest, if any, to accrue until the maturity thereof.

Principal, interest or reserve account payments, whether made for a deficiency or otherwise, shall be made on a parity and pro rata, with respect to the Series 2005 Bonds and the Prior Bonds, in accordance with the respective principal amounts then Outstanding.

The Commission is hereby designated as the fiscal agent for the administration of the respective Series 2005 Bonds Sinking Funds and the respective Series 2005 Bonds 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. If required by the Authority at any time, the Issuer shall make the necessary arrangements whereby required payments into the Series 2005 Bonds Sinking Funds and the respective Series 2005 Bonds Reserve Accounts shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required hereunder.

Monies in the respective Series 2005 Bonds Sinking Funds and the respective Series 2005 Bonds Reserve Accounts shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

The Series 2005 A Bonds Sinking Fund, the Series 2005 A Bonds Reserve Account, the Series 2005 B Bonds Sinking Fund and the Series 2005 B Bonds Reserve Account shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Series 2005 Bonds, respectively, under the conditions and restrictions set forth herein.

B. The Issuer 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 Commission the required principal, interest and reserve account payments with respect to the Series 2005 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. The Issuer shall complete the "Monthly Payment Form," a form of which is attached to the Loan Agreements, and submit a copy of said form along with a copy of its payment check to the Authority by the 5th day of each 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 such parties 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 any time, 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 monies in excess of the maximum amounts insured by FDIC in any of the 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.

ARTICLE VI

EXCHANGE OF BONDS AND NOTES FOR PRIOR NOTES

Section 6.01. Exchange of Bonds and Notes for Prior Notes. On the Closing Date, the Issuer shall deliver the Series 2005 A Bonds, the Series 2005 B Bonds and the Series 2005 Notes to the Authority in exchange for the Prior Notes, which exchange shall release and discharge the liens, pledges and encumbrances securing the Prior Notes. From the proceeds of the Series 2005 Notes, there shall be paid by the Issuer all costs of issuance of the Series 2005 Bonds and the Series 2005 Notes.

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 Registered Owner of the Series 2005 Bonds and the Series 2005 Notes. In addition to the other covenants, agreements and provisions of this Bond Legislation, the Issuer hereby covenants and agrees with the Registered Owners of the Series 2005 Bonds and the Series 2005 Notes as hereinafter provided in this Article VII. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as the Series 2005 Bonds and the Series 2005 Notes or the interest, if any, thereon are Outstanding and unpaid.

Section 7.02. Bonds not to be Indebtedness of the Issuer. The Series 2005 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 Registered Owner of the Series 2005 Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer, if any, to pay the Series 2005 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 2005 Bonds shall be secured by a first lien on the Net Revenues derived from the System on a parity with the lien on the Net Revenues in favor of the Registered Owners 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 2005 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 7.04. Initial Schedule of Rates and Charges. The Issuer has obtained any and all approvals of rates and charges required by State law and has taken any other action required to establish and impose such rates and charges, with all requisite appeal periods having expired without successful appeal. Such rates and charges shall be sufficient to comply with the requirements of the Loan Agreements. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth and approved by the PSC Order and such rates are hereby adopted.

So long as the Series 2005 Bonds are outstanding, the Issuer covenants and agrees to fix and collect rates, fees and other charges for the use of the System and to take all such actions necessary to provide funds sufficient to produce the required sums set forth in the Bond Legislation and in compliance with the Loan Agreements. In the event the schedule

of rates and charges initially established for the System in connection with the Series 2005 Bonds shall prove to be insufficient to produce the required sums set forth in this Bond Legislation and the Loan Agreements, the Issuer hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates and charges and take all such actions necessary to provide funds sufficient to produce the required sums set forth in this Bond Legislation and the Loan Agreements.

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 or encumber the System, or any part thereof, except as provided in the Prior Resolution. Additionally, so long as the Series 2005 Bonds are outstanding and except as otherwise required by law or with the written consent of the Authority and the Council, 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 immediately be remitted to the Commission for deposit in the respective Series 2005 Bonds Sinking Fund, and, with the written permission of the Authority and the Council, 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 respective Series 2005 Bonds. Any balance remaining after the payment of the respective Series 2005 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. The proceeds derived from any such sale shall be deposited in the Renewal and Replacement Fund. The payment of such proceeds into

the Renewal and Replacement Fund shall not reduce the amounts required to be paid into said fund 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 Registered Owners, or their duly authorized representatives, of the Bonds then Outstanding. The Issuer shall prepare the form of such approval and consent for execution by the then Registered Owners of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 7.06. 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 2005 Bonds. All obligations issued by the Issuer after the issuance of the Series 2005 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 2005 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 2005 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 2005 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 Council 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 Resolution shall be applicable. In addition, no Parity Bonds, payable out of the revenues of the System, shall be issued after the issuance of the Series 2005 Bonds pursuant to this Bond Legislation, except with the prior written consent of the Authority and the Council 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 2005 Bonds.

No such Parity Bonds shall be issued except for the purpose of financing the costs of the design, 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 issuance of 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 and approved by the PSC, 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 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 Registered Owners of the Bonds and the Registered Owners 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 revenues of the System is subject to the prior and superior liens of the Series 2005 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 2005 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 cost of designing, acquiring, constructing and installing the Project. The Issuer shall permit the Authority and the Council, 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 Council such documents and information as it may reasonably require in connection with the design, 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 Council, or their agents and representatives, to inspect all records 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.

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 Registered Owner of the 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 PSC. 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 Council, the Authority, or any other original purchaser of the Series 2005 Bonds, and shall mail in each year to any Registered Owner of the Series 2005 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 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 the Independent Certified Public Accountants, or a summary thereof, to any Registered Owner of the Series 2005 Bonds, and shall submit said report to the Council and the Authority, or any other original purchaser of the Series 2005 Bonds. Such audit report submitted to the Council and the Authority shall include a statement that notes whether the results of tests disclosed instances of noncompliance that are required to be reported under government auditing standards and, if they are, describes the instances of noncompliance and the audited financial statements shall include a statement that notes whether 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 Agreements 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 Council and the Authority, or their agents and representatives, to enter and inspect the Project site and facilities at all reasonable times. Prior to, during and after completion of construction and commencement of operation of the Project, the Issuer shall also provide the Council and the Authority, or their agents and representatives, with access to the System site and facilities, as may be reasonably necessary to accomplish all of the powers and rights of the Council and the Authority with respect to the System pursuant to the Act.

Section 7.09. Rates. Prior to the issuance of the Series 2005 Bonds, 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 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 2005 Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2005 Bonds, including the Prior Bonds; provided that, in the event that amounts equal to or in excess of the reserve requirements are on deposit in the respective Series 2005 Bonds Reserve Accounts and any reserve accounts for obligations on a parity with the Series 2005 Bonds, including the Prior 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 2005 Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2005 Bonds, including the Prior 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 30 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 Council and 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 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 Council and the Authority and to any Registered Owner of the Series 2005 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 Council and the Authority and to any Registered Owner of the Series 2005 Bonds, or anyone acting for and on behalf of such Registered Owner.

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 Agreements, and forward a copy of such report to the Council and 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 Agreements, 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 Council and the Authority, the Project is adequate for the purposes for which it was designed, the funding plan as submitted to the Council and 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 engineering services satisfactory to the Council and the Authority covering the supervision and inspection of the development and construction of the Project and bearing the responsibility of assuring that construction conforms to the plans, specifications and designs prepared by the Consulting Engineers, which have been approved by all necessary governmental bodies. Such engineer shall certify to the Council and 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 shall employ qualified operating personnel properly certified by the State to operate the System during the entire term of the Loan Agreements.

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 20 days after the same shall become due and payable, the user of the services and facilities shall be delinquent until such time as all such rates and charges are fully paid. To the extent authorized by the laws of the State and the rules and regulations of the PSC, 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 PSC, 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. If the water facilities are not owned by the Issuer, the Issuer will use diligent efforts to enter into a termination agreement with the provider of such water, subject to any required approval of such agreement by the PSC and all its rules, regulations and orders.

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 2005 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 Agreements, 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 verify such bonds prior to commencement of construction.

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 Council and the Authority. In the event the Loan Agreements so require, 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. The Issuer shall verify such insurance prior to commencement of construction.

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 Department of Health from such house, dwelling or building into the System, to the extent permitted by the laws of the State and the rules and regulations of the 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 Department of Health and such house, dwelling or building can be

adequately served by the System, and every such owner, tenant or occupant shall, after a 30-day notice of the availability of the System, pay the rates and charges established therefor.

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

Section 7.17. Completion 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 has obtained all permits required by state and federal laws for the acquisition and construction of the Project, all orders and approvals from the PSC and the Council necessary for the acquisition and construction of the Project and the operation of the System and all approvals for issuance of the Series 2005 Bonds required by state law, with all requisite appeal periods having expired without successful appeal.

Section 7.18. [Reserved.]

Section 7.19. Statutory Mortgage Lien. For the further protection of the Registered Owners of the Series 2005 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 2005 Bonds, provided however, that the statutory mortgage lien of the Series 2005 Bonds shall be on a parity with the statutory mortgage lien of the Prior Bonds.

Section 7.20. Compliance with Loan Agreements and Law. The Issuer shall perform, satisfy and comply with all the terms, conditions and requirements of the Loan Agreements and the Act. Notwithstanding anything herein to the contrary, the Issuer will provide the Council with copies of all documents submitted to the Authority.

The Issuer shall also comply with all applicable laws, rules and regulations issued by the Council and 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 7.21. 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 (17 CFR Part 240).

ARTICLE VIII

INVESTMENT OF FUNDS

Section 8.01. Investment of Funds. Any monies 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 monies 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 monies were originally held, and the interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. The 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 2005 Bonds are Outstanding and as long thereafter as necessary to assure the exclusion of interest, if any, on the Series 2005 Bonds from gross income for federal income tax purposes.

Section 8.02. Certificate as to Use of Proceeds. The Issuer shall deliver a certificate as to use of proceeds or other similar certificate to be prepared by nationally recognized bond counsel relating to restrictions on the use of proceeds of the Series 2005 Bonds as a condition to issuance of the Series 2005 Bonds. In addition, the Issuer covenants (i) to comply with the Code and all Regulations from time to time in effect and applicable to the Series 2005 Bonds as may be necessary in order to maintain the status of the Series 2005 Bonds as governmental bonds; (ii) that it shall not take, or permit or suffer to be

taken, any action with respect to the Issuer's use of the proceeds of the Series 2005 Bonds which would cause any bonds, the interest on which is exempt from federal income taxation under Section 103(a) of the Code, issued by the Authority or the Council, as the case may be, from which the proceeds of the Series 2005 Bonds are derived, to lose their status as tax-exempt bonds; and (iii) to take such action, or refrain from taking such action, as shall be deemed necessary by the Issuer, or requested by the Authority or the Council, to ensure compliance with the covenants and agreements set forth in this Section, regardless of whether such actions may be contrary to any of the provisions of this Resolution.

The Issuer shall annually furnish to the Authority, information with respect to the Issuer's use of the proceeds of the Series 2005 Bonds and any additional information requested by the Authority.

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 2005 Bonds and the Series 2005 Notes:

(1) If default occurs in the due and punctual payment of the principal of or interest, if any, on the Series 2005 Bonds or the Series 2005 Notes; 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 2005 Bonds or the Series 2005 Notes set forth in this Bond Legislation, any supplemental resolution or in the Series 2005 Bonds or the Series 2005 Notes, 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 a Registered Owner; 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 the Series 2005 Bonds or the Series 2005 Notes 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 2005 Bonds or the Series 2005 Notes, (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 2005 Bonds or the Series 2005 Notes, and (v) by action or bill in equity enjoin any acts in violation of the Bond Legislation with respect to the Series 2005 Bonds or the Series 2005 Notes, or the rights of such Registered Owners; provided that, all rights and remedies of the Registered Owners of the Series 2005 Bonds shall be on a parity with the of the Registered Owners of the Prior Bonds and provided further that, all rights and remedies of the Registered Owners of the Series 2005 Notes shall be junior and subordinate to the Registered Owners of the Prior Bonds and the Series 2005 Bonds.

Section 9.03. Appointment of Receiver. Any Registered Owner of a Series 2005 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 Series 2005 Bonds, any Registered Owner of a Series 2005 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 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 2005 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 2005 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 2005 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 Series 2005 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

PAYMENT OF BONDS AND NOTES

Section 10.01. Payment of Bonds. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the Registered Owners of the Series 2005 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 monies and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series 2005 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, if any, on the Series 2005 Bonds from gross income for federal income tax purposes.

Section 10.02. Payment of Notes. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the Registered Owners of the Series 2005 Notes, 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 proceeds from any additional sewerage system revenue bonds or refunding revenue bonds, any additional bond anticipation notes or any additional grants pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series 2005 Notes shall thereupon cease, terminate and become void and be discharged and satisfied, except as may otherwise be necessary to assure the exclusion of interest, if any, on the Series 2005 Notes from gross income for federal income tax purposes.

ARTICLE XI

MISCELLANEOUS

Section 11.01. Amendment or Modification of Bond Legislation. Prior to issuance of the Series 2005 Bonds, this Resolution may be amended or supplemented in any way by the Supplemental Resolution. Following issuance of the Series 2005 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 2005 Bonds shall be made without the consent in writing of the Registered Owners of the Series 2005 Bonds so affected and then Outstanding; provided, that no change shall be made in the maturity of the Series 2005 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 2005 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 Registered Owner 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 2005 Bonds from gross income of the Registered Owner 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 2005 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, the Series 2005 Bonds or the Series 2005 Notes.

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: Prior Resolution. 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

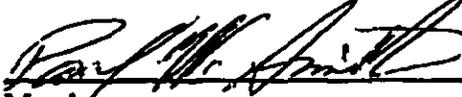
Bond Legislation and the Prior Resolution, the Prior Resolution shall control (unless less restrictive), so long as the Prior Bonds are outstanding.

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 at 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 11.07. Effective Date. This Resolution shall take effect immediately upon adoption.

Adopted this 22nd day of September, 2005.


Chairperson


Member

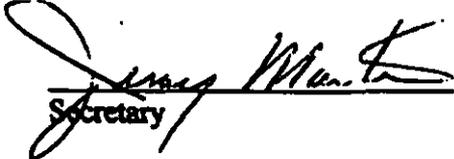

Member

CERTIFICATION

**Certified a true copy of a Resolution duly adopted by the Public Service Board
of LUBECK PUBLIC SERVICE DISTRICT on the 22nd day of September, 2005.**

Dated this 27th day of September, 2005.

[SEAL]


Secretary

09/16/05
101090/00309

**LUBECK PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2005 A
(WEST VIRGINIA INFRASTRUCTURE FUND),
SEWER REVENUE BONDS, SERIES 2005 B
(WEST VIRGINIA INFRASTRUCTURE FUND) AND
SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 2005
(WEST VIRGINIA INFRASTRUCTURE FUND)**

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO THE PRINCIPAL AMOUNT, DATE, MATURITY DATE, INTEREST RATE, PAYMENT SCHEDULE, SALE PRICE AND OTHER TERMS OF THE LUBECK PUBLIC SERVICE DISTRICT SEWER REVENUE BONDS, SERIES 2005 A (WEST VIRGINIA INFRASTRUCTURE FUND), SEWER REVENUE BONDS, SERIES 2005 B (WEST VIRGINIA INFRASTRUCTURE FUND) AND SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 2005 (WEST VIRGINIA INFRASTRUCTURE FUND); AUTHORIZING AND APPROVING THE SALE AND DELIVERY OF SUCH BONDS AND NOTES TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; APPROVING AND RATIFYING THE LOAN AGREEMENTS WITH RESPECT TO SUCH BONDS AND NOTES; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS AND NOTES.

WHEREAS, the Public Service Board (the "Governing Body") of Lubeck Public Service District (the "Issuer") has duly and officially adopted a Resolution on September 22, 2005 (the "Resolution"), entitled:

RESOLUTION AUTHORIZING THE REFUNDING OF THE SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 1999 (WEST VIRGINIA INFRASTRUCTURE FUND) OF LUBECK PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN \$7,879,443 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2005 A (WEST VIRGINIA INFRASTRUCTURE FUND); NOT MORE THAN \$2,411,178 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2005 B (WEST VIRGINIA INFRASTRUCTURE FUND); AND NOT MORE THAN \$6,278,679 IN AGGREGATE PRINCIPAL AMOUNT OF SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 2005 (WEST VIRGINIA INFRASTRUCTURE

FUND); 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 THE LOAN AGREEMENTS RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

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

WHEREAS, the Resolution provides for the issuance of the Sewer Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund), the Sewer Revenue Bonds, Series 2005 B (West Virginia Infrastructure Fund), and the Sewerage System Bond Anticipation Notes, Series 2005 (West Virginia Infrastructure Fund), of the Issuer, in the respective aggregate principal amounts not to exceed \$7,879,443, \$2,411,178 and \$6,278,679 (collectively, the "Bonds" and the "Notes" or individually, the "Series 2005 A Bonds," the "Series 2005 B Bonds" and the "Series 2005 Notes"), and has authorized the execution and delivery of loan agreements relating to the Bonds and the Notes, including all schedules and exhibits attached thereto (collectively, the "Loan Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council"), all in accordance with Chapter 16, Article 13A and Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended (collectively, the "Act"); and in the Resolution it is provided that the exact principal amount, date, maturity date, interest rate, payment schedule, sale price and other terms of the Bonds and the Notes should be established by a supplemental resolution, and that other matters relating to the Bonds and the Notes be therein provided for;

WHEREAS, the Loan Agreement has been presented to the Issuer at this meeting;

WHEREAS, the Bonds and the Notes 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 ratified, that the exact principal amount, date, maturity date, interest rate, payment schedule, sale price and other terms of the Bonds and the Notes be fixed hereby in the manner stated herein, and that other matters relating to the Bonds and the Notes be herein provided for.

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

Section I. Pursuant to the Resolution and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the following bonds and notes of the Issuer:

A. Sewer Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund), of the Issuer, originally represented by a single bond, numbered AR-1, in the original principal amount of \$7,879,443. The Series 2005 A Bonds shall be dated the date of delivery, shall finally mature March 1, 2039, and shall bear no interest. The principal of the Series 2005 A Bonds shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing June 1, 2021, in the amounts set forth in the Schedule Y attached to the Loan Agreement and incorporated in and made a part of the Series 2005 A Bonds. The Series 2005 A Bonds shall be subject to redemption upon the written consent of the Authority and the Council, and upon payment of the 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 2005 A Bonds.

B. Sewer Revenue Bonds, Series 2005 B (West Virginia Infrastructure Fund), of the Issuer, originally represented by a single bond, numbered BR-1, in the original principal amount of \$2,411,178. The Series 2005 B Bonds shall be dated the date of delivery, shall finally mature March 1, 2039, and shall bear no interest. The principal of the Series 2005 B Bonds shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2009, in the amounts set forth in the Schedule Y attached to the Loan Agreement and incorporated in and made a part of the Series 2005 B Bonds. The Series 2005 B Bonds shall be subject to redemption upon the written consent of the Authority and the Council, and upon payment of the 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 2005 B Bonds.

C. Sewerage System Bond Anticipation Notes, Series 2005 (West Virginia Infrastructure Fund), of the Issuer, originally represented by a single note, numbered R-1, in the original principal amount of \$6,278,679. The Notes shall be dated the date of delivery, shall finally mature March 1, 2010, and shall bear no interest. The principal of the Notes shall be payable in annual installments of One Hundred Dollars (\$100) on June 1, 2006, June 1, 2007, June 1, 2008, and June 1, 2009, and with the entire outstanding principal amount payable in full on March 1, 2010, as set forth in the Notes and the Schedule Y attached to the Loan Agreement. The Notes shall be subject to redemption upon the written consent of the Authority and the Council, and upon payment of the redemption premium, if any, and otherwise in compliance with the Loan Agreement, so long as the Authority shall be the Registered

Owner of the Notes.

