TOWN OF MILTON
SEWER REVENUE BONDS,
SERIES 2004 A (WEST VIRGINIA SRF PROGRAM) AND
SERIES 2004 B (WEST VIRGINIA INFRASTRUCTURE FUND)

Closing Date: December 29, 2004

TRANSCRIPT OF PROCEEDINGS

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State of West Virginia

Certificate

I, Joe Manchin, III, Secretary of State of the State of West Virginia, hereby certify that

THIS IS A TRUE COPY OF CHAPTER 16, ARTICLE 13 OF THE WEST VIRGINIA CODE, AND CHAPTER 16, ARTICLE 13 OF THE 2004 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

December 20, 2004

Secretary of State

If a majority of the votes cast at such election shall be in favor of disconnection, and if the trustees of such sanitary district shall, by ordinance, disconnect such territory, thereupon the county court of the county in which the original petition for the formation of such sanitary district was filed, shall enter an appropriate order in the records of the said county court and thereafter such territory shall henceforth be deemed disconnected from such sanitary district. (1933, Ex. Sess., c. 24, § 14.)

Editor's notes. — For construction of the county court as the county commission, see W.Va. Const. art. IX, § 9.

ARTICLE 13.

SEWAGE WORKS AND STORMWATER WORKS.

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Constitutionality. — See Brewer v. City of Point Pleasant, 114 W. Va. 572, 172 S.E. 717 (1934); Stevenson v. City of Bluefield, 39 F. Supp. 462 (S.D.W. Va. 1941); West Virginia Water Serv. Co. v. Cunningham, 143 W. Va. 1, 98 S.E.2d 891 (1957).

Obligations incurred by a city under the authority of this article permitting the issuance of revenue bonds for the construction of sewers are not to be deemed "debts" within the constitutional inhibition. United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1956), commented on in 60 W. Va. L. Rev. 105 (1957).

In general. — The effect of the provisions of this article is to authorize and empower a municipal corporation in this State to own, construct, equip, operate and maintain sewer systems, to place the construction, operation and management of such systems under the supervision and control of a sanitary board appointed by the governing body, to authorize such board to operate, manage and control them and to order and complete any extensions or betterments that the board may deem expedient. State ex rel. City of Wheeling v. Renick, 145 W. Va. 640, 116 S.E.2d 763 (1960).

Conflict of laws. — There is no conflict between this article, authorizing a city to incur expenses which are to be payable solely from the proceeds of revenue bonds, and the general statutory limitations on the expenditure of money and incurring of obligations with respect to funds produced by tax levies. United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1956), commented on in 60 W. Va. L. Rev. 105 (1957).

Legislative intent. — It appears clear that the legislature recognized the need for municipal utility systems; however, it did not wish the municipality to become generally obligated for the building or acquisition of the system. Financing is provided for primarily by revenue bonds, and bondholders are assured of a safe investment through the collection of sufficient user charges to service the bonds and maintain the assets of the system. Op. Att'y Gen., April 3, 1979.

Limitations. — Where a city made an agreement with the federal works administrator under the War Mobilization and Reconversion Act of 1944 with regard to advances of money to the city for the purpose of plan preparation for construction of a proposed sewage treatment and disposal system, the limitation imposed by this article would be read into the agreement, since the parties are presumed to know the extent of the city's authority to make a binding contract. United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1956), commented on in 60 W. Va. L. Rev. 105 (1957).

Nonresidents. — Municipality may not compel nonresidents to connect with a municipal sewer extended without its corporate limits. 48 Op. Att'y Gen. 19 (1958).

Ordinance held valid. — An ordinance of a municipal corporation, creating a sanitary board and authorizing such sanitary board to enter into contracts for the construction of a sewage system, was within the police power of the State delegated to municipalities by this chapter. West Virginia Water Serv. Co. v. Cunningham, 143 W. Va. 1, 98 S.E.2d 891 (1957).

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§ 16-13-1. Acquisition, operation, etc., of works; acquisition of property; issuance of bonds.

(a) Any municipal corporation and/or sanitary district in the state of West Virginia is hereby authorized and empowered to own, acquire, construct, equip, operate and maintain within and/or without the corporate limits of such municipal corporation:

(1) A sewage collection system and/or a sewage treatment plant or plants, intercepting sewers, outfall sewers, force mains, pumping stations, ejector stations, and all other appurtenances necessary or useful and convenient for the collection and/or treatment, purification and disposal, in a sanitary manner, of the liquid and solid waste, sewage, night soil and industrial waste of such municipal corporation and/or sanitary district, including acquisition of the municipal sewerage system resulting from the severance of a combined system pursuant to section one-b [§ 8-20-1b], article twenty, chapter eight of this code; and

(2) A stormwater collection system and control system, including all lines, pumping stations and all other facilities and appurtenances necessary or useful and convenient for the collection and control of stormwater, and an associated stormwater management program.

(b) Any municipal corporation and/or sanitary district in the state of West Virginia is hereby authorized and empowered to acquire by gift, grant, purchase, condemnation, or otherwise, all necessary lands, rights-of-way and property therefor, within and/or without the corporate limits of such municipal corporation and/or sanitary district, and to issue revenue bonds to pay the cost of such works and property.

(c) Any municipality may serve and supply the facilities of such sewerage system and a stormwater system and associated stormwater management program within the corporate limits of the municipality and within the area extending twenty miles beyond the corporate limits of such municipality: Provided, however, That the municipality may not serve or supply the facilities of such sewerage system or stormwater system within the corporate limits of any other municipality without the consent of the governing body thereof: Provided, That for stormwater systems, within the twenty miles beyond the municipality's corporate limits the only areas the municipality may serve and supply shall be those areas from which stormwater affects or drains into the municipality.

(d) No obligations shall be incurred by any municipality and/or sanitary district in construction or acquisition except such as is payable solely from the funds provided under the authority of this article.

(e) No municipal corporation or sanitary district may acquire, construct, establish, extend, repair or equip or thereafter repair, maintain and operate a combined waterworks, sewerage or stormwater system, which includes highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia Division of Highways without the express agreement of the commissioner of highways. (1933, Ex. Sess., c. 25, § 1; 1955, c. 132; 1986, c. 118; 2001, c. 212.)

Effect of amendment of 2001. — Acts 2001, c. 212, effective July 13, 2001, added subsection designations, substituted "the" for "such" throughout; in (a)(1), deleted "waterworks and sewerage" preceding "system", deleted "shall have authority" from the end; added (a)(2); in (b), added "Any municipality... empowered", deleted "and any such" from the end; in (c), added "Any", inserted "and a stormwater system and associated stormwater management program", substituted "may not serve" for "shall not serve", inserted "or stormwater system", added the proviso; in (d), deleted "such" preceding "municipality" and "construction"; and added (e).

Use of territory in adjoining state authorized. — *By this section and § 16-13-22 the legislature intended, insofar as it could, to confer upon such municipalities as might find its exercise convenient, the right to make necessary and appropriate arrangements for the disposal of their sewage, even where that course involved the use of territory in an adjoining state.* Bernard v. City of Bluefield, 117 W. Va. 556, 186 S.E. 298 (1936).

Quoted in State ex rel. City of Wheeling v. Renick, 145 W. Va. 640, 116 S.E.2d 763 (1960).

Cited in City of Beckley v. Craighead, 125 W. Va. 484, 24 S.E.2d 908 (1943); Delardas v. Morgantown Water Comm'n, 148 W. Va. 776, 137 S.E.2d 426 (1964).

§ 16-13-2. Sanitary board to supervise and control construction, etc., of works; appointment of board; definitions.

(a) The construction, acquisition, improvement, equipment, custody, operation and maintenance of any works for the collection, treatment or disposal of sewage and, in addition, for the collection and control of stormwater and the collection of revenues therefrom for the service rendered thereby, shall be under the supervision and control of a sanitary board appointed by the governing body as set forth in section eighteen [§ 16-13-18] of this article.

(b) As used in this article, the following terms shall have the following meanings unless the text clearly indicates otherwise.

(1) "Board" means the sanitary board as set up in section eighteen [§ 16-13-18] of this article.

(2) "Governing body" means the mayor and council or other legally constituted governing body of any municipality.

(3) "Municipality" means any municipal corporation, incorporated city, town, village or sanitary district in the state of West Virginia.

(4) "Sewage works" means a works for the collection and/or treatment, purification and disposal of sewage, in its entirety or any integral part thereof.

(5) "Stormwater system" or "stormwater works" means a stormwater system in its entirety or any integral part thereof used to collect and dispose of stormwater and an associated stormwater management program. It 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, corals, outlets, channels, ponds, drainage easements, water quality facilities, catch basins, ditches, streams, gulches, flumes, culverts, syphons, retention or detention basins, dams, floodwalls, levies, pipes, flood control systems and pumping stations, and associated stormwater management program. The term "stormwater system" and "stormwater works" shall not include highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia division of highways.

(6) "Stormwater management program" means those activities associated with the management, operation, maintenance and control of stormwater and stormwater works, including, but not limited to, public education, stormwater and surface runoff water quality improvement, mapping, planning, flood control, inspection, enforcement and any other activities required by state and federal law: Provided, That, as used in this article, "stormwater management program" shall not include those activities associated with the management, operation, maintenance and control of highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia Division of Highways without the express agreement of the commissioner of highways.

(7) "Works" means sewage works and stormwater works either separately or collectively (1933, Ex. Sess., c. 25, § 2; 2001, c. 212.)

Effect of amendment of 2001. — Acts 2001, c. 212, effective July 13, 2001, added subsection designations; in present (a), deleted "such" preceding "works", inserted "and, in addition, for the collection and control of stormwater", deleted "The term 'works'" from the end; and rewrote (b) to include the definitions of "sewerage works", "stormwater system" or "stormwater works", "stormwater management program", and "works".

Quoted in State ex rel. City of Wheeling v. Renick, 145 W. Va. 640, 116 S.E.2d 763 (1960).

Stated in Berkeley County Pub. Serv. Sewer Dist. v. West Va. Pub. Serv. Comm'n, 204 W. Va. 279, 512 S.E.2d 201 (1998).

Cited in United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1956); Delardas v. Morgantown Water Comm'n, 148 W. Va. 776, 137 S.E.2d 426 (1964).

§ 16-13-3. Powers of sanitary board; contracts; employees; compensation thereof; extensions and improvements; replacement of damaged public works.

The board shall have power to take all steps and proceedings and to make and enter into all contracts or agreements necessary or incidental to the performance of its duties and the execution of its powers under this article: Provided, That any contract relating to the financing of the acquisition or construction of any works, or any trust indenture as provided for, shall be approved by the governing body of the municipality before the same shall be effective.

The board may employ engineers, architects, inspectors, superintendents, managers, collectors, attorneys, and other employees as in its judgment may be necessary in the execution of its powers and duties, and may fix their compensation, all of whom shall do the work as the board shall direct. All compensation and all expenses incurred in carrying out the provisions of this article shall be paid solely from funds provided under the authority of this article, and the board shall not exercise or carry out any authority or power herein given it so as to bind said board of said municipality beyond the extent to which money shall have been or may be provided under the authority of this article.

No contract or agreement with any contractor or contractors for labor and/or material, exceeding in amount the sum of ten thousand dollars, shall be made without advertising for bids, which bids shall be publicly opened and award made to the best bidder, with power in the board to reject any or all bids.

After the construction, installation, and completion of the works, or the acquisition thereof, the board shall operate, manage and control the same and may order and complete any extensions, betterments and improvements of and to the works that the board may consider expedient, if funds therefor be available or are made available as provided in this article, and shall establish rules and regulations for the use and operation of the works, and of other sewers, stormwater conduits, and drains connected therewith so far as they may affect the operation of such works, and do all things necessary or expedient for the successful operation thereof, including, but not limited to, those activities necessary to comply with all federal and state requirements, including stormwater and surface runoff water quality improvement activities.

The sanitary board may declare an emergency situation in the event of collector line breaks or vital treatment plant equipment failure and shall be

exempted from competitive bidding requirements and enter into direct purchase agreements or contracts for the expenses. All public ways or public works damaged or destroyed by the board in carrying out its authority under this article shall be restored or repaired by the board and placed in their original condition, as nearly as practicable, if requested so to do by proper authority, out of the funds provided by this article. (1933, Ex. Sess., c. 25, § 3; 1989, c. 133; 2001, cc. 143, 212.)

Effect of amendment of 2001. — Acts 2001, c. 212, effective July 13, 2001, deleted "such" throughout the section; in the third undesignated paragraph, substituted "the sum of ten thousand dollars" for "the sum of five thousand dollars"; in the fourth undesignated paragraph, substituted "may consider expedient" for "may deem expedient", inserted "stormwater conduits" and added "including... improvement activities" at the end; and made other, minor changes.

Editor's notes. — Acts 2001, c. 143, effective July 10, 2001, also proposed to amend this section; however, the amendments therein have been deemed superceded by those found in Acts 2001, c. 212, which are set out above. The superceded amendment, set out below, would have substituted "the sum of ten thousand dollars" for "the sum of five thousand dollars".

Chapter 143 read:

"The board shall have power to take all steps and proceedings and to make and enter into all contracts or agreements necessary or incidental to the performance of its duties and the execution of its powers under this article: Provided, That any contract relating to the financing of the acquisition or construction of any such works, or any trust indenture as hereinafter provided for, shall be approved by the governing body of such municipality before the same shall be effective. The board may employ engineers, architects, inspectors, superintendents, managers, collectors, attorneys, and such other employees as in its judgment may be necessary in the execution of its powers and duties, and may fix their compensation, all of whom shall do such work as the board shall direct. All such compensation and all expenses incurred in carrying out the provisions of this article shall be paid solely from funds provided under the authority of this article, and the board shall not exercise or carry out any authority or power herein given it so as to bind said board of said municipality beyond the extent to which money shall have been or may be provided under the authority of this article. No contract or agreement with any contractor or contractors for labor and/or material, exceeding in amount the sum of ten thousand dollars, shall be made without advertising for bids, which bids shall be publicly opened and award made to the best bidder, with power in the board to reject any or all bids. After the construction, installation, and completion of the works, or the acquisition thereof, the board shall operate, manage and control the same and may order and complete any extensions, betterments and improvements of and to the works that the board may deem expedient, if funds therefor be available or are made available as provided in this article, and shall establish rules and regulations for the use and operation of the works, and of other sewers and drains connected therewith so far as they may affect the operation of such works, and do all things necessary or expedient for the successful operation thereof. The sanitary board may declare an emergency situation in the event of collector line breaks or vital treatment plant equipment failure and shall be exempted from competitive bidding requirements and enter into direct purchase agreements or contracts for such expenses. All public ways or public works damaged or destroyed by the board in carrying out its authority under this article shall be restored or repaired by the board and placed in their original condition, as nearly as practicable, if requested so to do by proper authority, out of the funds provided by this article."

Immunity. — A contractor under contract with the sanitary board of a municipality for construction of a sewage treatment and disposal system is not entitled to the governmental immunities of the municipality incident to the construction project. West Virginia Water Serv. Co. v. Cunningham, 143 W. Va. 1, 98 S.E.2d 891 (1957).

Third party. — Where a contract between a municipal sanitary board and a contractor, providing for the construction of a sanitary sewage system, provides inter alia that "existing surface, overhead or subsurface structures damaged or destroyed by reason of the contractor's operations shall be promptly repaired or replaced in a satisfactory manner at the cost and expense of the contractor," and the contractor by job order requests enters into a contract with an existing water company to remove certain of the latter's water pipes which interfere with the construction of the sewage system, the contractor, in a notice of motion for judgment proceeding instituted by the water company, is liable for the expense so incurred. West Vir-

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

Stated in State ex rel. City of Wheeling v. Renick, 145 W. Va. 640, 116 S.E.2d 763 (1960).

§ 16-13-4. Payment of preliminary expenses of surveys, etc.

All necessary preliminary expenses actually incurred by the board of any municipality in the making of surveys, estimates of costs and of revenue, employment of engineers or other employees, the giving of notices, taking of options and all other expenses of whatsoever nature, necessary to be paid prior to the issue and delivery of the revenue bonds pursuant to the provisions of this article, may be met and paid in the following manner. Said board may from time to time certify such items of expense to the clerk or recorder of said municipality, directing him to pay the several amounts thereof, and thereupon said clerk or recorder shall at once draw a warrant or warrants upon the treasurer of said municipality, which warrant or warrants shall be paid out of the general funds of said municipality not otherwise appropriated, without a special appropriation being made therefor by the governing body; or, in case there are no general funds of such municipality not otherwise appropriated, the clerk or recorder shall recommend to the governing body the temporary transfer from other funds of such municipality of a sufficient amount to meet such items of expense, or the making of a temporary loan for such purpose, and such governing body shall thereupon at once make such transfer of funds, or authorize such temporary loan in the same manner that other temporary loans are made by such municipality: Provided, however, That the fund or funds of such municipality from which such payments are made shall be fully reimbursed and repaid by said board out of the first proceeds of the sale of revenue bonds hereinafter provided for, and before any other disbursements are made therefrom, and the amount so advanced to pay such preliminary expenses, shall be a first charge against the proceeds resulting from the sale of such revenue bonds until the same has been repaid as herein provided. (1933, Ex. Sess., c. 25, § 4.)

Advances. — Money used in preliminary engineering work prior to actually beginning construction of a sewage disposal system need not be handled by the sanitary board in accordance with the provisions of §§ 16-13-1, 16-13-18 and this section. The sanitary board is an agency of the city. This article merely requires that the construction and maintenance of the project be under the supervision and control of the sanitary board. A method is provided whereby the sanitary board may meet its own necessary preliminary expenses; but the city, in the early stages of the project, during that period in which the city has not even decided to go ahead with the work, and when there is no sanitary board in existence, is not prevented by any provision in the article from obtaining advances for plan preparation by any procedure which it may see fit to adopt. United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1956), commented on in 60 W. Va. L. Rev. 105 (1957).

The United States was held entitled to recover from a city the amount of three advances of money made to the city by the federal works agency for the purpose of plan preparation for construction of a proposed sewage treatment and disposal system, and the city sanitary board was ordered to issue a requisition to the trustees, into whose hands proceeds of future bond issues came, to repay such advances out of any funds in its hands comprising proceeds of revenue bond issues. United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1956), commented on in 60 W. Va. L. Rev. 105 (1957).

Repayment. — A municipality is authorized to incur obligations for the purpose of defraying preliminary expenses of sewer projects, provided repayment of such obligations is to be made solely from the proceeds of revenue

bonds, and not in any way from tax levies. United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1956), commented on in 60 W. Va. L. Rev. 105 (1957).

§ 16-13-5. Ordinance necessary before acquisition or construction of works.

Before any municipality shall construct or acquire any works under this article, the governing body shall upon petition of the board, enact an ordinance or ordinances which shall: (a) Set forth a brief and general description of the works and, if the same are to be constructed, a reference to the preliminary report which shall heretofore have been prepared and filed by an engineer chosen by the board as aforesaid; (b) set forth the cost thereof estimated by the engineer chosen as aforesaid; (c) order the construction or acquisition of such works; (d) direct that revenue bonds of the municipality shall be issued pursuant to this article in such an amount as may be found necessary to pay the cost of the works; and (e) contain such other provisions as may be necessary in the premises. (1933, Ex. Sess., c. 25, § 5.)

Quoted in United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1956).

Stated in State ex rel. City of Wheeling v. Renick, 145 W. Va. 640, 116 S.E.2d 763 (1960).

§ 16-13-6. Publication and hearing upon ordinance.

After such ordinance shall have been adopted, an abstract of the ordinance, determined by the governing body to contain sufficient information as to give notice of the contents of such ordinance, together with the following described notice, shall be published as a Class II legal advertisement in compliance with the provisions of article three [§§ 59-3-1 et seq.], chapter fifty-nine of this Code, and the publication area for such publication shall be the municipality. The notice shall state that said ordinance has been adopted, and that the municipality contemplates the issuance of the bonds described in the ordinance, and that any person interested may appear before the governing body upon a certain date, which shall not be less than ten days subsequent to the first date of publication of such abstract and notice which shall not be prior to the last date of publication of such abstract and notice, and present protests. At such hearing all objections and suggestions shall be heard and the governing body shall take such action as it shall deem proper in the premises: Provided, however, That if at such a hearing written protest is filed by thirty percent or more of the owners of real estate situate in said municipality, then the governing body of said municipality shall not take further action unless four fifths of the qualified members of the said governing body assent thereto. (1933, Ex. Sess., c. 25, § 6; 1967, c. 105; 1981, 1st Ex. Sess., c. 2.)

§ 16-13-7. Acquisition by condemnation or purchase.

Every such municipality shall have power to condemn any such works to be acquired and any land, rights, easements, franchises and other property, real or personal, deemed necessary or convenient for the construction of any such works, or for extensions, improvements, or additions thereto, and in connection

therewith may have and exercise all the rights, powers and privileges of eminent domain granted to municipal corporations under the laws relating thereto. Title to property condemned shall be taken in the name of the municipality. Proceedings for such appropriation of property shall be under and pursuant to the provisions of chapter fifty-four [§§ 54-1-1 et seq.], of the Code of West Virginia, one thousand nine hundred thirty-one, and acts amendatory and supplemental thereto: Provided, That the municipality shall be under no obligation to accept and pay for any property condemned, and shall in no event pay for any property condemned or purchased, except from the funds provided pursuant to this article; and in any proceedings to condemn, such orders may be made as may be just to the municipality and to the owners of the property to be condemned, and an undertaking or other security may be required securing such owners against any loss or damage to be sustained by reason of the failure of the municipality to accept and pay for the property, but such undertaking or security shall impose no liability upon the municipality except such as may be paid from the funds provided under the authority of this article. In event of the acquisition by purchase the board may obtain and exercise an option from the owner or owners of said property for the purchase thereof, or may enter into a contract for the purchase thereof, and such purchase may be made upon such terms and conditions, and in such manner as the board may deem proper. In event of the acquisition of any works already constructed by purchase or condemnation, the board at or before the time of the adoption of the ordinance described in section five [§ 16-13-5] hereof, shall cause to be determined what repairs, replacements, additions, and betterments will be necessary in order that such works may be effective for their purpose, and an estimate of the cost of such improvements shall be included in the estimate of the cost required by section five hereof, and such improvement shall be made upon the acquisition of the works and as a part of the cost thereof. (1933, Ex. Sess., c. 25, § 7.)

§ 16-13-8. Cost of works.

The cost of the works shall be deemed to include the cost of acquisition or construction thereof, the cost of all property, rights, easements, and franchises deemed necessary or convenient therefor and for the improvements determined upon as provided in this article; interest upon bonds prior to and during construction or acquisition and for six months after completion of construction or of acquisition of the improvement last mentioned; engineering and legal expenses; expense 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 works and the placing of the works in operation and the performance of the things herein required or permitted in connection with any thereof. (1933, Ex. Sess., c. 25, § 8.)

Advances. — Advances from the United States to a city for the purpose of plan preparation for construction of a proposed sewage treatment and disposal system represent a part of the cost of the works which should have been repaid out of the first proceeds received from the sale of the first issue of revenue bonds. Such repayment would not in any way increase the cost of the works; it was the very first item of expense incurred in connection with the works. Under the agreement between the city and the United States, it was a liability from the moment construction of the sewage treatment and disposal plant was begun. No disadvantage would result to bondholders as a result of the payment of this just debt out of the proceeds of a future revenue bond issue. United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1956), commented on in 60 W. Va. L. Rev. 105 (1957).

Preliminary expenses. — It is foreseen, as shown in this section, that a city may probably incur expenses in "determining the feasibility or practicability of the enterprise." Such determination would of course be made prior to the issuance of any revenue bonds, and probably before the creation of a sanitary board. It might often result in a rejection of the project altogether, in which event no revenue bonds would be issued, and any obligation incurred by the city might prove to be uncollectible. On the other hand, if the project be undertaken by the city, whatever loans may have been made on the faith of the revenue bonds would or should be included in the cost of the works and repaid out of the proceeds of the bonds. United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1956), commented on in 60 W. Va. L. Rev. 105 (1957).

§ 16-13-9. Contracts and obligations incurred to be paid for solely by revenue bonds.

Nothing in this article contained shall be so construed as to authorize or permit any municipality to make any contract or to incur any obligation of any kind or nature except such as shall be payable solely from the funds provided under this article. Funds for the payment of the entire cost of any of the works referred to in this article, exclusive of any portions of the cost that may be defrayed out of any grant or contribution, shall be provided by the issuance of revenue bonds of the municipality, the principal and interest of which shall be payable solely from the fund herein provided for the payment, and the bonds may not, in any respect, be a corporate indebtedness of the municipality, within the meaning of any statutory or constitutional limitations thereon. All the details of the bonds shall be determined by ordinance or ordinances of the municipality. (1933, Ex. Sess., c. 25, § 9; 1949, c. 93; 2001, c. 212.)

Cross references. — See notes to § 16-13-8.

Effect of amendment of 2001. — Acts 2001, c. 212, effective July 13, 2001, substituted "the" for "such" throughout, substituted "any of the works referred to in this article" for "the works", and substituted "the bonds may not" for "the bonds shall not".

Applicability. — The provisions of this article become a part of the contract between the municipality and the bondholders as effectually as if written verbatim in the bonds. The bondholders are bound by their contract in this instance just as firmly as in any other legal contract. Consequently, the bonds do not create a corporate indebtedness of the municipality. Brewer v. City of Point Pleasant, 114 W. Va. 572, 172 S.E. 717 (1934); United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1956), commented on in 60 W. Va. L. Rev. 105 (1957).

Contracts between municipalities. — Under the provisions of §§ 16-13-19 and 16-13-23a, a city and a town could enter into a contract whereby the city agreed to construct a sewage disposal facility and the town agreed to contribute to the cost of the construction of the facility in return for the right to use the facility, and the fact that the town was unable to sell revenue bonds because it was not allowed to have part ownership in the treatment plant or interceptor sewers did not relieve the town of its contractual obligation when the city offered to buy the revenue bonds issued by the town. Since the contracts were authorized by statute and were thus not ultra vires, even if the contracts were not formally approved by ordinance, the municipalities were estopped from asserting any invalidity of the contracts on such ground. City of Morgantown v. Town of Star City, 156 W. Va. 529, 195 S.E.2d 166 (1973).

§ 16-13-10. Interest on and redemption of bonds; form; statement on face of bond; negotiability; exemption from taxation; registration; execution; sale; disposition of surplus proceeds; additional and temporary bonds.

Such revenue bonds shall bear interest at not more than twelve percent per annum, payable at such times, and shall mature at such time or times as may be determined by ordinance. Such bonds may be made redeemable before maturity at the option of the municipality, to be exercised by said board, at not more than the par value thereof and a premium of five percent, under such terms and conditions as may be fixed by the ordinance authorizing the issuance of the bonds. The principal and interest of the bonds may be made payable in any lawful medium. Said ordinance shall determine the form of the bonds, either coupon or registered, shall set forth any registration and conversion privileges, and shall fix the denomination or denominations of such bonds and the place or places of payment of the principal and interest thereof, which may be at any bank or trust company within or without the State. The bonds shall contain a statement on their face that the municipality shall not be obligated to pay the same or the interest thereon except from the special fund provided from the net revenues of the works. All such bonds shall be, and shall have and are hereby declared to have all the qualities and incidents of, negotiable instruments under the Uniform Commercial Code of the State. Said bonds shall be exempt from all taxation, state, county and municipal. Such bonds shall be executed by the proper legally constituted authorities of the municipality, and be sealed with the corporate seal of the municipality, and in case any of the officers whose signatures appear on the bonds or coupons shall cease to be such officers, before delivery of such bonds, such signatures shall nevertheless be valid and sufficient for all purposes the same as if they had remained in office until such delivery. Such bonds shall be sold at a price not lower than a price, which when computed upon standard tables of bond values, will show a net return of not more than thirteen per centum per annum to the purchaser upon the amount paid therefor, and the proceeds derived therefrom shall be used exclusively for the purposes for which said bonds are issued and same may be sold at one time or in parcels as funds are needed. Any surplus of bond proceeds over and above the cost of the works shall be paid into the sinking fund hereinafter provided. If the proceeds of the bonds, by error of calculation or otherwise, shall be less than the cost of the works, additional bonds may in like manner be issued to provide the amount of such deficit and, unless otherwise provided in said ordinance authorizing the issuance of the bonds first issued or in the trust indenture hereinafter authorized, shall be deemed to be of the same issue and shall be entitled to payment without preference or priority of the bonds first issued. Prior to the preparation of the definitive bonds, temporary bonds may under like restrictions be issued with or without coupons, exchangeable for definitive bonds upon the issuance of the latter. (1933, Ex. Sess., c. 25, § 10; 1970, c. 11; 1980, c. 33; 1981, 1st Ex. Sess., c. 2.)

§ 16-13-11. Additional bonds to extend or improve works.

The governing body may provide by said ordinance authorizing the issuance of the bonds or in the trust indenture hereinafter referred to, that additional bonds may thereafter be authorized and issued, at one time or from time to time under such limitations and restrictions as may be set forth in said ordinance and/or trust indenture, for the purpose of extending, improving or bettering the works when deemed necessary in the public interest, such additional bonds to be secured and be payable from the revenues of the works equally with all other bonds issued pursuant to said ordinance without preference or distinction between any one bond and any other definite bonds upon the issuance of the latter. (1933, Ex. Sess., c. 25, § 11.)

§ 16-13-12. Additional bonds for extension, etc., of works to have equal priority with original bonds.

The governing body may provide by said ordinance authorizing the issuance of the bonds or in the trust indenture hereinafter referred to, that additional bonds may thereafter be authorized and issued, at one time or from time to time, under such limitations and restrictions as may be set forth in said ordinance and/or trust indenture, for the purpose of extending, improving or bettering the works when deemed necessary in the public interest, such additional bonds to be secured and be payable from the revenues of the works equally with all other bonds issued pursuant to said ordinance without preference or distinction between any one bond and any other bond by reason of priority of issuance or otherwise. (1933, Ex. Sess., c. 25, § 12.)

§ 16-13-13. Application of revenue from bonds; lien.

All moneys received from any bonds issued pursuant to this article, after reimbursements and repayment to said municipality of all amounts advanced for preliminary expenses as provided in section four [§ 16-13-4] of this article, shall be applied solely to the payment of the cost of the work, extensions, improvements or betterments, 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 holders of the bonds or the trustees hereinafter provided for. (1933, Ex. Sess., c. 25, § 13.)

Quoted in United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1956).

§ 16-13-14. Securing bonds by trust indenture.

In the discretion of the governing body such bonds may be secured by a trust indenture by and between the municipality and a corporate trustee, which may be any trust company or bank having the powers of a trust company within the State of West Virginia but no such trust indenture shall convey or mortgage the works or any part thereof. The ordinance authorizing the revenue 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 the bondholders as may be reasonable and proper, not in violation of law, including covenants setting forth the duties of the municipality and the board in relation to the construction or acquisition of the works and the improvement, operation, repair, maintenance and insurance thereof, and the custody, safeguarding and application of all moneys, and may provide that the works 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, successors, assigns 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 works or other moneys pertaining thereto be satisfactory to such purchasers, successors, assigns or nominees. Such indenture may set forth the rights and remedies of the bondholders and/or such trustee, restricting the individual right of action of bondholders as is customary in trust indentures securing bonds and debentures of corporations. Except as in this article otherwise provided, the governing body may provide by ordinance or in such trust indenture for the payment of the proceeds of the sale of the bonds and the revenues of the works to such officer, board or depository as it may determine for the custody thereof, and for the method of disbursement thereof, with such safeguards and restrictions as it may det (1933, Ex. Sess., c. 25, § 14.)

§ 16-13-15. Sinking fund; transfer of balance of net revenues.

At or before the issuance of any such bonds the governing body shall by said ordinance create a sinking fund, to be remitted to and administered by the West Virginia municipal bond commission, for the payment of the bonds and the interest thereon and the payment of the charges of banks or trust companies for making payment of such bonds or interest, and shall set aside and pledge a sufficient amount of the net revenues of the works, hereby defined to mean the revenues of the works remaining after the payment of the reasonable expense of operation, repair and maintenance, such amount to be paid by the board into said sinking fund at intervals to be determined by ordinance prior to issuance of the bonds, for: (a) The interest upon such bonds as such interest shall fall due; (b) the necessary fiscal agency charges for paying bonds and interest; (c) the payment of the bonds as they fall due, or, if all bonds mature at one time, the proper maintenance of a sinking fund in such amounts as are necessary and sufficient for the payment thereof at such time; (d) a margin for safety and for the payment of premiums upon bonds retired by call or purchase as herein provided, which margin, together with any unused surplus of such margin carried forward from the preceding year, shall equal ten percent of all other amounts so required to be paid into the sinking fund. Such required payments shall constitute a first charge upon all the net revenue of the works. Prior to the issuance of the bonds the board may by ordinance be given the right to use or direct the West Virginia municipal bond commission to use such sinking fund or any part thereof in the purchase of any of the

outstanding bonds payable therefrom at the market price thereof, but not exceeding the price, if any, at which the same shall in the same year be payable or redeemable, and all bonds redeemed or purchased shall forthwith be cancelled and shall not again be issued. After the payments into such fund as herein required, the board may at any time in its discretion transfer all or any part of the balance of the net revenues, after reserving an amount deemed by the board sufficient for operation, repair and maintenance for an ensuing period of not less than twelve months and for depreciation, into the sinking fund or into a fund for extensions, betterments and additions to the works. The amounts of the balance of the net revenue as and when so set apart shall be remitted to the West Virginia municipal bond commission to be retained and paid out by said commission consistent with the provisions of this article and with the ordinance pursuant to which such bonds have been issued. The West Virginia municipal bond commission is hereby authorized to act as fiscal agent for the administration of such sinking fund, under any ordinance passed pursuant to the provisions of this article, and shall invest all such sinking funds as provided by general law. Notwithstanding the foregoing, payments of principal and interest on any bonds owned by the United States of America or any agency or department thereof may be made by the governing body directly thereto. (1933, Ex. Sess., c. 25, § 15; 1933, 2nd Ex. Sess., c. 48; 1986, c. 118.)

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

The governing body shall have power, and it shall be its duty, by ordinance, to establish and maintain just and equitable rates, fees or charges for the use of and the service rendered by:

(a) Sewerage works, to be paid by the owner of each and every lot, parcel of real estate or building that is connected with and uses such works by or through any part of the sewerage system of the municipality, or that in any way uses or is served by such works; and

(b) Stormwater works, to be paid by the owner of each and every lot, parcel of real estate, or building that in any way uses or is served by such stormwater works or whose property is improved or protected by the stormwater works or any user of such stormwater works.

The governing body may change and readjust such rates, fees or charges from time to time. However, no rates, fees or charges for stormwater services 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.

Such rates, fees or charges shall be sufficient in each year for the payment of the proper and reasonable expense of operation, repair, replacements and maintenance of the works and for the payment of the sums herein required to be paid into the sinking fund. Revenues collected pursuant to this section shall be considered the revenues of the works.

No such rates, fees or charges shall be established until after a public hearing, at which all the users of the works and owners of property served or

to be served thereby and others interested shall have an opportunity to be heard concerning the proposed rates, fees or charges.

After introduction of the ordinance fixing such rates, fees or charges, and before the same is finally enacted, notice of such hearing, setting forth the proposed schedule of such rates, fees or charges, shall be given by publication as a Class II-O legal advertisement in compliance with the provisions of article three [§§ 59-3-1 et seq.], chapter fifty-nine of this code, and the publication area for such publication shall be the municipality. The first publication shall be made at least ten days before the date fixed in such notice for the hearing.

After such hearing, which may be adjourned from time to time, the ordinance establishing rates, fees or charges, either as originally introduced or as modified and amended, shall be passed and put into effect. A copy of the schedule of such rates, fees and charges so established shall be kept on file in the office of the board having charge of the operation of such works, and also in the office of the clerk of the municipality, and shall be open to inspection by all parties interested. The rates, fees or charges so established for any class of users or property served shall be extended to cover any additional premises thereafter served which fall within the same class, without the necessity of any hearing or notice.

Any change or readjustment of such rates, fees or charges may be made in the same manner as such rates, fees or charges were originally established as hereinbefore provided: Provided, That if such change or readjustment be made substantially pro rata, as to all classes of service, no hearing or notice shall be required. The aggregate of the rates, fees or charges shall always be sufficient for such expense of operation, repair and maintenance and for such sinking fund payments.

All rates, fees or charges, if not paid when due, shall constitute a lien upon the premises served by such works. If any service rate, fees or charge so established is not paid within thirty days after the same is due, the amount thereof, together with a penalty of ten percent, and a reasonable attorney's fee, may be recovered by the board in a civil action in the name of the municipality, and in connection with such action said lien may be foreclosed against such lot, parcel of land or building, in accordance with the laws relating thereto: Provided, That where both water and sewer services are furnished by any municipality to any premises the schedule of charges may be billed as a single amount or individually itemized and billed for the aggregate thereof.

Whenever any rates, rentals, fees or charges for services or facilities furnished shall remain unpaid for a period of thirty 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 rates, fees and charges are fully paid.

The board collecting such rates, fees or charges shall be obligated under reasonable rules and regulations, to shut off and discontinue both water and sewer services to all delinquent users of either water facilities, or sewer facilities, or both, and shall not restore either water facilities or sewer facilities, to any delinquent user of either until all delinquent rates, fees or charges for both water facilities, and sewer facilities, including reasonable

interest and penalty charges, have been paid in full. (1933, Ex. Sess., c. 25, § 16; 1933, 2nd Ex. Sess., c. 48; 1959, c. 125; 1967, c. 105; 2001, c. 212.)

Effect of amendment of 2001. — Acts 2001, c. 212, effective July 13, 2001, inserted "fees" preceding "charges" throughout; in the first paragraph, deleted "such" from the end; inserted (b); in the second paragraph of (b), added "The governing body" and the last sentence; in the third paragraph of (b), substituted "shall be considered" for "shall be deemed"; in the seventh paragraph of (b), deleted "however" following "Provided"; and made other, minor changes.

Rules of Civil Procedure. — As to abolition of procedural distinctions between law and equity, see R.C.P. 2.

Applicability. — Although the public service commission concluded that cities providing only sewer service are not covered by this section, which applies to municipalities that provide both water and sewer service, the district court implicitly rejected the commission's interpretation. City of Charleston v. Public Serv. Comm'n, 57 F.3d 385 (4th Cir. 1995), cert. denied, 516 U.S. 974, 116 S. Ct. 474, 133 L. Ed. 2d 404 (1995).

Discrimination not shown. — Charges made against the users of a city sewage system were based upon the amount of water used upon the premises as indicating the extent to which the sewers were used. The charges were subject to a deduction of the amount of water retained on the premises, such amount to be determined by a meter installed by the consumer and used to record gallonage of water that had come on the property but had not been disposed of through the sewers. It was held that the method under which the charges were assessed was neither capricious nor unfair although certain users had been unable to install meters used to measure their deductions. Houchins v. City of Beckley, 127 W. Va. 306, 32 S.E.2d 286 (1944).

Jurisdiction. — The fact that this section speaks of the enforcement of the lien in a "civil action" should not be construed as placing that jurisdiction in our courts of law simply because the word "action," strictly applied, does not usually refer to chancery practice. City of Beckley v. Craighead, 125 W. Va. 484, 24 S.E.2d 908 (1943).

Municipal sewer system is subject to jurisdiction of public service commission, so municipality is required to file its rates with the commission for approval in accordance with §§ 24-2-1 et seq. 45 Op. Att'y Gen. 642 (1954).

Applied in Brewer v. City of Point Pleasant, 114 W. Va. 572, 172 S.E. 717 (1934).

Quoted in State ex rel. City of Wheeling v. Renick, 145 W. Va. 640, 116 S.E.2d 763 (1960).

Cited in Delardas v. Morgantown Water Comm'n, 148 W. Va. 776, 137 S.E.2d 426 (1964).

§ 16-13-17. Government units subject to established rates.

The municipality and any county government, state government and federal government served by the services of the works shall be subject to the same fees, charges and rates established as provided in this article, or to fees, charges and rates established in harmony therewith, for service rendered the municipality, county, state or federal government and shall pay such rates, fees or charges when due from corporate funds and the same shall be considered to be a part of the revenues of the works as herein defined, and be applied as herein provided for the application of the revenues. However, no rates, fees or charges for stormwater services 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. (1933, Ex. Sess., c. 25, § 17; 2001, c. 212.)

Effect of amendment of 2001. — Acts 2001, c. 212, effective July 13, 2001, substituted "Government units" for "Municipality" in the section heading; inserted "fees" preceding "charges" throughout; inserted "and any county... works", substituted "as provided in this article" for "as hereinbefore provided", inserted "county, state or federal government", substituted "shall be considered" for "shall be deemed", substituted "the revenues" for "such revenues"; and added the last sentence.

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

§ 16-13-18. Supervision of works by sanitary board; organization of board; qualifications, terms and compensation of members.

The governing body shall provide by ordinance the organization of the board, and that the custody, administration, operation and maintenance of such works shall be under the supervision and control of a sanitary board, created as herein provided.

Such sanitary board shall be composed of either the mayor of the municipality, or the city manager thereof, if said municipality shall have a city manager form of government, and two persons appointed by the governing body: Provided, That, in the event of an acquisition or merger of an existing works, the governing body may increase the membership to a maximum of four members in addition to the mayor or city manager of the municipality served by the board.

During the construction period, one of the members must be a registered professional engineer. The engineer member of the board need not be a resident of said municipality. After the construction of the plant has been completed, the engineer member may be succeeded by a person not an engineer. No officer or employee of the municipality, whether holding a paid or unpaid office, shall be eligible to appointment on said sanitary board until at least one year after the expiration of the term of his or her public office. The appointees shall originally be appointed for terms of two and three years respectively, and upon the expiration of each term and each succeeding term, an appointment of a successor shall be made in like manner for a term of three years. Vacancies shall be filled for an unexpired term in the same manner as the original appointment. Each member shall give such bond, if any, as may be required by ordinance. The mayor or city manager shall act as chairman of the sanitary board, which shall elect a vice chairman from its members and shall designate a secretary and treasurer (but the secretary and the treasurer may be one and the same), who need not be a member or members of the sanitary board. The vice chairman, secretary and treasurer shall hold office as such at the will of the sanitary board.

The members of the sanitary board shall receive compensation for their services, either as a salary or as payments for meetings attended, as the governing body may determine, and shall be entitled to payment for their reasonable expenses incurred in the performance of their duties. The governing body shall fix the reasonable compensation of the secretary and treasurer in its discretion, and shall fix the amounts of bond to be given by the treasurer. All compensation, together with the expenses in this section referred to, shall be paid solely from funds provided under the authority of this article. The sanitary board shall have power to establish bylaws, rules and regulations for its own government. (1933, Ex. Sess., c. 25, § 18; 1939, c. 96; 1953, c. 146; 1957, c. 137; 1992, c. 95; 2001, c. 212.)

Effect of amendment of 2001. — Acts 2001, c. 212, effective July 13, 2001, made the section gender neutral; in the second paragraph, deleted "sewage" preceding "works", in the third paragraph, substituted "The appointees" for "Said appointees", deleted "such" pre-

ceding "term", substituted "The mayor" for "Such mayor"; and in the last paragraph, deleted "such" preceding "compensation".

In general. — The effect of the provisions of this article is to authorize and empower a municipal corporation in this State to own, construct, equip, operate and maintain sewer systems, to place the construction, operation and management of such systems under the supervision and control of a sanitary board appointed by the governing body, to authorize such board to operate, manage and control them and to order and complete any extensions or betterments that the board may deem expedient. State ex rel. City of Wheeling v. Renick, 145 W. Va. 640, 116 S.E.2d 763 (1960).

Construction. — There is no repugnancy between the provisions of this article and §§ 24-1-1, 24-2-1 or 24-3-1, and for these reasons, the provisions of this article do not operate to repeal any of those sections. State ex rel. City of Wheeling v. Renick, 145 W. Va. 640, 116 S.E.2d 763 (1960).

Adjoining state. — Since the incorporation of its sanitary board and its domestication in the state of Virginia was the only plan by which the power intended to be granted by the legislature to a city to construct a sewage disposal plant outside the State of West Virginia could be legally effectuated, the power to so incorporate its sanitary board was a necessary and incidental right to the main power granted. Bernard v. City of Bluefield, 117 W. Va. 556, 186 S.E. 298 (1936).

Board membership. — When a municipal corporation has a city manager form of government, the municipality's governing board has the option of appointing either its mayor or its city manager (but not both) to the municipal sanitary board. 52 Op. Att'y Gen. 217 (1967).

City treasurer. — As to scope of duties and responsibilities of city treasurer as they relate to possession of funds of a sanitary board, see 52 Op. Att'y Gen. 497 (1967).

Consulting engineer. — Member of city council may not serve as consulting engineer to the sanitary board on city sewer project. 49 Op. Att'y Gen. 60 (1961).

Extension of service. — A public utility is under a duty to make reasonable extensions of its services in accordance with its franchise and charter obligations and the needs of the inhabitants within the territory covered by its franchise; and a public service commission may, where its action is not unlawful, arbitrary, or capricious, order an extension of service for the inhabitants of such territory. State ex rel. City of Wheeling v. Renick, 145 W. Va. 640, 116 S.E.2d 763 (1960).

Legislative intent. — The provisions of this article do not revise the subject matter of §§ 24-1-1, 24-2-1 or 24-3-1, and they were not intended as a substitute for any of the provisions of those sections. State ex rel. City of Wheeling v. Renick, 145 W. Va. 640, 116 S.E.2d 763 (1960).

In conferring such power and authority upon a municipality by this article, the legislature did not create, or intend to create, any repugnancy or inconsistency between the provisions of this article and the pertinent provisions of chapter 24, or to repeal any of those provisions of that chapter. State ex rel. City of Wheeling v. Renick, 145 W. Va. 640, 116 S.E.2d 763 (1960).

Applied in Houchins v. City of Beckley, 127 W. Va. 306, 32 S.E.2d 286 (1944).

Cited in United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1956).

§ 16-13-18a. Publication of financial statement.

Every sanitary board shall prepare a financial statement and cause the same to be published as a Class I legal advertisement in compliance with the provisions of article three [§§ 59-3-1 et seq.], chapter fifty-nine of this Code, and the publication area for such publication shall be the sanitary district. Such statement shall contain an itemized account of the receipts and expenditures of the board during the previous fiscal year, showing the source from which all money was derived, and the name of the person to whom an order was issued, together with the amount of such order, and why such order was issued, arranging the same under distinct heads, and including all money received and expended from the sale of bonds, and also a specific statement of the debts of such board, showing the purpose for which any debt was contracted, the amount of money in all funds at the end of the preceding year, and the amount of uncollected service charges. Such statement shall be prepared and published by the board as soon as practicable after the close of the fiscal year: Provided, That such statement for the fiscal year ending June

thirtieth, one thousand nine hundred fifty-six, may be published any time during the year one thousand nine hundred fifty-seven. The statement shall be sworn to by the chairman and secretary and treasurer of the board. If a board fails or refuses to perform the duties hereinbefore named, every member of the board concurring in such failure or refusal shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than one hundred nor more than five hundred dollars and the circuit court or criminal court and justices of the peace, of the county where the offense was committed, shall have concurrent jurisdiction to try such offense. (1957, c. 138; 1967, c. 105.)

Editor's notes. — For construction of the justice of the peace as magistrate, see § 50-1-17 and W.Va. Const., art. VIII, § 15.

§ 16-13-19. Contract with other municipalities for service of works; powers of lessee as to rates; intercepting sewers.

Any municipality operating a sewage collecting system and/or a sewage disposal plant or plants or stormwater works as defined in this article, or which as herein provided has ordered the construction or acquisition of such works (in this section called the owner), is hereby authorized to contract with one or more other municipal corporations or political subdivisions within the state (in this section called the lessee), and such lessees are hereby authorized to enter into contracts with the owners, for the service of such works to such lessees and their inhabitants, but only to the extent of the capacity of the works without impairing the usefulness thereof to the owners, upon such terms and conditions as may be fixed by the boards and approved by ordinances of the respective contracting parties: Provided, That no contract shall be made for a period of more than forty years or in violation of the provisions of said ordinance authorizing bonds hereunder or in violation of the provisions of said trust indenture.

The lessee shall by ordinance have power to establish, change and adjust rates, fees and charges for the service rendered therein by the works against the owners of the premises served, in the manner hereinbefore provided for establishing, changing and adjusting rates, fees and charges for the service rendered in the municipality where the works are owned and operated, and such rates, fees or charges shall be collectible and shall be a lien as herein provided for rates, fees and charges made by the owner.

The necessary intercepting sewers and appurtenant works for connecting the works of the owner with the sewerage system of the lessee shall be constructed by the owner and/or the lessee upon such terms and conditions as may be set forth in said contract, and the cost or that part of the cost thereof which is to be borne by the owner may be paid as a part of the cost of the works from the proceeds of bonds issued under this article unless otherwise provided by said ordinance or trust indenture prior to the issuance of the bonds. The income received by the owner under any contract shall, if so provided in said ordinance or trust indenture, be considered to be a part of the revenues of the

works as in this article defined and be applied as herein provided for the application of the revenues. (1933, Ex. Sess., c. 25, § 19; 1981, 1st Ex. Sess., c. 2; 2001, c. 212.)

Effect of amendment of 2001. — Acts 2001, c. 212, effective July 13, 2001, substituted "the" for "such" throughout, inserted "fees" following "rates" throughout; in the first paragraph, inserted "or stormwater works", substituted "state" for "State", deleted "such" preceding "contracts", deleted "such" following "Provided", deleted "such" preceding "contract" in the proviso; in the last paragraph, deleted "such" preceding "contract", and substituted "considered" for "deemed" in the last sentence.

Applied in City of Morgantown v. Town of Star City, 156 W. Va. 529, 195 S.E.2d 166 (1973).

§ 16-13-20. Discharge of lien on property acquired.

No property shall be acquired under this article upon which any lien or other encumbrance exists, unless at the time such property is acquired a sufficient sum of money be deposited in trust to pay and redeem such lien or encumbrance in full. (1933, Ex. Sess., c. 25, § 20.)

§ 16-13-21. Action on certificates or attached coupons; receivers.

Any holder of any such certificates or any of the coupons attached thereto, and the trustee, if any, except to the extent the rights herein given may be restricted by said ordinance authorizing issuance of the bonds or by the trust indenture, may either at law or in equity, by suit, action, mandamus or other proceeding protect and enforce any and all rights granted hereunder or under such ordinance or trust indenture, and may enforce and compel performance of all duties required by this article or by such ordinance or trust indenture to be performed by the municipality issuing the bonds or by the board or any officer, including the making and collecting of reasonable and sufficient charges and rates for service rendered by the works. If there be any failure to pay the principal or interest of any of the bonds on the date therein named for such payment, any court having jurisdiction of the action may appoint a receiver to administer the works on behalf of the municipality and the bondholders and/or trustee, except as so restricted, with power to charge and collect rates sufficient to provide for the payment of the expenses of operation, repair and maintenance and also to pay any bonds and interest outstanding and to apply the revenues in conformity with this article and the said ordinance and/or trust indenture. (1933, Ex. Sess., c. 25, § 21.)

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

As to receivers, see Rule 66.

As to application of rules to extraordinary remedies, see Rule 81(a)(5).

§ 16-13-22. Powers conferred in addition to existing powers; jurisdiction outside corporate limits.

The authority herein given shall be in addition to and not in derogation of any power existing in any municipality under any statutory or charter

provisions which it may now have or hereafter adopt. For all purposes of this article, all municipal corporations shall have jurisdiction for twenty miles outside the corporate limits thereof: Provided, That for stormwater systems, within the twenty miles beyond the municipality's corporate limits the only areas the municipality may serve and supply shall be those areas from which stormwater affects or drains into the municipality.

The jurisdiction and authority provided by this section does not extend to highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia division of highways. (1933, Ex. Sess., c. 25, § 22; 2001, c. 212.)

Effect of amendment of 2001. — Acts 2001, c. 212, effective July 13, 2001, in the first paragraph, substituted "twenty miles outside" for "ten miles outside", added the proviso; and added the last paragraph.

§ 16-13-22a. Grants, loans and advances.

Any municipality 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 acquisition or construction of said sewage works and the construction of betterments and improvements thereto, and for the other purposes herein authorized, from any authorized agency of the state 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 bonds authorized to be issued under the provisions of this article, the revenues of the said sewage works or grants to the municipality from any agency of the state 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 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 agency of the state, 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.

In no event shall any such loan or temporary advance be a general obligation of the municipality and such loans or temporary advances, including the interest thereon, shall be paid solely from the sources specified in this section. (1949, c. 93; 1961, c. 107; 1980, c. 59; 1981, 1st Ex. Sess., c. 2; 1986, c. 118.)

Stated in United States v. City of Charleston, 149 F. Supp. 866 (S.D.W. Va. 1956).

§ 16-13-22b. Contracts for abatement of pollution.

When determined by its legislative body to be in the public interest and necessary for the protection of the public health, any municipality is authorized to enter into and perform contracts, whether long-term or short-term, with any industrial establishment for the provision and operation by the municipality of sewerage facilities to abate or reduce the pollution of waters caused by discharges of industrial wastes by the industrial establishment and the payment periodically by the industrial establishment to the municipality of amounts at least sufficient, in the determination of such legislative body, to compensate the municipality for the cost of providing (including payment of principal and interest charges, if any), and of operating and maintaining the sewerage facilities serving such industrial establishment. (1949, c. 93.)

§ 16-13-22c. Refunding bonds.

Any municipality is authorized to issue refunding revenue bonds to refund, pay or discharge all or any part of its outstanding revenue bonds, including interest thereon, if any, in arrears or about to become due. The relevant provisions in this article pertaining to revenue bonds shall be equally applicable in the authorization and issuance of refunding revenue bonds, including their terms and security, the ordinance, the trust indenture, rates, or other aspects of the bonds. (1949, c. 93.)

§ 16-13-22d. Subordination of bonds.

Notwithstanding any other provisions to the contrary in this article, any municipality authorizing the issuance of bonds under this article in an effort to aid in the abatement or reduction of the pollution of any waters or streams may provide in the ordinance authorizing the issuance of the bonds and in any trust indenture pertaining thereto that such bonds, or any additional bonds that may thereafter be issued to extend or improve the works, shall, to the extent and in the manner prescribed, be subordinated and be junior in standing, with respect to the payment of principal and interest and the security thereof, to such other bonds as are designated in the ordinance. (1949, c. 93.)