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

Section 3. The Issuer hereby ratifies, approves and accepts the Loan Agreement, including all schedules and exhibits attached thereto, a copy of which is incorporated herein by reference, and the execution and delivery of the Loan Agreement by the Chairperson and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, approved and directed. The Issuer hereby affirms all covenants and representations made in the Loan Agreement and in the applications to the Council and the Authority. The price of the Bonds and the Notes shall be 100% of par value, there being no interest accrued thereon.

Section 4. The Issuer hereby appoints and designates United Bank, Inc., Charleston, West Virginia, to serve as Registrar (the "Registrar") for the Bonds and the Notes under the Resolution and approves and accepts the Registrar's Agreement to be dated the date of delivery of the Bonds and the Notes, by and between the Issuer and the Registrar, and the execution and delivery of the Registrar's Agreement by the Chairperson, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, directed and approved.

Section 5. The Issuer hereby appoints and designates the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Commission"), to serve as Paying Agent for the Bonds and the Notes under the Resolution.

Section 6. The Issuer hereby appoints and designates United Bank, Inc., Parkersburg, West Virginia, to serve as the Depository Bank under the Resolution.

Section 7. On the Closing Date, the Issuer shall deliver the Series 2005 A Bonds, the Series 2005 B Bonds and the Series 2005 Notes to the Authority in exchange for the Prior Notes, which exchange shall release and discharge the liens, pledges and encumbrances securing the Prior Notes.

Section 8. Series 2005 Notes proceeds in the amount of \$20,000 shall be used to pay costs of issuance of the Bonds and the Notes.

Section 9. The Chairperson and Secretary are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Bonds and the Notes hereby and by the Resolution approved and provided for, to the end that the Bonds and the Notes may be delivered to the Authority pursuant to the Loan Agreement on or about September 27, 2005.

Section 10. The refunding of the Prior Notes and the financing thereof with proceeds of the Bonds and the Notes 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 11. The Issuer hereby determines to invest all moneys in the funds and accounts established by the Resolution held by the Depository Bank until expended, in money market accounts secured by a pledge of Government Obligations, and therefore, the Issuer hereby directs the Depository Bank to invest all moneys in such money market accounts until further directed in writing by the Issuer. Moneys in the Series 2005 A Bonds Sinking Fund, the Series 2005 A Bonds Reserve Account, the Series 2005 B Bonds Sinking Fund and the Series 2005 B Bonds Reserve Account shall be invested by the Commission in the West Virginia Consolidated Fund.

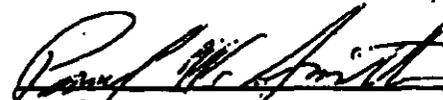
Section 12. The Issuer hereby approves the costs of issuance and authorizes the payment of the same.

Section 13. This Supplemental Resolution shall be effective immediately following adoption hereof.

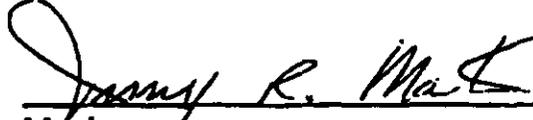
Adopted this 22nd day of September, 2005.



Chairperson



Member



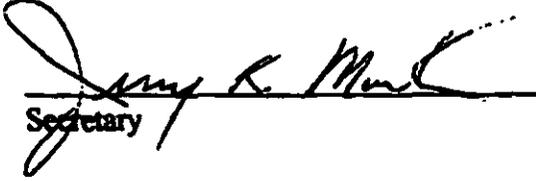
Member

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Public Service Board of LUBECK PUBLIC SERVICE DISTRICT on the 22nd day of September, 2005.

Dated this 27th day of September, 2005.

[SEAL]


Secretary

09/16/05
101090/00309

LUBECK PUBLIC SERVICE DISTRICT

2.4

**Sewer Revenue Bonds, Series 2010 A
(West Virginia Infrastructure Fund),
and
Sewerage System Bond Anticipation Notes, Series 2010
(West Virginia Infrastructure Fund)**

BOND AND NOTE RESOLUTION

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LUBECK PUBLIC SERVICE DISTRICT

RESOLUTION AUTHORIZING THE REFUNDING OF THE SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 2005 (WEST VIRGINIA INFRASTRUCTURE FUND) OF LUBECK PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN \$2,136,720 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2010 A (WEST VIRGINIA INFRASTRUCTURE FUND); AND NOT MORE THAN \$4,141,959 IN AGGREGATE PRINCIPAL AMOUNT OF SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 2010 (WEST VIRGINIA INFRASTRUCTURE FUND); 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 THE LOAN AGREEMENTS 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 LUBECK 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 31, Article 15A of the Code of West Virginia, 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. Lubeck Public Service District (the "Issuer") is a public service district, a public corporation and political subdivision of the State of West Virginia in Wood County of said State.

B. The Issuer presently owns and operates a public sewerage system. However, for the health, safety, advantage, convenience and welfare of the inhabitants of the Issuer, the Issuer has heretofore acquired and constructed certain improvements and extensions to the existing public sewerage system of the Issuer, consisting of approximately 40 miles of sewer collection lines and a 1.5 million gallons per day wastewater treatment plant, together with all appurtenant facilities (collectively, the "Project") (the existing public sewerage facilities of the Issuer, 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 and filed with the Issuer.

C. The Issuer has heretofore temporarily financed a portion of the costs of the acquisition and construction of the Project through the issuance of its Sewerage System Bond Anticipation Notes, Series 2005 (West Virginia Infrastructure Fund), dated September 27, 2005, in the original aggregate principal amount of \$6,278,679, of which \$6,278,279 is presently outstanding (the "Prior Notes").

D. Pursuant to the Act, the Issuer is authorized and empowered to issue refunding revenue bonds for the purpose of refunding, retiring or refinancing the Prior Notes. The Issuer hereby determines that it is necessary and desirable to refund the Prior Notes.

E. The Issuer intends to refund the Prior Notes through the issuance of its revenue bonds and notes to the West Virginia Water Development Authority (the "Authority"), which administers the West Virginia Infrastructure Fund (the "Infrastructure Fund") for the West Virginia Infrastructure and Jobs Development Council (the "Council").

F. It is deemed necessary for the Issuer to issue its (i) Sewer Revenue Bonds, Series 2010 A (West Virginia Infrastructure Fund), in the aggregate principal amount of not more than \$2,136,720 (the "Series 2010 A Bonds"); and (ii) Sewerage System Bond Anticipation Notes, Series 2010 (West Virginia Infrastructure Fund), in the aggregate principal amount of not more than \$4,141,959 (the "Series 2010 Notes" or the "Notes"), to refund the Prior Notes and pay all costs relating thereto. 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 2010 A Bonds prior to and during acquisition and construction of the Project and for a period not exceeding six (6) months after

completion of acquisition and construction of the Project; amounts which may be deposited in the respective Reserve Accounts (as hereinafter defined); costs of refunding the Prior Notes; 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 2010 A Bonds and the Series 2010 Notes and such other expenses as may be necessary or incidental to the financing herein authorized, the cost of acquisition and construction of the Project, 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 2010 A Bonds or the repayment of indebtedness incurred by the Issuer for such purposes shall be deemed Costs of the Project, as hereinafter defined.

G. The period of usefulness of the System after the refunding of the Prior Notes is not less than 40 years.

H. It is in the best interests of the Issuer that the Series 2010 A Bonds and the Series 2010 Notes be sold to the Authority pursuant to the terms and provisions of the respective loan agreements by and between the Issuer and the Authority, on behalf of the Council, in forms satisfactory to the Issuer, the Authority and the Council (collectively, the "Loan Agreements"), all of which are approved hereby if not previously approved by resolution of the Issuer.

I. Upon the refunding of the Prior Notes, there are outstanding obligations of the Issuer which will rank on a parity with the Series 2010 A Bonds as to liens, pledge and source of and security for payment, being the Sewerage System Revenue Bonds, Series 1999 A (West Virginia SRF Program), dated March 9, 1999, issued in the original aggregate principal amount of \$7,950,000 (the "Series 1999 A Bonds"); Sewerage System Revenue Bonds, Series 1999 B (West Virginia Infrastructure Fund), dated March 9, 1999, issued in the original aggregate principal amount of \$2,000,000 (the "Series 1999 B Bonds"); Sewer Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund), dated September 27, 2005, issued in the original aggregate principal amount of \$7,879,443 (the "Series 2005 A Bonds"); and Sewer Revenue Bonds, Series 2005 B (West Virginia Infrastructure Fund), dated September 27, 2005, issued in the original aggregate principal amount of \$2,411,178 (the "Series 2005 B Bonds") (collectively, the "Prior Bonds").

Prior to the issuance of the Series 2010 A Bonds, the Issuer will obtain (i) the certificate of an Independent Certified Public Accountant stating that the coverage and parity

tests of the Prior Bonds are met; and (ii) the written consent of the Registered Owners of the Prior Bonds to the issuance of the Series 2010 A Bonds on a parity with the Prior Bonds. Other than the Prior Bonds, there are no other 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 Resolution.

The Series 2010 Notes shall be issued junior and subordinate to the Prior Bonds and the Series 2010 A Bonds as to liens, pledge and source of and security for payment.

J. The estimated revenues to be derived in each year following the refunding of the Prior Notes from the operation of the System will be sufficient to pay all Operating Expenses of the System and the principal of and interest on the Series 2010 A Bonds and the Prior Bonds, and all funds and accounts and other payments provided for herein, all as such terms are hereinafter defined.

K. The Issuer has complied with all requirements of West Virginia law and the Loan Agreements relating to authorization of the acquisition, construction and operation of the Project and the System and issuance of the Series 2010 A Bonds and the Series 2010 Notes, or will have so complied prior to issuance of any thereof, including, among other things and without limitation, the approval of the financing hereof by the Council and the 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 2010 A Bonds and the Series 2010 Notes or such final order will not be subject to appeal or rehearing.

L. The Project has been approved by the Council as required under Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended.

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Series 2010 A 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 2010 A 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.

In consideration of the acceptance of the Series 2010 Notes 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 2010 Notes, all which shall be of equal rank and without preference, priority or distinction between any one Note of a series and any other Notes 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 31, Article 15A of the Code of West Virginia, 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 2010 A Bonds and the Series 2010 Notes, or any other agency of the State of West Virginia that succeeds to the functions of the Authority.

“Authorized Officer” means the Chairperson of the Governing Body of the Issuer or any temporary Chairperson duly selected by the Governing Body.

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

“Bond Registrar” means the bank or other entity to be designated as such for the Series 2010 A Bonds 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 2010 A Bonds, the Prior Bonds and, where appropriate, any bonds on a parity therewith subsequently authorized to be issued hereunder or by another resolution of the Issuer.

“Chairperson” means the Chairperson of the Governing Body of the Issuer.

“Closing Date” means the date upon which there is an exchange of the Series 2010 A Bonds and the Series 2010 Notes for the Prior Notes.

“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.

“Consulting Engineers” means Burgess & Niple, Inc., Parkersburg, West Virginia, 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.

“Costs” or **“Costs of the Project”** means those costs described in Section 1.02F hereof to be a part of the cost of refunding the Prior Notes.

“Council” means the West Virginia Infrastructure and Jobs Development Council or any other agency of the State of West Virginia that succeeds to the functions of the Council.

“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 monies received by the Issuer on account of any Grant or Grants 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) 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

(A) any security (within the meaning of Section 165(g)(2)(A) or (B) of the Code),

(B) any obligation,

(C) any annuity contract,

(D) any investment-type property, or

(E) in the case of a bond other than a private activity bond, any 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.

Except as provided in the following sentence, the term “Investment Property” does not include any tax-exempt bond. With respect to an issue other than an issue a part of which is a specified private activity bond (as defined in section 57(a)(5)(C) of the Code), the term “Investment Property” includes a specified private activity bond (as so defined).

“Issuer” means Lubeck Public Service District, a public service district, public corporation and political subdivision of the State of West Virginia in Wood County, West Virginia, and, unless the context clearly indicates otherwise, includes the Governing Body of the Issuer.

“Loan Agreements” or “Loan Agreement” means, collectively or individually, the Loan Agreements for each series of the Series 2010 A Bonds and the Series 2010 Notes by and between the Issuer and the Authority, on behalf of the Council, the forms 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 2010 A Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds, if any, deposited in the respective Series 2010 A Bonds Reserve Accounts. 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 2010 A 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 as defined in Section 148(b) of the Code, that is not a purpose investment.

“Note Registrar” means the bank or other entity to be designated as such for the Series 2010 Notes in the Supplemental Resolution and its successors and assigns.

“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, 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, 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 Notes and as of any particular date, describes all Bonds or Notes theretofore and thereupon being authenticated and delivered, except (i) any Bond or Note cancelled by the Registrar at or prior to said date; (ii) any Bond or Note for the payment of which monies, 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 or Note 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 Registered Owners, any Bond or Note 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 2010 A Bonds and the Series 2010 Notes in the Supplemental Resolution with the written consent of the Authority and the Council.

“Prior Bonds” means collectively, the Issuer’s Sewerage System Revenue Bonds, Series 1999 A (West Virginia SRF Program), Sewerage System Revenue Bonds, Series 1999 B (West Virginia Infrastructure Fund), Sewer Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund), and Sewer Revenue Bonds, Series 2005 B (West Virginia Infrastructure Fund), as described in Section 1.02I hereof.

“Prior Notes” means the Issuer’s Sewerage System Bond Anticipation Notes, Series 2005 (West Virginia Infrastructure Fund), as described in Section 1.02C hereof.

“Prior Resolution” means the resolutions adopted by the Issuer on February 25, 1999, and September 22, 2005, as supplemented by supplemental resolutions of the Issuer, authorizing the issuance of the Prior Bonds.

“Private Business Use” means use (directly or indirectly) in a trade or business carried on by any person other than a governmental unit; provided that use as a member of the general public shall not be taken into account.

“Project” means the Project as described in Section 1.02B hereof.

“PSC” means the Public Service Commission of West Virginia and any successor to the functions thereof.

“PSC Order” means, collectively, the final order or orders of the PSC, approving the refunding of the Prior Notes through the issuance of the Series 2010 A Bonds and the Series 2010 Notes and the rates of the System.

“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 or similar banking arrangements, fully secured by investments of the types described in paragraphs (a) through (e) above or fully insured by the FDIC, with member banks of the Federal Reserve system or 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 6C of the Code of West Virginia, 1931, as amended; and

(i) Obligations of states or political subdivisions or agencies thereof, the interest on which is 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.

“Registered Owner” or any similar term whenever used herein with respect to an outstanding Bond or Note, means the person in whose name such Bond or Note is registered.

“Registrar” means the Bond Registrar or the Note Registrar, designated in the Supplemental Resolution.

“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 the Prior Resolution and continued hereby.

“Reserve Accounts” means, collectively, the respective reserve accounts established for the Series 2010 A Bonds and the Prior Bonds.

“Reserve Requirement” means, collectively, the respective amounts required to be on deposit in the Reserve Accounts for the Series 2010 A Bonds and the Prior Bonds.

“Revenue Fund” means the Revenue Fund previously established by the Prior Resolution and continued hereby.

“Secretary” means the Secretary of the Governing Body of the Issuer.

“Series 2010 A Bonds” means the Sewer Revenue Bonds, Series 2010 A (West Virginia Infrastructure Fund), of the Issuer, authorized by this Resolution.

“Series 2010 A Bonds Reserve Account” means the Series 2010 A Bonds Reserve Account established by Section 5.02 hereof.

“Series 2010 A Bonds Reserve Requirement” means, as of any date of calculation, the maximum amount of principal and interest, if any, which will become due on the Series 2010 A Bonds in the then current or any succeeding year.

“Series 2010 A Bonds Sinking Fund” means the Series 2010 A Bonds Sinking Fund established by Section 5.02 hereof.

“Series 2010 Notes” or the “Notes” means the Sewerage System Bond Anticipation Notes, Series 2010 (West Virginia Infrastructure Fund), of the Issuer, authorized by this Resolution.

“Series 2010 Notes Payment Fund” means the Series 2010 Notes Payment Fund established by Section 4.12 hereof.

“Sinking Funds” means, collectively, the respective sinking funds established for the Series 2010 A Bonds and the Prior Bonds.

“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 2010 A Bonds and the Series 2010 Notes; provided, that any matter intended by this Resolution to be included in the Supplemental Resolution with respect to the Series 2010 A Bonds or the Series 2010 Notes, 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 Prior Bonds, the Series 2010 A Bonds or any other obligations of the Issuer, including, without limitation, the Renewal and Replacement Fund, the Sinking Funds and the Reserve Accounts.

“System” means the complete public sewerage system of the Issuer, as presently existing in its entirety or any integral part thereof, and all sewerage facilities owned by the Issuer and all facilities and other property of every nature, real or personal, now or hereafter owned, held or used in connection with the sewerage system; and shall also include

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any and all extensions, additions, betterments and improvements thereto hereafter acquired or constructed for the sewerage system from any sources whatsoever.

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

“West Virginia Infrastructure Fund” means the West Virginia Infrastructure Fund established in accordance with Chapter 31, Article 15A, Section 9 of the Code of West Virginia, 1931, as amended and in effect on the date adopted hereof.

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; 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 REFUNDING OF PRIOR NOTES

Section 2.01. Authorization of Refunding of Prior Notes. There is hereby authorized and ordered the refunding of all the Prior Notes Outstanding on the Closing Date, through the exchange of the Prior Notes with the Series 2010 A Bonds and the Series 2010 Notes. Upon the refunding of the Prior Notes, the pledge of funds in favor of the Registered Owners of the Prior Notes imposed by the Prior Resolution and the monies in the funds and accounts created by the Prior Resolution pledged to the payment of the Prior Notes are hereby ordered terminated, discharged and released.

ARTICLE III

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

Section 3.01. Authorization of Bonds. For the purposes of capitalizing interest on the Series 2010 A Bonds, refunding the Prior Notes, funding the reserve accounts for the Series 2010 A Bonds, and paying certain costs of issuance of the Series 2010 A 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 negotiable Series 2010 A Bonds of the Issuer. The Series 2010 A Bonds shall be issued as a single bond, designated as "Sewer Revenue Bonds, Series 2010 A (West Virginia Infrastructure Fund)," in an aggregate principal amount of not more than \$2,136,720, and shall have such terms as set forth hereinafter and in the Supplemental Resolution.

Section 3.02. Terms of Bonds. The Series 2010 A 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 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 respective Loan Agreements. The Series 2010 A 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 2010 A 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 respective Series 2010 A Bonds shall be issued in the form of a single bond for each series, fully registered to the Authority, with a debt service schedule attached, representing the aggregate principal amount of each respective series of Series 2010 A Bonds, and shall mature in principal installments, all as provided in the Supplemental Resolution. The Series 2010 A 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 have such terms as set forth in a Supplemental Resolution.

Section 3.03. Execution of Bonds. The Series 2010 A Bonds shall be executed in the name of the Issuer by the Chairperson, 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 2010 A Bonds shall cease to be such officer of the Issuer before the Series 2010 A 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 2010 A 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 2010 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 2010 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 2010 A 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 Registered Owner, in accepting the Series 2010 A 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 Registered Owner shall further be conclusively deemed to have agreed that such Bonds shall be incontestable in the hands of a bona fide registered owner for value.