§ 16-13-22e. Operating contract.

Any such municipality may enter into contracts or agreements with any persons, firms or corporations for the operation and management of the facilities and properties of said sewerage system, or any part thereof, for such period of time and under such terms and conditions as shall be agreed upon between such municipality and such persons, firms or corporations. Such municipality shall have power to provide in the resolution authorizing the issuance of bonds hereunder, or in any trust indenture, securing such bonds, that such contracts or agreements shall be valid and binding upon the municipality as long as any of said bonds, or interest thereon, are outstanding and unpaid. (1955, c. 132.)

§ 16-13-22f. Exemption of bonds from taxation.

Said bonds and the interest thereon, together with all properties and facilities of said municipality owned or used in connection with the works, and all the moneys, revenues and other income of such municipality derived from such works shall be exempt from all taxation by the state of West Virginia or any county, municipality, political subdivision or agency thereof. (1955, c. 132; 2001, c. 212.)

Effect of amendment of 2001. — Acts 2001, c. 212, effective July 13, 2001, substituted "works" for "sewerage system" twice, and substituted "state" for "State".

§ 16-13-22g. Covenants with bondholders.

Any resolution authorizing the issuance of bonds hereunder, or any trust indenture with any bank or trust company within or without the state, for the security of the bonds, may contain covenants with the holders of such bonds as to:

(a) The purpose or purposes to which the proceeds of sale of such bonds, or the revenues derived from the sewerage system or stormwater system, may be applied and the securing, use and disposition thereof, including, if considered desirable, the appointment of a trustee or depositary for any of such funds;

(b) The pledging of all or any part of the revenues derived from the ownership, operation or control of such sewerage systems or stormwater system, including any part thereof heretofore or hereafter constructed or acquired or derived from any other sources, to the payment of the principal of or interest thereon of bonds issued hereunder and for such reserve or other funds as may be considered necessary or desirable;

(c) The fixing, establishing and collecting of such fees, rentals or other charges for the use of the services and facilities of such sewerage system or stormwater system, including the parts thereof heretofore or hereafter constructed or acquired and the revision of same from time to time, as will always provide revenues at least sufficient to provide for all expenses of operation, maintenance and repair of such sewerage system or stormwater system, the payment of the principal of and interest on all bonds or other obligations payable from the revenues of such sewerage system or stormwater system, and all reserve and other funds required by the terms of the ordinance authorizing the issuance of such bonds;

(d) The transfer from the general funds of the municipality to the account or accounts of such sewerage system or stormwater system of an amount equal to the cost of furnishing the municipality or any of its departments, boards or agencies with the services and facilities of such sewerage system or stormwater system;

(e) Limitations or restrictions upon the issuance of additional bonds or other obligations payable from the revenue of such sewerage system or stormwater system, and the rank or priority, as to lien and source and security for payment from the revenues of the sewerage system or stormwater system, between bonds payable from the revenues;

(f) The manner and terms upon which all bonds and other obligations issued hereunder may be declared immediately due and payable upon the happening of a default in the payment of the principal of or interest thereon, or in the performance of any covenant or agreement with bondholders, and the manner and terms upon which defaults may be declared cured and the acceleration of the maturity of such bonds rescinded and repealed;

(g) Budgets for the annual operation, maintenance and repair of such sewerage system or stormwater system and restrictions and limitations upon expenditures for such purposes, and the manner of adoption, modification, repeal or amendment thereof, including the approval of such budgets by consulting engineers designated by holders of bonds issued hereunder;

(h) The amounts of insurance to be maintained upon such sewerage system or stormwater system, or any part thereof, and the use and disposition of the proceeds of any insurance;

(i) The keeping of books of account, relating to such undertakings and the audit and inspection thereof, and the furnishing to the holders of bonds issued hereunder or their representatives, reports prepared, certified, or approved by accountants designated or approved by the holders of bonds issued hereunder;

(j) Such other additional covenants as shall be considered necessary or desirable for the security of the holders of bonds issued hereunder, notwithstanding that other covenants are not expressly enumerated hereunder, it being the intention hereof to grant to the municipalities the power to make any and all covenants or agreements necessary in order to secure greater marketability for bonds issued hereunder as fully and to the same extent as such covenants or agreements could be made by a private corporation rendering similar services and facilities and to grant such municipalities full and complete power to enter into any contracts, covenants or agreements with holder of bonds issued hereunder not inconsistent with the constitution of the state of West Virginia. (1955, c. 132; 2001, c. 212.)

Effect of amendment of 2001. — Acts 2001, c. 212, effective July 13, 2001, substituted "the" for "such" throughout, inserted "or stormwater system" following "sewerage system" throughout, substituted "considered" for "deemed" throughout; in the first paragraph, substituted "the bonds" for "said bonds"; in (f), deleted "such" preceding "defaults"; in (j), deleted "such" preceding "other covenants", and made other, minor changes.

§ 16-13-23. Article deemed full authority for construction, etc., of works and issue of bonds; alternative method; powers of state department of health unaffected.

This article, shall, without reference to any other statute, be deemed full authority for the construction, acquisition, improvement, equipment, maintenance, operation and repair of the works herein provided for and for the issuance and sale of the bonds by this article authorized, and shall be construed as an additional and alternative method therefor and for the financing thereof, and no petition or election or other or further proceeding in respect to the construction or acquisition of the works or to the issuance or sale

of bonds under this article and no publication of any resolution, ordinance, notice or proceeding relating to such construction or acquisition or to the issuance or sale of such bonds shall be required except such as are prescribed by this article, any provisions of other statutes of the State to the contrary notwithstanding: Provided, however, That all functions, powers and duties of the state department of health shall remain unaffected by this article. (1933, Ex. Sess., c. 25, § 23.)

Quoted in State ex rel. City of Wheeling v. Renick, 145 W. Va. 640, 116 S.E.2d 763 (1960).

§ 16-13-23a. Additional powers of municipality upon receipt of order to cease pollution.

Notwithstanding any other provision contained in this article, and in addition thereto, the governing body of any municipal corporation which has received or which hereafter receives an order issued by the director of the division of environmental protection or the environmental quality board requiring such municipal corporation to cease the pollution of any stream or waters, is hereby authorized and empowered to fix, establish and maintain, by ordinance, just and equitable rates, fees or charges for the use of the services and facilities of the existing sewer system and/or stormwater system of such municipal corporation, and/or for the use of the services and facilities to be rendered upon completion of any works and system necessary by virtue of said order, to be paid by the owner, tenant or occupant of each and every lot or parcel of real estate or building that is connected with and uses any part of such sewer system or stormwater system, or that in any way uses or is served thereby, and may change and readjust such rates, fees or charges from time to time.

Such rates, fees or charges shall be sufficient for the payment of all the proper and reasonable costs and expenses of the acquisition and construction of plants, machinery and works for the collection and/or treatment, purification and disposal of sewage or stormwater, and the repair, alteration and extension of existing sewer facilities or stormwater facilities, as may be necessary to comply with such order of the director of the division of environmental protection or the environmental quality board, and for the operation, maintenance and repair of the entire works and system.

The governing body shall create, by ordinance, a sinking fund to accumulate and hold any part or all of the proceeds derived from rates or charges until completion of the construction, to be remitted to and administered by the municipal bond commission by expending and paying the costs and expenses of construction and operation in the manner as provided by said ordinance.

After the completion of the construction such rates, fees or charges shall be sufficient in each year for the payment of the proper and reasonable costs and expenses of operation, maintenance, repair, replacement and extension from time to time, of the entire sewer and works or entire stormwater works.

No such rates, fees or charges shall be established until after a public hearing, at which all the potential users of the works and owners of property served or to be served thereby and others shall have had an opportunity to be heard concerning the proposed rates or charges.

After introduction of the ordinance fixing rates, fees or charges, and before the same is finally enacted, notice of such hearing, setting forth the proposed schedule of rates, fees or charges, shall be given by publication of notice as a Class II-O legal advertisement in compliance with the provisions of article three [§§ 59-3-1 et seq.], chapter fifty-nine of this code, and the publication area for such publication is the municipality. The first publication shall be made at least ten days before the date fixed therein for the hearing.

After such hearing, which may be adjourned from time to time, the ordinance establishing the rates, fees or charges, either as originally introduced or as modified and amended, may be passed and put into effect. A copy of the schedule of the rates, fees and charges so established shall be kept on file in the office of the sanitary board having charge of the construction and operation of such works, and also in the office of the clerk of the municipality, and shall be open to inspection by all parties interested. The rates, fees or charges so established for any class of users or property served shall be extended to cover any additional premises thereafter served which fall within the same class, without the necessity of any hearing or notice.

Any change or readjustment of rates, fees or charges may be made in the same manner as rates, fees or charges were originally established as hereinbefore provided: Provided, however, That if such change or readjustment be made substantially pro rata, as to all classes of service, no hearing or notice is required.

If any rate, fees or charge so established is not paid within thirty days after the same is due, the amount thereof, together with a penalty of ten percent, and a reasonable attorney's fee, may be recovered by the sanitary board of such municipal corporation in a civil action in the name of the municipality.

Any municipal corporation exercising the powers given herein has authority to construct, acquire, improve, equip, operate, repair and maintain any plants, machinery, or works necessary to comply with the order of the director of the division 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 director of the division of environmental protection or the environmental quality board, and the rights, powers, and duties of the municipal corporation and the respective officers and departments thereof, including the sanitary board, are governed by the provisions of this article: Provided, That the

jurisdiction and authority provided by this section does not extend to highways, road and drainage easements, and/or stormwater facilities constructed, owned and/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. (1955, c. 135; 1967, c. 105; 1994, c. 61; 2001, c. 212.)

Effect of amendment of 2001. — Acts 2001, c. 212, effective July 13, 2001, substituted "the" for "such" throughout, substituted "the" for "said" throughout, inserted "fees" following "rates" throughout; in the first paragraph, inserted "and/or stormwater system" following "existing sewer system", inserted "or stormwater system" following "such sewer system"; in the second paragraph, inserted "or stormwater" following "sewage", inserted "or stormwater facilities" following "sewer facilities"; in the fourth paragraph, added "or entire stormwater works" to the end; in the sixth paragraph, deleted "such" following "fixing" and "publication of"; in the eighth paragraph, deleted "such" preceding "rates" twice; and in the last paragraph, added the proviso.

Applied in City of Morgantown v. Town of Star City, 156 W. Va. 529, 195 S.E.2d 166 (1973).

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

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

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

ARTICLE 13A.

PUBLIC SERVICE DISTRICTS FOR WATER, SEWERAGE AND GAS SERVICES.

Sec.
16-13A-1. Legislative findings.
16-13A-1a. Jurisdiction of the public service commission.
16-13A-1b. County commissions to develop plan to create, consolidate, merge, expand or dissolve public service districts.
16-13A-1c. General purpose of districts.
16-13A-2. Creation of districts by county commission; enlarging, reducing, 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.

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§ 16-9F-3. Penalties.

(a) Any person who knowingly violates the provisions of this article with a total quantity of less than two cartons of cigarettes shall, for the first offense, be punished by a civil penalty of no more than one thousand dollars, and for a second or subsequent offense involving a total quantity of less than two cartons of cigarettes shall be punished by a civil penalty of no more than five thousand dollars and the revocation for a period of six months of any business held by the person.

(b) Any person who knowingly violates the provisions of this article with a total quantity of two or more cartons of cigarettes shall, for the first offense, be punished by a civil penalty of no more than two thousand dollars, and for a second or subsequent offense involving a total quantity of two or more cartons of cigarettes shall be punished by a civil penalty of no more than fifty thousand dollars and the revocation for a period of one year of any business registration certificate held by the person. (2003, c. 246.)

§ 16-9F-4. Enforcement.

The attorney general, the prosecuting attorney for the county in which counterfeit cigarettes are found or any person who holds a valid permit under 26 U.S.C. § 5712 may bring an action in the circuit court of that county to prevent or restrain violations of this article by any person, or any person controlling that person. (2003, c. 246.)

ARTICLE 13.

SEWAGE WORKS OF MUNICIPAL CORPORATIONS AND SANITARY DISTRICTS.

Sec.
16-13-16. Rates for service; deposit required for new customers; forfeiture of deposit; reconnecting deposit; tenant's deposit; change or readjustment; hearing; lien and recovery; discontinuance of services.

Effect of amendment of 2004. — Acts 2004, c. 185, effective June 10, 2004, substituted "Sewage Works of Municipal Corporations and Sanitary Districts" for "Sewage Works and Stormwater Works" in the article heading.

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§ 16-13-16. Rates for service; deposit required for new customers; forfeiture of deposit; reconnecting deposit; tenant's deposit; change or readjust-

ment; hearing; lien and recovery; discontinuance of services.

The governing body shall have power, and it shall be its duty, by ordinance, to establish and maintain just and equitable rates, fees or charges for the use of and the service rendered by:

(a) Sewerage works, to be paid by the owner of each and every lot, parcel of real estate or building that is connected with and uses such works by or through any part of the sewerage system of the municipality, or that in any way uses or is served by such works; and

(b) Stormwater works, to be paid by the owner of each and every lot, parcel of real estate, or building that in any way uses or is served by such stormwater works or whose property is improved or protected by the stormwater works or any user of such stormwater works.

(c) The governing body may change and readjust such rates, fees or charges from time to time. However, no rates, fees or charges for stormwater services 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.

(d) All new applicants for service shall indicate to the governing body whether they are an owner or tenant with respect to the service location.

(e) The governing body may collect from all new applicants for service a deposit of fifty dollars or two twelfths of the average annual usage of the applicant's specific customer class, whichever is greater, to secure the payment of service rates, fees and charges in the event they become delinquent as provided in this section. In any case where a deposit is forfeited to pay service rates, fees and charges which were delinquent at the time of disconnection or termination of service, no reconnecting or reinstatement of service may be made by the governing body until another deposit equal to fifty dollars or a sum equal to two twelfths of the average usage for the applicant's specific customer class, whichever is greater, is remitted to the governing body. After twelve months of prompt payment history, the governing body shall return the deposit to the customer or credit the customer's account with interest at a rate as the public service commission may prescribe: Provided, That where the customer is a tenant, the governing body is not required to return the deposit until the time the tenant discontinues service with the governing body. 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 governing body may, under reasonable rules promulgated by the public service commission, shut off and discontinue water services to a delinquent user of sewer facilities ten days after the sewer services become delinquent regardless of whether the governing body utilizes the security deposit to satisfy any delinquent payments.

(f) Such rates, fees or charges shall be sufficient in each year for the payment of the proper and reasonable expense of operation, repair, replace-

ments and maintenance of the works and for the payment of the sums herein required to be paid into the sinking fund. Revenues collected pursuant to this section shall be considered the revenues of the works.

(g) No such rates, fees or charges shall be established until after a public hearing, at which all the users of the works and owners of property served or to be served thereby and others interested shall have an opportunity to be heard concerning the proposed rates, fees or charges.

(h) After introduction of the ordinance fixing such rates, fees or charges, and before the same is finally enacted, notice of such hearing, setting forth the proposed schedule of such rates, fees or charges, shall be given by publication as a Class II-0 legal advertisement in compliance with the provisions of article three [§§ 59-3-1 et seq.], chapter fifty-nine of this code, and the publication area for such publication shall be the municipality. The first publication shall be made at least ten days before the date fixed in such notice for the hearing.

(i) After such hearing, which may be adjourned from time to time, the ordinance establishing rates, fees or charges, either as originally introduced or as modified and amended, shall be passed and put into effect. A copy of the schedule of such rates, fees and charges so established shall be kept on file in the office of the board having charge of the operation of such works, and also in the office of the clerk of the municipality, and shall be open to inspection by all parties interested. The rates, fees or charges so established for any class of users or property served shall be extended to cover any additional premises thereafter served which fall within the same class, without the necessity of any hearing or notice.

(j) Any change or readjustment of such rates, fees or charges may be made in the same manner as such rates, fees or charges were originally established as hereinbefore provided: Provided, That if such change or readjustment be made substantially pro rata, as to all classes of service, no hearing or notice shall be required. The aggregate of the rates, fees or charges shall always be sufficient for such expense of operation, repair and maintenance and for such sinking fund payments.

(k) All rates, fees or charges, if not paid when due, shall constitute a lien upon the premises served by such works. If any service rate, fees or charge so established is not paid within twenty days after the same is due, the amount thereof, together with a penalty of ten percent, and a reasonable attorney's fee, may be recovered by the board in a civil action in the name of the municipality, and in connection with such action said lien may be foreclosed against such lot, parcel of land or building, in accordance with the laws relating thereto: Provided, That where both water and sewer services are furnished by any municipality to any premises the schedule of charges may be billed as a single amount or individually itemized and billed for the aggregate thereof.

(*l*) Whenever any rates, rentals, fees or charges for services or facilities furnished shall remain unpaid for a period of twenty 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 rates, fees and charges are fully paid. When any payment for rates, rentals, fees or charges becomes delinquent, the governing body may use the security deposit to satisfy the delinquent payment.

(m) The board collecting such rates, fees or charges shall be obligated under reasonable rules to shut off and discontinue both water and sewer services to all delinquent users of either water facilities, or sewer facilities or both, and shall not restore either water facilities or sewer facilities, to any delinquent user of either until all delinquent rates, fees or charges for both water facilities, and sewer facilities, including reasonable interest and penalty charges, have been paid in full. (1933, Ex. Sess., c. 25, § 16; 1933, 2nd Ex. Sess., c. 48; 1959, c. 125; 1967, c. 105; 2001, c. 212; 2004, c. 185.)

Effect of amendment of 2004. — Acts 2004, c. 185, effective June 10, 2004, inserted "deposit required for new customers; forfeiture of deposit; reconnecting deposit; tenant's deposit" in the introductory language; added the subsection designations for (c) through (m); added (d) and (e); substituted "Class II-0" for "Class II-O" in (h); substituted "within twenty days" for "within thirty days" in (k); in (*l*) substituted "twenty days" for "thirty days" and added the second sentence; and deleted "and regulations" following "reasonable rules" in (m).

ARTICLE 13A.

PUBLIC SERVICE DISTRICTS FOR WATER, SEWERAGE AND GAS SERVICES.

Sec.	
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-5.	General manager 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-14.	Items included in cost of properties.
16-13A-18a.	Sale, lease or rental of water, sewer, stormwater or gas system by district; distribution of proceeds.
16-13A-24.	Acceptance of loans, grants or temporary advances.
16-13A-25.	Borrowing and bond issuance; procedure.

§ 16-13A-1. Legislative findings.

Code of State Rules References. — Government of public service districts, 150 CSR 17, effective September 1, 1990.

§ 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

State of West Virginia

Certificate

I, Joe Manchin, III, Secretary of State of the State of West Virginia, hereby certify that

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

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

December 20, 2004

Secretary of State

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

The aggregate principal amount of bonds and notes issued by the authority may not exceed five hundred million dollars outstanding at any one time: Provided, That before the authority issues bonds and notes in excess of four hundred million dollars the Legislature must pass a resolution authorizing this action: Provided, however, That in computing the total amount of bonds and notes which may at any one time be outstanding, the principal amount of any outstanding bonds or notes refunded or to be refunded either by application of the proceeds of the sale of any refunding bonds or notes of the authority or by exchange for any refunding bonds or notes, shall be excluded. (1994, c. 61; 1995, c. 252; 2000, c. 278.)

Effect of amendment of 2000. — Acts 2000, c. 278, effective March 11, 2000, substituted "authority may" for "authority shall", substituted "five hundred million dollars" for "three hundred million dollars" and inserted "That before ... Provided, however".

ARTICLE 2.

WATER POLLUTION CONTROL REVOLVING FUND ACT.

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

Editor's notes. — The Water Pollution Control Revolving Fund Act was formerly compiled in §§ 20-5I-1 et seq.

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§ 22C-2-1. Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) Drainage facilities and projects;

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

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

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

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

The division of environmental protection shall act as the instrumentality that is empowered to enter into capitalization agreements with the United States environmental protection agency, to accept capitalization grant awards

made under the federal clean water act, as amended, the safe drinking water act, as amended, and other federal laws and to otherwise manage the fund provided for in this article in accordance with the requirements of said federal laws. (1994, c. 61.)

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

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

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

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

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

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

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

(e) All moneys belonging to the fund shall be kept in appropriate depositories and secured in conformance with this code. Disbursements from the fund shall be authorized for payment by the director of the authority or the director's designee. Any depository or officer of the depository to which moneys of the fund are paid shall act as trustee of the moneys and shall hold and apply them solely for the purposes for which the moneys are provided under this

article. Moneys in the fund shall not be commingled with other money of the authority. If not needed for immediate use or disbursement, moneys in the fund may be invested or reinvested by the authority in obligations or securities which are considered lawful investments for public funds under this code. (1994, c. 61; 1996, c. 257.)

Code of State Rules References. — State water pollution control revolving fund program. 47 CSR 31, effective May 4, 2000.

§ 22C-2-4. Annual audit.

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

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

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

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

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

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

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

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

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

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

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

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

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

Code of State Rules References. — State construction grants program rule, 47CSR33, effective May 7, 1999.

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

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

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

Code of State Rules References. — State water pollution control revolving fund program, 47CSR31, effective May 4, 2000.

§ 22C-2-8. Conflicting provisions.

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

ARTICLE 3.

SOLID WASTE MANAGEMENT BOARD.

Sec.
22C-3-1. Short title.
22C-3-2. Legislative findings; declaration of policy and responsibility; purpose and intent of article.
22C-3-3. Definitions.
22C-3-4. Solid waste management board; organization of board; appointment and qualification of board members; their term of office, compensation and expenses; director of board.
22C-3-5. Board to designate and establish disposal sheds; construction, maintenance, etc., of disposal projects; loan agreements; compliance with federal and state law.
22C-3-6. Powers, duties and responsibilities of board generally.
22C-3-7. Development of state solid waste management plan.
22C-3-8. Power of board to collect service charges and exercise other powers of governmental agencies in event of default; power to require governmental agencies to enforce their rights.
22C-3-9. Development and designation of solid waste disposal sheds by board.
22C-3-10. Board empowered to issue solid waste disposal revenue bonds, renewal notes and refunding bonds; requirements and manner of such issuance.
22C-3-11. Establishment of reserve funds, replacement and improvement funds and sinking funds; fiscal agent; purposes for use of bond proceeds; application of surplus.
22C-3-12. Legal remedies of bondholders.
Sec.
22C-3-13. Bonds and notes not debt of state, county, municipality or of any political subdivision; expenses incurred pursuant to article.
22C-3-14. Use of funds, properties, etc., by board; restrictions thereon.
22C-3-15. Audit of funds disbursed by the board and recipients thereof.
22C-3-16. Rentals, fees, service charges and other revenues from solid waste disposal projects; contracts and leases of board; cooperation of other governmental agencies; bonds of such agencies.
22C-3-17. Maintenance, operation and repair of projects; repair of damaged property; reports by board to governor and Legislature.
22C-3-18. Solid waste disposal revenue bonds lawful investments.
22C-3-19. Exemption from taxation.
22C-3-20. Governmental agencies authorized to convey property.
22C-3-21. Financial interest in contracts, projects, etc., prohibited; gratuities prohibited; penalty.
22C-3-22. Conduct of proceedings of board.
22C-3-23. Regulation of solid waste collectors and haulers to continue under public service commission; bringing about their compliance with solid waste disposal shed plan and solid waste disposal projects; giving testimony at commission hearings.
22C-3-24. Cooperation of board and enforcement agencies in collecting and disposing of abandoned household appliances and motor vehicles, etc.
22C-3-25. Liberal construction of article.

State of West Virginia

Certificate

I, Joe Manchin, III, 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, AS INDICATED BY THE RECORDS OF THIS OFFICE.

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

December 20, 2004

Secretary of State

ARTICLE 15A.

WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL.

Sec.
31-15A-1. Short title.
31-15A-2. Definitions.
31-15A-3. West Virginia infrastructure and jobs development council continued; members of council; staff of council.
31-15A-4. Development of guidelines and preliminary application for funding assistance.
31-15A-5. Requirements for project funding assistance; review of project preliminary applications by council.
31-15A-6. Powers, duties and responsibilities of the council generally; comprehensive assessment.
31-15A-7. Current and prospective planning; roads and highways; report to division of highways.
31-15A-8. Exemption of certain emergency projects from certificate of public convenience and necessity requirements; review of certain emergency projects by public service commission; and exemption for North Fork Hughes River watershed project.
31-15A-9. Infrastructure fund; deposits in fund; disbursements to provide loans, loan guarantees, grants and other assistance; loans, loan guarantees, grants and other assistance shall be subject to assistance agreements.
31-15A-10. Recommendations by council for expenditures of funds by loan, grant or for engineering assistance.
31-15A-11. Reservation of funds for projects and infrastructure projects.
31-15A-12. Additional powers of water development authority.
Sec.
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-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." (1994, 1st Ex. Sess., c. 26.)

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

§ 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 [§ 31-15A-3] of this article;

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

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

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

(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 [§§ 31-18-1 et seq.] 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 [§ 31-15A-9] 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 [§ 24-1-3], article one, chapter twenty-four of this code, or any successor to all or any substantial part of its powers and duties;

(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 [§§ 24-1-1 et seq.] 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 [§§ 5B-2-1 et seq.], chapter five-b of this code, or any successor to all or any substantial part of its powers and duties;

(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) "Waste water facility" means all facilities, land and equipment used for or in connection with treating, neutralizing, disposing of, stabilizing, cooling, segregating or holding waste water, including, without limitation, facilities for the treatment and disposal of sewage, industrial wastes or other wastes, 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 [§§ 22C-1-1 et seq.], chapter twenty-two-c of this code, or any successor to all or any substantial part of its powers and duties; 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. (1994, 1st Ex. Sess., c. 26; 1998, c. 180.)

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

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

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

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

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

(e) The council shall meet at least monthly to review projects and infrastructure projects requesting funding assistance and otherwise to conduct its

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

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

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

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

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

tion date of the project or infrastructure project; and (10) such other considerations as the council may consider necessary or appropriate to accomplish the purpose and intent of this article.

(b) The council shall create a preliminary application form which shall be used by all project sponsors requesting funding assistance from state infrastructure agencies to plan, acquire, construct, improve or otherwise develop an infrastructure project or project. The preliminary application form shall contain all information required by all state infrastructure agencies that will be required to issue permits and/or certificates regarding the project or infrastructure project. The preliminary application shall require the project sponsor to set forth the type and proposed location of the infrastructure project or project; the estimated total cost of the project; the amount of funding assistance required and the specific uses of the funding; other sources of funding available or potentially available for the infrastructure project or project; information demonstrating the need for the infrastructure project or project and that the proposed funding of the project is the most economically feasible and viable alternative to completing the project or infrastructure project; and such other information as the council considers necessary to enable it to recommend the type of project or infrastructure project financing, in terms of the kind, amount and source of funding, which the project sponsor should pursue and which the state infrastructure agency or agencies should consider an appropriate investment of public funds, and to otherwise carry out the intent of this article. (1994, 1st Ex. Sess., c. 26.)

Code of State Rules References. — Infrastructure and jobs development council funding rules, 167 CSR 1, effective June 6, 1996.

§ 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 invest-

ment of public funds, or (ii) if the council determines that (1) the proposed project or infrastructure project is not eligible for funding assistance from any state infrastructure agency, or (2) the proposed project or infrastructure project is not otherwise an appropriate or prudent investment of state funds, the council shall recommend that the project sponsor not seek funding from any state infrastructure agency. A project sponsor shall include the preliminary application and the council's recommendations in any application to a state infrastructure agency.

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

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

Code of State Rules References. — Infrastructure and jobs development council funding rules, 167 CSR 1, effective June 6, 1996.

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

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

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

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

from the infrastructure fund to finance the cost of one or more such projects or infrastructure projects;

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

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

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

(c) The council shall study the viability of the consolidation of public service districts throughout the state: Provided, That the study shall encompass not only public service districts but also any and all entities which provide or supply water and sewer service to the general public: Provided, however, That the council shall, in the preparation of the study, consult with the public service district division of the public service commission and representatives of the West Virginia rural water association and the West Virginia association of public service districts, as needed. The council shall report their findings and conclusions on or before the sixteenth of January of the year one thousand nine hundred ninety-five to the governor, speaker of the house of delegates and president of the senate. (1994, 1st Ex. Sess., c. 26.)

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

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

(b) The council has the authority to appoint local infrastructure planning teams. The local infrastructure planning teams may consist of the following: A designee of the division of highways from the region where the new road is being built; a designee of the division of highways from the central state office;

a designee from the environmental engineers division of the department of health and human resources; a designee from the local developmental authority where the new road is being built; a designee from the regional developmental authority in the area where the new road is being built; a designee from the public service commission; a designee from the division of environmental protection; a designee from the county commission where the new road is being built who shall serve as chairperson of the planning team; a citizen of the county where the new road is being built to be chosen by the county commission; and the elected state delegates and senators from the area where the new road is being built. In order to avoid delay of any highway project, immediately upon appointment of a local infrastructure planning team, the director of the division of highways shall submit to the council a time frame within which the planning team must act and within which the planning team must submit any plans, maps, recommendations or reports developed pursuant to this subsection. The local infrastructure planning team shall meet prior to the development and building of a new road. Members of the local infrastructure planning team shall only receive payment for actual expenses incurred. The local infrastructure planning team shall advise the commissioner of the division of highways on the feasibility of an infrastructure plan. The local infrastructure planning team shall meet to develop an infrastructure plan that includes an assessment study of existing water and sewer lines and a feasibility study on future development and laying of water and sewer lines. After these studies are completed, a developmental map shall be drawn of the proposed road route with overlays of the proposed water and sewer lines. These studies and the map shall be presented to the commissioner of the division of highways and shall be used by the commissioner in the planning, developing and building of the road.

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

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

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

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

(a) If the council determines a project to be an emergency and the emergency project will be funded solely with grant money for the extension of an existing certificated water facility or 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 [§ 24-2-11], article two, chapter twenty-four of this code. If the public utility is a public service district, it is exempt from the approval of the public service commission required under section twenty-five [§ 16-13A-25], article thirteen-a, chapter sixteen of this code.

(b) Any public utility, and any other entity that will operate as a public utility, must obtain a certificate of public convenience and necessity pursuant to section eleven [§ 24-2-11], article two, chapter twenty-four of this code for any emergency project that is not exempt under subsection (a) of this section. The public service commission shall render its final decision on any application for a certificate within one hundred twenty days of the filing of the application: Provided, That the thirty-day prefiling requirement is not required. If the project sponsor is a public service district, then the project will be exempted from the approval requirements of section twenty-five [§ 16-13A-25], 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 [§ 31-15A-2] 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 commission-

er's powers and duties is directed to expand the boundaries of North Bend state park to include the project area and to operate the expanded park property, including improved recreational facilities, from funds appropriated for that purpose. (1994, 1st Ex. Sess., c. 26; 1998, c. 180.)

Editor's notes. — Concerning the reference in (d) to "a water facility project as defined in subsection (n), section two of this article," the term "water facility" is defined in subsection (x) of that section.

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

(a) The water development authority shall create and establish a special revolving fund of moneys made available by appropriation, grant, contribution or loan to be known as the "West Virginia Infrastructure Fund". This fund shall be governed, administered and accounted for by the directors, officers and managerial staff of the water development authority as a special purpose account separate and distinct from any other moneys, funds or funds owned and managed by the water development authority. The infrastructure fund shall consist of sub-accounts, as deemed necessary by the council or the water development authority, for the deposit of: (1) Infrastructure revenues; (2) any appropriations, grants, gifts, contributions, loan proceeds or other revenues received by the infrastructure fund from any source, public or private; (3) amounts received as payments on any loans made by the water development authority to pay for the cost of a project or infrastructure project; (4) insurance proceeds payable to the water development authority or the infrastructure fund in connection with any infrastructure project or project; (5) all income earned on moneys held in the infrastructure fund; (6) all funds deposited in accordance with section four [§ 31-15B-4] of article fifteen-b; and (7) all proceeds derived from the sale of bonds issued pursuant to article fifteen-b [§§ 31-15B-1 et seq.] of this chapter.

Any money collected pursuant to this section shall be paid into the West Virginia infrastructure fund by the state agent or entity charged with the collection of the same, credited to the infrastructure fund, and used only for purposes set forth in this article or article fifteen-b [§§ 31-15B-1 et seq.].

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

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

(c) To further accomplish the purposes and intent of this article and article fifteen-b [§§ 31-15B-1 et seq.] of this chapter, the water development authority may pledge infrastructure revenues and from time to time establish one or more restricted accounts within the infrastructure fund for the purpose of providing funds to guarantee loans for infrastructure projects or projects: Provided, That for any fiscal year the water development authority may not deposit into the restricted accounts more than twenty percent of the aggregate amount of infrastructure revenues deposited into the infrastructure fund during the fiscal year. No loan guarantee shall be made pursuant to this article unless recourse under the loan guarantee is limited solely to amounts in the restricted account or accounts. No person shall have any recourse to any restricted accounts established pursuant to this subsection other than those persons to whom the loan guarantee or guarantees have been made.

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

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

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

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

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

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

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

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

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

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

(a) To further accomplish the purpose and intent of this article, the water development authority shall use the moneys in the infrastructure fund created pursuant to section nine [§ 31-15A-9] of this article, upon receipt of one or more recommendations from the council pursuant to section five [§ 31-15A-5] of this article, to make loans, with or without interest, loan guarantees or grants and to provide other assistance, financial, technical or otherwise, to finance all or part of the costs of infrastructure projects or projects to be undertaken by a project sponsor: Provided, That any moneys disbursed from the infrastructure fund in the form of grants shall not exceed twenty percent of the total funds available for the funding of projects. No loan, loan guarantee, grant or other assistance shall be made or provided except upon a determination by the council that the loan, loan guarantee, grant or other assistance and the manner in which it will be provided are necessary or appropriate to accomplish the purposes and intent of this article, based upon an application submitted to the council: Provided, however, That no grant shall be made to a project sponsor that is not a governmental agency or a not for profit corporation under the provisions of section 501(c) [26 USCS § 501(c)] of the Internal Revenue Code of 1986 , as amended. Applications for loans, loan guarantees, grants or other assistance may be submitted by a project sponsor for one or

more infrastructure projects on preliminary application forms prepared by the council pursuant to section four [§ 31-15A-4] of this article. Any recommendation of the council approving a loan, loan guarantee, grant or other assistance shall include a finding and determination by the council that the requirements of this section have been met. The council shall base any decisions to loan money for projects to project sponsors pursuant to this article solely on the need of the project sponsors.

(b) The council has the authority in its sole discretion to make grants to project sponsors if it finds that: (1) The level of rates for the users would otherwise be an unreasonable burden given the users' likely ability to pay; or (2) the absence of a sufficient number of users prevents funding of the project except through grants: Provided, That no project sponsor shall receive infrastructure grant money in an amount in excess of fifty percent of the total cost of the project. Therefore, the council may consider the economic or financial conditions of the area to be served. As a condition for receipt of a grant under this subsection, the council may require, in addition to any other conditions, that the applicant pursue other state or federal grant or loan programs. Upon a recommendation by the council, the water development authority shall provide the grant in accordance with the recommendation. The council shall develop criteria to be considered in making grants to project sponsors which shall require consideration of the economic or financial conditions of the area to be served and the availability of other funding sources. The council shall adopt procedural rules regarding the manner in which grants will be awarded in conformity with this section. The procedural rules shall be adopted pursuant to article three [§§ 29A-3-1 et seq.], chapter twenty-nine-a of this code.

(c) 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 be based upon a uniform statewide percentage of the median household income in a particular geographic area and said rate shall not 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 transfer required to make the state match for the water and wastewater revolving loan programs pursuant to article two [§§ 22C-2-1 et seq.], chapter twenty-two-c and article thirteen-c [§§ 16-13C-1 et seq.], 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 [§ 1-2-3], article two, chapter one of this code: Provided, however, That infrastructure projects as defined in subsection (*l*), section two [§ 31-15A-2] 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 or planned distribution of grants and loans under the criteria to be developed pursuant to this article. (1994, 1st Ex. Sess., c. 26; 1995, c. 130; 1998, c. 180.)

Code of State Rules References. — Infrastructure and jobs development council funding rules, 167CSR1, effective June 6, 1996.

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

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

Eighty percent of the funds deposited in the West Virginia infrastructure fund shall be dedicated for the purpose of providing funding for the cost of projects as defined in subsection (n), section two [§ 31-15A-2] 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 council for community and economic development, or its successor, for review, recommendation and approval regarding infrastructure project funding. (1994, 1st Ex. Sess., c. 26; 1998, c. 180.)

Editor's notes. — Concerning the reference to "projects as defined in subsection (n), section two of this article," the term "project" is defined in subsection (o) of that section.

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

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

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

No part of the infrastructure fund 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. (1994, 1st Ex. Sess., c. 26; 1998, c. 180.)

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

Upon the termination or dissolution of the water development authority, all rights and properties of the water development authority with respect to the

infrastructure fund shall pass to and be vested in the state, subject to the rights of lienholders and other creditors. (1994, 1st Ex. Sess., c. 26.)

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

(a) No project or infrastructure project acquired, constructed, maintained or financed, in whole or in part, by the water development authority shall be considered to be a "public improvement" within the meaning of the provisions of article five-a [§§ 21-5A-1 et seq.], chapter twenty-one of this code as a result of 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 [§§ 21-5A-1 et seq.], 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. (1994, 1st Ex. Sess., c. 26; 2001, c. 45.)

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

(a) There shall be dedicated an annual amount from the collections of the tax collected pursuant to article thirteen-a [§§ 11-13A-1 et seq.], chapter

eleven of this code for the construction, extension, expansion, rehabilitation, repair and improvement of water supply and sewage treatment systems and for the acquisition, preparation, construction and improvement of sites for economic development in this state as provided in this article.

(b) Notwithstanding any other provision of this code to the contrary, beginning on the first day of July, one thousand nine hundred ninety-five, the first sixteen million dollars of the tax collected pursuant to article thirteen-a [§§ 11-13A-1 et seq.], chapter eleven of this code shall be deposited to the credit of the West Virginia infrastructure general obligation debt service fund created pursuant to section three [§ 31-15B-3], article fifteen-b of this chapter: Provided, That beginning on the first day of July, one thousand nine hundred ninety-eight, the first twenty-four million dollars 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 [§ 11-13A-6], 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 [§§ 11-13A-1 et seq.], chapter eleven and dedicated for purposes of medicaid and the division of forestry pursuant to section twenty-a [§ 11-13A-20a] of said article thirteen-a shall remain dedicated for the purposes set forth in said section twenty-a.

(d) On or before the first day of May of each year, commencing the first day of May, one thousand nine hundred ninety-five, the council, by resolution, shall certify to the treasurer and the water development authority the principal and interest coverage ratio and amount for the following fiscal year on any infrastructure general obligation bonds issued pursuant to the provisions of article fifteen-b [§§ 31-15B-1 et seq.] of this chapter. (1994, 1st Ex. Sess., c. 26; 1995, c. 130; 1998, c. 180.)

§ 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 [§ 31-15A-2], 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 [§ 31-15A-10] 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. (1998, c. 180.)

§ 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 [§ 31-15A-17] of this article, infrastructure revenue bonds payable from the A. James Manchin fund created by section six [§ 17-24-6], article twenty-four, chapter seventeen 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. (2003, c. 251.)

Effective dates. — Acts 2003, c. 251, provided that the act take effect June 6, 2003.

§ 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 [§ 31-15A-17] 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. (1998, c. 180.)

§ 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. (1998, c. 180.)

§ 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. (1998, c. 180.)

§ 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. (1998, c. 180.)

§ 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 [§ 31-15A-17] of this article, and shall be secured in accordance with the provisions of sections seventeen and eighteen [§ 31-15A-18] of this article. (1998, c. 180.)

§ 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 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. (1998, c. 180.)

§ 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. (1998, c. 180.)

ARTICLE 15B.

INFRASTRUCTURE BONDS.

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

§ 31-15B-1. Definitions.

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

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

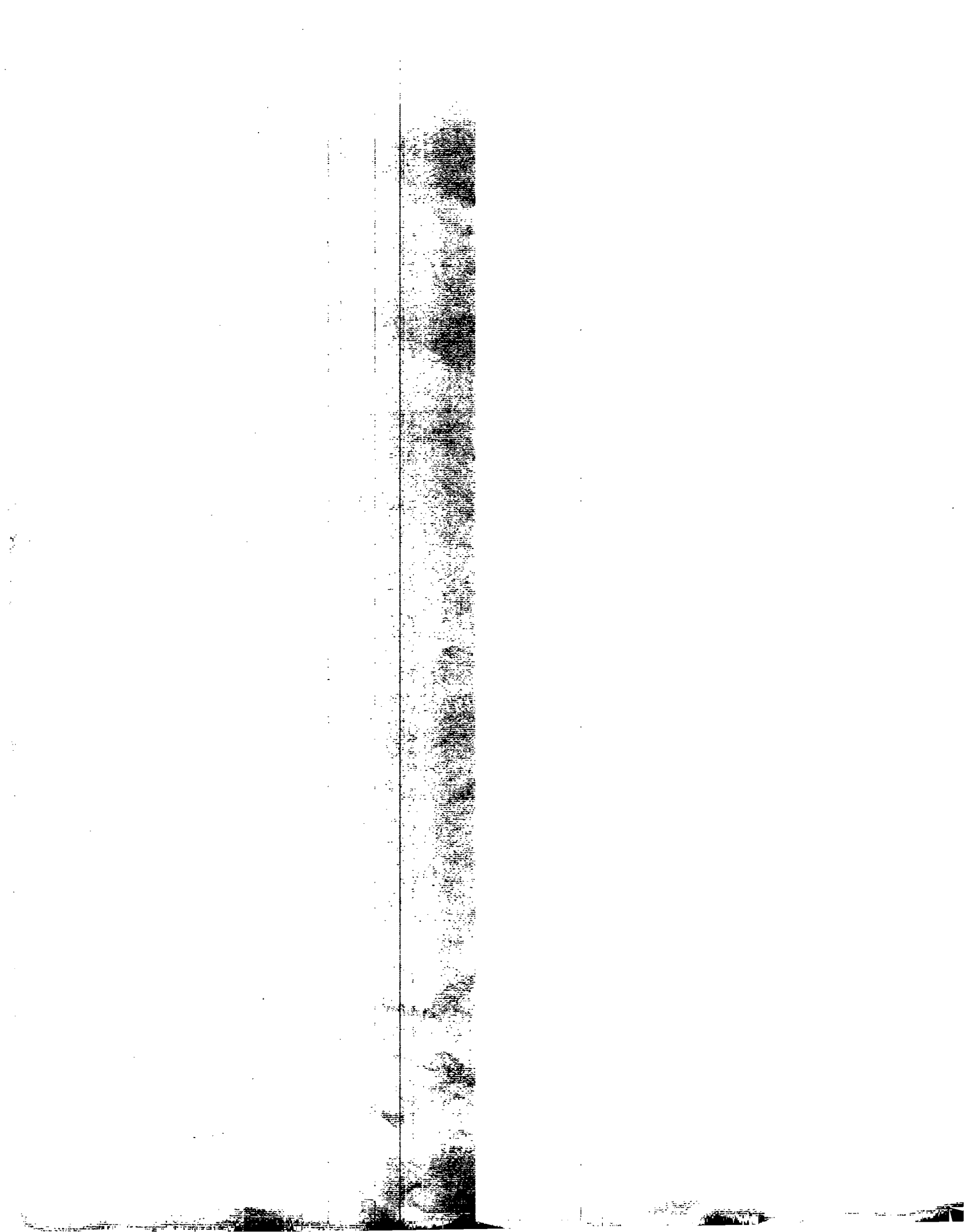
(b) "Infrastructure amendment" means the amendment to the constitution of this state entitled "infrastructure amendment" as approved by referendum in the month of November, one thousand nine hundred ninety-four;

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

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

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

Bonds of the state of West Virginia, under authority of the infrastructure improvement amendment of 1994, of the par value not to exceed in the



COPY

CHARTER - 1876

A TRANSCRIPT OF THE ORDER OF THE HONORABLE EVERMENT WARD, JUDGE OF THE CIRCUIT COURT OF CABELL COUNTY, WEST VIRGINIA, GRANTING A CHARTER OF INCORPORATION TO THE TOWN OF MILTON. * * *

In a regular term of the Circuit Court continued and held in and for the County of Cabell, State of West Virginia, at the Court House thereof on the 16th day of September, 1876, the following order was made and entered:

UPON THE APPLICATION OF THE TOWN OF MILTON FOR A CERTIFICATE OF INCORPORATION

The citizens of the Town of Milton, in the District of Grant, in this County, having on the 4th day of the present term of this Court by their attorney, producted to the Court a proper certificate, under the provisions of Chapter 47, of the Code of West Virginia, and having filed the same in this Court and moved the Court for a certificate of Incorporation under the provisions of said Chapter 47 of the Code of West Virginia, and it appearing to the satisfaction of the Court that all the provisions of said Chapter 47 of the Code have been complied with, it is therefore ordered that the Clerk of this Court pen a certificate of Incorporation of the Town of Milton in form or in substance as follows:

A certificate under oath of T. J. Thuma and S. H. Thomason that a majority of the qualified voters, residing in the following boundry:

> BEGINNING at the south side of the Milton bridge across Mud River, thence crossing the river N. 15 poles 15 links to a branch, thence with the meanderings of the branch, N. 17 E. 40 poles, thence N. 22 W. 14 poles crossing the railroad, in all 54 poles, thence N. 63 poles to the back line or military line, thence with the military line N. 89½ E. 280 poles to Johns Creek, thence with the meanderings of said creek S. 59 W. 16 poles, thence N. 6 W. 60 poles to a drain, thence with the line of G. W. Summers S. 50 E. 12 poles to a stake corner in the road, thence down the branch S. 20 E. crossing the railroad at 50 and 90 poles in all to the mouth of Johns Creek, thence with the meanderings of Mud River N. 16 W. 20 poles, N. 15 W. 6 poles, S. 84½ W. 32 poles, N. 80 W. 46 poles, N. 63 W. 12 poles, S. 1 W. 22 poles, S. 40 E. 6 poles, N. 65 W. 6 poles, N. 28 W. 14 poles, N. 39 W. 85 poles, S. 85 W. 14 poles, S. 30 W. 32 poles, S. 75 W. 85 poles to the BEGINNING, containing 330 acres, have been given in due form of law in favor of the incorporation of the TOWN OF MILTON, in the District of Grant, of Cabell County, bounded as herein set forth.

And it appearing to the satisfaction of the Court that all the provisions of Chapter Forty-Seven of the Code of West Virginia have been complied with by the applicants for said incorporation, the said TOWN OF MILTON is duly authorized within the corporate limits aforesaid to exercise all the Corporate powers conferred by the said Chapter from and after the date of this certificate.

A True Copy. Attest: O. R. SEAMONDS, CLERK CIRCUIT COURT.
CABELL COUNTY, WEST VIRGINIA.
By C. A. Withers, Deputy Clerk.

2

CITY OF MILTON
1595 U.S. Route 60 East
P.O. Box 98
Milton, West Virginia 25441
(304) 743-3032
Fax (304) 743-1872

OATH OF OFFICE AND CERTIFICATE

STATE OF WEST VIRGINIA,

COUNTY OF CABELL, TO-WIT:

I, Betty P. Sargent, do solemnly swear that I will support the Constitution of the United States of America and obey the laws thereof; and I will support the Constitution of the State of West Virginia and obey the laws thereof; that I will, in all respects, observe the provisions of the charter and ordinances of the City of Milton and will faithfully discharge the duties of the office of Mayor of the City of Milton, West Virginia, to the best of my skill and judgment, so help me God.

Betty P. Sargent

Subscribed and sworn to before me in said County and State this 22nd day of May, 2003.

Adell Chandler, Circuit Clerk
Cabell County, West Virginia

CITY OF MILTON
1595 U.S. Route 60 East
P.O. Box 98
Milton, West Virginia 25441
(304) 743-3032
Fax (304) 743-1872

OATH OF OFFICE AND CERTIFICATE

STATE OF WEST VIRGINIA,

COUNTY OF CABELL, TO-WIT:

I, Jack Sayre, do solemnly swear that I will support the Constitution of the United States of America and obey the laws thereof; and I will support the Constitution of the State of West Virginia and obey the laws thereof; that I will, in all respects, observe the provisions of the charter and ordinances of the City of Milton and will faithfully discharge the duties of the office of Recorder for the City of Milton, West Virginia, to the best of my skill and judgment, so help me God.

Jack Sayre

Jack Sayre

Subscribed and sworn to before me in said County and State this 22nd day of May, 2003.

Adell Chandler

Adell Chandler, Circuit Clerk
Cabell County, West Virginia

CITY OF MILTON

1595 U.S. Route 60 East
P.O. Box 98
Milton, West Virginia 25441
(304) 743-3032
Fax (304) 743-1872

OATH OF OFFICE AND CERTIFICATE

STATE OF WEST VIRGINIA,

COUNTY OF CABELL, TO-WIT:

I, John Bledsoe, do solemnly swear that I will support the Constitution of the United States of America and obey the laws thereof; and I will support the Constitution of the State of West Virginia and obey the laws thereof; that I will, in all respects, observe the provisions of the charter and ordinances of the City of Milton and will faithfully discharge the duties of the office of Council for the City of Milton, West Virginia, to the best of my skill and judgment, so help me God.

John Bledsoe

Subscribed and sworn to before me in said County and State this 22nd day of May, 2003.

Adell Chandler, Circuit Clerk
Cabell County, West Virginia

CITY OF MILTON
1595 U.S. Route 60 East
P.O. Box 98
Milton, West Virginia 25441
(304) 743-3032
Fax (304) 743-1872

OATH OF OFFICE AND CERTIFICATE

STATE OF WEST VIRGINIA,

COUNTY OF CABELL, TO-WIT:

I, Chris Carter, do solemnly swear that I will support the Constitution of the United States of America and obey the laws thereof; and I will support the Constitution of the State of West Virginia and obey the laws thereof; that I will, in all respects, observe the provisions of the charter and ordinances of the City of Milton and will faithfully discharge the duties of the office of Council for the City of Milton, West Virginia, to the best of my skill and judgment, so help me God.

Chris Carter

Subscribed and sworn to before me in said County and State this 22nd day of May, 2003.

Adell Chandler, Circuit Clerk
Cabell County, West Virginia

CITY OF MILTON

1595 U.S. Route 60 East
P.O. Box 98
Milton, West Virginia 25441
(304) 743-3032
Fax (304) 743-1872

OATH OF OFFICE AND CERTIFICATE

STATE OF WEST VIRGINIA,

COUNTY OF CABELL, TO-WIT:

I, Gary Holbert, do solemnly swear that I will support the Constitution of the United States of America and obey the laws thereof; and I will support the Constitution of the State of West Virginia and obey the laws thereof; that I will, in all respects, observe the provisions of the charter and ordinances of the City of Milton and will faithfully discharge the duties of the office of Council for the City of Milton, West Virginia, to the best of my skill and judgment, so help me God.

Gary Holbert

Gary Holbert

Subscribed and sworn to before me in said County and State this 22nd day of May, 2003.

Adell Chandler

Adell Chandler, Circuit Clerk
Cabell County, West Virginia

CITY OF MILTON

1595 U.S. Route 60 East
P.O. Box 98
Milton, West Virginia 25441
(304) 743-3032
Fax (304) 743-1872

OATH OF OFFICE AND CERTIFICATE

STATE OF WEST VIRGINIA,

COUNTY OF CABELL, TO-WIT:

I, Brian Leedy, do solemnly swear that I will support the Constitution of the United States of America and obey the laws thereof; and I will support the Constitution of the State of West Virginia and obey the laws thereof; that I will, in all respects, observe the provisions of the charter and ordinances of the City of Milton and will faithfully discharge the duties of the office of Council for the City of Milton, West Virginia, to the best of my skill and judgment, so help me God.

Brian Leedy

Subscribed and sworn to before me in said County and State this 22nd day of May, 2003.

Adell Chandler, Circuit Clerk
Cabell County, West Virginia

CITY OF MILTON
1595 U.S. Route 60 East
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Milton, West Virginia 25441
(304) 743-3032
Fax (304) 743-1872

OATH OF OFFICE AND CERTIFICATE

STATE OF WEST VIRGINIA,

COUNTY OF CABELL, TO-WIT:

I, Kelly Mullins, do solemnly swear that I will support the Constitution of the United States of America and obey the laws thereof; and I will support the Constitution of the State of West Virginia and obey the laws thereof; that I will, in all respects, observe the provisions of the charter and ordinances of the City of Milton and will faithfully discharge the duties of the office of Council for the City of Milton, West Virginia, to the best of my skill and judgment, so help me God.