So long as the Series 2010 A 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 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 canceled 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, register 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 Registered Owner's furnishing the Issuer proof of ownership thereof and satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer and the Bond Registrar may incur. All Bonds so surrendered shall be canceled 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 2010 A 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 Registered Owner of the Series 2010 A Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer, if any, to pay the Series 2010 A 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 2010 A Bonds shall be

secured by a first lien on the Net Revenues derived from the System on a parity with the lien on the Net Revenues in favor of the Registered Owners 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 2010 A Bonds and the Prior Bonds and to make all other payments provided for in the Bond Legislation and the Prior Resolutions, 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 2010 A Bonds to the Bond Registrar, and the Bond Registrar shall authenticate, register and deliver the Series 2010 A Bonds to the original purchasers upon receipt of a request and authorization to the Bond Registrar on behalf of the Issuer, signed by an Authorized Officer, to authenticate, register and deliver the Series 2010 A Bonds to the original purchasers.

Section 3.10. Form of Bonds. The text of the respective Series 2010 A 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 2010 A BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
LUBECK PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND, SERIES 2010 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

No. AR-1

\$ _____

KNOW ALL MEN BY THESE PRESENTS: That on this ___ day of _____, 2010, LUBECK PUBLIC SERVICE DISTRICT, a public service district, public corporation and political subdivision of the State of West Virginia in Wood 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 (\$ _____), in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing _____ 1, 200_, as set forth on the "Debt Service Schedule" attached as EXHIBIT A hereto and incorporated herein by reference.

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 Infrastructure and Jobs Development Council (the "Council"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement by and between the Issuer and the Authority, on behalf of the Council, dated _____, 2010.

This Bond is issued to pay a portion of the refunding of the Issuer's Sewerage System Bond Anticipation Notes, Series 2005 (West Virginia Infrastructure Fund) (the "Prior Notes"). The existing public sewerage facilities of the Issuer 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 31, Article 15A of the Code of

West Virginia, 1931, as amended (collectively, the "Act"), a Resolution duly adopted by the Issuer on _____, 2010, and a Supplemental Resolution duly adopted by the Issuer on _____, 2010 (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 this Bond 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 RESPECTS WITH THE ISSUER'S (1) SEWERAGE SYSTEM REVENUE BONDS, SERIES 1999 A (WEST VIRGINIA SRF PROGRAM), DATED MARCH 9, 1999, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$7,950,000; (2) SEWERAGE SYSTEM REVENUE BONDS, SERIES 1999 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED MARCH 9, 1999, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$2,000,000; (3) SEWER REVENUE BONDS, SERIES 2005 A (WEST VIRGINIA INFRASTRUCTURE FUND), DATED SEPTEMBER 27, 2005, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$7,879,443; AND (4) SEWER REVENUE BONDS, SERIES 2005 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED SEPTEMBER 27, 21005, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$2,411,178 (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 and from monies in the reserve account created under the Bond Legislation for this Bond (the "Series 2010 A Bonds Reserve Account") and unexpended proceeds of this Bond. 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 an 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, if any, hereon, except from said special fund provided from the Net Revenues, the monies in the Series 2010 A Bonds Reserve Account and unexpended proceeds of this Bond. 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 this Bond and all other obligations secured by a lien on or payable from such revenues on a parity with this Bond, including the Prior Bonds; provided however, that so long as there exists in the Series

2010 A Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on this Bond in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with this Bond, 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 this Bond for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of this Bond 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 (as defined in the Bond Legislation) 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 monies 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 refunding the Prior Notes as described in the Bond Legislation, and there shall be and hereby is created and granted a lien upon such monies, 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, LUBECK PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairperson and its corporate seal to be hereunto affixed and attested by its Secretary, and has caused this Bond to be dated as of the date first written above.

[SEAL]

Chairperson

ATTEST:

Secretary

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2010 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: _____, 2010.

as Registrar

Authorized Officer

EXHIBIT A

DEBT SERVICE SCHEDULE

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 Agreements. The Loan Agreement for the Series 2010 A Bonds, including all schedules and exhibits attached thereto, are hereby approved and incorporated into this Resolution. The Series 2010 A 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 Chairperson is specifically authorized and directed to execute the Loan Agreement 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. Filing of Amended Schedule. The Issuer will file with the Council and the Authority a schedule for the Series 2010 A Bonds and the Series 2010 Notes, the form of which will be provided by the Council, setting forth the sources and uses of funds therefor.

ARTICLE IV

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

Section 4.01. Authorization of Notes. For the purposes of refunding the Prior Notes and paying certain costs of issuance of the Notes and related costs, there shall be and hereby are authorized to be issued negotiable Notes of the Issuer. The Notes shall be issued as a single note, designated "Sewerage System Bond Anticipation Notes, Series 2010 (West Virginia Infrastructure Fund)," in the aggregate principal amount of not more than \$4,141,959, and shall have such terms as set forth hereinafter and in the Supplemental Resolution.

Section 4.02. Terms of Notes. The Notes 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 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 the Supplemental Resolution or as specifically provided in the Loan Agreement. The Notes shall be payable as to principal at the principal office of the Paying Agent, in any coin or currency which, on the date of payment of principal is legal tender for the payment of public and private debts under the laws of the United States of America (US Dollars \$).

Unless otherwise provided in the Supplemental Resolution, the Notes shall be issued in the form of a single note, fully registered to the Authority, all as provided in the Loan Agreement and the Supplemental Resolution. The Notes shall be exchangeable at the option and expense of the Registered Owner for other fully registered Notes in aggregate principal amount equal to the amount of said Notes then Outstanding, with a maturity corresponding to the dates of maturity of the Notes; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

Section 4.03. Execution of Notes. The Notes shall be executed in the name of the Issuer by the Chairperson, 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 Notes shall cease to be such officer of the Issuer before the Notes so signed and sealed have been sold and delivered, such Notes may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Notes had not ceased to hold such office. The Notes may be signed and sealed on behalf of the Issuer by such person as, at the actual time of the execution of the Notes, shall hold the

proper office in the Issuer, although at the date of the Notes such person may not have held such office or may not have been so authorized.

Section 4.04. Authentication and Registration. No Note shall be valid or obligatory for any purpose or entitled to any security or benefit under this Resolution unless and until the Certificate of Authentication and Registration on such Note, substantially in the form set forth in Section 4.10, shall have been duly manually executed by the Notes Registrar. Any such executed Certificate of Authentication and Registration upon any such Note shall be conclusive evidence that such Note has been authenticated, registered and delivered under this Resolution. The Certificate of Authentication and Registration on any Note shall be deemed to have been executed by the Notes Registrar if manually signed by an authorized officer of the Notes Registrar, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all the Notes issued hereunder.

Section 4.05. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Notes 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 Registered Owner, in accepting any of the Notes shall be conclusively deemed to have agreed that such Notes 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 Registered Owner shall further be conclusively deemed to have agreed that such Notes shall be incontestable in the hands of a bona fide registered owner for value.

So long as the Notes remain Outstanding, the Issuer, through the Notes Registrar as its agent, shall keep and maintain books for the registration and transfer of the Notes.

The registered Notes shall be transferable only upon the books of the Notes 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 Notes Registrar, duly executed by the Registered Owner or his duly authorized attorney.

In all cases in which the privilege of exchanging the Notes or transferring the Notes is exercised, the Notes shall be delivered in accordance with the provisions of this Resolution. All Notes surrendered in any such exchanges or transfers shall forthwith be canceled by the Notes Registrar. For every such exchange or transfer of Notes, the Notes 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 Note upon each exchange or transfer, and any other expenses of the Notes Registrar incurred in connection therewith, which sum or sums shall be paid by the Issuer.

Section 4.06. Notes Mutilated, Destroyed, Stolen or Lost. In case any Note shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue, and the Notes Registrar shall, if so advised by the Issuer, authenticate, register and deliver a new Note of the same series and of like tenor as the Notes so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Note, upon surrender and cancellation of such mutilated Note, or in lieu of and substitution for the Note destroyed, stolen or lost, and upon the Registered Owner's furnishing the Issuer proof of ownership thereof and satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer and the Notes Registrar may incur. All Notes so surrendered shall be canceled by the Notes Registrar and held for the account of the Issuer. If such Note shall have matured or be about to mature, instead of issuing a substitute Note, the Issuer may pay the same, upon being indemnified as aforesaid, and, if such Note be lost, stolen, or destroyed, without surrender therefor.

Section 4.07. Pledge of Security for the Notes. The Notes shall be payable solely from proceeds of any additional sewerage system revenue bonds or refunding revenue bonds of the Issuer, any additional grants which the Issuer may receive and any additional bond anticipation notes which the Issuer may issue from time to time upon maturity of the Notes.

Section 4.08. Notes Not to be Indebtedness of Issuer. The Notes shall be special obligations of the Issuer, payable solely from the sources set forth in Section 4.07 hereof. The Notes do not and shall not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation. The general funds of the Issuer are not liable, and neither the full faith and credit nor the taxing power, if any, of the Issuer is pledged for the payment of the Notes. The Registered Owner of the Notes shall never have the right to compel the forfeiture of any property of the Issuer. The Notes shall not be a debt of the Issuer, nor a legal or equitable pledge, charge, lien or encumbrance upon any property of the Issuer or upon any of its income, receipts or revenues.

Section 4.09. Covenants of Resolution Applicable to Notes. All covenants and restrictions contained in the Resolution, where appropriate and to the extent required by the Council, the Authority or the Loan Agreement for the Notes, are recognized and agreed by the Issuer to be applicable to the Notes.

Section 4.10. Form of Notes. The text of the Notes 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 NOTE)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
LUBECK PUBLIC SERVICE DISTRICT
SEWERAGE SYSTEM BOND ANTICIPATION NOTE, SERIES 2010
(WEST VIRGINIA INFRASTRUCTURE FUND)

No. R-1

\$ _____

KNOW ALL MEN BY THESE PRESENTS: That on this ____ day of _____, 2010, LUBECK PUBLIC SERVICE DISTRICT, a public service district, public corporation and political subdivision of the State of West Virginia, in Wood 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 (\$ _____), in annual installments of One Hundred Dollars (\$100) on June 1, 2010, June 1, 2011, June 1, 2012, June 1, 2013, and June 1, 2014, and with the entire outstanding principal amount payable in full on March 1, 2015.

This Note shall bear no interest. The principal of this Note is payable in any coin or currency which on the date of payment thereof 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 Note 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 Infrastructure and Jobs Development Council (the "Council") and under the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement dated _____, 2010, between the Issuer and the Authority, on behalf of the Council.

This Note is issued to pay a portion of the refunding of the Issuer's Sewerage System Bond Anticipation Notes, Series 1999 (West Virginia Infrastructure Fund) (the "Prior Notes") and to pay certain costs of issuance hereof and related costs. This Note 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 31, Article 15A of the Code of West Virginia, 1931, as amended (collectively, the "Act"), a Resolution duly adopted by the Issuer on _____, 2010, and a Supplemental Resolution
(C1671124.1)

duly adopted by the Issuer on _____, 2010 (collectively, the "Resolution"), and is subject to all the terms and conditions thereof.

THIS NOTE IS ISSUED JUNIOR AND SUBORDINATE WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS TO THE ISSUER'S (1) SEWERAGE SYSTEM REVENUE BONDS, SERIES 1999 A (WEST VIRGINIA SRF PROGRAM), DATED MARCH 9, 1999, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$7,950,000; (2) SEWERAGE SYSTEM REVENUE BONDS, SERIES 1999 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED MARCH 9, 1999, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$2,000,000; (3) SEWER REVENUE BONDS, SERIES 2005 A (WEST VIRGINIA INFRASTRUCTURE FUND), DATED SEPTEMBER 27, 2005, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$7,879,443; (4) SEWER REVENUE BONDS, SERIES 2005 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED SEPTEMBER 27, 21005, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$2,411,178; and (5) SEWER REVENUE BONDS, SERIES 2010 A (WEST VIRGINIA INFRASTRUCTURE FUND), DATED _____, 2010, ISSUED CONCURRENTLY HEREWITH IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$_____.

This Note is payable solely from proceeds of any additional sewerage system revenue bonds or refunding revenue bonds of the Issuer, any additional grants which the Issuer may receive and any additional bond anticipation notes which the Issuer may issue from time to time upon maturity of this Note. Money from these sources shall be deposited in the Series 2010 Notes Payment Fund established under the Resolution for the prompt payment of this Note.

This Note does not constitute an 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 the sources set forth above. Pursuant to the Resolution, the Issuer has entered into certain covenants with the Authority, for the terms of which reference is made to the Resolution. Remedies provided the Authority are exclusively as provided in the Resolution, to which reference is here made for a detailed description thereof.

This Note is transferable, as provided in the Resolution, only upon the books of the Registrar (as defined in the Resolution) by the registered owner or its attorney duly authorized in writing, upon the surrender of this Note, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

This Note, 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 Note, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law, shall be applied solely to the payment of the costs of refunding the Prior Notes and costs of issuance hereof as described in the Resolution, 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 Note.

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 Note do exist, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Note, 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.

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

IN WITNESS WHEREOF, LUBECK PUBLIC SERVICE DISTRICT has caused this Note to be signed by its Chairperson and its corporate seal to be hereunto affixed or imprinted hereon and attested by its Secretary, and has caused this Note to be dated as of the date first written above.

[SEAL]

Chairperson

ATTEST:

Secretary

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Note is one of the Notes described in the within-mentioned Resolution and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: _____, 2010

as Registrar

Authorized Officer

ASSIGNMENT

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto

the within Note and does hereby irrevocably constitute and appoint _____,
Attorney to transfer the said Note on the books kept for registration of the within Note of the
said Issuer, with full power of substitution in the premises.

Dated: _____, ____.

In the presence of:

Section 4.11. Sale of Notes; Approval and Ratification of Execution of Loan Agreement. The Loan Agreement for the Series 2010 Notes, including all schedules and exhibits attached thereto, are hereby approved and incorporated into this Resolution. The Series 2010 Notes shall be sold to the Authority, pursuant to the terms and conditions of the Loan Agreement. If not so authorized by previous resolution, the Chairperson is specifically authorized and directed to execute the Loan Agreement 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 4.12. Establishment of Notes Payment Fund. There is hereby created and established with the Commission, to be held by the Commission separate and apart from all other funds or accounts of the Commission and from all other funds or accounts of the Issuer, the Series 2010 Notes Payment Fund as set forth in Section 5.02 hereof. Upon receipt of proceeds of any grants for the System, any sewerage system revenue bonds or refunding revenue bonds of the Issuer, or any additional bond anticipation notes which the Issuer may issue upon maturity of the Notes, an amount of the proceeds of such grants, revenue bonds or bond anticipation notes sufficient to pay all or a portion of the entire outstanding principal of the Notes shall be deposited in the Series 2010 Notes Payment Fund. All moneys so deposited in the Series 2010 Notes Payment Fund shall be immediately paid by the Commission to the Authority in full or partial payment of the outstanding principal of the Notes. All moneys deposited in the Series 2010 Notes Payment Fund shall be held in trust for the Authority, and the Issuer shall have no rights with respect thereto except to receive the balance therein after payment of the Notes in full and the charges, if any, of the Paying Agent.

Any moneys remaining in the Series 2010 Notes Payment Fund, after the payment of the Notes in full and all charges of the Paying Agent, shall be used as directed in writing by the Authority and the Infrastructure Council.

Section 4.13. Prohibition of Other Debt. So long as the Notes are outstanding, no bonds, notes or other evidences of indebtedness secured by the System or the proceeds of any grants, revenue bonds or bond anticipation notes for the System, shall be issued by the Issuer without the prior written consent of the Authority and the Council.

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 Resolution) 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 Resolution); and
- (2) Renewal and Replacement Fund (established by the Prior Resolution).

Section 5.02. Establishment of Funds and Accounts with Commission.

The following special funds or accounts are hereby created 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 2010 A Bonds Sinking Fund;
- (2) Series 2010 A Bonds Reserve Account; and
- (3) Series 2010 Notes Payment Fund.

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. All revenues at any time on deposit in the Revenue Fund shall be disposed of only in the following manner and order of priority:

(1) The Issuer shall first, each month, 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 (i) for deposit in the Sinking Funds for the Prior Bonds, the amounts required to pay principal of the Prior Bonds as required by the Prior Resolution; and (ii) commencing 3 months prior to the first date of

(C1671124.1)

payment of principal of the Series 2010 A Bonds, for deposit in the Series 2010 A Bonds Sinking Fund, an amount equal to 1/3rd of the amount of principal which will mature and become due on the Series 2010 A 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 2010 A Bonds Sinking Fund and the next quarterly principal payment date is less than 3 months, then such monthly payment 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.

(3) The Issuer shall next, (i) on the first day of each month, transfer from the Revenue Fund and remit to the Commission for deposit in the Reserve Accounts for the Prior Bonds, the amounts required by the Prior Resolution to be deposited therein; and (ii) on the first day of each month, commencing June 1, 2010, transfer from the Revenue Fund and remit to the Commission for deposit in the Series 2010 A Bonds Reserve Account, an amount equal to 1/120th of the Series 2010 A Bonds Reserve Requirement, until the amount in the Series 2010 A Bonds Reserve Account equals the Series 2010 A Bonds Reserve Requirement; provided that, no further payments shall be made into the respective Series 2010 A Bonds Reserve Accounts when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the respective Series 2010 A Bonds Reserve Requirement. In the event any amount is withdrawn from any of the Series 2010 A Bonds Reserve Account, the Issuer shall transfer from the Revenue Fund and restore the deficient Series 2010 A Bonds Reserve Account to an amount equal to the Series 2010 A Bonds Reserve Requirement.

(4) 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 Resolution 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 monies from the Renewal and Replacement Fund.

Monies in the Series 2010 A Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest, if any, on the Series 2010 A Bonds as the same shall become due. Monies in the Series 2010 A Bonds Reserve Account shall be used only

(C1671124.1)

for the purposes of paying principal of and interest, if any, on the Series 2010 A Bonds as the same shall come due, when other monies in the Series 2010 A Bonds Sinking Fund are insufficient therefor, and for no other purpose.

All investment earnings on monies in the Series 2010 A Bonds Sinking Fund and the Series 2010 A Bonds Reserve Account shall be returned, not less than once each year, by the Commission to the Issuer, and such amounts shall be deposited in the Revenue Fund and applied in full, first to the next ensuing interest payment due on the Series 2010 A Bonds, respectively, and then to the next ensuing principal payment due thereon, all on a pro rata basis.

Any withdrawals from the Series 2010 A Bonds Reserve Account which result in a reduction in the balance of such accounts to below the respective Reserve Requirements thereof, shall be 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 2010 A 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 respective reserve accounts in an amount equal to the requirement therefor.

The Issuer shall not be required to make any further payments into the respective Series 2010 A Bonds Sinking Funds or the respective Series 2010 A Bonds Reserve Accounts therein when the aggregate amount of funds therein are at least equal to the aggregate principal amount of the Series 2010 A Bonds issued pursuant to this Bond Legislation then Outstanding and all interest, if any, to accrue until the maturity thereof.

Principal, interest or reserve account payments, whether made for a deficiency or otherwise, shall be made on a parity and pro rata, with respect to the Series 2010 A Bonds and the Prior Bonds, in accordance with the respective principal amounts then Outstanding.

The Commission is hereby designated as the fiscal agent for the administration of the respective Series 2010 A Bonds Sinking Funds and the respective Series 2010 A Bonds 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. If required by the Authority at any time, the Issuer shall make the necessary arrangements whereby required payments into the Series 2010 A Bonds Sinking Funds and the respective Series 2010 A Bonds Reserve Accounts shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required hereunder.

(C1671124.1)

Monies in the respective Series 2010 A Bonds Sinking Funds and the respective Series 2010 A Bonds Reserve Accounts shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

The Series 2010 A Bonds Sinking Fund and the Series 2010 A Bonds Reserve Account shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Series 2010 A Bonds under the conditions and restrictions set forth herein.