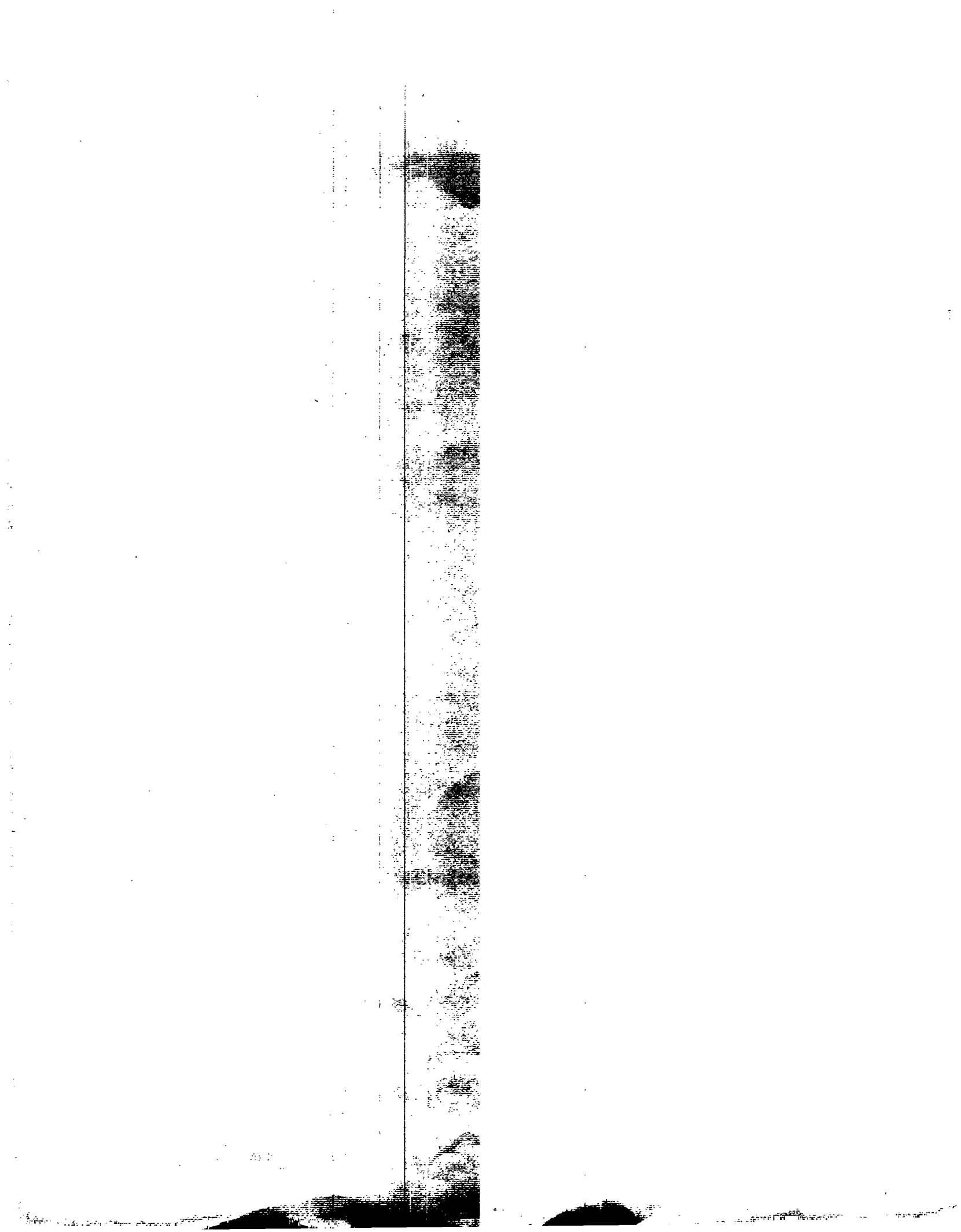
Kelly Mullins

Kelly Mullins

Subscribed and sworn to before me in said County and State this 22nd day of May, 2003.

Adell Chandler

Adell Chandler, Circuit Clerk
Cabell County, West Virginia



RULES OF PROCEDURE
OF THE TOWN OF MILTON

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

Be it Resolved and Ordered by the Council of the Town of Milton, Cabell, County, West Virginia:

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

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

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

(B) The Council of the Town of Milton (the "Council"), Cabell County, West Virginia (the "Town"), is the governing body of the Town within the meaning of the Act.

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

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

Rule No. 1. Notice of Regularly Scheduled Meetings. Immediately after adoption of this Resolution and in July of each year thereafter, the Council shall instruct the Recorder to, and the Recorder shall, post, and leave posted throughout the year to which it

applies, at the regular meeting place of the Council, where notices customarily are posted, a notice setting forth the date, time and place of the Council'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 Recorder not less than 72 hours before such regular meeting is to be held.

The Council shall also instruct the Recorder to, and the Recorder shall, distribute to each of the newspapers and other news media listed below a notice identical to that posted:

News Media	Address
The Herald-Dispatch	Huntington, West Virginia
The Cabell Record	Culloden, West Virginia
WAMX (FM)	Milton, West Virginia

A notice shall be considered distributed to a news medium when it has been addressed to such news medium at the address listed above, or at such other address as the news medium has in writing requested be used, marked or stamped with first class postage and deposited in the United States mail. In July of each year after the adoption of this Resolution, the Council shall review the above list and shall amend such list as needed, in the opinion of the Council, to reflect properly all the newspapers and other news media that customarily cover news of the area served by the Council. In addition, a copy of the agenda for each regularly scheduled meeting shall also be distributed to the news media by the Recorder 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 Council, notice of such modification shall immediately be given to the public and news media by posting at the place and distributing to the news media in the manner set forth above not less than 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 Council, the Council shall instruct the Recorder to, and the Recorder shall, post at the regular meeting place of the Council, 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 Recorder 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 Council 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 Council and shall be attested to in a certificate by the Recorder 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 Council may hold an executive session during a regular, special or emergency meeting in accordance with Section 4 of the Act. During the open portion of the meeting, prior to convening an executive session, the Mayor shall identify the authorization under Section 4 of the Act for holding the executive session and present it to the Council 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 Council members present. The Council may hold an executive session and exclude the public only when a closed session is required for any of the actions permitted under Section 4 of the Act.

Rule No. 5. Minutes. The Council shall provide for the preparation of written minutes of all of its meetings. Subject to the exceptions set forth in Section 4 of the Act, 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 Council 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 Council member, the vote of each Council member, by name.

Rule No. 6. No Actions by Reference. Except as otherwise expressly provided by law, the Council 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 Council 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 Council 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 Council meeting required to be open. The Council 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 Council 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 Council, 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 Council, 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. Council meetings may be held by telephone conference or other electronic means. All Council members participating by telephone or other electronic means must be audible to all those personally present.

Section 4. Committee Meetings. All meetings of any committee of the Council shall be subject to the Rules of Procedure set forth in Section 3 hereof.

Section 5. Conflicting Provisions Repealed. All resolutions, orders and rules, or parts thereof, in conflict with the provisions of this Resolution are, to the extent of such conflicts, hereby repealed.

Section 6. Effective Time. This Resolution and the Rules of Procedure promulgated hereby shall take effect immediately upon the adoption hereof.

Adopted this 4th day of November, 2004

Mayor

[SEAL]

Attest:

Recorder

CERTIFICATION

Certified a true copy of a Resolution duly adopted by the Council of the Town of Milton on the 4th day of November, 2004.

Dated this 29th day of December, 2004.

[SEAL]

Recorder

10/26/04
004201/00304

ARTICLE 113
Municipality Utility Commission

113.01 Creation; members.
113.02 Compensation; members reimbursed for expenses.
113.03 Powers and duties.
113.04 Request for authority to expend money; statement.
113.05 Commission budget; Council authority.
113.06 Transfer of funds; Council authority.

CROSS REFERENCES

Combined waterworks and sewerage systems – see W. Va. Code Art. 8–20
Sewer regulations – see S.U.&P.S. Art. 931
Water and sewer rates – see S.U.&P.S. Art. 937

113.01 CREATION; MEMBERS.

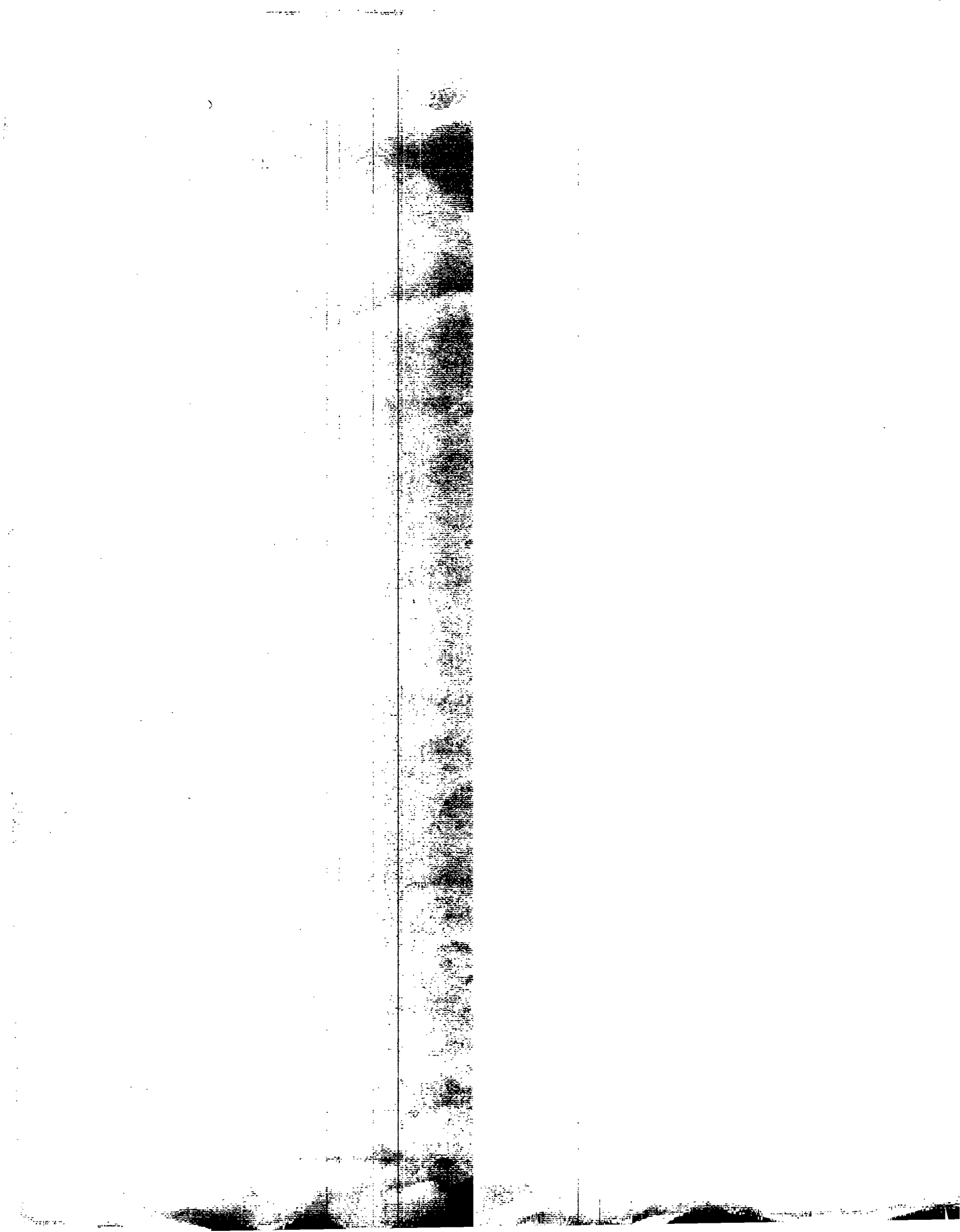
There is hereby created and appointed a Municipal Utility Commission, consisting of the Mayor and four other members to be appointed by the Mayor and approved by Council. The Mayor shall act as chairman of the Commission. One member shall be appointed to serve for a term of one year; one member shall be appointed to serve for a term of two years; one member shall be appointed to serve for a term of three years; and one member shall be appointed for a term of four years. The chairman of such Commission shall always be the Mayor.
(Ord. 3–5–91)

113.02 COMPENSATION; MEMBERS REIMBURSED FOR EXPENSES.

Council may fix the compensation to be paid to members of the Commission not to exceed the sum of fifty dollars ($50.00) per month, and the Mayor shall receive the sum of one hundred dollars ($100.00) per month as chairman of the Commission. Each member of the Commission shall be entitled to payment for the reasonable expenses incurred in the performance of his duties.
(Ord. 3–5–91)

113.06 TRANSFER OF FUNDS; COUNCIL AUTHORITY.

Council may, upon written request from the Municipal Utility Commission and for good cause shown, authorize the transfer of amounts between items of the total appropriation or between funds or accounts.
(Ord. 3-5-91)



City of Milton

1595 U.S. Route 60 East • P.O. Box 98 • Milton, West Virginia 25541-0098 • (304) 743-3032 • Fax (304) 743-1872

Mayor:
Betty P. Sargent

Recorder:
Jack Sayre

Council Members:
John Bledsoe
Chris Carter
Gary Holbert
Brian Leedy
Kelly Mullins

OATH OF OFFICE
CITY OF MILTON

I, **Boyd Meadows**, do solemnly swear that I will support the Constitution of the United States of America and obey the laws thereof; that I will Support the Constitution of the State of West Virginia and obey the laws thereof; that I will, in all respects, observe the provisions of the charter and ordinances of the City of Milton and will faithfully discharge the duties of the office of MILTON UTILITIES COMMISSION.

SIGNATURE Boyd Meadows

DATE 12-7-04

MAYOR OR RECORDER

6

City of Milton

1595 U.S. Route 60 East • P.O. Box 98 • Milton, West Virginia 25541-0098 • (304) 743-3032 • Fax (304) 743-1872

Mayor:
Betty P. Sargent

Recorder:
Jack Sayre

Council Members:
John Bledsoe
Chris Carter
Gary Holbert
Brian Leedy
Kelly Mullins

OATH OF OFFICE
CITY OF MILTON

I, **Robert Legg**, do solemnly swear that I will support the Constitution of the United States of America and obey the laws thereof; that I will Support the Constitution of the State of West Virginia and obey the laws thereof; that I will, in all respects, observe the provisions of the charter and ordinances of the City of Milton and will faithfully discharge the duties of the office of MILTON UTILITIES COMMISSION.

SIGNATURE _____

DATE 12-7-2004

_____
MAYOR OR RECORDER

City of Milton

1595 U.S. Route 60 East • P.O. Box 98 • Milton, West Virginia 25541-0098 • (304) 743-3032 • Fax (304) 743-1872

Mayor:
Betty P. Sargent

Recorder:
Jack Sayre

Council Members:
John Bledsoe
Chris Carter
Gary Holbert
Brian Leedy
Kelly Mullins

OATH OF OFFICE
CITY OF MILTON

I, **Randie Lawson**, do solemnly swear that I will support the Constitution of the United States of America and obey the laws thereof; that I will Support the Constitution of the State of West Virginia and obey the laws thereof; that I will, in all respects, observe the provisions of the charter and ordinances of the City of Milton and will faithfully discharge the duties of the office of MILTON UTILITIES COMMISSION.

SIGNATURE

DATE 12-07-04

MAYOR OR RECORDER

City of Milton

1595 U.S. Route 60 East • P.O. Box 98 • Milton, West Virginia 25541-0098 • (304) 743-3032 • Fax (304) 743-1872

Mayor:
Betty P. Sargent

Recorder:
Jack Sayre

Council Members:
John Bledsoe
Chris Carter
Gary Holbert
Brian Leedy
Kelly Mullins

OATH OF OFFICE
CITY OF MILTON

I, **Carl Grover**, do solemnly swear that I will support the Constitution of the United States of America and obey the laws thereof; that I will Support the Constitution of the State of West Virginia and obey the laws thereof; that I will, in all respects, observe the provisions of the charter and ordinances of the City of Milton and will faithfully discharge the duties of the office of MILTON UTILITIES COMMISSION.

SIGNATURE _____

DATE 12-21-04

_____
MAYOR OR RECORDER

City of Milton

1595 U.S. Route 60 East • P.O. Box 98 • Milton, West Virginia 25541-0098 • (304) 743-3032 • Fax (304) 743-1872

Mayor:
Betty P. Sargent

Recorder:
Jack Sayre

Council Members:
John Bledsoe
Chris Carter
Gary Holbert
Brian Leedy
Kelly Mullins

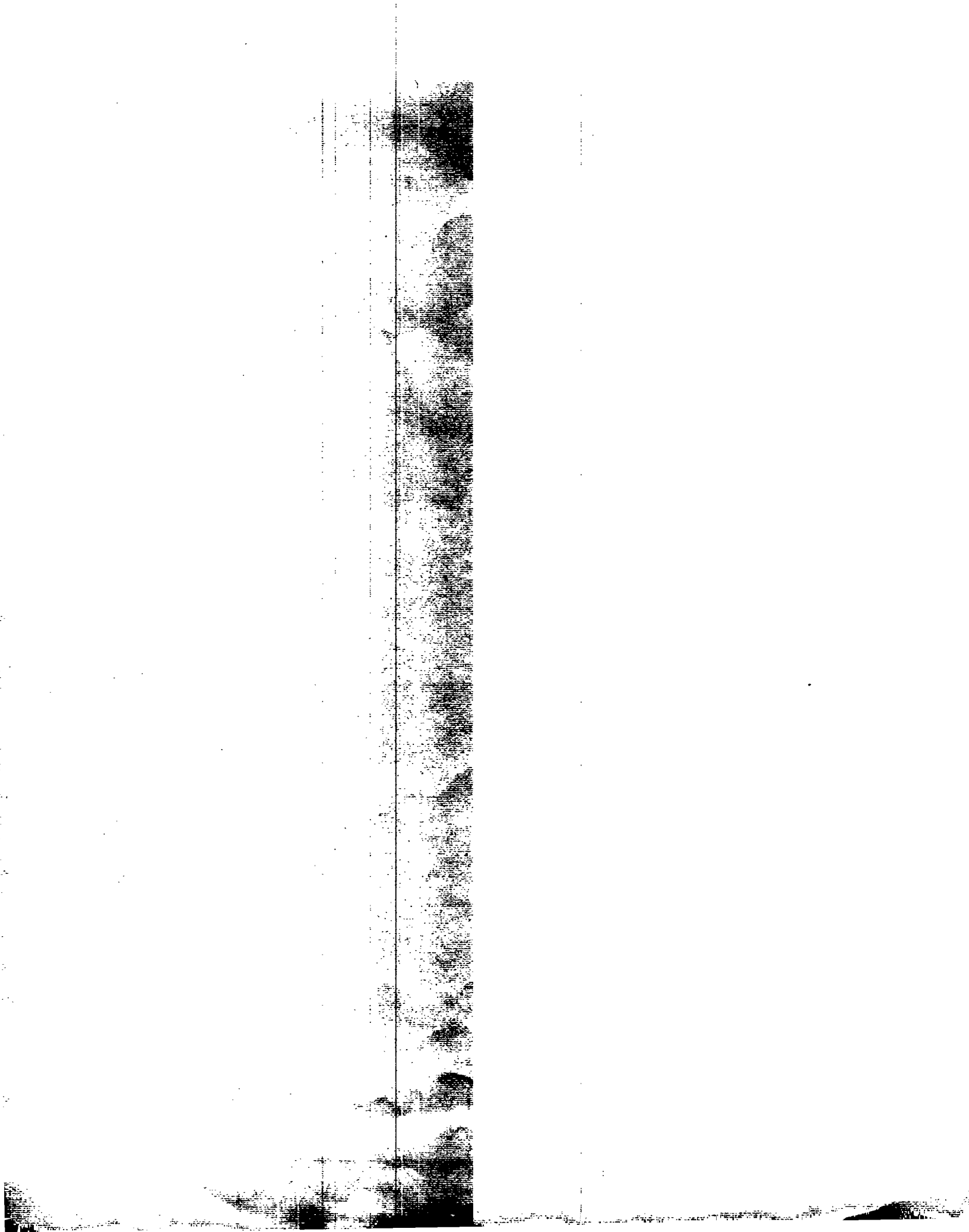
OATH OF OFFICE
CITY OF MILTON

I, **Betty P. Sargent**, do solemnly swear that I will support the Constitution of the United States of America and obey the laws thereof; that I will Support the Constitution of the State of West Virginia and obey the laws thereof; that I will, in all respects, observe the provisions of the charter and ordinances of the City of Milton and will faithfully discharge the duties of the office of MILTON UTILITIES COMMISSION.

SIGNATURE _____

DATE 12-16-2004

_____
MAYOR OR RECORDER



RULES OF PROCEDURE OF THE MUNICIPAL UTILITY COMMISSION OF THE TOWN OF MILTON

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

Be it Resolved and Ordered by the Municipal Utility Commission of the Town of Milton, Cabell County, West Virginia:

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

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

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

(B) The Municipal Utility Commission (the "MUC") of the Town of Milton, Cabell County, West Virginia (the "Town"), is a governing body within the meaning of the Act.

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

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

Rule No. 1. Notice of Regularly Scheduled Meetings. Immediately after adoption of this Resolution and in July of each year thereafter, the MUC 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 MUC, where notices customarily are posted, a notice setting forth the date, time and place of the MUC'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 MUC 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:

News Media	Address
The Herald-Dispatch	Huntington, West Virginia
The Cabell Record	Culloden, West Virginia
WAMX (FM)	Milton, West Virginia

A notice shall be considered distributed to a news medium when it has been addressed to such news medium at the address listed above, or at such other address as the news medium has in writing requested be used, marked or stamped with first class postage and deposited in the United States mail. In July of each year after the adoption of this Resolution, the MUC shall review the above list and shall amend such list as needed, in the opinion of the MUC, to reflect properly all the newspapers and other news media that customarily cover news of the area served by the MUC. 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 MUC, notice of such modification shall immediately be given to the public and news media by posting at the place and distributing to the news media in the manner set forth above not less than 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 24 hours prior to the date set for any special meeting of the MUC, the MUC shall instruct the Secretary to, and the Secretary shall, post at the regular meeting place of the MUC, 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 MUC 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 MUC 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 MUC may hold an executive session during a regular, special or emergency meeting in accordance with Section 4 of the Act. During the open portion of the meeting, prior to convening an executive session, the Chairperson shall identify the authorization under Section 4 of the Act for holding the executive session and present it to the MUC 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 MUC members present. The MUC may hold an executive session and exclude the public only when a closed session is required for any of the actions permitted under Section 4 of the Act.

Rule No. 5. Minutes. The MUC shall provide for the preparation of written minutes of all of its meetings. Subject to the exceptions set forth in Section 4 of the Act, 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 MUC 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 MUC member, the vote of each MUC member, by name.

Rule No. 6. No Actions by Reference. Except as otherwise expressly provided by law, the MUC 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 MUC 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 MUC 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 MUC meeting required to be open. The MUC 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 MUC 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 MUC, 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 MUC, 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. MUC meetings may be held by telephone conference or other electronic means. All MUC members participating by telephone or other electronic means must be audible to all those personally present.

Section 4. Committee Meetings. All meetings of any committee of the MUC shall be subject to the Rules of Procedure set forth in Section 3 hereof.

Section 5. Conflicting Provisions Repealed. All resolutions, orders and rules, or parts thereof, in conflict with the provisions of this Resolution are, to the extent of such conflicts, hereby repealed.

Section 6. Effective Time. This Resolution and the Rules of Procedure promulgated hereby shall take effect immediately upon the adoption hereof.

Adopted this 4th day of November, 2004.

Chairperson

CERTIFICATION

Certified a true copy of a Resolution duly adopted by the Municipal Utility Commission of the Town of Milton on the 4th day of November, 2004.

Dated this 29th day of December, 2004.

[SEAL]

Secretary

12/09/04
004201/00304

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PUBLIC SERVICE COMMISSION

OF WEST VIRGINIA

CHARLESTON

At a session of the Public Service Commission of West Virginia, in the City of Charleston, on the 26th day of March, 2003.

CASE NO. 02-0688-PSD-S-CN

SALT ROCK SEWER PUBLIC SERVICE DISTRICT; CITY OF MILTON; CULLODEN PUBLIC SERVICE DISTRICT; and WEST VIRGINIA-AMERICAN WATER COMPANY.
Joint application for certificates of convenience and necessity for construction of a Regional Sewer Project to serve Eastern Cabell County and for the construction of improvements and extensions to each Party's System; for approval of related financing; and for approval of certain agreements related thereto.

COMMISSION ORDER

These are certificate applications for a series of projects to upgrade sewer service in eastern Cabell County and western Putnam County. There are deadlines for the projects set forth in Consent Decrees in the Circuit Court of Cabell County, West Virginia. The Commission has also been asked to approve a joint service agreement for a regional sewer plant, a management agreement for one of the sewer systems, related financing for all of the projects, and several rate increases. The Commission will grant all of the requests.

BACKGROUND

Certificates of Convenience and Necessity

On May 15, 2002, Salt Rock Sewer Public Service District, the City of Milton, Culloden Public Service District and West Virginia-American Water Company (WV-AWC), the contract operator of Culloden's sewer system, jointly applied for certificates of convenience and necessity for a regional sewer project and for projects to improve and extend Salt Rock's, Culloden's and Milton's own sewer systems. Joint Application pp. 1-38 & Exs. They also requested approval of a service agreement among Salt Rock, Culloden and Milton, and of related financing arrangements to fund the projects. Id. Culloden and Salt Rock requested approval of rate increases. Id. Further, Culloden and WV-AWC sought approval of a new management agreement between them. Id.

8A

The regional project is needed to comply with Consent Decrees entered by Culloden and Milton with the West Virginia Department of Environmental Protection (DEP) to eliminate violations of Culloden's and Milton's National Pollution Discharge Elimination System (NPDES) permits, as well as to allow Salt Rock, Culloden and Milton to expand and upgrade their sewer service for new and existing customers. In total, the projects were estimated to cost $28.935 million.

In Phase I, Salt Rock will build a $2 million trunk line from Culloden's treatment plant to the Mud River, to a discharge point downstream of Milton's potable water intake. Joint Application pp. 10, 13 & Tr. p. 61 (Sept. 24, 2002). Culloden's plant now discharges into Indian Fork, a Mud River tributary, above Milton's water intake. Joint Application p. 6 & Tr. p. 56 (Sept. 24, 2002). The new trunk line is required by a Consent Decree in Cabell County Civil Action Number 98-C-901,See FootNote [1] and under that Consent Decree, the trunk line was supposed to have been built by May 29, 2002. The parties have asked that deadline to be modified. Joint Application p. 8.See FootNote [2] During Phase I, that is, before completion of the regional treatment plant, 100 percent of the operation and maintenance expenses of this trunk line will be borne by Culloden. Tr. p. 10 (Sept. 24, 2002).

The Division of Water Resources, an office of the DEP, has been working with Culloden for about 10 years to solve Culloden's wastewater problems, testified Michael A. Warwick, who works in Water Resources' engineering section. Id. p. 52. "The stream that they currently discharge their wastewater into is not acceptable to receive that discharge," he said. "And there are problems both with water quality violations and permit effluent violations from their treatment plant." Id.

After the regional plant is built, during Phase II, Milton will use this trunk line to transport its flows to the regional treatment plant. Id. Since the trunk line is also being built to serve Milton, Milton will share in its debt service during Phase I. Id. During Phase II, Milton will contribute both to O&M and debt service on this trunk line. Id. pp. 10-11.

No new customers are being added as a result of Phase I of the certificate project. Final Internal Memorandum p. 2, attached to Final Joint Staff Memorandum: Phase I.

The Consent Decree in Cabell County Civil Action Number 98-C-901 also requires Culloden to connect its collection system to a regional wastewater treatment system by July 30, 2003. Joint Application p. 8. Thus, Salt Rock will build a regional treatment plantSee FootNote [3] and will extend the new trunk line from the Mud River to the new regional treatment plant. Id. p. 10. The trunk line extension will cost about $ 3.1 million, and the new treatment plant will cost about $7.5 million. Id. p. 14.

The regional plant will serve Salt Rock, Culloden and Milton, and Culloden and Milton will stop using their own treatment plants. Id. p. 11. It will have a dry weather capacity of 2.50 million gallons per day and a peak, wet weather capacity of 10 million gallons per day. Final Internal Memorandum (Phase II) p. 2, attached to Further Final Joint Staff Memorandum: Phase I and II (Feb. 25, 2002); see also Tr. p. 24 (Oct. 31, 2002). Salt Rock will own the new plant and the new trunk line, which will serve as a transmission line to the plant. Joint Application p. 15. It will take about a year to build the trunk line extension and the new plant.

Id. p. 33.

Milton is also under a Consent Decree,See FootNote [4] in Cabell County Civil Action Number 99-C- 0796, which requires Milton to connect to a regional treatment plant by July 30, 2003. Id. p. 9. The Consent Decree is a result of Milton's inability to meet current discharge standards, the inability of the system to be expanded, its flood plain location, as well as numerous design and operational problems. Tr. p. 16 (Oct. 31, 2002).

Prior to the three utilities joining together, there had been separate projects under consideration. Tr. p. 8 (Mar. 3, 2003). The City of Milton had a project, and there was a separate project at Salt Rock. Id. After months, if not years of negotiation, Milton, Salt Rock and Culloden came to an agreement to construct the treatment plant at the Salt Rock site. Id. pp. 8-9.

In the area of these three utilities, there are problems with the water table, poor soil, and limited space. Tr. p. 21 (Oct. 31, 2002). According to Cabell-Huntington Health Department sanitarian Karen Hall-Dundas, many residents do not have enough space to put in an adequate sewer system. Id. They put in aeration units, but these are sometimes not properly maintained. Id. She believes the proposed project is a reasonable solution to the county's problem. Id. p. 22.

Culloden also proposes to improve and extend its sewer system to serve 25 new customers in the Sawmill Road and Whitman Drive areas, at a cost of about $1.9 million. Joint Application p. 15; see also Final Internal Memorandum (Phase II) p. 3, attached to Further Final Joint Staff Memorandum: Phase I and II (Feb. 25, 2003). It also is proposing remedial work to reduce infiltration and inflow. Joint Application p. 15; Tr. p. 41 (Oct. 31, 2002). Culloden serves customers in Cabell and Putnam Counties.

Milton will improve and extend its sewer system to serve 403 new customers, at a cost of about $7.16 million. Joint Application pp. 15-16; see also Tr. p. 49 (Oct. 31, 2002) & Howard Bell Eng. Rpt., Milton Post-Hearing Ex. (Oct. 31, 2002). The new customers are in the heavily developed area to the east of the City and west of the boundaries of the Culloden PSD. Final Internal Memorandum (Phase II) p. 4, attached to Further Final Joint Staff Memorandum: Phase I and II (Feb. 25, 2003). All of Milton's customers are in Cabell County.

Salt Rock will improve and extend its sewer system to serve more than 700 new customers in the Blue Sulphur, Cyrus Creek and Fudges Creek areas, at a cost of about $7.2 million. Joint Application p. 16; Final Internal Memorandum (Phase II) p. 3, attached to Further Final Joint Staff Memorandum: Phase I and II (Feb. 25, 2003); Tr. p. 24 (Oct. 31, 2002). These extensions will eliminate seven package treatment plants and numerous failing septic systems and home aeration treatment systems. Id. All of Salt Rock's customers are in Cabell County.

Only the initial trunk line from Culloden to the Mud River will occur in Phase I. All of the other work will occur in Phase II _ the trunk line extension from the Mud River to the regional treatment plant, the construction of the regional treatment plant, and the upgrades and extensions to Salt Rock's, Milton's and Culloden's collection systems.

When the parties filed the application for the certificates, they noted that the application was incomplete, in that the funding commitments, financial exhibits for Culloden, Milton and Salt Rock pursuant to Rule 42 of the Commission's Rules and Regulations for the Government of the Construction and Filing of Tariffs of Public Utilities and Common Carriers by Motor Vehicle (Tariff Rules), 150 C.S.R. Series 2, and Culloden's plans and specifications were not yet provided to the Commission. Joint Application pp. 25, 32. They also did not file the required Form 14 notice or Culloden's verification.

On May 20, 2002, the parties filed the Form 14, and the Commission issued a Notice of Filing order and required Salt Rock, Milton and Culloden to publish notice of their

applications in Cabell and Putnam Counties. Notice of Filing p. 7.See FootNote [5] The notice described the construction projects, the service agreement, the management agreement, the proposed funding for the projects, as well as Culloden's and Salt Rock's proposed rate increases. Id. pp. 1-8. It also invited protests and petitions to intervene. Id.

On June 27, 2002, financial data was filed, providing information about rates for the period between completion of the trunk line to the Mud River and completion of the regional treatment plant.

On September 4, 2002, Culloden's verification of the joint certificate application was filed.

On October 11, 2002, Commission Staff recommended approval of Phase I of the project. Final Joint Staff Memorandum: Phase I p. 1 & Final Internal Memorandum attached.
Technical Staff advised that both the construction costs and the estimates of operation and maintenance costs seemed reasonable. Final Internal Memorandum p. 3, attached to Final Joint Staff Memorandum: Phase I.

Staff wrote that public need for Phase I was substantiated by the Consent Decrees, which serve to protect public health and the environment by requiring the cessation of discharges of all wastewater into Indian Creek and the extension of an effluent line to the Mud River. Id. Accordingly, Staff concluded that the project was both convenient and necessary. Id.

Staff noted that the project costs represented only estimates. Id. Therefore, should the bids exceed the project funding, Staff recommended that this case be reopened for Commission review and approval of any revised funding. Id. See also Tr. pp. 150-52 (Sept. 24, 2002).

On February 5, 2003, Culloden, Salt Rock, Milton and WV-AWC asked the Commission to toll the statutory time period in which the Commission is required to process the case, explaining that the case is exceedingly complex and that a few issues remained outstanding, including Salt Rock's recent request that its first step rate increase be higher than what was initially noticed. Motion to toll pp. 1-2. The outstanding matters had precluded Commission Staff from issuing its final recommendation as to Phase II of the project. Id. p. 1.

On February 7, 2003, the Commission granted the motion and set March 26, 2003, as the new deadline to process the case. Comm'n Order p. 3. The Commission also set deadlines for the filing of the revised Tariff Rule 42 financial exhibits, O&M cost estimates, funding commitment letters and Staff's final recommendation. In addition, the Commission set a third hearing for March 3, 2003. Id.

On February 13, 2003, revised Tariff Rule 42 financial exhibits for Salt Rock and Culloden were filed, as were the updated O&M cost estimates and final funding commitment letters.

On February 25, 2003, Commission Staff recommended approval of Phase II of the project. Further Final Joint Staff Memorandum: Phase I & II p. 1 & Final Internal Memorandum (Phase II) attached. Engineering Staff advised that the construction costs for the Phase II projects seemed reasonable. Final Internal Memorandum p. 4 (Phase II), attached to Further Final Joint Staff Memorandum: Phase I & II. Staff noted that the project costs represented only estimates. Id. Therefore, should the bids exceed the project funding, Staff recommended that this case be reopened for Commission review and approval of any revised funding. Id.

Engineering Staff reviewed the proposed annual O&M costs and suggested several reductions to the Salt Rock figures:

1. $67,900 for electrical power costs _ because the estimates used in the filing were unusually conservative. Id. p. 5. In comparison, Staff's calculation was based upon the actual power cost, not an estimate, and the horsepower drawn by the motors, not the full, rated nameplate power. Id.

2. $11,000 for detritus, or grit and screenings _ Staff believes the expense will be significantly less than the $41 per ton disposal costs that the applicants projected. Id.

3. $3,000 for sludge disposal _ because the applicants' engineering report indicated an actual cost of $42,000, while the amount had been estimated at $45,000. Id.

4. $5,000 for sludge truck maintenance _ because $10,000 had been estimated, which Staff believed was overly conservative for a new vehicle that would see relatively limited usage. Id. pp. 5-6.

5. $35,000 for equipment and repairs _ because $40,000 had been estimated for an entirely new system that would be under warranty for a full year after completion. Id. p. 6.

6. $5,000 for parts and lubricants _ to bring the applicants' $20,000 estimate in line with Staff's $15,000 amount. Id.

7. $10,000 for labor _ Staff believes that total labor costs for Phase I and Phase II should be $40,000, and that the applicants have not taken into account the efficiency which will result from having a single work crew maintaining the entire regional pumping system. Id. Since $25,000 was recommended for approval in Phase I, Staff recommends only $15,000

more in Phase II. Id.

In total, Staff recommended $136,900 in reductions be made to the proposed O&M costs. Id. p. 7.

Engineering Staff noted that reducing O&M costs for Salt Rock will impact the rates of not only Salt Rock but will also impact the rates charged by the other utilities. Final Internal Memorandum p. 7 (Phase II), attached to Further Final Joint Staff Memorandum: Phase I & II.

Staff also recommended that the Commission review rates after the project had been operating for 18 months, when a sufficient amount of historical operations and cost information would have accumulated. Id.

Engineering Staff also proposed adjustments to the proposed O&M for Culloden. Id. p. 8. The regional sewer plant and transmission system will operate with Salt Rock, Culloden and Milton sharing costs. Since Salt Rock is the regional operator and Staff has recommended a reduction in Salt Rock's O&M, there is a resulting "pass through" O&M reduction for Culloden and Milton. Id. Staff estimated the pass through reduction for Culloden at $32,000. Id.

In addition, Staff reviewed the applicants' estimated $10,000 O&M for Culloden's collection system. Id. Staff said that the proposed value was significantly higher than justified by Staff's analysis, and suggested that the figure by reduced to $950. Id.

As with Culloden, Staff proposed a pass through O&M reduction for Milton, with Milton's being $48,000 per year. Id. No other revisions were suggested for Milton. Id. p. 9.

Staff's O&M revisions had been proposed in meetings immediately prior to the October 31, 2002, hearing. No objections were made and the revised Tariff Rule 42 financial exhibits which were filed on January 27, 2003, reflected the O&M changes proposed by Staff. Final Internal Memorandum p. 3, attached to 2d Further Final Joint Staff Memorandum: Phase I & II (Feb. 26, 2003); Tr. p. 35 (Mar. 3, 2003).

Staff wrote that public need for the Phase II projects was substantiated by the two Consent Decrees, which serve to protect public health and the environment by requiring Culloden and Milton to cease discharging all wastewater, whether treated or raw, into Indian Creek and the Mud River. Id. The consent orders also require these two utilities to transmit all their sewage to the new regional plant that Salt Rock is constructing. Id. Accordingly, Engineering Staff concluded that this series of projects was both convenient and necessary. Id.; see also Tr. pp. 96-98 (Oct. 31, 2002).

In addition to the treatment and transmission portion of Phase II, Salt Rock, Milton and Culloden propose to extend their collection systems to serve 1,300 new customers. Id. Engineering Staff has reviewed the areas involved in each of these line extensions and believes the extensions to be necessary and in the best interest of the public, based upon first-hand observations, discussions with Cabell-Huntington Health Department sanitarians and discussions with WV DEP representatives. Id.

Much of the area is densely populated and many of the soils are of low permeability, thus, not being suitable for on-site sewage treatment systems, Staff said. Id. The local health department's complaint logs substantiate Staff's observations, which indicate many failing septic systems. Id. Staff observed many areas where either raw sewage or septic leachate, or both, were running in shallow ditches, along the ground surface or flowing in area streams. Id. All of these conditions represent a very real threat to public health, Staff said, and will be corrected by the proposed projects. Id. pp. 9-10.

Engineering Staff has reviewed the plans and specifications and determined that they contain no apparent violations of the Commission's Rules and Regulations for the Government of Sewer Utilities, 150 C.S.R. Series 5. Id. p. 10. Further, Staff advised that DEP has reviewed the plans for conformance with DEP regulations and with established design practice. Id. DEP has deemed the plans approvable, pending some minor revisions, Staff said. Id.

Engineering Staff noted that permits and easements are still needed in connection with railroad properties. Id. Further, the project also requires NPDES permit modifications for all proposed construction activities. Id. Staff recommended that the applicants be required to forward a copy of these items to the Commission, immediately upon their receipt. Id. Staff also cautioned that construction should not begin until all permits have been issued.

Id.

If there are any substantive changes in the plans, scope, or financing, the applicants should request that the case be reopened, so that the Commission may review their request for approval of any such changes. Id.

Further, the applicants should provide the Commission with a Notice of Substantial Completion for each construction contract awarded, pursuant to the projects in this case. Id.

Financing Arrangements

When the application was filed, funding for the project had not been committed. While this case was pending, the parties worked to secure the necessary financing. At the first and second hearings, the parties updated the Commission on the status of the project funding. At the third hearing, the completed funding package was presented as is set forth below:

Salt Rock

1.	State Revolving Fund Loan, 0% interest, 0.5% administrative fee, 40 years, to construct Phase I trunk line, no real estate related costs	$2,050,000
2.	Water Development Authority Loan, 5% interest, 40 years, to construct Phase I trunk line, real estate related costs	$60,000

3.	Infrastructure & Jobs Development Council Grant, to construct Phase II trunk line extension and regional treatment plant	$1,000,000
4.	Infrastructure & Jobs Development Council Loan, 0% interest, 40 years, to construct Phase II trunk line extension and regional treatment plant, to retire Salt Rock's 1998 and 2002 bonds	$6,000,000
5.	State Revolving Fund Loan, 0% interest, 0.5% administrative fee, 40 years, to construct Phase II trunk line extension and regional treatment plant, to construct Salt Rock's system improvements, and to reimburse Milton's design expenses	$10,770,000

Milton

6.	State Revolving Fund Loan, 0% interest, 0.5% administrative fee, 40 years, to construct a portion of Milton system improvements, no real estate related costs	$6,351,371
7.	Infrastructure & Jobs Development Council Loan, 0% interest, 40 years, to retire a portion of Milton's 1999 bonds, to construct a portion of Milton system improvements, real estate related costs	$485,000

Culloden

8.	Water Development Authority Loan, same term & rate as Culloden's 1968 bonds	$79,000
9.	Water Development Authority Loan, same terms & rate as Culloden's 1980 bonds	$87,000
10.	State Revolving Fund Loan, 0% interest, 0.5% administrative fee, not more than 40 years, to refund $542,593 of Culloden's 1999 notes, and payment of Culloden's capital costs	$689,000
11.	State Revolving Fund Loan, 0% interest, 0.5% administrative fee, 40 years, to construct Culloden's system improvements	$1,100,000

Joint Ex. No. 12B (Tr. Mar. 3, 2003).

The applicants' accountant, Michael Griffith, testified that the loans "are quite simply the best that we can get for a utility in West Virginia." Tr. p. 104 (Sept. 24, 2002). "The actual debt service costs to these utilities, I believe, is as low as can be. The driving force in the increase in rates is not the cost of the capital, it is operation and maintenance expenses. So it is a good funding package."

The 40-year, 0% money from the State Revolving Fund is a fairly new development. Tr. p. 110 (Sept. 24, 2002). The project qualifies for a loan for that extraordinary length of time because rates are in excess of two percent of the median household income. Id.

The Culloden refunding loans are to remove restrictive debt coverage requirements. Tr. pp. 83-84, 112-13 (Sept. 24, 2002). Culloden's 1968 bonds a 135% debt coverage requirement, and Culloden's 1980 bonds have a 120% debt service requirement. Id. The new WDA loan matches the bonds interest rate and term, so there is no revenue effect. Reducing the debt coverage requirements helps to keep Culloden's rates lower, thus minimizing the rate impact that this project could otherwise have. Id. p. 84.

At the first hearing, the Commission was advised that Salt Rock needed about $24,000 to begin working on railroad and highways permits. Tr. p. 144 (Sept. 24, 2002). Culloden had funds to loan to Salt Rock, so that the work permit could begin expeditiously. Otherwise, Salt Rock would have to wait until loan closing to have funds to do the permit work. Therefore, the parties asked the Commission to grant its consent, pursuant to W. Va. Code § 24-2-12, for Culloden to make the money available to Salt Rock. Id. pp. 144-46. Salt Rock would reimburse Culloden after the loan closing. From the bench, the Commission granted its approval for this interim borrowing. Id. p. 147.

On October 11, 2002, Commission Staff recommended approval of the financial aspects of Phase I of the project. Final Internal Memorandum pp. 9-10, attached to Final Joint Staff Memorandum: Phase I.

On February 26, 2003, Commission Staff recommended approval of the financial aspects of Phase II of the project. 2d Further Final Joint Staff Memorandum: Phase I & II p. 1 & Final Internal Memorandum attached. Moreover, Water and Wastewater Staff advised that all letters of commitment from the respective funding agencies for the total funding amount have been received. Final Internal Memorandum p. 3, attached to 2d Further Final Joint Staff Memorandum: Phase I & II.

Rate Issues

Culloden

When the parties filed this case, notice of Culloden's proposed rate change was provided in the Notice of Filing. Culloden proposed two rate increases. Joint Application p. 29. The first, expected to be about 59.9%, would take effect when Culloden began making payments

on loan obligations for Phase I. Id. The second rate increase, about 34.5%, would commence with Culloden's loan obligations for Phase II. Id. p. 30.

In addition, Culloden's rates would change to commodity-based rates, in place of five declining block rates. Final Internal Memo p. 7, attached to Final Joint Staff Memorandum: Phase I. Technical Staff advised that the bill analysis reflects that Culloden's commercial customers are small and their usages are homogenous with residential customers. Id. Thus,

Culloden's cost of service, based on demand, is similar for residential and commercial. Id. For the first step increase, Culloden's monthly commodity rate will be $7.50 per thousand gallons.See FootNote [6] Id. For the second step increase, Culloden's commodity rate will be $10.20/Mgal. Id.

Prior to the first hearing, Culloden determined that it needed to meet debt service ratios on existing loans prior to being able to close on Phase I loans. Thus, Culloden asked that the effective date of its first step rate increase be the date of the Commission order approving Phase I of the project. Ltr. p. 4 (Sept. 4, 2002).

Then, in discussions between Staff and Culloden, Staff suggested that Culloden's Phase I increase could be split into two parts. Tr. p. 79 (Sept. 24, 2002). Culloden could have a smaller rate increase for going level needs and to meet the debt service coverage requirement when the Commission issued its order approving Phase I. The rest of the Phase I increase could take effect when the Phase I trunk line was completed. Id. p. 78. Under Staff's split Phase I approach, the first part of Culloden's Phase I rate increase would be about 26.2% and the second part would be about 36%. With this split Phase I approach, Culloden's Phase II increase could be reduced to about 19.6%.

Revised Tariff Rule 42 financial exhibits and O&M projections were filed on February 13, 2003.

On February 20, 2003, Culloden published a Supplemental Notice of Filing in Cabell and Putnam Counties that 1) referenced the initial Notice to describe the project and its financing, 2) set forth Culloden's two-step rate increase, and 3) set forth the proposed change to a three-step rate increase. See Affidavit of Publication, *Huntington Herald-Dispatch* (filed Mar. 4, 2003); Affidavit of Publication, *Putnam Democrat* (filed Feb. 28, 2003). The notice provided different percentage increases than had been proposed by Staff, and Culloden did not state in the cover letter that it had notified its customers of the change to the three-step rate increase.

On February 26, 2003, Staff recommended the following rates:

Culloden, Phase I, part one _ For the average residential customer, based on 4,500 gallons per month of water usage, the monthly bill would increase 43.9% or $11.74, to $38.48 from $26.74. The commodity charge is $8.55/Mgal. This increase was proposed to take effect upon the date of the Commission's order approving Phase I. Final Internal Memorandum p. 4, attached to 2d Further Final Joint Staff Memorandum: Phase I & II.

Culloden, Phase I, part two _ For the average residential customer, the monthly bill would increase 19.3% or $7.42, to $45.90 from $38.48. The commodity charge is $10.20/Mgal. This increase was proposed to take effect on the earlier of the commencement of its Phase I loan obligations or when the Phase I trunk line was substantially complete. Id.

Culloden, Phase II _ For the average residential customer, the monthly bill would increase 13.7% or $6.30, to $52.20 from $45.90, commencing with the earlier of the commencement of its Phase II loan obligations or when the regional plant begins operating. The commodity charge is $11.60/Mgal. As originally proposed, the average residential bill would have increased to $57.50, and as revised the bill would have been $54.90.

At the March 3, 2003, hearing, the Commission asked the parties to file a summary of the proposed rate increases and the various dates on which each was to take effect, since they had changed so many times during this case. Tr. p. 90.

On March 14, 2003, the applicants filed an annotated summary containing rates and dates which conformed to those set forth in Staff's memo.

Salt Rock

The Notice of Filing also set forth Salt Rock's proposed rate increase _ about 29.4%, to take effect on the earlier of the commencement of its loan obligations or when the regional plant begins operating. Id. p. 32.

Prior to the first hearing, Salt Rock's board determined that a two-step rate increase was needed so that Salt Rock would have 120% debt service coverage in place, *prior to closing* on its Phase I loans. Tr. pp. 90-91 (Sept. 24, 2002). Without it, Salt Rock would not be able to borrow the funds necessary to construct Phase I. Id.

Under Salt Rock's first revised proposal, the first step of the rate increase would be about 7.4%. Ltr. p. 3 (Sept. 4, 2002). The second step of the rate increase would be about 17%. As revised, the first and second step increases would reflect a total 25.7% rate increase, which is less than the 29.4% increase that Salt Rock originally proposed. Id. The total average monthly increase would be $9.78. Id.

Salt Rock published a revised Notice of Filing in Cabell County that 1) referenced the initial Notice of Filing to describe the project and its financing and 2) set forth the revised two-step rate increase. Id.; see also Affidavit of Publication, *Huntington Herald-Dispatch* (published Sept. 13, 2002, filed Sept. 24, 2002); Tr. p. 91 (Sept. 24, 2002). In agreement with Staff, Salt Rock also notified its customers of the revised two-step rate increase request on its postcard invoices. Id. & Ltr. p. 1 (Sept. 24, 2002); Tr. p. 37 (Mar. 3, 2003).

Thereafter, Salt Rock determined that it needed a larger first step increase than it had anticipated, due to increased operation and maintenance expenses in 2002. Thus, under Salt Rock's second revised proposal, the first step of the rate increase would not exceed 20%. Due to this change, Salt Rock's second step increase, the one which takes effect when the regional

plant begins operating, was proposed to be about 4.66%. Salt Rock does not need a rate increase when the Phase I trunk line is completed because the responsibility for the Phase I trunk line's capital cost and O&M is borne entirely by Culloden and Milton at that point. Tr. p. 78 (Sept. 24, 2002).

Salt Rock published a Second Supplemental Notice of Filing in Cabell County that 1) referenced the initial Notice to describe the project and its financing, 2) set forth Salt Rock's two-step rate increase, and 3) set forth the proposed change in the two-step rate increase. See Affidavit of Publication, *Huntington Herald-Dispatch* (published Jan. 29, 2003, filed Feb. 3, 2003). This time there was no agreement with Staff, and Salt Rock did not notify its customers of the change in the two-step rate increase request on its postcard invoices.

Immediately prior to the October 31st hearing, Commission Staff proposed more than $130,000 in O&M reductions to the regional plant, as well as to Salt Rock's portion of the project. Tr. pp. 65, 99-100 (Oct. 31, 2002). The applicants were inclined to accept Staff's reductions and agreed to prepare revised Tariff Rule 42 financial exhibits. Id. p. 66. The impact of Staff's recommendation upon Salt Rock's rates was estimated as an average $1.42 per month reduction and upon Culloden's rates as a $2.52 per month reduction. Id. p. 67. An effect was not predicted for Milton, because Milton's rates are set by ordinance. Id.

Revised Tariff Rule 42 financial exhibits and O&M projections were filed on February 13, 2003. However, upon review and the receipt of updated financial data, Salt Rock discovered that it needed additional interim increased rates. Tr. p. 34 (Mar. 3, 2003).

On February 26, 2003, Staff recommended the following rates:

Salt Rock, first step _ For the average residential customer, the monthly bill would increase 16% or $6.09, to $44.17See FootNote [7] from $38.08. The commodity charge is $7.68/Mgal. The customer charge is $9.62. This first step increase would take effect upon the date of the

Commission's order approving Phase I of the project.

Salt Rock, second step _ For the average residential customer, the monthly bill would increase 8.4% or $3.69, to $47.86 from $44.17. The commodity charge is $8.32/Mgal. The customer charge is $10.42. This increase would take effect on the earlier of the commencement of its Phase II loan obligations or when the regional plant begins operating, as Salt Rock had originally proposed. This final rate is the same rate that Salt Rock published in the Second Supplemental Notice of Filing.

At the March 3, 2003, hearing, the Commission asked the parties to file a summary of the proposed rate increases and the various dates on which each was to take effect, since they had changed so many times during this case. Tr. p. 90.

Staff also recommended that the Commission review the rates after the regional system had been operational for 18 months, as the operational costs had been based on estimates. Tr.

pp. 84-85 (Mar. 3, 2003).

On March 14, 2003, the applicants filed an annotated summary containing rates and dates which conformed to those set forth in Staff's memo. See also Tr. pp. 52, 83 (Mar. 3, 2003).

Regional Plant Service Contract

A Regional Wastewater Treatment Facility and Service Agreement among Culloden, Salt Rock, and Milton sets forth their respective obligations for the construction and use of the regional plant and related piping systems. Joint Application Ex. A pp. 4-7; Joint Ex. 16 (Tr. Sept. 24, 2002). It also governs, among other things, their respective service areas; responsibilities for the pretreatment of industrial waste; the allocation methodology for capital costs, as well as operation and maintenance expenses, for the new transmission line and the regional plant; points of service and metering issues; the reservation of treatment and transportation capacity, including the circumstances when such reservations may be exceeded, penalties, and the purchase of additional capacity; billing, collection and ratemaking obligations; cooperation among participants, including a Regional Plant Operating Committee; and the effect of future changes to the plant's discharge location. Id. pp. 1-27.

For Phase I, the capital cost is to be split 91% to Culloden and 9% to Milton. Tr. p. 99 (Sept. 24, 2002). The trunk line will go through Milton, and when Milton customers are connected to it, those flows are estimated to equate to 9% of the line's capacity. Id. Generally, Milton, Culloden and Salt Rock will share one-third in the cost of operating the plant. Tr. p. 10 (Sept. 24, 2002).

Section XII of the agreement provides, in pertinent part, as follows:

. . . in the event there is a dispute over the operations, policies, and procedures of the Regional Plant which cannot be resolved by majority vote of the [Regional Plant Operating Committee], any party aggrieved by such inability to resolve the matter shall have the right to take such matter to the Public Service Commission for resolution.

Joint Ex. 16 (Tr. Sept. 24, 2002).

On October 11, 2002, Commission Staff recommended approval of the agreement, pursuant to W. Va. Code § 24-2-12, without approving the specific terms and conditions of the agreement. Final Joint Staff Memorandum: Phase I p. 1 & Final Internal Memorandum attached. Staff also noted that any unresolvable issue(s) between the parties to the agreement would be brought to the Commission for resolution. Id.

Culloden Operation & Maintenance Contract

Several years ago, WV-AWC purchased Culloden's water utility assets and entered into an O&M agreement as to the sewer operations. Tr. p. 13 (Sept. 24, 2002). At that time, it was anticipated that WV-AWC would eventually acquire Culloden's wastewater assets. Id. However, as the regional project developed, it become clear that rather than that acquisition,

Culloden would participate in the regional project and WV-AWC would continue in the role as Culloden's contract operator of the collection system. Id. pp. 13-14.