B. The Issuer 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 Commission the required principal, interest and reserve account payments with respect to the Series 2010 A 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. The Issuer shall complete the "Monthly Payment Form," a form of which is attached to the Loan Agreements, and submit a copy of said form along with a copy of its payment check to the Authority by the 5th day of each 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 such parties 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 any time, 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 monies in excess of the maximum amounts insured by FDIC in any of the 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.

ARTICLE VI

EXCHANGE OF BONDS AND NOTES FOR PRIOR NOTES

Section 6.01. Exchange of Bonds and Notes for Prior Notes. On the Closing Date, the Issuer shall deliver the Series 2010 A Bonds and the Series 2010 Notes to the Authority in exchange for the Prior Notes, which exchange shall release and discharge the liens, pledges and encumbrances securing the Prior Notes.

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 Registered Owner of the Series 2010 A Bonds and the Series 2010 Notes. In addition to the other covenants, agreements and provisions of this Bond Legislation, the Issuer hereby covenants and agrees with the Registered Owners of the Series 2010 A Bonds and the Series 2010 Notes as hereinafter provided in this Article VII. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as the Series 2010 A Bonds and the Series 2010 Notes or the interest, if any, thereon are Outstanding and unpaid.

Section 7.02. Bonds not to be Indebtedness of the Issuer. The Series 2010 A 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 Registered Owner of the Series 2010 A Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer, if any, to pay the Series 2010 A 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 2010 A Bonds shall be secured by a first lien on the Net Revenues derived from the System on a parity with the lien on the Net Revenues in favor of the Registered Owners 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 2010 A 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 7.04. Initial Schedule of Rates and Charges. The Issuer has obtained any and all approvals of rates and charges required by State law and has taken any other action required to establish and impose such rates and charges, with all requisite appeal periods having expired without successful appeal. Such rates and charges shall be sufficient to comply with the requirements of the Loan Agreements. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth and approved by the PSC Order and such rates are hereby adopted.

So long as the Series 2010 A Bonds are outstanding, the Issuer covenants and agrees to fix and collect rates, fees and other charges for the use of the System and to take all such actions necessary to provide funds sufficient to produce the required sums set forth in

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the Bond Legislation and in compliance with the Loan Agreements. In the event the schedule of rates and charges initially established for the System in connection with the Series 2010 A Bonds shall prove to be insufficient to produce the required sums set forth in this Bond Legislation and the Loan Agreements, the Issuer hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates and charges and take all such actions necessary to provide funds sufficient to produce the required sums set forth in this Bond Legislation and the Loan Agreements.

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 or encumber the System, or any part thereof, except as provided in the Prior Resolution. Additionally, so long as the Series 2010 A Bonds are outstanding and except as otherwise required by law or with the written consent of the Authority and the Council, 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 immediately be remitted to the Commission for deposit in the respective Series 2010 A Bonds Sinking Fund, and, with the written permission of the Authority and the Council, 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 respective Series 2010 A Bonds. Any balance remaining after the payment of the respective Series 2010 A 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

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sale, lease or other disposition of such property upon public bidding. The proceeds derived from any such sale shall be deposited in the Renewal and Replacement Fund. The payment of such proceeds into the Renewal and Replacement Fund shall not reduce the amounts required to be paid into said fund 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 Registered Owners, or their duly authorized representatives, of the Bonds then Outstanding. The Issuer shall prepare the form of such approval and consent for execution by the then Registered Owners of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 7.06. 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 2010 A Bonds. All obligations issued by the Issuer after the issuance of the Series 2010 A 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 2010 A 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 2010 A 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 2010 A 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 Council 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 Resolution shall be applicable. In addition, no Parity Bonds, payable out of the revenues of the System, shall be issued after the issuance of the Series 2010 A Bonds pursuant to this Bond Legislation,
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except with the prior written consent of the Authority and the Council 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 2010 A Bonds.

No such Parity Bonds shall be issued except for the purpose of financing the costs of the design, 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 issuance of 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 and approved by the PSC, 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 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

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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 Registered Owners of the Bonds and the Registered Owners 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 revenues of the System is subject to the prior and superior liens of the Series 2010 A 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 2010 A 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 cost of designing, acquiring, constructing and installing the Project. The Issuer shall permit the Authority and the Council, 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 Council such documents and information as it may reasonably require in connection with the design, 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 Council, or their agents and representatives, to inspect all records 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.

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 Registered Owner of the 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 PSC. 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 Council, the Authority, or any other original purchaser of the Series 2010 A Bonds, and shall mail in each year to any Registered Owner of the Series 2010 A 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 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 the Independent Certified Public Accountants, or a summary thereof, to any Registered Owner of the Series 2010 A Bonds, and shall submit said report to the Council and the Authority, or any other original purchaser of the Series 2010 A

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Bonds. Such audit report submitted to the Council and the Authority shall include a statement that notes whether the results of tests disclosed instances of noncompliance that are required to be reported under government auditing standards and, if they are, describes the instances of noncompliance and the audited financial statements shall include a statement that notes whether 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 Agreements 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 Council and the Authority, or their agents and representatives, to enter and inspect the Project site and facilities at all reasonable times. Prior to, during and after completion of construction and commencement of operation of the Project, the Issuer shall also provide the Council and the Authority, or their agents and representatives, with access to the System site and facilities, as may be reasonably necessary to accomplish all of the powers and rights of the Council and the Authority with respect to the System pursuant to the Act.

Section 7.09. Rates. Prior to the issuance of the Series 2010 A Bonds, 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 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 2010 A Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2010 A Bonds, including the Prior Bonds; provided that, in the event that amounts equal to or in excess of the reserve requirements are on deposit in the respective Series 2010 A Bonds (C1671124.1)

Reserve Accounts and any reserve accounts for obligations on a parity with the Series 2010 A Bonds, including the Prior 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 2010 A Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2010 A Bonds, including the Prior 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 30 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 Council and 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 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 Council and the Authority and to any Registered Owner of the Series 2010 A 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 Council and the Authority and to any Registered Owner of the Series 2010 A Bonds, or anyone acting for and on behalf of such Registered Owner.

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 Agreements, and forward a copy of such report to the Council and 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 Agreements, 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 Council and the Authority, the Project is adequate for the purposes for which it was designed, the funding

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plan as submitted to the Council and 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 engineering services satisfactory to the Council and the Authority covering the supervision and inspection of the development and construction of the Project and bearing the responsibility of assuring that construction conforms to the plans, specifications and designs prepared by the Consulting Engineers, which have been approved by all necessary governmental bodies. Such engineer shall certify to the Council and 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 shall employ qualified operating personnel properly certified by the State to operate the System during the entire term of the Loan Agreements.

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 20 days after the same shall become due and payable, the user of the services and facilities shall be delinquent until such time as all such rates and charges are fully paid. To the extent authorized by the laws of the State and the rules and regulations of the PSC, 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 PSC, 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

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by law. If the water facilities are not owned by the Issuer, the Issuer will use diligent efforts to enter into a termination agreement with the provider of such water, subject to any required approval of such agreement by the PSC and all its rules, regulations and orders.

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 2010 A 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 Agreements, 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

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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 verify such bonds prior to commencement of construction.

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 Council and the Authority. In the event the Loan Agreements so require, 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. The Issuer shall verify such insurance prior to commencement of construction.

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 Department of Health from such house, dwelling or building into the System, to the extent permitted by the laws of the State and the rules and regulations of the 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 Department of Health and such house, dwelling or building can be adequately served by the System, and every such owner, tenant or occupant shall, after a 30-day notice of the availability of the System, pay the rates and charges established therefor.

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

Section 7.17. Completion 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 has obtained all permits required by state and federal laws for the acquisition and construction of the Project, all orders and approvals from the PSC and the Council necessary for the acquisition and construction of the Project and the operation of the System and all approvals for issuance of the Series 2010 A Bonds required by state law, with all requisite appeal periods having expired without successful appeal.

Section 7.18. [Reserved.]

Section 7.19. Statutory Mortgage Lien. For the further protection of the Registered Owners of the Series 2010 A 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

2010 A Bonds, provided however, that the statutory mortgage lien of the Series 2010 A Bonds shall be on a parity with the statutory mortgage lien of the Prior Bonds.

Section 7.20. Compliance with Loan Agreements and Law. The Issuer shall perform, satisfy and comply with all the terms, conditions and requirements of the Loan Agreements and the Act. Notwithstanding anything herein to the contrary, the Issuer will provide the Council with copies of all documents submitted to the Authority.

The Issuer shall also comply with all applicable laws, rules and regulations issued by the Council and 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 7.21. 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 (17 CFR Part 240).

ARTICLE VIII

INVESTMENT OF FUNDS

Section 8.01. Investment of Funds. Any monies 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 monies 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 monies were originally held, and the interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. The 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 2010 A Bonds are Outstanding and as long thereafter as necessary to assure the exclusion of interest, if any, on the Series 2010 A Bonds from gross income for federal income tax purposes.

Section 8.02. Certificate as to Use of Proceeds. The Issuer shall deliver a certificate as to use of proceeds or other similar certificate to be prepared by nationally recognized bond counsel relating to restrictions on the use of proceeds of the Series 2010 A Bonds as a condition to issuance of the Series 2010 A Bonds. In addition, the Issuer covenants (i) to comply with the Code and all Regulations from time to time in effect and applicable to the Series 2010 A Bonds as may be necessary in order to maintain the status of the Series 2010 A Bonds as governmental bonds; (ii) that it shall not take, or permit or suffer

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to be taken, any action with respect to the Issuer's use of the proceeds of the Series 2010 A Bonds which would cause any bonds, the interest on which is exempt from federal income taxation under Section 103(a) of the Code, issued by the Authority or the Council, as the case may be, from which the proceeds of the Series 2010 A Bonds are derived, to lose their status as tax-exempt bonds; and (iii) to take such action, or refrain from taking such action, as shall be deemed necessary by the Issuer, or requested by the Authority or the Council, to ensure compliance with the covenants and agreements set forth in this Section, regardless of whether such actions may be contrary to any of the provisions of this Resolution.

The Issuer shall annually furnish to the Authority, information with respect to the Issuer's use of the proceeds of the Series 2010 A Bonds and any additional information requested by the Authority.

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 2010 A Bonds and the Series 2010 Notes:

- (1) If default occurs in the due and punctual payment of the principal of or interest, if any, on the Series 2010 A Bonds or the Series 2010 Notes; 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 2010 A Bonds or the Series 2010 Notes set forth in this Bond Legislation, any supplemental resolution or in the Series 2010 A Bonds or the Series 2010 Notes, 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 a Registered Owner; 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 Resolutions.

Section 9.02. Remedies. Upon the happening and continuance of any Event of Default, any Registered Owner of the Series 2010 A Bonds or the Series 2010 Notes 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 2010 A Bonds or the Series 2010 Notes, (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 2010 A Bonds or the Series 2010 Notes, and (v) by action or bill in equity enjoin any acts in violation of the Bond Legislation with respect to the Series 2010 A Bonds or the Series 2010 Notes, or the rights of such Registered Owners; provided that, all rights and remedies of the

Registered Owners of the Series 2010 A Bonds shall be on a parity with the of the Registered Owners of the Prior Bonds and provided further that, all rights and remedies of the Registered Owners of the Series 2010 Notes shall be junior and subordinate to the Registered Owners of the Prior Bonds and the Series 2010 A Bonds.

{C1671124.1}

Section 9.03. Appointment of Receiver. Any Registered Owner of a Series 2010 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 Series 2010 A Bonds, any Registered Owner of a Series 2010 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 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 2010 A 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 2010 A 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
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Owners of the Series 2010 A 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 Series 2010 A 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

PAYMENT OF BONDS AND NOTES

Section 10.01. Payment of Bonds. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the Registered Owners of the Series 2010 A 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 monies and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series 2010 A 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, if any, on the Series 2010 A Bonds from gross income for federal income tax purposes.

Section 10.02. Payment of Notes. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the Registered Owners of the Series 2010 Notes, 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 proceeds from any additional sewerage system revenue bonds or refunding revenue bonds, any additional bond anticipation notes or any additional grants pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series 2010 Notes shall thereupon cease, terminate and become void and be discharged and satisfied, except as may otherwise be necessary to assure the exclusion of interest, if any, on the Series 2010 Notes from gross income for federal income tax purposes.

ARTICLE XI

MISCELLANEOUS

Section 11.01. Amendment or Modification of Bond Legislation. Prior to issuance of the Series 2010 A Bonds, this Resolution may be amended or supplemented in any way by the Supplemental Resolution. Following issuance of the Series 2010 A 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 2010 A Bonds shall be made without the consent in writing of the Registered Owners of the Series 2010 A Bonds so affected and then Outstanding; provided, that no change shall be made in the maturity of the Series 2010 A 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 2010 A 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 Registered Owner 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 2010 A Bonds from gross income of the Registered Owner 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 2010 A 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, the Series 2010 A Bonds or the Series 2010 Notes.

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; Prior Resolutions. All orders or resolutions, or parts thereof, in conflict with the provisions of this Resolution are, to the

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extent of such conflict, hereby repealed; provided that, in the event of any conflict between this Bond Legislation and the Prior Resolutions, the Prior Resolutions shall control (unless less restrictive), so long as the Prior Bonds are outstanding.

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 at 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 11.07. Effective Date. This Resolution shall take effect immediately upon adoption.

Adopted this 11th day of February, 2010.


Chairperson


Member


Member

CERTIFICATION

**Certified a true copy of a Resolution duly adopted by the Public Service Board
of LUBECK PUBLIC SERVICE DISTRICT on the 11th day of February, 2010.**

Dated this 25th day of February, 2010.

[SEAL]


Secretary

**LUBECK PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2010 A
(WEST VIRGINIA INFRASTRUCTURE FUND)
SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 2010
(WEST VIRGINIA INFRASTRUCTURE FUND)**

2.5

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO THE PRINCIPAL AMOUNT, DATE, MATURITY DATE, INTEREST RATE, PAYMENT SCHEDULE, SALE PRICE AND OTHER TERMS OF THE LUBECK PUBLIC SERVICE DISTRICT SEWER REVENUE BONDS, SERIES 2010 A (WEST VIRGINIA INFRASTRUCTURE FUND) AND SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 2010 (WEST VIRGINIA INFRASTRUCTURE FUND); AUTHORIZING AND APPROVING THE SALE AND DELIVERY OF SUCH BONDS AND NOTES TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; APPROVING AND RATIFYING THE LOAN AGREEMENTS WITH RESPECT TO SUCH BONDS AND NOTES; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS AND NOTES.

WHEREAS, the Public Service Board (the "Governing Body") of Lubeck Public Service District (the "Issuer") has duly and officially adopted a Resolution on February 11, 2010 (the "Resolution"), entitled:

RESOLUTION AUTHORIZING THE REFUNDING OF THE SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 2005 (WEST VIRGINIA INFRASTRUCTURE FUND) OF LUBECK PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN \$2,136,720 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2010 A (WEST VIRGINIA INFRASTRUCTURE FUND); AND NOT MORE THAN \$4,141,959 IN AGGREGATE PRINCIPAL AMOUNT OF SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 2010 (WEST VIRGINIA INFRASTRUCTURE FUND); 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 THE LOAN AGREEMENTS RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

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

WHEREAS, the Resolution provides for the issuance of the Sewer Revenue Bonds, Series 2010 A (West Virginia Infrastructure Fund) and the Sewerage System Bond Anticipation Notes, Series 2010 (West Virginia Infrastructure Fund), of the Issuer, in the respective aggregate principal amounts not to exceed \$2,136,720 and \$4,141,959 (collectively, the "Bonds" and the "Notes" or individually, the "Series 2010 A Bonds" and the "Series 2010 Notes"), and has authorized the execution and delivery of loan agreements relating to the Bonds and the Notes, including all schedules and exhibits attached thereto (collectively, the "Loan Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council"), all in accordance with Chapter 16, Article 13A and Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended (collectively, the "Act"); and in the Resolution it is provided that the exact principal amount, date, maturity date, interest rate, payment schedule, sale price and other terms of the Bonds and the Notes should be established by a supplemental resolution, and that other matters relating to the Bonds and the Notes be therein provided for;

WHEREAS, the Loan Agreement has been presented to the Issuer at this meeting;

WHEREAS, the Bonds and the Notes 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 ratified, that the exact principal amount, date, maturity date, interest rate, payment schedule, sale price and other terms of the Bonds and the Notes be fixed hereby in the manner stated herein, and that other matters relating to the Bonds and the Notes be herein provided for.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF LUBECK 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 following bonds and notes of the Issuer:

A. Sewer Revenue Bonds, Series 2010 A (West Virginia Infrastructure Fund), of the Issuer, originally represented by a single bond, numbered AR-1, in the original principal amount of \$2,136,720. The Series 2010 A Bonds shall be dated the date of delivery, shall finally mature March 1, 2039, and shall bear no interest. The principal of the Series 2010 A Bonds shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing June 1, 2010, in the amounts set forth in the Schedule Y attached to the Loan Agreement and incorporated in and made a part of the Series 2010 A Bonds. The Series 2010 A Bonds shall be subject to redemption upon the written consent of the Authority and the Council, and upon payment of the 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 2010 A Bonds.

B. Sewerage System Bond Anticipation Notes, Series 2010 (West Virginia Infrastructure Fund), of the Issuer, originally represented by a single note, numbered R-1, in the original principal amount of \$4,141,959. The Notes shall be dated the date of delivery, shall finally mature March 1, 2015, and shall bear no interest. The principal of the Notes shall be payable in annual installments of One Hundred Dollars (\$100) on June 1, 2010, June 1, 2011, June 1, 2012, June 1, 2013, and June 1, 2014, and with the entire outstanding principal amount payable in full on March 1, 2015, as set forth in the Notes and the Schedule Y attached to the Loan Agreement. The Notes shall be subject to redemption upon the written consent of the Authority and the Council, and upon payment of the redemption premium, if any, and otherwise in compliance with the Loan Agreement, so long as the Authority shall be the Registered Owner of the Notes.

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

Section 3. The Issuer hereby ratifies, approves and accepts the Loan Agreement, including all schedules and exhibits attached thereto, a copy of which is incorporated herein by reference, and the execution and delivery of the Loan Agreement by the Chairperson and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, approved and directed. The Issuer hereby affirms all

covenants and representations made in the Loan Agreement and in the applications to the Council and the Authority. The price of the Bonds and the Notes shall be 100% of par value, there being no interest accrued thereon.

Section 4. The Issuer hereby appoints and designates United Bank, Inc., Charleston, West Virginia, to serve as Registrar (the "Registrar") for the Bonds and the Notes under the Resolution and approves and accepts the Registrar's Agreement to be dated the date of delivery of the Bonds and the Notes, by and between the Issuer and the Registrar, and the execution and delivery of the Registrar's Agreement by the Chairperson, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, directed and approved.

Section 5. The Issuer hereby appoints and designates the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Commission"), to serve as Paying Agent for the Bonds and the Notes under the Resolution.

Section 6. The Issuer hereby appoints and designates United Bank, Inc., Parkersburg, West Virginia, to serve as the Depository Bank under the Resolution.

Section 7. On the Closing Date, the Issuer shall deliver the Series 2010 A Bonds and the Series 2010 Notes to the Authority in exchange for the Prior Notes, which exchange shall release and discharge the liens, pledges and encumbrances securing the Prior Notes.

Section 8. The Issuer shall set aside \$89,180 to fund the Debt Service Reserve Account and to pay costs of issuance of the Bonds and the Notes.

Section 9. The Chairperson and Secretary are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Bonds and the Notes hereby and by the Resolution approved and provided for, to the end that the Bonds and the Notes may be delivered to the Authority pursuant to the Loan Agreement on or about February 25, 2010.