The Commission granted its consent and approval to Culloden and WV-AWC's O&M contract on September 11, 1997, in Case Number 97-0318-W-PSD-PC. Joint Application p. 5. While WV-AWC operates and maintains the sewer system, Culloden retains legal title and ownership to it. Id.

To eliminate possible "private use" concerns under Internal Revenue Code and applicable Treasury Regulations,See FootNote [8] WV-AWC and Culloden propose to replace the O&M contract with a new Management Agreement, which has been drafted so that WV-AWC's continued operation of Culloden's system would not inhibit Culloden's ability to access low-interest public funding. Id.; see Joint Ex. No. 18 (Tr. Sept. 24, 2002). WV-AWC and Culloden also stated that the Management Agreement would not increase Culloden's expenses, as compared to the O&M contract. Id. pp. 5-6; see also Tr. p. 88 (Sept. 24, 2002).

Under the old contract, when WV-AWC replaced a valve, WV-AWC owned the valve, so there was a patchwork of ownership. Tr. p. 117 (Sept. 24, 2002). Under the new arrangement, there is only the provision of O&M; there is no ownership interest. Id. Culloden has the ability to terminate the contract every July. Id. It is a 20-year contract. Id. p. 119.

On October 11, 2002, Commission Staff recommended approval of the agreement, pursuant to W. Va. Code § 24-2-12, without approving the specific terms and conditions of the agreement. Final Joint Staff Memorandum: Phase I p. 1 & Final Internal Memorandum attached. Staff also noted that any unresolvable issue(s) between the parties to the agreement would be brought to the Commission for resolution. Id.; see Joint Ex. 18, § 8.6 (Tr. Sept. 24, 2002) ("All questions or disputes arising under this Agreement shall be determined by the PSC.").

Notice to Ratepayers

Milton

In a data request, Commission Staff required the parties to establish how they had complied with new Rule 10.3.d of the Commission's Rules of Practice and Procedure, 150 C.S.R. Series 1, which requires a utility seeking a rate increase in a certificate application to provide separate notices to each of its customers.

In response, the applicants stated that because Milton had already met the requirements of W. Va. Code § 24-2-4b in the adoption of ratesSee FootNote [9] for this project, and no protest was filed with the Commission in response to those municipal rates, Milton was not required to comply with Rule 10.3.d. Ltr. p. 1 (Sept. 13, 2002).See FootNote [10] However, when this position was explained to Staff, Milton said that Staff asked Milton to seek a waiver of Rule 10.3.d, because Staff said that the rule applied equally to all utilities. Id.

Milton opposed Staff's position, arguing that Rule 10.3.d could not be made to apply to utilities whose rates are established under W. Va. Code § 24-2-4b. Id. p. 2. Milton said that the Commission's rate making authority over municipalities was drastically limited by the Legislature in 1979 by W. Va. Code § 24-2-4b. Id. Under that statute, municipalities establish their own rates, without Commission review except in three specific situations. Id. Unless a protest is filed with the Commission in accordance with that statute, the Commission is powerless to change a municipality's rates, Milton said. Id.

On May 7, 2002, Milton adopted an ordinance to provide adequate rates to support its participation in this regional sewer project. Id. On May 15, 2002, the joint certificate application was filed, Milton said. Id. p. 3. By letter dated June 18, 2002, Staff Counsel stated its opinion that Milton had met all of the statutory requirements for the enactment of its ordinance. Id. p. 2.

"Because the Commission does not have the authority to grant a rate increase to the City, the City is not seeking rates in the case, and the City properly noted and passed its project-related rates prior to filing the Joint Application (and does not need a going-level increase), there was no reason for the City to provide notice to the customers as called for by Rule 10.3.d," wrote Milton. Id. p. 3. "Given the fact that the Commission lacks the authority to change a municipality's rates in the context of a certificate case, it would be a meaningless and costly exercise to require municipalities to provide notice beyond what is required to pass a rate ordinance under West Virginia Code §24-2-4b. Because the City of Milton satisfied the requirements for the passage of a valid rate ordinance, there is no reason to require this additional notice."

However, rather than to require that the issue be litigated, Milton filed a request for a waiver, as Staff suggested. Id. p. 2.

At the September 24, 2002, hearing, the parties asked the Commission to rule on the waiver issue, and the Commission advised that it would do so. Tr. pp. 19-22.

Salt Rock & Culloden

Salt Rock provided a statement on its postcard billings indicating that it was seeking a rate increase and that details were available in newspaper notices or at its offices. Culloden separately mailed at copy of the Notice of Filing to each of its customers. When Salt Rock changed to a two-step rate increase, in agreement with Staff, Salt Rock again notified its customers of the change on its postcard invoices.

Tariff Changes

Culloden

Staff made several changes to Culloden's tariff, to standardize it with uniform Commission language. Final Internal Memorandum p. 7, attached to Final Joint Staff

Memorandum: Phase I (Oct. 11, 2002). Culloden did not object to Staff's language changes.

Culloden proposed 1) a $20 returned check charge, 2) increasing the connection fee to $300 from $250, and 3) increasing the leak adjustment to $5.10/Mgal from $0.39/Mgal. Id. p. 8. Staff responded that the Commission permits a $15 maximum returned check charge and recommended approval of the $300 connection fee. Id. Using data from Culloden's Annual Report for the year ended June 30, 2001, Staff recalculated Culloden's leak adjustment and recommended the figure as $0.98/Mgal. Id.

Salt Rock

Staff also made several changes to Salt Rock's tariff, to standardize its language. Final Internal Memorandum p. 8, attached to Final Joint Staff Memorandum: Phase I. Like Culloden, Salt Rock did not object to Staff's wording revisions. Tr. p. 40 (Mar. 3, 2003).

Salt Rock proposed 1) increasing the connection fee to $300 from $250, and 2) increasing the leak adjustment to $4.16/Mgal from $0.80/Mgal. Id. Staff recommended approval of the $300 connection fee. Id. Using data from Salt Rock's Annual Report for the year ended June 30, 2001, Staff recalculated Salt Rock's leak adjustment and recommended the figure as $0.67/Mgal. Id.

Hearings

Hearings were conducted on Phase I of the project on September 24, 2002, and on Phase II of the project on October 31, 2002. These hearings were conducted in the Howard M. Cunningham Hearing Room at the Commission's offices, 201 Brooks Street, Charleston, West Virginia.

Although the file contains protest letters regarding the rate increases, no one appeared to comment at the first or second hearings. See Tr. pp. 16-17, 18-19 (Sept. 24, 2002) (Salt Rock's & Staff's counsel acknowledge protests); Tr. p (Oct. 31, 2002).

Affidavits of the Phase I hearing were provided as follows: *Huntington Herald- Dispatch*, published Sept. 6, 2002, filed Sept. 13, 2002; *Charleston Gazette*, published Sept. 11, 2002, filed Sept. 17, 2002; *Putnam Democrat*, published Sept. 12, 2002, filed Sept. 20, 2002.

Affidavits of the Phase II hearing were provided as follows: *Huntington Herald- Dispatch*, published Oct. 1, 2002, filed Oct. 15, 2002; *Charleston Gazette*, published Oct. 1, 2002, filed Oct. 8, 2002; *Putnam Democrat*, published Oct. 3, 2002, filed Oct. 17, 2002.

A third hearing was conducted on revised financing and revised rate increases on March 3, 2003, in the lecture hall at Cabell Midland High School in Ona, West Virginia. That hearing was well attended by members of the public and several offered comments. Only one person commented on the proposed rates.

Affidavits of the third hearing were provided as follows: *Huntington Herald-Dispatch*, published February 25, 2003, filed March 4, 2003; *Charleston Gazette*, published February

27, 2003, filed March 4, 2003; *Putnam Democrat*, published February 27, 2003, filed February 28, 2003.

DISCUSSION

Certificates of Convenience and Necessity

W. Va. Code § 24-2-11 provides, in pertinent part, as follows:

(a) No public utility . . . shall begin the construction of any plant . . . for furnishing to the public any [utility] service . . . unless and until it shall obtain from the public service commission a certificate of convenience and necessity requiring such construction . . . Upon the filing of any application for such certificate, and after hearing, the commission may, in its discretion, issue or refuse to issue, or issue in part and refuse in part, such certificate of convenience and necessity: Provided, That the commission, after it gives proper notice and if no protest is received within thirty (30) days after the notice is given, may waive formal hearing on the application.

In considering a certificate application, the Commission must assess whether the general public convenience will be served and the public necessity for the project. Sexton v. Public Serv. Comm'n, 423 S.E.2d 914 (W. Va. 1992). The file is replete with evidence of need for these projects. There are two Consent Orders requiring Culloden and Milton to upgrade their service. Much of the area is densely populated and many of the soils are of low permeability, thus, not being suitable for on-site sewage treatment systems. The proposed extensions to the collection systems will add utility service for 1,300 new customers. The Commission's Engineering Staff has reviewed the areas involved in each of these line extensions and observed many areas where either raw sewage or septic leachate, or both, were running in shallow ditches, along the ground surface or flowing in area streams. The local health department's complaint logs substantiate Staff's observations, which indicate many failing septic systems. The Commission also received testimony from employees of the Cabell-Huntington Health Department and DEP corroborating the need for these projects. It is clear that these conditions represent a very real threat to public health that will be corrected by the proposed projects. Accordingly, the general public convenience will be served and there is public necessity for each component of this complex project _ in Phase I, the trunk line; and in Phase II, the regional treatment plant, the extension of the trunk line, and the upgrades and extensions for the Milton, Culloden and Salt Rock collection systems.

The Commission also considers whether a project is feasible and adequately financed. Engineering Staff has reviewed the plans and specifications and determined that they contain no apparent violations of the Commission's Sewer Rules. Staff also advised that DEP has reviewed the plans and deemed them approvable, pending some minor revisions. Engineering Staff has proposed O&M adjustments, to which the utilities did not object. Water and Wastewater Staff has reviewed the proposed financing and recommends its approval. Accordingly, the Commission concludes that the projects are feasible and adequately

financed.

Technical Staff correctly notes that if there are any substantive changes in the plans, scope, or financing, the applicants must petition for the Commission's approval of those changes. Copies of permits, easements, and NPDES permit modifications all must be forwarded to Commission Staff, immediately upon their receipt. Further, the applicants must provide the Commission with a Notice of Substantial Completion for each construction contract awarded, pursuant to the projects in this case.

These certificate applications were protested, and the Commission has conducted three public hearings and reviewed the letters of protest. At two of the hearings, no one made any public comment. Many of the protest letters cite differences with the management practices of Salt Rock. For instance, the customers would prefer that Salt Rock choose a different bank, or that employees clean their uniforms instead of the utility providing that service for them. See Hiles Ltr. & attachment pp. 1-2 (Feb. 24, 2002). The customers allege that measures such as these could reduce expenses in a significant manner, such that the rate

increase necessitated by this project could be reduced. Attachment p. 2. They also write, "We are NOT opposed to the regional project, and feel that this type of infrastructure upgrade is sorely needed in order to attract business and industry to Cabell County." Id. They write that they are unsure of how to file these concerns with Salt Rock. Ltr. p. 1.

The Supreme Court has made clear that the Commission is not a super board of directors and is not to substitute its judgment for that of the Salt Rock board in matters of day to day management. United Fuel Gas Co. v. Public Serv. Comm'n, 154 W. Va. 221, 174 S.E.2d 304, 316 (1969). The Supreme Court has defined the Commission's function as to regulate and disapprove any dishonest or clearly inefficient conduct or practice by the utility. Id.

The Commission concludes that the matters raised by those Salt Rock customers are operational concerns that do not rise to the level of dishonest or clearly inefficient practices that warrant the Commission's interference with the board's day to day conduct of the utility. Such issues are best handled with direct discussions between a utility and its customers. For instance, the customers have stated a concern that miles, and thus, costs, could be saved by using a closer bank. Although this may be true, the utility would also need to consider the costs that respective banks charge to conduct business, and so forth.

Financing Arrangements

A fully committed funding package has been presented for this complex proposal, and Staff recommends its approval. The applicants' accountant testified that the loans "are quite simply the best that we can get for a utility in West Virginia." The Commission agrees. The small loan for real estate costs is at 5% interest. The bond refunding loans match the existing terms and reduce onerous debt coverage requirements. Every other loan in the package is at 0% interest, some with a 0.5% administrative fee. The loan terms have been extended to 40 years. This funding package should be approved, and the Commission will do so.

Rate Issues

As with financing, the parties worked on rates throughout this proceeding. Staff, Salt Rock and Culloden have agreed on the following:

Culloden, Phase I, part one _ For the average residential customer, based on 4,500 gallons per month of water usage, the monthly bill would increase 43.9% or $11.74, to $38.48 from $26.74. The commodity charge is $8.55/Mgal. Effective upon the date of the Commission's order approving Phase I.

Culloden, Phase I, part two _ For the average residential customer, the monthly bill would increase 19.3% or $7.42, to $45.90 from $38.48. The commodity charge is $10.20/Mgal. Effective on the earlier of the commencement of its Phase I loan obligations or when the Phase I trunk line is substantially complete.

Culloden, Phase II _ For the average residential customer, the monthly bill would increase 13.7% or $6.30, to $52.20 from $45.90, commencing with the earlier of its Phase II loan obligations or when the regional plant begins operating. The commodity charge is $11.60/Mgal.

Salt Rock, first step _ For the average residential customer, the monthly bill would increase 16% or $6.09, to $44.17 from $38.08. The commodity charge is $7.68/Mgal. The customer charge is $9.62. Effective upon the date of the Commission's order approving Phase I of the project.

Salt Rock, second step _ For the average residential customer, the monthly bill would increase 8.4% or $3.69, to $47.86 from $44.17. The commodity charge is $8.32/Mgal. The customer charge is $10.42. Effective on the earlier of the commencement of its Phase II loan obligations or when the regional plant begins operating.

Staff and the utilities have carefully estimated O&M and projected construction costs. The revised Tariff Rule 42 financial exhibits were filed with updated financial data. The proposed rates represent considerable increases, but these increases are driven by the projected O&M for the regional project, as well as the utilities' needs to meet debt service coverage prior to closing on the loans for the project. Considerable efforts have been taken to keep project costs down. Most of the project funding is 40-year money at 0% interest. Existing bond issues have been refunded to reduce onerous debt coverage requirements. The Commission concludes that these rates are sufficient, but not more than sufficient, to meet the needs of these utilities. Thus, the agreed rates shall be approved.

As the parties have agreed, after the regional system has been operational for 18 months, Salt Rock and Culloden each shall file for a review of their rates, using historic data.

Regional Plant Service Contract

W. Va. Code § 24-2-12 requires a public utility to receive permission from the Commission prior to entering into transactions with other utilities, in pertinent part as follows:

Unless the consent and approval of the public service commission of West Virginia is first obtained:

* * *

(a) No public utility . . . may enter into any contract with any other utility to operate any line or plant of any other utility subject thereto. . .

* * *

The commission may grant its consent in advance . . . . . upon proper showing that the terms and conditions thereof are reasonable and that neither party thereto is given an undue advantage over the other, and [the terms and conditions] do not adversely affect the public in this state.

* * *

[T]he commission . . . shall, if the public will be convenienced thereby, enter such order as it may deem proper and as the circumstances may require, attaching thereto such conditions as it may deem proper, consent to the entering into or doing of the things herein provided, without approving the terms and conditions thereof, and thereupon it shall be lawful to do the things provided for in such order.

The regional treatment plant and transmission system is a unique solution to a pressing need. The parties are to be commended for negotiating this contract for its operation. Being a novel venture, there may be occasions when the parties must rely upon Section XII to bring their differences to the Commission for interpretation. Moreover, we remind the parties that the Commission may always revisit the contract when the public's interest would so require, and that the Commission must approve any substantive amendments to the contract. Upon review, we find that the terms and conditions of the proposed service agreement are reasonable, that no party thereto is given an undue advantage over the other, that the transaction does not adversely affect the public in this state, and that the transaction likely will have no effect on other utilities. Accordingly, pursuant to W. Va. Code § 24-2-12(a), and without approving the specific terms and conditions of the agreement, the Commission shall grant its consent for the parties to enter into the service agreement.

Culloden Operation & Maintenance Contract

Although there have been no operational problems with the existing O&M contract between Culloden and WV-AWC, the existence of that contract was affecting the terms which were available to the public entities involved in this complex regional project. Without the contract change, the entities were limited to loans at 5% interest, instead of the 40-year, 0% interest money. Accordingly, Culloden and WV-AWC have renegotiated their arrangement.

The new Management Agreement does not increase Culloden's expenses, as compared to

the O&M contract. WV-AWC no longer has an ownership interest in some of the goods provided pursuant to the contract; it is a true services agreement. Culloden has the ability to terminate the contract every July. Staff has recommended approval. Pursuant to § 8.6, all questions or disputes arising under it are determined by the Commission.

Upon review, we find that the terms and conditions of the proposed management agreement are reasonable, that neither party thereto is given an undue advantage over the other, that the transaction does not adversely affect the public in this state, and that the transaction likely will have no effect on other utilities. Accordingly, pursuant to W. Va. Code § 24-2-12(a), and without approving the specific terms and conditions of the agreement, the Commission shall grant its consent for the parties to enter into the management agreement.

Notice to Ratepayers

Milton

Staff suggested that Milton needed to comply with, or seek a waiver of, Procedural Rule 10.3.d, which states, provides, in pertinent part, as follows:

. . . whenever a utility seeks a rate increase in a certificate application, the utility shall, within thirty (30) days of the date the Commission issues the completed Form No. 14 have completed the mailing of separate notices to each of its customers by one or a combination of . . . methods . . .

Milton responded that the rule did not apply because Milton was not seeking a rate increase in this certificate application. As a municipality, Milton had passed its necessary rate increase in an ordinance, prior to the filing of the certificate case.

The Commission concludes that by its express terms, this rule applies when a utility seeks a rate increase in a certificate case. Milton does not seek a rate increase in this certificate case. Milton's rates were increased by way of a municipal ordinance was that enacted on May 7, 2003, prior to the filing of this certificate case. There were no petitions for review of that ordinance, pursuant to W. Va. Code § 24-2-4b. Accordingly, Procedural Rule 10.3.d does not apply in this particular case and it is not necessary to grant a waiver, as Staff suggests. Milton, unlike the utilities which *are* seeking rate increases in this certificate case, does not have to provide the individual notice to ratepayers that Rule 10.3.d requires.

Not much time elapsed between when Milton's rate ordinance was passed, May 7, and when the Notice of Filing was issued for the joint certificate application, May 20. If valid protests had been filed to Milton's rate ordinance, perhaps a different result would have been reached. However, those facts are not present and that issue is not pending before the Commission.

Salt Rock & Culloden

Procedural Rule 10.3.d describes the allowable forms of notice in pertinent part, as

follows:

. . . whenever a utility seeks a rate increase in a certificate application, the utility shall, within thirty (30) days of the date the Commission issues the completed Form No. 14 have completed the mailing of separate notices to each of its customers by one or a combination of the following methods: (i) inclusion of Form No. 14 as a bill insert; (ii) separately mailing Form No. 14; or (iii) only for utilities that bill by postcard instead of in an envelope, and who elect not to separately mail Form 14, 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 [utility to insert date application filed with Commission] by calling [utility to insert utility office telephone number]."

In compliance with this rule, Salt Rock provided a statement on its postcard billings indicating that it was seeking a rate increase and that details were available in newspaper notices or at its offices. Culloden separately mailed a copy of the Notice of Filing to each of its customers.

Then, when Salt Rock changed to a two-step rate increase, in agreement with Staff, Salt Rock *again* notified its customers of the change on its postcard invoices, apparently in an attempt to again comply with Procedural Rule 10.3.d. This rule does not require

providing additional notices to individual customers. Once the individual notice has been properly given, customers are responsible for keeping themselves informed about the developments in a case.

Tariff Changes

Culloden

As Culloden did not object to Staff's wording changes, the Commission shall adopt them.

Culloden requested a $20 returned check charge, but Staff correctly noted that it is established Commission policy to permit utilities to charge their customers for bad checks an amount that does not exceed the amount that the utility's bank charges the utility for such check, provided that such charge may not exceed $15.00. See Union Williams PSD, Case Nos. 94-0110-PSD-42A & 94-0111-PWD-42A (Comm'n Order Mar. 10, 1995); Page-Kincaid PSD, Case No. 95-0345-PWD-T (Comm'n Order June 15, 1995); Chattaroy PSD, Case No. 96-1343-PSWD-T (Comm'n Order Dec. 9, 1996). The Commission's policy is based on reasoning that a utility should be permitted to recover a bad check fee directly from the customer incurring the charge in order to directly match the cost causer to the cost, rather than spreading the cost throughout the entire customer base. To the extent that such costs are already imbedded in a utility's rates, such amounts are *de minimis* and need not be quantified prior to the imposition of a specific returned check fee provision in a tariff. However, in the utility s next rate case, proper adjustments should be made to reflect all going level revenues generated from the bad check fee.

The bad check charge should be reflected in the utility's tariff on file with the Commission. Furthermore, the utility should be required to publish notice of its newly instituted bad check fee as publication may reduce the instances where the utility receives a bad check as payment for a bill. Such notice should be published as a Class I legal advertisement in newspapers of general circulation in the utility's service territory. The utility should not be permitted to charge the bad check fee until the day after the utility files with the Commission its affidavit(s) of publication and revised tariff sheets showing the bad check fee.

Culloden also proposed increasing the connection fee to $300 from $250, and Staff supported this request. The Commission prefers the term "tap fee" and notes that Staff's recommended tariff uses this term in place of connection fee.

Culloden also requested that its leak adjustment be increased to $5.10/Mgal from $0.39/Mgal. A leak adjustment is used to recalculate bills when there have been certain

kinds of line leaks on the customer's side of the meter. When such a leak occurs, the customer will pay the full rate charged by the utility, up to the amount a customer historically uses. For amounts in excess of the customer's historic usage, customers will pay only the incremental costs of treating or purchasing the excess water. See Rule 4.4.3, Rules and Regulations for the Government of Water Utilities, 150 C.S.R. Series 7.

In its Initial Recommendation, Staff recalculated Culloden's leak adjustment and recommended the figure as $0.98/Mgal. After receiving the revised Tariff Rule 42 financial exhibit, Staff recommended a leak adjustment rate of $1/Mgal, to be effective for both parts of the Phase I rates. For Culloden's Phase II rates, Staff's leak adjustment rate goes to $1.13/Mgal.

Staff has reviewed Culloden's costs and recommended that $1 and $1.13 be approved as the leak adjustment rate. At the third hearing, Culloden advised that it agreed to Staff's rates. Tr. p. 57 (Mar. 3, 2003). Therefore, the Commission shall approve Staff's recommended leak adjustment rates. Culloden shall provide notice of the leak adjustment rate as is described above, and may use the attached notice which describes the other tariff additions, too.

Salt Rock

As Salt Rock did not object to Staff's wording changes, the Commission shall adopt them. Likewise, the Commission shall approve increasing the tap fee to $300, as it did for Culloden.

Salt Rock asked for a $4.16 leak adjustment rate, and in its Initial Recommendation Staff suggested $0.67. After reviewing the revised Tariff Rule 42 financial exhibit, Staff recommended a Step I leak adjustment rate of $0.93 and a Step II leak adjustment rate of $1.23. Salt Rock has accepted Staff's recommendations. Ltr. p. 1 (Mar. 14, 2003).

Staff has reviewed Culloden's costs and recommended that $0.93 and $1.23 be approved as the leak adjustment rate. Salt Rock has advised that it agrees to Staff's rates. Ltr. p. 1 (Mar.

14, 2003). Therefore, the Commission shall approve Staff's recommended leak adjustment rates. Salt Rock shall provide notice as described above, and may use the attached notice.

FINDINGS OF FACT

1. On May 15, 2002, Salt Rock, Milton, Culloden and WV-AWC, the contract operator of Culloden's sewer system, jointly applied for certificates of convenience and necessity for a regional sewer project. Joint Application pp. 1-38 & Exs. They also

requested approval of a service agreement among Salt Rock, Culloden and Milton, and of related financing arrangements to fund the projects. Id. Culloden and Salt Rock requested approval of rate increases. Id. Further, Culloden and WV-AWC sought approval of a new management agreement between them. Id.

2. In Phase I, Salt Rock will build a $2 million trunk line from Culloden's treatment plant to the Mud River, to a discharge point downstream of Milton's potable water intake. Joint Application pp. 10, 13 & Tr. p. 61 (Sept. 24, 2002).

3. After the regional plant is built, during Phase II, Milton will use this trunk line to transport its flows to the regional treatment plant. Id.

4. No new customers are being added as a result of Phase I of the certificate project. Final Internal Memorandum p. 2, attached to Final Joint Staff Memorandum: Phase I.

5. The regional plant will serve Salt Rock, Culloden and Milton, and Culloden and Milton will stop using their own treatment plants. Id. p. 11. Salt Rock will own the new plant and the new trunk line, which will serve as a transmission line to the plant. Joint Application p. 15. It will take about a year to build the trunk line extension and the new plant. Id. p. 33.

6. Culloden also proposes to improve and extend its sewer system to serve 25 new customers in the Sawmill Road and Whitman Drive areas, at a cost of about $1.9 million. Joint Application p. 15; see also Final Internal Memorandum (Phase II) p. 3, attached to Further Final Joint Staff Memorandum: Phase I and II (Feb. 25, 2003).

7. Milton will improve and extend its sewer system to serve 403 new customers, at a cost of about $7.16 million. Joint Application pp. 15-16; see also Tr. p. 49 (Oct. 31, 2002) & Howard Bell Eng. Rpt., Milton Post-Hearing Ex. (Oct. 31, 2002).

8. Salt Rock will improve and extend its sewer system to serve more than 700 new customers in the Blue Sulphur, Cyrus Creek and Fudges Creek areas, at a cost of about $7.2 million. Joint Application p. 16; Final Internal Memorandum (Phase II) p. 3, attached to Further Final Joint Staff Memorandum: Phase I and II (Feb. 25, 2003); Tr. p. 24 (Oct. 31, 2002).

9. Only the initial trunk line from Culloden to the Mud River will occur in Phase I. All of the other work will occur in Phase II _ the trunk line extension from the Mud River to the

regional treatment plant, the construction of the regional treatment plant, and the upgrades and extensions to Salt Rock's, Milton's and Culloden's collection systems.

10. On May 20, 2002, the parties filed the Form 14, and the Commission issued a Notice of Filing order and required Salt Rock, Milton and Culloden to publish notice of their applications in Cabell and Putnam Counties. Notice of Filing p. 7.

11. On October 11, 2002, Commission Staff recommended approval of Phase I of the project. Final Joint Staff Memorandum: Phase I p. 1 & Final Internal Memorandum attached.

12. On February 5, 2003, Culloden, Salt Rock, Milton and WV-AWC asked the Commission to toll the statutory time period in which the Commission is required to process the case. Motion to toll pp. 1-2.

13. On February 7, 2003, the Commission granted the motion and set March 26, 2003, as the new deadline to process the case. Comm'n Order p. 3.

14. On February 13, 2003, revised Tariff Rule 42 financial exhibits for Salt Rock and Culloden were filed, as were the updated O&M cost estimates and final funding commitment letters.