Section 10. The refunding of the Prior Notes and the financing thereof with proceeds of the Bonds and the Notes 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 11. The Issuer hereby determines to invest all moneys in the funds and accounts established by the Resolution held by the Depository Bank until expended, in money market accounts secured by a pledge of Government Obligations, and therefore, the Issuer hereby directs the Depository Bank to invest all moneys in such

money market accounts until further directed in writing by the Issuer. Moneys in the Series 2010 A Bonds Sinking Fund and the Series 2010 A Bonds Reserve Account shall be invested by the Commission in the West Virginia Consolidated Fund.

Section 12. The Issuer hereby approves the costs of issuance and authorizes the payment of the same.

Section 13. This Supplemental Resolution shall be effective immediately following adoption hereof.

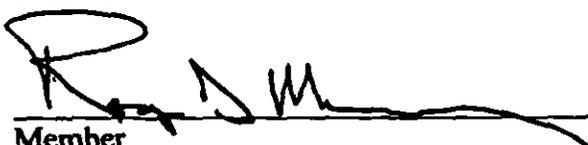
Adopted this 11th day of February, 2010.



Chairperson



Member



Member

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Public Service Board of LUBECK PUBLIC SERVICE DISTRICT on the 11th day of February, 2010.

Dated this 25th day of February, 2010.

[SEAL]


Secretary



WEST VIRGINIA

Water Development Authority

Celebrating 36 Years of Service 1974 - 2012

2.11

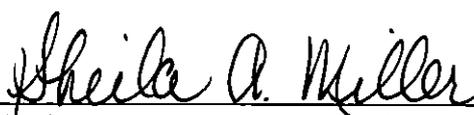
LUBECK PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2012 A
(WEST VIRGINIA CLEAN WATER SRF PROGRAM)
SEWER REVENUE BONDS, SERIES 2012 B
(WEST VIRGINIA CLEAN WATER SRF PROGRAM)

CONSENT TO ISSUANCE OF BONDS

In reliance upon a certificate of Philip R. Postlewait, Jr., CPA, an independent certified public accountant and an opinion of Jackson Kelly, PLLC, bond counsel, stating that the coverage and parity requirements have been met (copy attached), the undersigned duly authorized representative of the West Virginia Water Development Authority, the registered owner of the Prior Bonds and the Series 2010 Notes, hereinafter defined and described, hereby consents (i) to the issuance of the Sewer Revenue Bonds, Series 2012 A (West Virginia Clean Water SRF Program), in the original aggregate principal amount of \$716,272 (the "Series 2012 A Bonds"), and the Sewer Revenue Bonds, Series 2012 B (West Virginia Clean Water SRF Program), in the original aggregate principal amount of \$2,000,000 (the "Series 2012 B Bonds"), by Lubeck Public Service District (the "Issuer"), under the terms of the resolutions authorizing the Series 2012 A Bonds and the Series 2012 B Bonds (collectively, the "Bonds"), with the Bonds on a parity with respect to liens, pledge and source of and security for payment with the Issuer's Sewerage System Revenue Bonds, Series 1999 A (West Virginia SRF Program), Sewerage System Revenue Bonds, Series 1999 B (West Virginia Infrastructure Fund) Sewer Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund, Sewer Revenue Bonds, Series 2005 B (West Virginia Infrastructure Fund), and Sewer Revenue Bonds, Series 2010 A (West Virginia Infrastructure Fund) (collectively, the "Prior Bonds"), and senior and prior with respect to liens, pledge and source of and security for payment with the Issuer's Sewerage System Bond Anticipation Notes, Series 2010 (West Virginia Infrastructure Fund) (the "Series 2010 Notes"); and (ii) to the issuance of the Bonds without paying the Series 2010 Notes.

WITNESS my signature on this 22nd day of June, 2012.

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY



Authorized Representative

LUBECK PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2012 A
(WEST VIRGINIA CLEAN WATER SRF PROGRAM)
SEWER REVENUE BONDS, SERIES 2012 B
(WEST VIRGINIA CLEAN WATER SRF PROGRAM)

3.1

GENERAL CERTIFICATE ON:

1. TERMS
2. NO LITIGATION
3. GOVERNMENTAL APPROVALS
4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS
5. SIGNATURES AND DELIVERY
6. PUBLIC SERVICE COMMISSION ORDER
7. RATES
8. INCUMBENCY AND OFFICIAL NAME
9. LAND AND RIGHTS-OF-WAY
10. MEETINGS
11. INSURANCE
12. BOND PURCHASE AGREEMENT
13. SPECIMEN BONDS
14. BOND PROCEEDS
15. CONFLICTS OF INTEREST
16. VERIFICATION OF SCHEDULE
17. PROCUREMENT OF ENGINEERING SERVICES
18. COUNTERPARTS

On this 22nd day of June, 2012, we, the undersigned CHAIRPERSON and the undersigned SECRETARY of the Public Service Board of Lubeck Public Service District (the "Issuer") and the undersigned ATTORNEY for the Issuer, hereby certify in connection with the Issuer's Sewer Revenue Bonds, Series 2012 A (West Virginia Clean Water SRF Program) and Sewer Revenue Bonds, Series 2012 B (West Virginia Clean Water SRF Program), all dated the date hereof (the "Series 2012 A Bonds," and the "Series 2012 B Bonds" or 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 set forth in the Resolution duly adopted by the Issuer on June 14, 2012, the Supplemental Resolution duly adopted by the Issuer on June 14, 2012 (collectively, the "Resolution"), the bond purchase agreement for the Bonds by and among the Issuer, the West Virginia Water Development Authority (the "Authority"), and the West Virginia Department of

Environmental Protection (the “DEP”), dated June 22, 2012 (collectively, the “Bond Purchase Agreement”).

2. **NO LITIGATION:** No controversy or litigation of any nature is now pending or, to the knowledge of any of the undersigned, threatened, restraining, enjoining or affecting in any manner the authorization, issuance, sale and delivery of the Bonds, the acquisition and construction of the Project, the operation of the System, the collection or use of the revenues of the System, or the pledge and security of the Net Revenues for the Bonds; nor affecting the validity of the Bonds or any provisions made or authorized for the payment thereof; nor questioning the existence of the Issuer or the title of the members or officers of the Issuer or the Board thereof to their respective offices; nor questioning any proceedings of the Issuer taken with respect to the authorization, issuance, sale or delivery of the Bonds, the acquisition and construction of the Project, the operation of the System, the collection or use of the revenues of the System, or the pledge and security for the Bonds.

3. **GOVERNMENTAL APPROVALS:** All applicable approvals, permits, exemptions, consents, authorizations, registrations, licenses, orders and certificates required by law for the creation and existence of the Issuer, the acquisition and construction of the Project, the operation of the System, 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.

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 of the Bond Purchase Agreement. The Issuer has met all conditions set forth in the Bond Purchase Agreement and will provide the financial, institutional, legal and managerial capabilities necessary to complete and operate the Project.

There are outstanding obligations of the Issuer which will rank on a parity with the Series 2012 A Bonds as to liens, pledge and source of and security for payment, being the Sewerage System Revenue Bonds, Series 1999 A (West Virginia SRF Program), dated March 9, 1999, issued in the original aggregate principal amount of \$7,950,000 (the “Series 1999 A Bonds”); Sewerage System Revenue Bonds, Series 1999 B (West Virginia Infrastructure Fund), dated March 9, 1999, issued in the original aggregate principal amount of \$2,000,000 (the “Series 1999 B Bonds”); Sewer Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund), dated September 27, 2005, issued in the original aggregate principal amount of \$7,879,443 (the “Series 2005 A Bonds”); Sewer Revenue Bonds, Series 2005 B (West Virginia Infrastructure Fund), dated September 27, 2005, issued in the original aggregate principal amount of

\$2,411,178 (the “Series 2005 B Bonds”); and Sewer Revenue Bonds, Series 2010 A (West Virginia Infrastructure Fund), dated February 25, 2010, issued in the aggregate principal amount of \$2,136,720 (the “Series 2010 A Bonds”) (collectively, the “Prior Bonds”).

The Issuer also has outstanding its Sewerage System Bond Anticipation Notes, Series 2010 (West Virginia Infrastructure Fund), dated February 25, 2010, issued in the original aggregate principal amount of \$4,141,959 (the “Series 2010 Notes”). The Series 2010 Notes are not secured by the Revenues of the System and shall be junior and subordinate to the Prior Bonds and the Series 2012 A Bonds.

The Issuer has obtained (i) the certificate of an Independent Certified Public Accountant stating that the coverage and parity tests of the Prior Bonds are met; (ii) the written consent of the Registered Owners of the Prior Bonds to the issuance of the Series 2012 A Bonds on a parity with the Prior Bonds; and (iii) the written consent of the Registered Owners of the Series 2010 Notes to the issuance of the Series 2012 Bonds without paying the Series 2010 Notes. Other than the Prior Bonds, there are no other 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.

5. SIGNATURES AND DELIVERY: The undersigned Chairperson and Secretary are the duly elected or appointed, qualified and acting officers of the Issuer as indicated by the official titles opposite their signatures below, and are duly authorized to execute and seal the Bonds for the Issuer. The seal impressed upon the Bonds and this Certificate is the duly authorized, proper and only seal of the Issuer. On the date hereof, the undersigned Chairperson did officially sign all of the Bonds , consisting upon original issuance of a single Bond for each series, dated the date hereof, by his or her manual signature; the undersigned Secretary did officially cause the seal of the Issuer to be affixed upon the Bonds and to be attested by his or her manual signature; the Registrar did officially authenticate, register and deliver the Bonds to a representative of the Authority as the original purchaser of the Bonds under the Bond Purchase Agreement.

6. PUBLIC SERVICE COMMISSION ORDER: The Issuer has received the Recommended Decision of the Administrative Law Judge dated November 9, 2011, as made final by the Public Service Commission of West Virginia (the “PSC”) on November 29, 2011, and the PSC Order dated May 31, 2012, in Case No. 09-0925-PSD-CN, granting to the Issuer a certificate of public convenience and necessity for the Project and approving the rates for the System and the financing for the Project. The time for appeal for the November 29, 2011 Order has expired prior to the date

hereof. The time for appeal for the May 31, 2012 Order has not expired, however, the Issuer does not expect an appeal. Such Order remains in full force and effect.

7. RATES: The rates for the System, as approved by the Recommended Decision of the Administrative Law Judge dated November 9, 2011, as made final by the PSC on November 29, 2011, and a PSC Order entered on May 31, 2012, in Case No. 09-0925-PSD-CN, are currently in effect. The time for appeal for the November 29, 2011 Order has expired prior to the date hereof and such Order remains in full force and effect. The time for appeal for the May 31, 2012 Order has not expired, however, the Issuer does not expect an appeal.

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

<u>Name</u>	<u>Date of Commencement of Office</u>	<u>Date of Termination of Office</u>
Roger D. Martin	March 18, 2004	December 31, 2013
John H. Sines	January 1, 2011	December 31, 2016
Jerry R. Martin	January 1, 2012	December 31, 2017

The duly elected or appointed officers of the Board for 2012 are as follows:

- Roger D. Martin - Chairperson
- Jerry R. Martin - Secretary
- John H. Sines - Treasurer

The duly appointed and acting attorney for the Issuer is C. Blaine Myers, Esquire, of Parkersburg, West Virginia.

9. LAND AND RIGHTS-OF-WAY: All land, 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 that would adversely affect or interfere in any way with the use thereof for such purposes. The costs thereof, including costs of any properties that may have to be acquired by condemnation, are, in the opinion of all the undersigned, within the ability of the Issuer to pay for the same without jeopardizing the security of or payments on the Bonds.

10. **MEETINGS:** All actions, resolutions, orders and agreements taken, adopted 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 or the System were authorized or adopted at meetings of the Board duly and regularly or specifically called and held pursuant to all applicable statutes and the rules of procedure of the Board, and a quorum of duly appointed, qualified and acting members of the Board was present and acting at all times during all such meetings. All notices required to be posted and/or published were so posted and/or published.

11. **INSURANCE:** The Issuer will maintain or, as appropriate, will require all contractors to maintain worker's compensation, public liability insurance, property damage insurance, standard hazard insurance, builder's risk insurance, flood insurance and business interruption insurance, where applicable, in accordance with the Resolution and the Bond Purchase Agreement. All insurance for the System required by the Resolution and the Bond Purchase Agreement are in full force and effect.

12. **BOND PURCHASE AGREEMENT:** As of the date hereof, (i) the representations of the Issuer contained in the Bond Purchase Agreement are true and correct in all material respects as if made on the date hereof; (ii) the Bond Purchase Agreement does not contain any untrue statements 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 Bond Purchase 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 therein not misleading; and (iv) the Issuer is in compliance with the Bond Purchase Agreement.

13. **SPECIMEN BONDS:** Attached hereto as Exhibit A are specimens of the Bonds which, except as to execution and authentication, are identical in all respects with the Bonds this day delivered to the Authority and being substantially in the form prescribed in the Resolution.

The Issuer will serve the additional customers at the location(s) as set forth in the Certificate of the Engineer. The Issuer will not reduce the amount of additional customers served by the Project without the prior written approval of the Board of the

Authority. Following completion of the Project, the Issuer will certify to the Authority the number of customers added to the System.

14. **BOND PROCEEDS:** On the date hereof, the Issuer received (a) \$160,655 from the Authority, being a portion of the principal amount of the Series 2012 A Bonds; and (b) \$-0- from the Authority, being a portion of the principal amount of the Series 2012 B Bonds. The balance of the principal amount of the Bonds will be advanced to the Issuer from time to time as acquisition and construction of the Project progresses.

15. **CONFLICTS 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 the sale of any land, materials, supplies or services to the Issuer, or to any contractor supplying the Issuer, relating to the Bonds or the Notes, the Resolution and/or the Project, including, without limitation, with respect to the Depository Bank. For purposes of this paragraph, a “substantial financial interest” shall include, without limitation, an interest amounting to more than 5% of the particular business enterprise or contract.

16. **VERIFICATION OF SCHEDULE:** The final amended Schedule B attached to the Certificate of Consulting Engineer, with the signature of the Chairperson and the Consulting Engineer, accurately represents the estimated costs of the Project, the sources of funds available to pay the costs of the Project and the costs of financing of the Bonds.

17. **PROCUREMENT OF ENGINEERING SERVICES:** The Issuer has complied with all the requirements of Chapter 5G, Article 1 of the Code of West Virginia, 1931, as amended, in the procurement of the engineering services of the Consulting Engineer.

18. **COUNTERPARTS:** This Certificate may be executed in counterparts and all counterparts shall be deemed to be the Certificate.

WITNESS our signatures and the official corporate seal of Lubeck Public Service District as of the date first written above.

[SEAL]

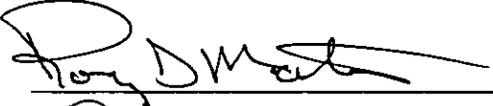
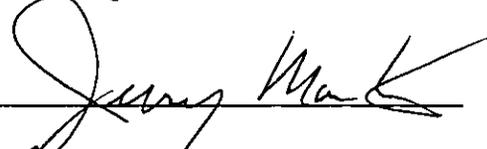
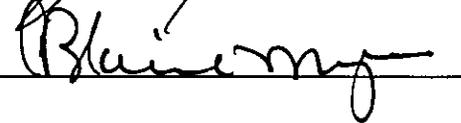
<u>Signature</u>	<u>Official Title</u>
 _____	Chairperson
 _____	Secretary
 _____	Attorney

EXHIBIT A

See Specimen Bond (Tab No. 14)

LUBECK PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2012 A
(WEST VIRGINIA CLEAN WATER SRF PROGRAM)
SEWER REVENUE BONDS, SERIES 2012 B
(WEST VIRGINIA CLEAN WATER SRF PROGRAM)

3.2

CERTIFICATE OF CONSULTING ENGINEER

I, Charles R. Roberts, Jr., Registered Professional Engineer, West Virginia License No. 10424, of E. L. Robinson Engineering Co., Charleston, West Virginia, hereby certify as follows:

1. My firm is engineer for the acquisition and construction of certain additions, betterments and improvements consisting of the extension of wastewater collection and treatment facilities for Lake Washington, Vaughts Run and Hy-View Terrace in Wood County (the "Project") to the existing public sewerage system (the "System") of Lubeck Public Service District (the "Issuer"), to be constructed primarily in Wood County, West Virginia, which acquisition and construction are being permanently financed by the above-captioned bonds (the "Bonds") of the Issuer. All capitalized words used herein and not defined herein shall have the same meaning set forth in the Bond Resolution passed by the Issuer on June 14, 2012, as supplemented by a Supplemental Resolution adopted by the Issuer on June 14, 2012, and the Bond Purchase Agreement by and among the Issuer, the West Virginia Water Development Authority (the "Authority") and the West Virginia Department of Environmental Protection ("DEP"), dated June 22, 2012 (the "Bond Purchase Agreement").

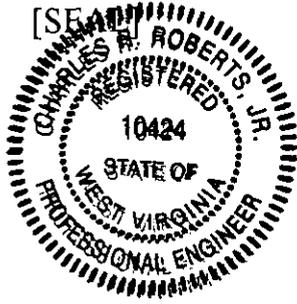
2. The Bonds are being issued for the purposes of (i) paying the costs of acquisition and construction of the Project; (ii) funding the Series 2012 A Reserve Account; and (iii) paying certain costs of issuance and related costs.

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 any change orders approved by the Issuer, 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 40 years, if properly 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 the Schedule B attached hereto as Exhibit A, and in reliance upon the opinion of C. Blaine Myers, Esq., of even date herewith, all successful bidders have made required provisions for all insurance and payment and performance bonds and 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 all critical 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, to the extent the plans were prepared by my firm, and operation of the System; (ix) in reliance upon the certificate of the Issuer's certified public accountant, Philip R. Postlewait, CPA, of even date herewith, as of the effective date thereof, the rates and charges for the System as enacted by the Issuer will be sufficient to comply with the provisions of the Bond Purchase 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; (xi) attached hereto as Exhibit A are the final amended "Schedule B - Total Cost of Project, Sources of Funds and Cost of Financing" for the Bonds associated with the Project; and (xii) all contractors to be awarded contracts for the construction of the Project have submitted affidavits indicating such contractor has a drug free workplace plan pursuant to Chapter 21, Article 1D of the West Virginia Code of 1931, as amended.

4. The Project will serve 81 new customers in the Lake Washington and Vaughts Run Area.

WITNESS my signature and seal on this 14th day of June, 2012.

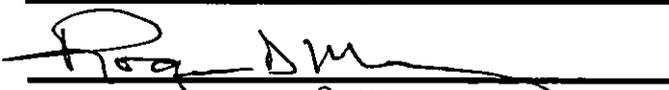


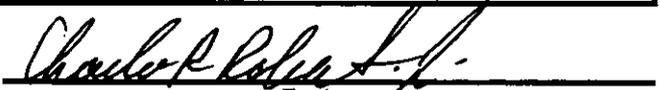
Charles R. Roberts, Jr.
E.L. ROBINSON ENGINEERING CO.
Charles R. Roberts, Jr., P.E.
West Virginia License No. 10424

**WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION
SCHEDULE B**

LUBECK PSD - LAKE WASHINGTON/VAUGHTS RUN SS EXTENSION
SRF No. C-544453, IJDC # 2009S-1096
COST OF PROJECT, SOURCES OF FUNDS AND COST OF FINANCING

A. Cost of Project		Total	WVDEP CWSRF (38 yrs, 0% + 1/2%)	WVDEP CWSRF Debt Forgiveness	IJDC (grant)		
1.	Construction	Maximum: \$	1,150,000.00	\$	2,000,000.00	\$	710,000.00
	Contract 1	2,123,462	123,462	2,000,000	-		
	Equipment	113,300	113,300				
2.	Technical Services						
	a. Design	102,000	102,000	-	-		
	b. Construction	24,000	24,000	-	-		
	c. Special Services	12,000	12,000	-	-		
	d. Inspection	120,000	120,000	-	-		
3.	Legal						
	a. Project Attorney	5,000	-	-	5,000		
	b. PSC Attorney	18,000	18,000	-	-		
	c. Property Acquisition Legal Services	15,000	-	-	15,000		
4.	Sites and Other Lands	20,000	-	-	20,000		
5.	Miscellaneous						
	a. Administrative	5,000	-	-	5,000		
	b. Permits	10,000	-	-	10,000		
	c. Accounting	15,000	-	-	15,000		
	d. LW Pump Station Electrical - AEP	25,000	-	-	25,000		
	e. Telemetry - LW	30,000	30,000	-	-		
	f. Asphalt Overlay - Vaughts Run	100,000	100,000	-	-		
6.	Project Administrator	25,000	24,160	-	840		
7.	Contingency	106,173	-	-	106,173		
8.	Total of Lines 1 through 7	2,868,935	666,922	2,000,000	202,013		
B. Cost of Financing							
9.	Capitalized Interest						
10.	Other Costs						
	a. Bond Counsel	30,000	30,000	-	-		
	b. Bank Registrar Fee	500	500				
	c. Funded Reserve	18,850	18,850				
11.	Total Cost of Financing	49,350	49,350	-	-		
12.	TOTAL PROJECT COST (line 8 plus line 11)	2,918,285	716,272	2,000,000	202,013		
C. Sources of Funds							
13.	Federal Grants						
14.	State Grants	2,000,000					
15.	Other Sources	202,013					
16.	TOTAL GRANTS	2,202,013					
17.	Size of Bond Issue	716,272	716,272				


Owner


Engineer

Date: 6-14-12

Date: 6/14/12

LUBECK PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2012 A
(WEST VIRGINIA CLEAN WATER SRF PROGRAM)
SEWER REVENUE BONDS, SERIES 2012 B
(WEST VIRGINIA CLEAN WATER SRF PROGRAM)

CERTIFICATE AS TO USE OF PROCEEDS

On this 22nd day of June, 2012, the undersigned Chairperson of the Public Service Board of Lubeck Public Service District in Wood County, West Virginia (the "Issuer"), being one of the officials of the Issuer duly charged with the responsibility for the issuance of \$716,272 Sewer Revenue Bonds, Series 2012 A (West Virginia Infrastructure Fund) and \$2,000,000 Sewer Revenue Bonds, Series 2012 B (West Virginia Clean Water SRF Program), of the Issuer, all dated June 22, 2012 (the "Bonds" and individually, the "Series 2012 A Bonds" and the "Series 2012 B Bonds"), hereby certify as follows:

1. I am one of the officers of the Issuer duly charged with the responsibility of issuing the Bonds. I am familiar with the facts, circumstances and estimates herein certified and duly authorized to execute and deliver this certificate on behalf of the Issuer. Capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Resolution duly adopted by the Issuer on June 14, 2012 (the "Resolution"), authorizing the Bonds.

2. This certificate may be relied upon as the certificate of the Issuer.

3. This certificate is based upon facts, circumstances, estimates and expectations of the Issuer in existence on June 22, 2012, the date on which the Bonds are being physically delivered, and to the best of my knowledge and belief, the expectations of the Issuer set forth herein are reasonable.

4. In the Resolution pursuant to which the Bonds are issued, the Issuer has covenanted that it shall not take, or permit or suffer to be taken, any action with respect to Issuer's use of the proceeds of the Bonds which would cause any bonds, the interest on which is exempt from federal income taxation under Section 103(a) of the Internal Revenue Code of 1986, as amended, and the temporary and permanent regulations promulgated thereunder or under any predecessor thereto (collectively, the "Code"), issued by the West Virginia Water Development Authority (the "Authority") or the West Virginia Department of Environmental Protection (the "DEP"), as the case may be, from which the proceeds of the Bonds are derived, to lose their status as tax-exempt

bonds. The Issuer hereby covenants to take all actions necessary to comply with such covenant.

5. The Series 2012 A Bonds were sold on June 22, 2012, to the Authority, pursuant to a bond purchase agreement dated June 22, 2012, by and among the Issuer, the Authority and the DEP (the "Bonds Purchase Agreement"), for an aggregate purchase price of \$716,272 (100% of par), at which time, the Issuer received \$160,665 from the Authority and the DEP, being the first advance of the principal of the Bonds. The Series 2012 B Bonds were sold on June 22, 2012, to the Authority, pursuant to the Bond Purchase Agreement, for an aggregate purchase price of \$2,000,000 (100% of par) at which time the Issuer received \$-0- from the Authority and the DEP. No accrued interest has been or will be paid on the Bonds. The balance of the principal amount of the Bonds will be advanced to the Issuer as acquisition and construction of the Project progresses.

6. The Bonds are being delivered simultaneously with the delivery of this Certificate and are issued for the purposes of (i) paying a portion of the costs of acquisition and construction of certain improvements and extensions to the existing public sewer facilities of the Issuer (the "Project"); (ii) funding the Series 2012 A Reserve Account; and (iii) paying certain costs of issuance of the Bonds and related costs.

7. The Issuer shall, on the date hereof or immediately hereafter, enter into agreements which require the Issuer to expend at least 5% of the net sale proceeds of the Bonds for the acquisition and construction of the Project, constituting a substantial binding commitment. The acquisition and construction of the Project and the allocation of the net sale proceeds of the Bonds to expenditures for costs of the Project shall commence immediately and proceed with due diligence to completion and, with the exception of proceeds deposited in the reserve account for the Bonds, if any, all of the proceeds from the sale of the Bonds, together with any investment earnings thereon, will be expended for payment of costs of acquisition and construction of the Project on or before January 1, 2014. The acquisition and construction of the Project is expected to be completed by September 1, 2013.

8. The total cost of construction of the Project, including the costs of issuance, is estimated at \$2,918,285. Sources and uses are as follows:

SOURCES

Principal of Series 2012 A Bonds	\$ 716,272
Principal of Series 2012 B Bonds	2,000,000

Infrastructure Council Grant	<u>202,013</u>
Total Sources	<u>\$2,918,285</u>

USES

Project Costs	\$2,868,937
Prefund Reserve Account	18,848
Costs of Issuance	<u>30,500</u>
Total Uses	<u>\$2,918,285</u>

9. Pursuant to Article V of the Resolution, the following special funds or accounts have been created:

- (1) Revenue Fund;
- (2) Renewal and Replacement Fund;
- (3) Series 2012 A Bonds Sinking Fund;
- (4) Series 2012 A Bonds Reserve Account;
- (5) Series 2012 B Bonds Sinking Fund; and
- (6) Series 2012 B Bonds Reserve Account.

10. Pursuant to Article VI of the Resolution, the refunding of the Prior Notes will occur as follows:

- (1) Series 2012 A Bond proceeds in the amount of \$18,848 will be deposited in the Series 2012 A Bonds Reserve Account.
- (2) The balance of the proceeds of the Series 2012 A Bonds will be deposited in the Series 2012 Bonds Construction Trust Fund as received from time to time and applied solely to payment of costs of acquisition and construction of the Project, including costs of issuance of the Bonds and related costs, and for no other purpose.
- (3) Series 2012 B Bond proceeds in the amount of \$-0- will be deposited in the Series 2012 B Bonds Reserve Account.

(4) The balance of the proceeds of the Series 2012 B Bonds will be deposited in the Series 2012 Bonds Construction Trust Fund as received from time to time and applied solely to payment of costs of acquisition and construction of the Project, including costs of issuance of the Bonds and related costs, and for no other purpose.

11. Moneys held in the Series 2012 A Bonds Sinking Fund will be used solely to pay principal of and interest, if any, on the Series 2012 A Bonds. All investment earnings on moneys in the Series 2012 A 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 be deposited in the Revenue Fund and applied in full, first to the next ensuing interest payment, if any, due on the Series 2012 A Bonds, and then to the next ensuing principal payment due thereon.

12. Moneys held in the Series 2012 B Bonds Sinking Fund will be used solely to pay principal of and interest, if any, on the Series 2012 B Bonds. All investment earnings on moneys in the Series 2012 B 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 be deposited in the Revenue Fund and applied in full, first to the next ensuing interest payment, if any, due on the Series 2012 B Bonds, and then to the next ensuing principal payment due thereon.

13. The Issuer will take such steps as requested by the Authority to ensure that the Authority's bonds meet the requirements of the Code.

14. The Issuer does not expect to sell or otherwise dispose of the System in whole or in part prior to the last maturity date of the Bonds.

15. The amount designated as costs of issuance of the Bonds consists only of costs which are directly related to and necessary for the issuance of the Bonds.

16. All property financed with the proceeds of the Prior Bonds has been and will be owned and held by (or on behalf of) a qualified governmental unit.

17. The Project will be operated solely for a public purpose as a local governmental activity of the Issuer.

18. The Bonds are not federally guaranteed.

19. The Issuer has retained the right to amend the Resolution authorizing the issuance of the Bonds if such amendment is necessary to assure that the Bonds remain governmental or public purpose bonds.

20. The Issuer has either (a) funded the Series 2012 A Bonds Reserve Account at the maximum amount of principal and interest, if any, which will mature and become due on the Series 2012 A Bonds in the then current or any succeeding year with the proceeds of the Series 2012 A Bonds, or (b) created the Series 2012 A Bonds Reserve Account which will be funded with equal payments made on a monthly basis over a 10-year period until such Series 2012 A Bonds Reserve Account hold an amount equal to the maximum amount of principal and interest, if any, which will mature and become due on the Series 2012 A Bonds in the then current or any succeeding year. Moneys in the Series 2012 A Bonds Reserve Account and the Series 2012 A Bonds Sinking Fund will be used solely to pay principal of and interest, if any, on the Series 2012 A Bonds.

21. The Issuer has either (a) funded the Series 2012 B Bonds Reserve Account at the maximum amount of principal and interest, if any, which will mature and become due on the Series 2012 B Bonds in the then current or any succeeding year with the proceeds of the Series 2012 B Bonds, or (b) created the Series 2012 B Bonds Reserve Account which will be funded with equal payments made on a monthly basis over a 10-year period until such Series 2012 B Bonds Reserve Account hold an amount equal to the maximum amount of principal and interest, if any, which will mature and become due on the Series 2012 B Bonds in the then current or any succeeding year. Moneys in the Series 2012 B Bonds Reserve Account and the Series 2012 B Bonds Sinking Fund will be used solely to pay principal of and interest, if any, on the Series 2012 B Bonds.

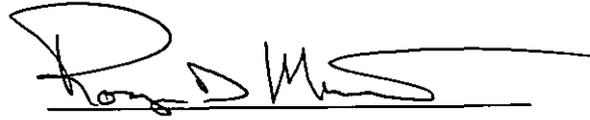
22. There are no other obligations of the Issuer which (a) are to be issued at substantially the same time as the Bonds, (b) are to be sold pursuant to a common plan of financing together with the Bonds and (c) will be paid out of substantially the same sources of funds or will have substantially the same claim to be paid out of substantially the same sources of funds as the Bonds.

23. To the best of my knowledge, information and belief, there are no other facts, estimates and circumstances which would materially change the expectations herein expressed.

24. The Issuer will comply with instructions as may be provided by the Authority, at any time, regarding use and investment of proceeds of the Bonds, rebates and rebate calculations.

25. To the best of my knowledge, information and belief, the foregoing expectations are reasonable.

WITNESS my signature as of the date first written above.

A handwritten signature in black ink, appearing to read "Ronald W. Smith", written over a horizontal line.

Chairperson

LUBECK PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2012 A
(WEST VIRGINIA CLEAN WATER SRF PROGRAM)
SEWER REVENUE BONDS, SERIES 2012 B
(WEST VIRGINIA CLEAN WATER SRF PROGRAM)

3.4

CERTIFICATE OF SECRETARY
AS TO TRUTH AND ACCURACY OF DOCUMENTS DELIVERED

On this 22nd day of June, 2012, the undersigned duly appointed Secretary of Lubeck Public Service District (the "Issuer") hereby certifies that the copies of the following documents being delivered in connection with the closing of the sale of the Lubeck Public Service District Sewer Revenue Bonds, Series 2012 A (West Virginia Clean Water SRF Program) and Sewer Revenue Bonds, Series 2012 B (West Virginia Clean Water SRF Program), are, as of the date hereof, true and accurate copies of the originals of those documents maintained on file with the Issuer and delivered in the transcript of proceedings, that said documents have been duly adopted or approved by the Public Service Board (the "Board") of the Issuer and that said documents are still in full force and effect as of the date hereof and have not been repealed, rescinded, superseded, amended or modified in any way unless the document effecting such repeal, rescission, supersedence, amendment or modification is also listed below:

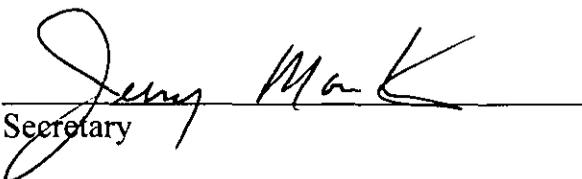
1. Orders of The County Commission of Wood County Creating and Enlarging the Issuer.
2. Orders of The County Commission of Wood County Appointing the Members of the Board.
3. Oaths of Office of the Board Members.
4. Rules of Procedure.
5. Minutes of Current Year Organizational Meeting.
6. Public Service Commission Order.
7. Infrastructure Council Approval Letter.
8. CWSRF Bond Purchase Agreement.

9. Bond Resolution.
10. Supplemental Resolution.
11. Minutes of Board Meeting regarding Adoption of Bond Resolution and Supplemental Resolution.
12. Affidavit of Publication regarding Notice of Meeting to Adopt Bond Resolution and Supplemental Resolution.
13. 1999 Bond Resolution.
14. 2005 Bond Resolution.
15. 2010 Bond and Note Resolution.
16. WDA Consent to Issuance of Bonds.
17. NPDES Permit.
18. Insurance Certificates.
19. Infrastructure Council Grant Agreement.

WITNESS my signature and the official seal of the Issuer as of the date first written above.

LUBECK PUBLIC SERVICE DISTRICT

[SEAL]


Secretary

PHILIP R. POSTLEWAIT, JR.
CERTIFIED PUBLIC ACCOUNTANT
P.O. BOX 1281
PARKERSBURG, WEST VIRGINIA 26102
TELEPHONE (304) 422-7444
FACSIMILE (304) 422-4991

3.5

June 22, 2012

LUBECK PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2012 A
(WEST VIRGINIA CLEAN WATER SRF PROGRAM)
SEWER REVENUE BONDS, SERIES 2012 B
(WEST VIRGINIA CLEAN WATER SRF PROGRAM)

Lubeck Public Service District
Washington, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

West Virginia Department of Environmental Protection
Charleston, West Virginia

Final Certification

Ladies and Gentlemen:

I have reviewed the sewer rates of Lubeck Public Service District (the "Issuer"), as approved by the Recommended Decision of an Administrative Law Judge dated November 9, 2011, as made final by the Public Service Commission of West Virginia (the "PSC") entered on November 29, 2011, and the PSC Order dated May 31, 2012, in Case No. 09-0925-PSD-CN, the current operating expenses and the current customer usage provided by the Issuer. It is my opinion that such rates are sufficient (i) to provide for all operating expenses of the sewerage facilities of the Issuer (the "System") and (ii) to leave a balance each year equal to at least 110%* of the maximum amount required in any year for payment of principal of and interest on the Issuer's proposed \$716,272 Sewer Revenue Bonds, Series 2012 A (West Virginia Clean Water SRF Program) (the "Series 2012 A Bonds"), bearing no interest, with a .5% Administrative fee and a 40 year term, proposed \$2,000,000 Sewer

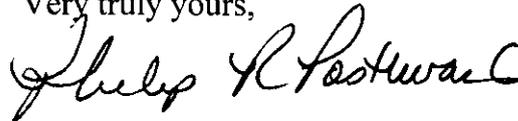
* Reserve Funds are Fully Funded.
{C2337098.1}

Lubeck Public Service District
West Virginia Water Development Authority
West Virginia Department of Environmental Protection
June 22, 2012
Page 2

Revenue Bonds, Series 2012 B (West Virginia Clean Water SRF Program) (the “Series 2012 B Bonds”), which would bear no interest and would be principal forgiveness, Sewerage System Revenue Bonds, Series 1999 A (West Virginia SRF Program); Sewerage System Revenue Bonds, Series 1999 B (West Virginia Infrastructure Fund); Sewer Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund); Sewer Revenue Bonds, Series 2005 B (West Virginia Infrastructure Fund); and Sewer Revenue Bonds, Series 2010 A (West Virginia Infrastructure Fund) (collectively, the “Prior Bonds”).

It is further my 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 Series 2012 A Bonds and the Series 2012 B 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 Series 2012 A Bonds and the Series 2012 B Bonds, will not be 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 Series 2012 A Bonds and the Series 2012 B Bonds.

Very truly yours,

A handwritten signature in black ink, reading "Philip R. Postlewait, Jr." in a cursive script.

Philip R. Postlewait, Jr., CPA

LUBECK PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2012 A
(WEST VIRGINIA CLEAN WATER SRF PROGRAM)
SEWER REVENUE BONDS, SERIES 2012 B
(WEST VIRGINIA CLEAN WATER SRF PROGRAM)

3.6

RECEIPT FOR BONDS

On this 22nd day of June, 2012, the undersigned authorized representative of the West Virginia Water Development Authority (the "Authority"), for and on behalf of the Authority, hereby certifies as follows:

1. On the date hereof, in Charleston, West Virginia, the Authority received from Lubeck Public Service District(the "Issuer"), (i) the Sewer Revenue Bonds, Series 2012 A (West Virginia Clean Water SRF Program), dated June 22, 2012, issued in the principal amount of \$716,272, numbered AR-1, in the form of one bond, fully registered to the Authority; and (ii) the Sewer Revenue Bonds, Series 2012 (West Virginia Clean Water SRF Program), dated June 22, 2012, issued in the principal amount of \$2,000,000, numbered BR-1, in the form of one bond, fully registered to the Authority (collectively, the "Bonds").

2. At the time of such receipt of the Bonds, they had been executed by the Chairperson of the Issuer and attested by the Secretary of the Issuer, by their respective manual signatures, and the official seal of the Issuer had been impressed thereon.

WITNESS my signature as of the date first written above.

WEST VIRGINIA WATER DEVELOPMENT
AUTHORITY



Authorized Representative

LUBECK PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2012 A
(WEST VIRGINIA CLEAN WATER SRF PROGRAM)
SEWER REVENUE BONDS, SERIES 2012 B
(WEST VIRGINIA CLEAN WATER SRF PROGRAM)

3.7

RECEIPT FOR BONDS PROCEEDS

On this 22nd day of June, 2012, the undersigned Chairperson of Lubeck Public Service District (the "Issuer"), for and on behalf of the Issuer, hereby certifies as follows:

On the date hereof, in Charleston, West Virginia, the Issuer delivered to the West Virginia Water Development Authority (the "Authority"): (i) the Sewer Revenue Bonds, Series 2012 A (West Virginia Clean Water SRF Program) (the "Series 2012 A Bond"), dated June 22, 2012, issued in the principal amount of \$716,272, numbered AR-1, in the form of one bond, fully registered to the Authority; and (ii) the Sewer Revenue Bonds, Series 2012 B (West Virginia Clean Water SRF Program), dated June 22, 2012, issued in the principal amount of \$2,000,000, numbered BR-1, in the form of one bond, fully registered to the Authority (collectively the "Bonds"). The Issuer has received on this date hereof from the Authority, the sum of \$160,665, being the first advance of the Series 2012 A Bonds. The Issuer understands that the remaining proceeds of the Bonds will be advanced to the Issuer from the Authority from time to time as the Project progresses.

WITNESS my signature as of the date first written above.

LUBECK PUBLIC SERVICE DISTRICT


Chairperson

LUBECK PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2012 A
(WEST VIRGINIA CLEAN WATER SRF PROGRAM)
SEWER REVENUE BONDS, SERIES 2012 B
(WEST VIRGINIA CLEAN WATER SRF PROGRAM)

3.8

REQUEST AND AUTHORIZATION TO
AUTHENTICATE, REGISTER AND DELIVER THE BONDS

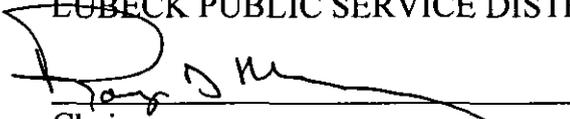
United Bank, Inc.
Charleston, West Virginia

Ladies and Gentlemen:

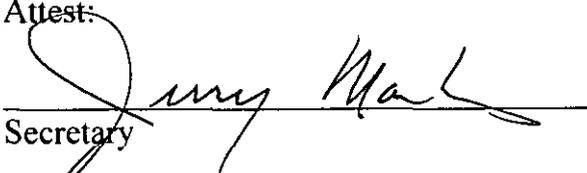
We herewith hand to you, duly executed, the (i) \$716,272 Sewer Revenue Bonds, Series 2012 A (West Virginia Clean Water SRF Program), in the form of one bond, numbered AR-1, dated June 22, 2012 ; and (ii) \$2,000,000 Sewer Revenue Bonds, Series 2012 B (West Virginia Clean Water SRF Program), in the form of one bond, numbered BR-1, dated June 22, 2012 (collectively, the "Bonds"), of Lubeck Public Service District (the "Issuer"), authorized to be issued under and pursuant to a Resolution and a Supplemental Resolution duly adopted by the Issuer on June 14, 2012.

You are hereby requested and authorized to authenticate, register and deliver the Bonds on behalf of the Issuer to the West Virginia Water Development Authority.

WITNESS our signatures on this 22nd day of June, 2012.

LUBECK PUBLIC SERVICE DISTRICT

Chairperson

(SEAL)

Attest:

Secretary

LUBECK PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2012 A
(WEST VIRGINIA CLEAN WATER SRF PROGRAM)
SEWER REVENUE BONDS, SERIES 2012 B
(WEST VIRGINIA CLEAN WATER SRF PROGRAM)

3.9

REGISTRAR'S AGREEMENT

THIS REGISTRAR'S AGREEMENT, dated as of the 22nd day of June, 2012, by and between LUBECK PUBLIC SERVICE DISTRICT, a public corporation (the "Issuer"), and UNITED BANK, INC., Charleston, West Virginia (the "Registrar").

WHEREAS, the Issuer has, contemporaneously with the execution hereof, issued and sold its (i) 716,272 Sewer Revenue Bonds, Series 2012 A (West Virginia Clean Water SRF Program), dated June 22, 2012, numbered AR-1, in the form of one bond, in fully registered form; and (ii) \$2,000,000 Sewer Revenue Bonds, Series 2012 B (West Virginia Clean Water SRF Program), dated June 22, 2012, numbered BR-1, in the form of one note, in fully registered form (collectively, the "Bonds"), pursuant to a Resolution and a Supplemental Resolution adopted by the Issuer on June 14, 2012 (collectively, the "Resolution");

WHEREAS, capitalized words and terms used in this Registrar's Agreement and not otherwise defined herein shall have the respective meanings given them in the Resolution, a copy of which is attached as Exhibit A hereto and incorporated herein by reference;

WHEREAS, the Resolution provides for an appointment by the Issuer of a Registrar for the Bonds; and

WHEREAS, the Issuer desires to appoint, and by the Resolution and this Registrar's Agreement does appoint, the Registrar to act as Registrar under the Resolution and to take certain other actions hereinafter set forth;

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

1. Upon the execution of this Registrar's Agreement by the 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 Resolution, such duties including, among other things, the duties to authenticate, register and deliver Bonds upon original issuance and when properly presented for exchange or transfer, and shall do so with the intention of maintaining the exclusion of interest, if any,

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 heretofore agreed by the parties and set forth in the attached invoice.

5. It is intended that this Registrar's Agreement shall carry out and implement provisions of the Resolution with respect to the Registrar. In the event of any conflict between the terms of this Registrar's Agreement and the Resolution, the terms of the Resolution shall govern.

6. The 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 Resolution will violate any order, decree or agreement to which it is a party or by which it is bound.

7. This Registrar's Agreement may be terminated by either party upon 60 days' written notice sent by registered or certified mail to the other party, at the following respective address:

ISSUER:

Lubeck Public Service District
P.O. Box 700
Washington, WV 26181
Attention: Chairperson

REGISTRAR:

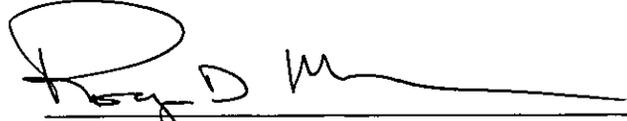
United Bank, Inc.
500 Virginia Street East
Charleston, WV 25301
Attention: Corporate Trust Department

The Issuer and the Registrar shall notify the other in writing of any change of address.

8. The Registrar is hereby requested and authorized to authenticate, register and deliver the Bonds in accordance with the Resolution.

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 date first written above.

LUBECK PUBLIC SERVICE DISTRICT



Chairperson

UNITED BANK, INC.



Authorized Officer

EXHIBIT A

See Resolution (Tab No. 10)

See Supplemental Resolution (Tab No. 11)

LUBECK PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2012 A
(WEST VIRGINIA CLEAN WATER SRF PROGRAM)
SEWER REVENUE BONDS, SERIES 2012 B
(WEST VIRGINIA CLEAN WATER SRF PROGRAM)

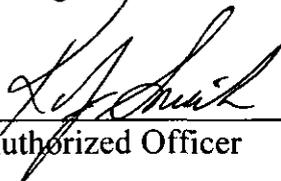
3.10

CERTIFICATE OF REGISTRATION

UNITED BANK, INC., Charleston, West Virginia, as Registrar (the "Registrar"), hereby certifies that on the date hereof, (i) the single, fully registered Sewer Revenue Bonds, Series 2012 A (West Virginia Clean Water SRF Program), of Lubeck Public Service District (the "Issuer"), dated June 22, 2012, in the principal amount of \$716,272, numbered AR-1; and (ii) the single, fully registered Sewer Revenue Bonds, Series 2012 B (West Virginia Clean Water SRF Program), of the Issuer, dated June 22, 2012, in the principal amount of \$2,000,000, numbered BR-1; were 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 the Registrar.

WITNESS my signature on this 22nd day of June, 2012.

UNITED BANK, INC.,
as Registrar



Authorized Officer

WEST VIRGINIA MUNICIPAL BOND COMMISSION

1207 Quarrier Street, Suite 401
Charleston, WV 25301
(304) 558-3971

3.11(A)

NEW ISSUE REPORT FORM

Date of Report: June 22, 2012

ISSUE: Lubeck Public Service District Sewer Revenue Bonds, Series 2012 A (West Virginia Clean Water SRF Program)

ADDRESS: P.O. Box 700, Washington, WV 26181 COUNTY: Wood

PURPOSE OF ISSUE: New Money X
Refunding: _____ Refunds issue(s) dated: _____

ISSUE DATE: June 22, 2012 CLOSING DATE: June 22, 2012

ISSUE AMOUNT: \$716,272 RATE: 0% / 0.5% Admin Fee

1st DEBT SERVICE DUE: June 1, 2014 1st PRINCIPAL DUE: June 1, 2014

1st DEBT SERVICE AMOUNT: \$4,713 PAYING AGENT: Municipal Bond Commission

BOND COUNSEL: Jackson Kelly PLLC UNDERWRITERS COUNSEL: _____
Contact Person: Samme L. Gee, Esquire Contact Person: _____
Phone: (304) 340-1318 Phone: _____

CLOSING BANK: West Virginia Central Credit Union ESCROW TRUSTEE: _____
Contact Person: Mike Tucker Contact Person: _____
Phone: (304) 485-4523 Phone: _____

KNOWLEDGEABLE ISSUER CONTACT: OTHER: WV Department of Environmental Protection
Contact Person: Randall Atkinson Contact Person: Rosalie Brodersen
Position: General Manager Function: Program Manager
Phone: (304) 863-3341 Phone: (304) 926-0449 ext 1608
E-Mail: ra.lubeckpsd@cascable.net

DEPOSITS TO MBC AT CLOSE: _____ Accrued Interest: \$ _____
Capitalized Interest: \$ _____
By _____ Wire _____ X Reserve Account: \$18,848
_____ Check _____ Other: \$ _____

REFUNDS & TRANSFERS BY MBC AT CLOSE:
By _____ Wire _____ To Escrow Trustee: \$ _____
_____ Check _____ To Issuer: \$ _____
_____ IGT _____ To Cons. Invest. Fund \$ _____
_____ To Other: _____ \$ _____

NOTES: Reserve Fund will be fully funded from proceeds.

FOR MUNICIPAL BOND COMMISSION USE ONLY:
Documents Required: _____
Transfers Required: _____

WEST VIRGINIA MUNICIPAL BOND COMMISSION

1207 Quarrier Street, Suite 401

Charleston, WV 25301

(304) 558-3971

3.11(B)

NEW ISSUE REPORT FORM

Date of Report: June 22, 2012

ISSUE: Lubeck Public Service District Sewer Revenue Bonds, Series 2012 B (West Virginia Clean Water SRF Program)

ADDRESS: P.O. Box 700, Washington, WV 26181 COUNTY: Wood

PURPOSE OF ISSUE: New Money X
Refunding: _____ Refunds issue(s) dated: _____

ISSUE DATE: June 22, 2012 CLOSING DATE: June 22, 2012

ISSUE AMOUNT: \$2,000,000 RATE: Principal Forgiveness

1st DEBT SERVICE DUE: N/A 1st PRINCIPAL DUE: N/A

1st DEBT SERVICE AMOUNT: \$N/A PAYING AGENT: Municipal Bond Commission

BOND COUNSEL: Jackson Kelly PLLC UNDERWRITERS COUNSEL: _____
Contact Person: Samme L. Gee, Esquire Contact Person: _____
Phone: (304) 340-1318 Phone: _____

CLOSING BANK: West Virginia Central Credit Union ESCROW TRUSTEE: _____
Contact Person: Mike Tucker Contact Person: _____
Phone: (304) 485-4523 Phone: _____

KNOWLEDGEABLE ISSUER CONTACT: OTHER: WV Department of Environmental Protection
Contact Person: Randall Atkinson Contact Person: Rosalie Brodersen
Position: General Manager Function: Program Manager
Phone: (304) 863-3341 Phone: (304) 926-0449 ext 1608
E-Mail: ra.lubeckpsd@cascable.net

DEPOSITS TO MBC AT CLOSE: _____ Accrued Interest: \$ _____
_____ Capitalized Interest: \$ _____
By _____ Wire _____ Reserve Account: \$ _____
_____ Check _____ Other: \$ _____

REFUNDS & TRANSFERS BY MBC AT CLOSE:
By _____ Wire _____ To Escrow Trustee: \$ _____
_____ Check _____ To Issuer: \$ _____
_____ IGT _____ To Cons. Invest. Fund \$ _____
_____ To Other: \$ _____

NOTES: Principal forgiveness.

FOR MUNICIPAL BOND COMMISSION USE ONLY:

Documents Required: _____

Transfers Required: _____



west virginia department of environmental protection

Division of Water and Waste Management
601 57th Street SE
Charleston, WV 25304
Telephone: (304) 926-0495
Fax: (304) 926-0496

Earl Ray Tomblin, Governor
Randy C. Huffman, Cabinet Secretary
www.dep.wv.gov

January 31, 2012

Jerry R. Martin, Chairman
Lubeck PSD
P.O. Box 700
Washington, WV 26181

RE: WV/NPDES Permit No. WV0032590-A
Modification No. 1

Dear Mr. Martin:

This letter serves as Modification No. 1 of your existing WV/NPDES Water Pollution Control Permit No. WV0032590 issued the 28th day of September 2007.

After reviewing WV/NPDES Permit Modification Application No. WV0032590-A dated the 12th day of May 2011 along with the plans and specifications concerning the Lake Washington/Vaughts Run sewage collection system extension approved by the Construction Assistance Section on the 7th day of July 2010, the above referenced permit is hereby modified:

To acquire, construct, install, operate and maintain a sewage collection system extension that includes approximately 18,900 linear feet of 10 inch diameter gravity sewer line, 121 manholes, two lift stations, a simplex grinder pump station, a duplex grinder pump station, 2,430 linear feet of two (2) inch diameter force main, and all other necessary appurtenances.

The project also includes the proper abandonment and reclamation of the existing sewage lagoon currently serving the residents in the Hyview Terrace area.

This sewer line extension shall provide service to an additional 81 customers in the Washington Lakes/Vaughts Run area of the Lubeck Public Service District.

Jerry R. Martin
Lubeck PSD
Page 2 of 2

The information submitted on and with WV/NPDES Permit Modification Application No. WV0032590-A dated the 12th day of May 2011 along with the plans and specifications approved by the Construction Assistance - Engineering Section on the 7th day of July 2010, are all hereby made terms and conditions of this Permit with like effect as if all such permit modification application information was set forth herein.

Plans, Specifications, and Reports:

Date Approved: July 7, 2010

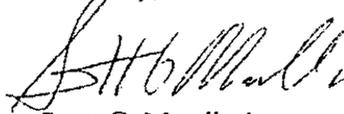
Prepared by: E.L. Robinson
5088 Washington Street, West
Charleston, WV 25313

Title: Lubeck Public Service District
Wood County, West Virginia
Lake Washington/Vaughts Run
Sanitary Sewer Extension Project
Contract 1
SRF No. 544453

The Lubeck PSD shall complete and begin operation of this sewage collection system construction project on or before December 31, 2013.

All other terms and conditions of the subject permit shall remain in effect and unchanged.

Sincerely,



Scott G. Mandirola
Director

SGM / rab

cc: Env. Insp. Supervisor
Env. Inspector



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
6/15/2012

PRODUCER (304) 422-8476 FAX: (304) 428-7374
 Reagle & Padden, Inc.
 200 Star Avenue, Suite 210
 Parkersburg WV 26101
 INSURED
 Lubeck Public Service District
 Box 700
 Washington WV 26181

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE	NAIC #
INSURER A: Westfield Companies	24112
INSURER B: BrickStreet Mutual Ins Co	
INSURER C:	
INSURER D:	
INSURER E:	

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L (LTR INSRD)	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	TRA5313284	7/1/2012	7/1/2013	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	TRA5313284	7/1/2012	7/1/2013	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY: AGG \$
A	EXCESS / UMBRELLA LIABILITY <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input checked="" type="checkbox"/> RETENTION \$ 0	TRA5313284	7/1/2012	7/1/2013	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000 \$ \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under SPECIAL PROVISIONS below <input type="checkbox"/> Y/N	WCB1004196	6/23/2012	6/23/2013	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
	OTHER				

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS
 Certificate Holder is listed as Additional Insured

CERTIFICATE HOLDER

West Virginia Water Development Authority
 180 Association Drive
 Charleston, WV 25311

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE
 Glenna Schott/GS *Glenna M. Schott*

IMPORTANT

If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

DISCLAIMER

This Certificate of Insurance does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.



CLOSING MEMORANDUM

3.14

To: AJ Allen
Rose Brodersen
Sara Boardman

From: Ryan White

Date: June 22, 2012

Re: Lubeck Public Service District
Sewer Revenue Bonds, Series 2012 A
(West Virginia Clean Water SRF Program),
Sewer Revenue Bonds, Series 2012 B
(West Virginia Clean Water SRF Program)

1. DISBURSEMENTS TO DISTRICT

Payor: West Virginia Department of Environmental Protection
Source: Series 2012 A Bonds Proceeds
Amount: \$141,817
Date: June 22, 2012
Form: Wire
Payee: Lubeck Public Service District
Bank: West Virginia Central Credit Union
1306 Murdoch Ave., Parkersburg, West Virginia 26101
ABA: 251583839
Account #: 0000004680102
Contact: Mike Tucker (304) 485-4523

2. DISBURSEMENTS TO MBC

Payor: Lubeck Public Service District
Source: Series 2012 A Bonds Proceeds
Amount: \$18,848
Date: June 22, 2012
Form: Wire
Payee: West Virginia Municipal Bond Commission
Bank: Branch Banking & Trust Co.
Charleston, West Virginia
Account: 2012 A Bonds Reserve Account
ABA: 051503394
Account #: 5270517317

GRANT AGREEMENT
(2009S-1096)

This Grant Agreement entered into by and between the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority"), at the direction of the WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL (the "Council"), and the LUBECK PUBLIC SERVICE DISTRICT (the "Governmental Agency").

RECITALS

WHEREAS, the Council has authorized the Authority to make a grant to the Governmental Agency in the amount not to exceed \$202,013 (the "Grant") for the purposes of the design, acquisition or construction of a project for which a preliminary application has been submitted and approved by the Council;

WHEREAS, the Governmental Agency wishes to accept the Grant upon such terms and conditions as are hereinafter set forth for the purposes of designing, acquiring or constructing the project described in Exhibit A attached hereto and incorporated herein by reference (the "Project");

WHEREAS, this Grant Agreement sets forth the Council, the Authority and the Governmental Agency's understandings and agreements with regard to the Grant.

NOW, THEREFORE, in consideration of the premises and the mutual agreements hereinafter contained, the Authority and the Governmental Agency hereby agree as follows:

TERMS

1. Prior to the distribution of the Grant, the Governmental Agency shall provide the Authority with a Project budget and an anticipated monthly draw schedule reflecting the receipt dates and amounts from other funding sources. The Project budget shall not be amended unless the Governmental Agency has received the prior written consent of the Council.

2. The Authority shall advance the Council's share of the Project costs from the Grant from time to time upon receipt of a requisition evidencing the costs incurred, which requisition must be satisfactory to the Authority. Unless agreed to by the Council prior to the commencement of construction, the Grant shall be the last dollars expended on the Project.

3. The monthly requisition will also set forth (i) the amounts requested for that requisition period from all other funding agencies, and (ii) the amounts advanced for the Project to date from all other funding agencies.

4. The Governmental Agency will use the proceeds of the Grant only for the purposes specifically set forth in Exhibit A.

5. The Authority shall wire the approved requisition amount using the wiring instructions provided in Exhibit B, unless the Council and Authority are provided replacement instructions in writing.

6. The Governmental Agency shall comply with and is bound by the Council's rules set forth as Title 167, Series 1 and more particularly Section 5.9 with respect to the sale of the Project.

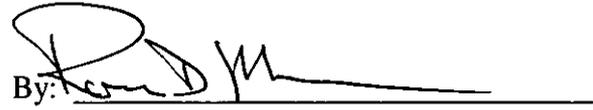
7. The Governmental Agency acknowledges that the Grant may be reduced, from time to time, to reflect actual Project costs and availability of other funding.

8. The Governmental Agency shall list the Grant provided by the Authority and the Council 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 groundbreaking or dedication of the Project.

9. This Grant Agreement shall be governed by the laws of the State of West Virginia.

IN WITNESS WHEREOF, the parties hereto have caused this Grant Agreement to be executed by the respective duly authorized officers as of the date executed below by the Authority.

LUBECK PUBLIC SERVICE DISTRICT

By: 

Its: Chairman

Date: June 22, 2012

(SEAL)

Attest: 
Its: Secretary

WEST VIRGINIA WATER
DEVELOPMENT AUTHORITY

By: 

Its: Executive Director

Date: June 22, 2012

(SEAL)

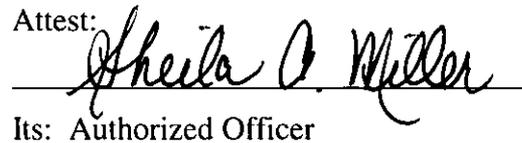
Attest: 
Its: Authorized Officer

Exhibit A

Project Description

The Project consists of the acquisition and construction of certain extensions, additions, betterments and improvements to the existing public wastewater collection and treatment facilities of the Governmental Agency including the extension of wastewater collection and treatment facilities for Lake Washington, Hy-View Terrace and Vaught's Run in Wood County, West Virginia, and all related appurtenances.

Number of Proposed New Customers to Be Served: 81

Location: Vaughts Run and Lake Washington Area

[TO BE PLACED ON LETTERHEAD]

Exhibit B

Wiring Instructions

**Lubeck Public Service District
P.O. Box 700
Washington, WV 26181-0700**

Payor: West Virginia Water Development Authority
Source: Grant Proceeds
Amount: \$ _____
Date: _____
Form: Electronic Funds Transfer
Payee: Lubeck Public Service District
P.O. Box 700, Washington, WV 26181-0700
Contact Name: AJ Allen, Assistant Manager
Telephone: (304) 863-3341
Bank Name: West Virginia Central Credit Union
Bank Street Address: 1306 Murdoch Ave., Parkersburg, WV 26101
Bank Contact: Mike Tucker
Telephone: (304) 485-4523
ABA No.: 251583839
Account No.: 0000004680102
Account Name: Series 2012 A Bonds Project Fund

LUBECK PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2012 A
(WEST VIRGINIA CLEAN WATER SRF PROGRAM)
WATER REVENUE BONDS, SERIES 2012 B
(WEST VIRGINIA CLEAN WATER SRF PROGRAM)

3.16

ACCEPTANCE OF APPOINTMENT AS DEPOSITORY BANK

WEST VIRGINIA CENTRAL CREDIT UNION, Parkersburg, West Virginia, hereby accepts appointment as Depository Bank in connection with a Bond Resolution and a Supplemental Resolution adopted by Lubeck Public Service District (the "Issuer") on June 14, 2012 (collectively, the "Resolution"), authorizing issuance of the Issuer's Water Revenue Bonds, Series 2012 A (West Virginia Clean Water SRF Program), in the aggregate principal amount of \$716,272 and Water Revenue Bonds, Series 2012 B (West Virginia Clean Water SRF Program), in the aggregate principal amount of \$2,000,000, dated June 22, 2012, and agrees to serve as Depository Bank, all as set forth in the Resolution.

WITNESS my signature on this 22nd day of June, 2012.

WEST VIRGINIA CENTRAL CREDIT UNION



Authorized Officer

5
SWEEP RESOLUTION

WHEREAS. Lubeck Public Service District (the "Issuer") a public service district, public corporation and political subdivision of the State of West Virginia:

WHEREAS. the Issuer has issued bonds, as more specifically set forth on Exhibit A, attached hereto and incorporated herein by reference (the "Bonds");

WHEREAS. the Issuer makes or will make monthly debt service payments on and transfers reserve funds for the Bonds by check to the West Virginia Municipal Bond Commission (the "MBC") which in turn pays the owners of the Bonds and deposits funds in the reserve accounts;

WHEREAS. the MBC may accept such monthly payments by electronic funds transfer, thereby eliminating delay in payments and lost checks;

WHEREAS. the Issuer finds and determines that it is in the best interest of the Issuer, its citizens and the owners of the Bonds that the monthly debt service and reserve fund payments be made by *electronic funds transfer* with the State Treasurer sweeping the Issuer's account.

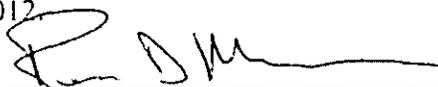
NOW THEREFORE BE IT RESOLVED AS FOLLOWS:

1) The monthly debt service payments on the Bonds, as set forth in Exhibit A, shall be made to the MBC by an electronic transfer by the State Treasurer from the accounts set forth in Exhibit A in such form and at such directions as are provided by the MBC.

2) The Chairperson and Secretary are hereby authorized to sign and execute all such documents as are necessary to facilitate the electronic transfer of the Bond debt service and reserve fund payments.

3) This resolution shall be effective immediately upon adoption.

Adopted this 9th day of August, 2012



(Authorized Officer)

June 22, 2012

Lubeck Public Service District
Washington, West Virginia

West Virginia Department of Environmental Protection
Charleston, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

Re: Lubeck Public Service District Sewer Revenue Bonds,
Series 2012 A (West Virginia Clean Water SRF Program)

Ladies and Gentlemen:

We have served as bond counsel to Lubeck Public Service District (the “Issuer”) in connection with the issuance of its Sewer Revenue Bonds, Series 2012 A (West Virginia Clean Water SRF Program), dated the date hereof (the “Bonds”).

We have examined certified copies of proceedings and other papers relating to the authorization of (i) a bond purchase agreement for the Bonds, dated June 22, 2012, including all schedules and exhibits attached thereto (the “Bond Purchase Agreement”), by and among the Issuer, the West Virginia Water Development Authority (the “Authority”), and the West Virginia Department of Environmental Protection (the “DEP”), and (ii) the Bonds to be purchased by the Authority in accordance with the provisions of the Bond Purchase Agreement. The Bonds are issued in the principal amount of \$716,272, in the form of one bond, registered 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, 2014, all as set forth in the Schedule Y attached to the Bond Purchase 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 Code of West Virginia, 1931, as amended

{C2110498.1}

(collectively, the “Act”), for the purpose of (i) paying a portion of the costs of construction, installation and acquisition of improvements and extensions to the existing public sewer facilities of the Issuer (the “Project”); (ii) funding the Series 2012 A Reserve Account; and (iii) paying certain costs of issuance and related costs.

We have also examined the applicable provisions of the Act and a Resolution duly adopted by the Issuer on June 14, 2012, as supplemented by a Supplemental Resolution duly adopted by the Issuer on June 14, 2012 (collectively, the “Resolution”), pursuant to and under which Act and Resolution the Bonds are authorized and issued, and the Bond Purchase Agreement is 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 Resolution and the Bond Purchase Agreement. All capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Resolution and the Bond Purchase 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 and is a 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, to adopt the Resolution and to issue and sell the Bonds, all under the Act and other applicable provisions of law.

2. The Bond Purchase Agreement has been duly authorized by and executed on behalf of the Issuer and is a valid and binding special obligation of the Issuer, enforceable in accordance with the terms thereof.

3. The Bond Purchase Agreement inures to the benefit of the Authority and the DEP and cannot be amended so as to affect adversely the rights of the Authority and the DEP or diminish the obligations of the Issuer, without the written consent of the Authority and the DEP.

4. The Issuer has legally and effectively adopted the Resolution and all other necessary resolutions in connection with the issuance and sale of the Bonds. The

Resolution constitutes a valid and binding obligation of the Issuer, enforceable against the Issuer in accordance with its terms thereof and contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Bond Purchase Agreement.

5. 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 and secured by a first lien on and a 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 Sewerage System Revenue Bonds, Series 1999 A (West Virginia SRF Program), Sewerage System Revenue Bonds, Series 1999 B (West Virginia Infrastructure Fund), Sewer Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund), Sewer Revenue Bonds, Series 2005 B (West Virginia Infrastructure Fund) and Sewer Revenue Bonds, Series 2010 A (West Virginia Infrastructure Fund) (collectively, the "Prior Bonds") and Sewer Revenue Bonds, Series 2012 B (West Virginia Clean Water SRF Program) issued concurrently herewith, all in accordance with the terms of the Bonds and the Resolution.

6. Under the Act, the Bonds and the interest thereon are exempt from taxation by the State of West Virginia and the other taxing bodies of the State.

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

No opinion is given herein as to the effect upon the enforceability of the Bonds under any applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights or the exercise of judicial discretion or principles of equity in appropriate cases.

Lubeck Public Service District
West Virginia Department of Environmental Protection
West Virginia Water Development Authority
June 22, 2012
Page 4

We have examined the executed and authenticated Bond numbered AR-1 and in our opinion, the form of said Bond and its execution and authentication are regular and proper.

Very truly yours,

Jack Kelly PLLC



June 22, 2012

Lubeck Public Service District
Washington, West Virginia

West Virginia Department of Environmental Protection
Charleston, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

Re: Lubeck Public Service District Sewer Revenue Bonds,
Series 2012 B (West Virginia Clean Water SRF Program)

Ladies and Gentlemen:

We have served as bond counsel in connection with the issuance by Lubeck Public Service District (the "Issuer"), a municipal corporation created and existing under the laws of the State of West Virginia, of its \$2,000,000 Sewer Revenue Bonds, Series 2012 B (West Virginia Clean Water SRF Program), dated the date hereof (the "Bonds").

We have examined the law and certified copies of proceedings and other papers relating to the authorization of a Bond Purchase Agreement dated as of the date hereof, including all schedules and exhibits attached thereto (the "Bond Purchase Agreement"), by and among the Issuer, the West Virginia Water Development Authority (the "Authority") and the West Virginia Department of Environmental Protection (the "DEP"), and the Bonds, which are to be purchased by the Authority in accordance with the provisions of the Bond Purchase Agreement. Bonds are originally issued in the form of one Bond, registered to the Authority. The principal amounts advanced under the Series 2012 B Bonds will be deemed forgiven on the 30th day of June in the fiscal year in which advanced. The Series 2012 B Bonds shall be deemed no longer outstanding after the last advance is forgiven.

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 improvements and extensions to the existing public

combined waterworks and sewerage system of the Issuer (the "Project"); and (ii) paying certain costs of issuance and related costs.

We have also examined the applicable provisions of the Act and the Bond Resolution duly passed by the Issuer on June 14, 2012, as supplemented by a Supplemental Resolution duly adopted by the Issuer on June 14, 2012 (the "Bond Legislation"), pursuant to and under which Act and Bond Legislation the Bonds are authorized and issued, and the Bond Purchase 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 Bond Purchase Agreement. All capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Bond Legislation and the Bond Purchase 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 and is a 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, to adopt the Bond Legislation and to issue and sell the Bonds, all under the Act and other applicable provisions of law.*

2. *The Bond Purchase 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 resolutions in connection with the sale of the Bonds 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 Bond Purchase 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 from the Net Revenues with the Issuer's Prior Bonds (as defined in the Bond Legislation) and the Series 2012 B Bonds (as defined in the Bond Legislation) issued simultaneously herewith, 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. The Bonds bear no interest.

It is to be understood that the rights of the holders of the Bonds and the enforceability of the Bonds, the Bond Purchase 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 BR-1, and in our opinion the form of said Bond and its execution and authentication are regular and proper.

Very truly yours,

A handwritten signature in black ink that reads "Jack Kelly" followed by a stylized flourish or set of initials.

MYERS LAW OFFICES

C. BLAINE MYERS
JESSICA E. MYERS

June 22, 2012

201 Third Street
P.O. Box 287
Parkersburg, WV 26102
(304) 485-3600
Fax (304) 485-0667
www.myerslaw.com

Lubeck Public Service District
Washington, West Virginia

West Virginia Department of Environmental Protection
Charleston, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

Jackson Kelly PLLC
Charleston, West Virginia

Re: Lubeck Public Service District
Sewer Revenue Bonds, Series 2012 A
(West Virginia Clean Water SRF Program),
Sewer Revenue Bonds, Series 2012 B
(West Virginia Clean Water SRF Program)

Ladies and Gentlemen:

I am counsel to Lubeck Public Service District (the "Issuer"). As such counsel, I have examined copies of the approving opinion of Jackson Kelly PLLC, as bond counsel, relating to the above-captioned bonds of the Issuer (collectively, the "Bonds"), a bond purchase agreement for the Bonds, all dated June 22, 2012, including all schedules and exhibits attached thereto (collectively, the "Bond Purchase Agreement"), by and among the Issuer, the West Virginia Water Development Authority (the "Authority") and the West Virginia Department of Environmental Protection (the "DEP"), a Resolution duly adopted by the Public Service Board of the Issuer (the "Board") on June 14, 2012, as supplemented by a Supplemental Resolution duly adopted on June 14, 2012 (collectively, the "Resolution"), orders of The County Commission of Wood County relating to the Issuer and the appointment of members of the Board, and other documents relating to the Bonds and the Issuer. All capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Bond Purchase Agreement and the Resolution when used herein.

I am of the opinion that:

Lubeck Public Service District
West Virginia Department of Environmental Protection
West Virginia Water Development Authority
Jackson Kelly PLLC
June 22, 2012
Page 2

1. The Issuer is a duly created and validly existing public service district and is a 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 and to adopt the Resolution, all under the Act and other applicable provisions of law.

2. The members and officers of the Board have been duly and properly appointed and elected, have taken the requisite oaths and are thereby authorized to act on behalf of the Issuer in their respective capacities.

3. The Bond Purchase Agreement has been duly authorized, executed and delivered by the Issuer and, assuming due authorization, execution and delivery by the Authority, constitutes a valid and binding agreement of the Issuer, enforceable in accordance with its terms.

4. The Resolution has been duly adopted by the Board and is in full force and effect.

5. The execution and delivery of the Bonds and the Bond Purchase Agreement and the consummation of the transactions contemplated by the Bonds, the Bond Purchase Agreement and the Resolution, 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 resolution, agreement or other instrument to which the Issuer is a party 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, registrations 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 the use of the System, including, without limitation, all requisite permits, approvals, orders and certificates from The County Commission of Wood County, the West Virginia Department of Environmental Protection and the Public Service Commission of West Virginia (the "PSC").

7. To the best of my knowledge, there is no litigation, action, suit, proceeding or investigation at law or in equity before or by any court, public board or

Lubeck Public Service District
West Virginia Department of Environmental Protection
West Virginia Water Development Authority
Jackson Kelly PLLC
June 22, 2012
Page 3

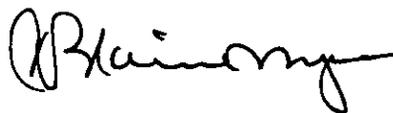
body, pending or threatened, wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by the Bond Purchase Agreement, the Bonds and the Resolution, the operation of the System, the validity of the Bonds, the collection of the Gross Revenues or the pledge of the Net Revenues for the payment of the Bonds.

8. All successful bidders have made the required provisions for all insurance and payment and performance bonds and such insurance policies or binders and such bonds have been verified for accuracy. Based upon my review of the contracts, the surety bonds and the policies or other evidence of insurance coverage in connection with the Project, I am 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 interest of the Issuer; (3) have been executed by duly authorized representatives of the proper parties; (4) meet the requirements of the Act, the Ordinance 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.

9. The contracts contain language requiring the contractors to provide affidavits from all contractors and subcontractors indicating that each contractor and subcontractor have a drug free workplace policy pursuant to Chapter 21, Article 1D of the West Virginia Code of 1931, as amended. The contractor has submitted a plan to implement the drug free workplace policy prior to the awarding of the contract pursuant to Chapter 21, Article 1D of the West Virginia Code of 1931, as amended.

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

Very truly yours,



C. Blaine Myers

MYERS LAW OFFICES

C. BLAINE MYERS
JESSICA E. MYERS

201 Third Street
P.O. Box 287
Parkersburg, WV 26102
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June 22, 2012

4.4

Lubeck Public Service District
P.O. Box 700
Washington, WV 26181-0700

West Virginia Department of Environmental Protection
1560 Kanawha Boulevard, East
Charleston, West Virginia 25304

West Virginia Water Development Authority
180 Association Drive
Charleston, West Virginia 25311

Jackson Kelly PLLC
P.O. Box 553
Charleston, WV 25322

Re: Final Title Opinion for Lubeck Public Service District
Sewer Revenue Bonds, Series 2012 A
(West Virginia Clean Water SRF Program),
Sewer Revenue Bonds, Series 2012 B
(West Virginia Clean Water SRF Program)

Ladies and Gentlemen:

I am counsel for Lubeck Public Service District (the "Issuer") in connection with a proposed project to construct certain extensions, additions, betterments and improvements consisting of an extension of wastewater collection and treatment facilities for Lake Washington, Vaughts Run and Hy-View Terrace in Wood County, West Virginia (the "Project") to the existing sewerage system of the Issuer. I provide this final title opinion on behalf of the Issuer to satisfy the requirements of the West Virginia Department of Environmental Protection (the "DEP") for the Project. Please be advised of the following:

1. I am of the opinion that the Issuer is a duly created and validly existing public service districts possessed with all the powers and authority granted to

Lubeck Public Service District
West Virginia Department of Environmental Protection
West Virginia Water Development Authority
Jackson Kelly PLLC
June 22, 2012
Page 2

public service districts under the laws of the State of West Virginia to construct, operate and maintain the Project as approved by the DEP.

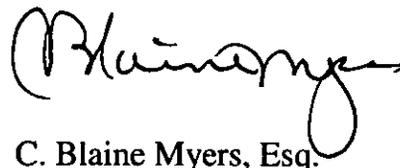
2. The Issuer has obtained all necessary permits and approvals for the construction of the Project.

3. I have investigated and ascertained the location of, and I am familiar with the legal description of, the necessary sites, including easements and/or rights of way, required for the Project as set forth in the plans for the Project prepared by E.L. Robinson Engineering Co., the consulting engineer for the Project.

4. I have examined the records on file in the Office of the Clerk of the County Commission of Wood County, West Virginia, the county in which the Project are to be located, and, in my opinion, the Issuer has acquired legal title or such other estate or interest in all of the necessary site components for the Project, including all easements and/or rights of way, sufficient to assure undisturbed use and possession for the purpose of construction, operation and maintenance for the estimated life of the Project.

5. All deeds, easements and rights of way which have been acquired to date by the Issuer have been duly recorded in the Office of the Clerk of the County Commission of Wood County to protect the legal title to and interest of the Issuer.

Very truly yours,



C. Blaine Myers, Esq.

June 22, 2012

Lubeck Public Service District
Washington, West Virginia

West Virginia Department of Environmental Protection
Charleston, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

Re: Lubeck Public Service District
Sewer Revenue Bonds, Series 2012 A
(West Virginia Clean Water SRF Program),
Sewer Revenue Bonds, Series 2012 B
(West Virginia Clean Water SRF Program)

Ladies and Gentlemen:

We are special counsel to Lubeck Public Service District (the "Issuer"). As such counsel, we have represented the Issuer before the Public Service Commission of West Virginia in connection with the issuance of the above-referenced bonds, and the acquisition and construction of the Project. 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 has received all orders, certificates and authorizations from the Public Service Commission of West Virginia necessary for the issuance of the Bonds, the acquisition and construction of the Project, and the operation of the System. The Issuer has taken all actions 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 Recommended Decision of the Administrative Law Judge dated November 9, 2011, as made final by the PSC on November 29, 2011 and the PSC Order entered on May 31, 2012, in Case No. 09-0925-PSD-CN, granting the Issuer a

{C2338463.1}

Lubeck Public Service District
West Virginia Department of Environmental Protection
West Virginia Water Development Authority
June 22, 2012
Page 2

Certificate of Convenience and Necessity for the Project, approving the financing of the Project and approving the rates for the System. The Order is in full force and effect.

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

Very truly yours,

A handwritten signature in black ink, appearing to read "Tach Kelly" followed by a stylized flourish or initials.