15. On February 25, 2003, Commission Staff recommended approval of Phase II of the project. Further Final Joint Staff Memorandum: Phase I & II p. 1 & Final Internal Memorandum (Phase II) attached. Engineering Staff proposed $136,900 in reductions to the proposed annual O&M costs.

16. The parties did not object to Staff's O&M revisions, and the revised Tariff Rule 42 financial exhibits which were filed on January 27, 2003, reflecting the O&M changes proposed by Staff. Final Internal Memorandum p. 3, attached to 2d Further Final Joint Staff Memorandum: Phase I & II (Feb. 26, 2003); Tr. p. 35 (Mar. 3, 2003).

17. The funding for this project, as set forth above, has been fully committed.

18. Staff, Culloden and Salt Rock have agreed on rates for this project, as set forth above.

19. Section XII of the regional service agreement provides that the Commission is to resolve disputes over operations, policies and procedures. Joint Ex. 16 (Tr. Sept. 24, 2002).

20. On October 11, 2002, Commission Staff recommended approval of the service agreement, pursuant to W. Va. Code § 24-2-12, without approving the specific terms and conditions of the agreement. Final Joint Staff Memorandum: Phase I p. 1 & Final Internal Memorandum attached.

21. Section 8.6 of the management agreement provides that questions or disputes shall

be determined by the Commission. Joint Ex. 18, § 8.6 (Tr. Sept. 24, 2002).

22. On October 11, 2002, Commission Staff recommended approval of the management agreement, pursuant to W. Va. Code § 24-2-12, without approving the specific terms and conditions of the agreement. Final Joint Staff Memorandum: Phase I p. 1 & Final Internal Memorandum attached.

23. In a data request, Commission Staff required the parties to establish how they had complied with Procedural Rule 10.3.d, which requires a utility seeking a rate increase in a certificate application to provide separate notices to each of its customers.

24. Milton maintains that, as a municipality that is not seeking a rate increase in this certificate proceeding, it does not have to comply.

25. Salt Rock provided a statement on its postcard billings indicating that it was seeking a rate increase and that details were available in newspaper notices or at its offices. When Salt Rock changed to a two-step rate increase, in agreement with Staff, Salt Rock again notified its customers of the change on its postcard invoices.

26. Culloden separately mailed at copy of the Notice of Filing to each of its customers.

27. Staff made several wording changes to Culloden's and Salt Rock's tariffs, to standardize those tariffs with uniform Commission language. Final Internal Memorandum p. 7, attached to Final Joint Staff Memorandum: Phase I (Oct. 11, 2002). The utilities did not object to Staff's language changes.

28. Culloden proposed 1) a $20 returned check charge, 2) increasing the connection fee to $300 from $250, and 3) increasing the leak adjustment to $5.10/Mgal from $0.39/Mgal. Id. p. 8.

29. Staff responded that the Commission permits a $15 maximum returned check charge and recommended approval of the $300 connection fee. Id. Staff recalculated Culloden's leak adjustment and recommended the figure as $0.98/Mgal. Id.

30. Salt Rock proposed 1) increasing the connection fee to $300 from $250, and 2) increasing the leak adjustment to $4.16/Mgal from $0.80/Mgal. Id.

31. Staff recommended approval of the $300 connection fee. Id. Staff recalculated Salt Rock's leak adjustment and recommended the figure as $0.67/Mgal. Id.

32. Hearings were conducted on Phase I of the project on September 24, 2002, and on Phase II of the project on October 31, 2002, in the Howard M. Cunningham Hearing Room at the Commission's offices, 201 Brooks Street, Charleston, West Virginia.

33. Although the file contains protest letters regarding the rate increases, no one appeared to comment at the first or second hearings. See Tr. pp. 16-17, 18-19 (Sept. 24, 2002) (Salt Rock's & Staff's counsel acknowledge protests); Tr. p (Oct. 31, 2002).

34. Affidavits of the Phase I hearing were provided as follows: *Huntington Herald-Dispatch*, published Sept. 6, 2002, filed Sept. 13, 2002; *Charleston Gazette*, published Sept. 11, 2002, filed Sept. 17, 2002; *Putnam Democrat*, published Sept. 12, 2002, filed Sept. 20, 2002.

35. Affidavits of the Phase II hearing were provided as follows: *Huntington Herald-Dispatch*, published Oct. 1, 2002, filed Oct. 15, 2002; *Charleston Gazette*, published Oct. 1, 2002, filed Oct. 8, 2002; *Putnam Democrat*, published Oct. 3, 2002, filed Oct. 17, 2002.

36. A third hearing was conducted on revised financing and revised rate increases on March 3, 2003, in the lecture hall at Cabell Midland High School in Ona, West Virginia. That hearing was well attended by members of the public and several offered comments. Only one person commented on the proposed rates.

37. Affidavits of the third hearing were provided as follows: *Huntington Herald-Dispatch*, published February 25, 2003, filed March 4, 2003; *Charleston Gazette*, published February 27, 2003, filed March 4, 2003; *Putnam Democrat*, published February 27, 2003, filed February 28, 2003.

CONCLUSIONS OF LAW

1. Pursuant to W. Va. Code § 24-2-11, the Commission should grant certificates of certificates of convenience and necessity for these projects because the general public convenience will be served and the public necessity for them has been established. See Sexton v. Public Serv. Comm'n, 423 S.E.2d 914 (W. Va. 1992). There are two Consent Orders requiring Culloden and Milton to upgrade their service. Commission Staff and the local health department officials have observed raw sewage in the areas to be served. Much of the area is densely populated and many of the soils are of low permeability, thus, not being suitable for on-site sewage treatment systems. The proposed extensions to the

collection systems will add utility service for 1,300 new customers. Further, the projects are feasible and adequately financed.

2. Many of the protest letters cite differences with the management practices of Salt Rock. The Supreme Court has made clear that the Commission is not a super board of directors and is not to substitute its judgment for that of the Salt Rock board in matters of day to day management. Lumberport-Shinnston Gas Co. v. Public Serv. Comm'n, 165 W. Va. 762, 271 S.E.2d 438 (1980). The Supreme Court has defined the Commission's function as to regulate and disapprove any dishonest or clearly inefficient conduct or practice by the utility. Id. The Commission concludes that the matters raised by those Salt Rock customers are operational concerns that do not rise to the level of dishonest or clearly inefficient practices that warrant the Commission's interference with the board's day to day conduct of the utility.

3. A fully committed funding package has been presented for this complex proposal, and Staff recommends its approval. Upon review, the Commission agrees that the package should be approved.

4. Staff, Salt Rock and Culloden have agreed on rates, following a careful examination of projected O&M and construction costs. The revised Tariff Rule 42 financial exhibits were filed with updated financial data. The Commission has reviewed the proposals and concludes that these rates are sufficient, but not more than sufficient, to meet the needs of these utilities. Thus, the agreed rates shall be approved.

5. As the parties have agreed, after the regional system has been operational for 18 months, Salt Rock and Culloden each shall file for a review of their rates, using historic data.

6. Pursuant to W. Va. Code § 24-2-12(a), and without approving the underlying terms and conditions, the Commission should grant its consent for Culloden, Salt Rock and Milton to enter into the service agreement, because the Commission concludes that its terms and conditions are reasonable, that no party thereto is given an undue advantage over the other, that the transaction does not adversely affect the public in this state, and that the transaction likely will have no effect on other utilities.

7. Pursuant to W. Va. Code § 24-2-12(a), and without approving the underlying terms and conditions, the Commission should grant its consent for Culloden, and WV-AWC to enter into the management agreement, because the Commission concludes that its terms and conditions are reasonable, that neither party thereto is given an undue advantage over the other, that the transaction does not adversely affect the public in this state, and that the transaction likely will have no effect on other utilities.

8. By its express terms, Procedural Rule 10.3.d applies when a utility seeks a rate increase in a certificate case. Milton does not seek a rate increase in this certificate case. Accordingly, Procedural Rule 10.3.d does not apply and it is not necessary for the Commission to grant a waiver, as Staff suggests.

9. Procedural Rule 10.3.d describes the allowable forms of notice in pertinent part. Salt Rock provided a statement on its postcard billings, and Culloden separately mailed a copy of the Notice of Filing to each of its customers. When Salt Rock changed to a two- step rate increase, in agreement with Staff, Salt Rock *again* notified its customers of the change on its postcard invoices. Procedural Rule 10.3.d. does not require providing additional notices to individual customers when the amount of a utility's proposed rate increase changes, up or down, or when a proposed rate increase is to be awarded in increments instead of all at once. Once notice has been properly given, customers are responsible for keeping themselves informed about the developments in a case.

10. Culloden requested a $20 returned check charge, but Staff correctly noted that it is established Commission policy to permit utilities to charge their customers for bad checks an amount that does not exceed the amount that the utility's bank charges the utility for such check, provided that such charge may not exceed $15.00. See Union Williams PSD, Case Nos. 94-0110-PSD-42A & 94-0111-PWD-42A (Comm'n Order Mar. 10, 1995); Page-Kincaid PSD, Case No. 95-0345-PWD-T (Comm'n Order June 15, 1995); Chattaroy PSD, Case No. 96-1343-PSWD-T (Comm'n Order Dec. 9, 1996).

11. Culloden's and Salt Rock's requests to increase their tap fees are reasonable, supported by Staff, and should be approved.

12. Culloden's and Salt Rock's requests to increase their leak adjustment fees are reasonable and should be approved. The utilities have agreed to Staff's calculations, which are the amounts that the Commission should approve.

ORDER

IT IS THEREFORE ORDERED that, for the projects more fully described above and in the application and supporting documentation, separate certificates of convenience and necessity are granted, pursuant to W. Va. Code § 24-2-11, as follows:

to Salt Rock 1) for the Phase I trunk line from Culloden's treatment plant to the Mud River; 2) for the regional treatment plant and the Phase II trunk line extension from the Mud River to the regional treatment plant, and 3) Salt Rock's collection system improvements and extension;
to Culloden for its collection system improvements and extension; and
to Milton for its collection system improvements and extension.

IT IS FURTHER ORDERED that the granting of these of certificates is contingent upon the receipt of any outstanding permits from regulatory bodies, such as the NPDES permits. A copy of these permits shall be forwarded to the Executive Secretary's office, immediately upon their receipt.

IT IS FURTHER ORDERED that a copy the permits, easements, and property transfers relating to the railroad properties must also be forwarded to the Executive Secretary's office, immediately upon their receipt.

IT IS FURTHER ORDERED that the applicants must provide the Commission with a Notice of Substantial Completion for each construction contract awarded, pursuant to the projects in this case.

IT IS FURTHER ORDERED that the agreed rates between Staff, Culloden and Salt Rock are approved, as are fully set forth in the attached tariff sheets. A summary of those rates appears below:

Culloden, Phase I, part one _ For the average residential customer, based on 4,500 gallons per month of water usage, the monthly bill would increase 43.9% or $11.74, to $38.48 from $26.74. The commodity charge is $8.55/Mgal. Effective upon the date of the Commission's order approving Phase I. (See Attachment A.)

Culloden, Phase I, part two _ For the average residential customer, the monthly bill would increase 19.3% or $7.42, to $45.90 from $38.48. The commodity charge is

$10.20/Mgal. Effective on the earlier of the commencement of its Phase I loan obligations or when the Phase I trunk line is substantially complete. (See Attachment B.)

Culloden, Phase II _ For the average residential customer, the monthly bill would increase 13.7% or $6.30, to $52.20 from $45.90, commencing with the earlier of its Phase II loan obligations or when the regional plant begins operating. The commodity charge is $11.60/Mgal. (See Attachment C.)

Salt Rock, first step _ For the average residential customer, the monthly bill would increase 16% or $6.09, to $44.17 from $38.08. The commodity charge is $7.68/Mgal. The customer charge is $9.62. Effective upon the date of the Commission's order approving Phase I of the project. (See Attachment D.)

Salt Rock, second step _ For the average residential customer, the monthly bill would increase 8.4% or $3.69, to $47.86 from $44.17. The commodity charge is $8.32/Mgal. The customer charge is $10.42. Effective on the earlier of the commencement of its Phase II loan obligations or when the regional plant begins operating. (See Attachment E.)

IT IS FURTHER ORDERED that Culloden and Salt Rock shall, respectively, file an original and five copies of revised tariff sheets reflecting these new rates within thirty (30) days of the date of this order.

IT IS FURTHER ORDERED that, after the regional system has been operational for 18 months, Salt Rock and Culloden each shall file for a review of their rates, using historic data.

IT IS FURTHER ORDERED that the following funding is approved:

Salt Rock

1.	State Revolving Fund Loan, 0% interest, 0.5% administrative fee, 40 years, to construct Phase I trunk line, no real estate related costs	$2,050,000
2.	Water Development Authority Loan, 5% interest, 40 years, to construct Phase I trunk line, real estate related costs	$60,000
3.	Infrastructure & Jobs Development Council Grant, to construct Phase II trunk line extension and regional treatment plant	$1,000,000
4.	Infrastructure & Jobs Development Council Loan, 0% interest, 40 years, to construct Phase II trunk line extension and regional treatment plant, to retire Salt Rock's 1998 and 2002 bonds	$6,000,000
5.	State Revolving Fund Loan, 0% interest, 0.5% administrative fee, 40 years, to construct Phase II trunk	$10,770,000

line extension and regional treatment plant, to construct Salt Rock's system improvements, and to reimburse Milton's design expenses

Milton

6.	State Revolving Fund Loan, 0% interest, 0.5% administrative fee, 40 years, to construct a portion of Milton system improvements, no real estate related costs	$6,351,371
7.	Infrastructure & Jobs Development Council Loan, 0% interest, 40 years, to retire a portion of Milton's 1999 bonds, to construct a portion of Milton system improvements, real estate related costs	$485,000

Culloden

8.	Water Development Authority Loan, same term & rate as Culloden's 1968 bonds	$79,000
9.	Water Development Authority Loan, same terms & rate as Culloden's 1980 bonds	$87,000
10.	State Revolving Fund Loan, 0% interest, 0.5% administrative fee, not more than 40 years, to refund $542,593 of Culloden's 1999 notes, and payment of Culloden's capital costs	$689,000
11.	State Revolving Fund Loan, 0% interest, 0.5% administrative fee, 40 years, to construct Culloden's system improvements	$1,100,000

IT IS FURTHER ORDERED that if there are any substantive changes in the plans, scope, or financing, the applicants must petition for the Commission's approval of those changes.

IT IS FURTHER ORDERED that, without approving the underlying terms and conditions, the Commission grants its consent, pursuant to W. Va. Code § 24-2-12(a) for Culloden, Salt Rock and Milton to enter into the service agreement.

IT IS FURTHER ORDERED that, without approving the underlying terms and conditions, the Commission grants its consent, pursuant to W. Va. Code § 24-2-12(a) for Culloden and WV-AWC to enter into the management agreement.

IT IS FURTHER ORDERED that Staff's request for a declaration that Procedural Rule 10.3.d requires a municipality to request a waiver of that rule is denied. Under the

circumstances of this proceeding, Procedural Rule 10.3.d does not apply and it is not necessary for the Commission to grant a waiver.

IT IS FURTHER ORDERED that Culloden's request to institute a returned check charge not to exceed $15 is approved.

IT IS FURTHER ORDERED that Culloden provide notice to its customers of the returned check charge by publishing the attached notice of such charge once in newspapers of general circulation in Cabell and Putnam counties. (See Attachment F.)

IT IS FURTHER ORDERED that following publication of the above-described notice, Culloden shall file with the Commission (1) certificates of publication with respect thereto, and (2) revised tariff sheets reflecting the tariff changes approved herein.

IT IS FURTHER ORDERED that Culloden shall be authorized to assess the returned check charge the day after it files its certificates of publication and the revised tariff sheets with the Commission.

IT IS FURTHER ORDERED that Salt Rock and Culloden shall begin using the leak adjustment rate on the date of this order as set forth below:

Salt Rock	$0.93 per thousand gallons
Culloden	$1.00 per thousand gallons

IT IS FURTHER ORDERED that Salt Rock and Culloden shall provide notice of the leak adjustment rate to their customers. Culloden may use the same notice in which it describes the returned check charge. Salt Rock notice shall publish notice one time in Cabell County and promptly provide the affidavit of publication. Salt Rock may use the notice attached as Attachment G.

IT IS FURTHER ORDERED that this proceeding be removed from the Commission's docket of active cases.

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

CLW/sek
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Attachment A
1 of 5

EASTERN CABELL COUNTY SEWER PROJECT

CASE NO. 02-0688-PSD-S-CN

CULLODEN PUBLIC SERVICE DISTRICT

REVISED STAFF RECOMMENDED PHASE I PRE-CONSTRUCTION TARIFF

SCHEDULE I

(C) APPLICABILITY
Applicable in the entire territory served.

(C) AVAILABILITY
Available for general domestic, commercial and industrial service (except unusual industrial waste).

(C,I) RATES (customers with metered water supply)
Usage Charge $8.55 per 1,000 gallons of water usage

(C,I) FLAT RATE CHARGE (customers with non-metered water supply)
Equivalent of 4,500 gallons of water usage, $38.48 per month.

(C,I) MINIMUM CHARGE
Each customer shall pay a minimum charge of $21.38 per month

DELAYED PAYMENT PENALTY
The above schedule is net. On all accounts not paid in full when due (twenty days), ten percent will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

(C,I) DISCONNECT/RECONNECT/ADMINISTRATIVE FEES
Whenever water service has been disconnected for non-payment of sewer bills in conjunction with a water service termination agreement with WV-American Water company, a disconnection fee of $20.00 shall be charged; or in the event the delinquent sewer bill is collected by the water company, am administrative fee of $20.00 shall be charged.

Whenever water service, which has been previously disconnected or otherwise withheld for non-payment of a sewer bill in conjunction with a water service termination agreement with WV-American Water Company, is reconnected, a reconnection fee of $20.00 shall be charged.

Attachment A
Page 2 of 5

(C) RETURNED CHECK CHARGE
A service charge equal to the actual bank fee assessed to the sewer utility up to a

maximum of $15.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

(D) TAP FEE

The following charges are to be made whenever a utility installs a new tap to serve an applicant.

$300.00

(N) LEAK ADJUSTMENT

$1.00 per 1,000 gallons of water is to be used when a bill reflects unusual water consumption which can be attributed to eligible leakage on customer's side of meter. This rate shall be applied to all such consumption above the customer's historical average usage.

(N) RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the District up to a maximum of $15.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

(N)

SCHEDULE II

SURFACE OR GROUND WATER SURCHARGE

An additional amount shall be charged where surface or ground water is introduced into the sanitary system where evidence of a violation exists.

Surcharge formula to be applied in cases where surface drainage is connected to the utility's sewer system.

Applicability

Wherever the utility has discovered that a customer's roof drain, down spouts, storm sewer or other similar facilities conducting surface water have been connected to the District's sewer system, and such customer has failed to take appropriate action, within thirty (30) days of receipt of a demand by the District in accordance with the Rules and Regulations of the Public Service Commission, to eliminate such connection, a surcharge will be imposed upon the customer calculated on the basis of the following formula:

Attachment A
Page 3 of 5

S = AxRx.0006233xC

S = The surcharge in dollars

A = The area under roof and/or the area of any other water collection surface connected to the sanitary sewer, in square feet

R = The measured monthly rainfall, in inches

.000623 = A conversion factor to change inches of rain x square feet of surface to thousands of gallons of water

C = The District's approved rate per thousand gallons of metered water usage

The utility shall not impose the surcharge unless and until the customer has been notified by Certified Mail, Return Receipt Requested, or by hand delivery, that it has been established by smoke testing, dye testing, or on-site inspection that rain or other surface water is being introduced into the sanitary sewer at the customer's location, and that the customer has not acted within thirty (30) days from receipt of such notice to divert the water from the sanitary sewer system.

Said surcharge shall be calculated and imposed for each month that said condition continues to exist. Failure to pay the surcharge and/or correct the situation shall give rise to the possible termination of water service in accordance with the Rules and Regulations of the Public Service Commission of West Virginia.

(N)

SCHEDULE III

SURCHARGE FORMULA TO BE APPLIED TO A CUSTOMER

PRODUCING UNUSUAL WASTE

The charge for the treatment of unusual waste will be calculated on the basis of the following formula:

$$Ci = VoVi+BoBi+SoSi$$

Ci = consumption charge to unusual users.

Vo = average unit cost of transport and treatment chargeable to volume, in dollars per 1,000 gallons.

Vi = volume of waste water from unusual users, in 1,000 gallons.

Bo = average unit of cost of treatment, chargeable to Biochemical Oxygen Demand (BOD), in dollars per pound.

Bi = weight of BOD from unusual users ,in pounds.

Attachment A
Page 4 of 5

So = average unit costs of treatment (including sludge treatment) chargeable to total solids, in dollars per pound.

Si = weight of total solids from unusual users, in pounds.

When an usual user is to be served, a preliminary study of its wastes, and the cost of transport and treatment thereof, will be made. Waste containing material which, in judgement of the District, should not be introduced into the sewer system need not be handled by it. The results of this preliminary study will be used to determine the feasibility of the proposed sewer service and the charge thereof, based upon the formula set out above.

Thereafter, unusual sewage will be monitored on a regular basis and at the conclusion of each fiscal year, based on the investigation aforesaid and the audit of the District records, new cost figures will be calculated for use in the above formula. The cost of establishing the monitoring facilities shall be paid by the unusual user. Based on these audited figures, additional billings covering the past fiscal year will be made for payment by each unusual user, or refund given by the District, as the case may be. Such audited figures will then be used for the preliminary billing for the next fiscal year, at the end of which an adjustment will be made as aforesaid.

(N)

SCHEDULE IV

UNMETERED INDUSTRIAL SEWAGE CHARGE.

Where the amount of sanitary sewage discharged into the Culloden Public Service District wastewater collection and/or transmission and/or treatment system by certain industrial plant or plants cannot be accurately determined by the use of the plant's water meter or meters, and said plant cannot install a flow meter to measure such waste, a special formula will be used whereby such plant or plants will pay to the Culloden Public Service District a sewer charge calculated at fifty (50) gallons of water per each employee at the plant each working day.

(N) indicates new schedule

Attachment A
Page 5 of 5

(N)

SCHEDULE V

APPLICABILITY

Applicable in the entire territory served.

AVAILABILITY

Available for wastewater and leachate haulers.

RATES

Commodity Charge - Each hauler shall pay a commodity charge of $21.90 per 1,000 gallons per load. Load will be the actual capacity oft he truck or other transport method delivering wastewater and leachate.

DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full when due, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only for each bill where it is appropriate.

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility up to a maximum of $15.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

(N) Indicates new rates or policies
(I) Indicates increased rates
(C) Indicates change in wording
(D) Indicates decreased rates

Attachment B
Page 1 of 5

EASTERN CABELL COUNTY SEWER PROJECT

CASE NO. 02-0688-PSD-S-CN

CULLODEN PUBLIC SERVICE DISTRICT

REVISED STAFF RECOMMENDED PHASE I POST-CONSTRUCTION TARIFF

SCHEDULE I

(C) APPLICABILITY
Applicable in the entire territory served.

(C) AVAILABILITY
Available for general domestic, commercial and industrial service (except unusual industrial waste).

(C,I) RATES (customers with metered water supply)
Usage Charge $10.20 per 1,000 gallons of water usage

(C,I) FLAT RATE CHARGE (customers with non-metered water supply)
Equivalent of 4,500 gallons of water usage, $45.90 per month.

(C,I) MINIMUM CHARGE
Each customer shall pay a minimum charge of $25.50 per month

DELAYED PAYMENT PENALTY
The above schedule is net. On all accounts not paid in full when due (twenty days), ten percent will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

(C,I) DISCONNECT/RECONNECT/ADMINISTRATIVE FEES

Whenever water service has been disconnected for non-payment of sewer bills in conjunction with a water service termination agreement with WV-American Water company, a disconnection fee of $20.00 shall be charged; or in the event the delinquent sewer bill is collected by the water company, am administrative fee of $20.00 shall be charged.

Whenever water service, which has been previously disconnected or otherwise withheld for non-payment of a sewer bill in conjunction with a water service termination agreement with WV-American Water Company, is reconnected, a reconnection fee of $20.00 shall be charged.

(C) RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility up to a maximum of $15.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

(D) TAP FEE

The following charges are to be made whenever a utility installs a new tap to serve an applicant.

$300.00

(N) LEAK ADJUSTMENT

$1.00 per 1,000 gallons of water is to be used when a bill reflects unusual water consumption which can be attributed to eligible leakage on customer's side of meter. This rate shall be applied to all such consumption above the customer's historical average usage.

(N) RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the District up to a maximum of $15.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

(N)

SCHEDULE II

SURFACE OR GROUND WATER SURCHARGE

An additional amount shall be charged where surface or ground water is introduced into the sanitary system where evidence of a violation exists.

Surcharge formula to be applied in cases where surface drainage is connected to the utility's sewer system.

Applicability

Wherever the utility has discovered that a customer's roof drain, down spouts, storm sewer or other similar facilities conducting surface water have been connected to the District's sewer system, and such customer has failed to take appropriate action, within thirty (30) days of

receipt of a demand by the District in accordance with the Rules and Regulations of the Public Service Commission, to eliminate such connection, a surcharge will be imposed upon the customer calculated on the basis of the following formula:

Attachment B
Page 3 of 5

S = AxRx.0006233xC
S = The surcharge in dollars
A = The area under roof and/or the area of any other water collection surface connected to the sanitary sewer, in square feet
R = The measured monthly rainfall, in inches
.000623 = A conversion factor to change inches of rain x square feet of surface to thousands of gallons of water
C = The District's approved rate per thousand gallons of metered water usage

The utility shall not impose the surcharge unless and until the customer has been notified by Certified Mail, Return Receipt Requested, or by hand delivery, that it has been established by smoke testing, dye testing, or on-site inspection that rain or other surface water is being introduced into the sanitary sewer at the customer's location, and that the customer has not acted within thirty (30) days from receipt of such notice to divert the water from the sanitary sewer system.

Said surcharge shall be calculated and imposed for each month that said condition continues to exist. Failure to pay the surcharge and/or correct the situation shall give rise to the possible termination of water service in accordance with the Rules and Regulations of the Public Service Commission of West Virginia.

(N)

SCHEDULE III

SURCHARGE FORMULA TO BE APPLIED TO A CUSTOMER

PRODUCING UNUSUAL WASTE

The charge for the treatment of unusual waste will be calculated on the basis of the following formula:

$$Ci = VoVi+BoBi+SoSi$$

Ci = consumption charge to unusual users.
Vo = average unit cost of transport and treatment chargeable to volume, in dollars per 1,000 gallons.
Vi = volume of waste water from unusual users, in 1,000 gallons.
Bo = average unit of cost of treatment, chargeable to Biochemical Oxygen Demand (BOD), in dollars per pound.

Bi = weight of BOD from unusual users ,in pounds.

So = average unit costs of treatment (including sludge treatment) chargeable to total solids, in dollars per pound.

Si = weight of total solids from unusual users, in pounds.

When an usual user is to be served, a preliminary study of its wastes, and the cost of transport and treatment thereof, will be made. Waste containing material which, in judgement of the District, should not be introduced into the sewer system need not be handled by it. The results of this preliminary study will be used to determine the feasibility of the proposed sewer service and the charge thereof, based upon the formula set out above.

Thereafter, unusual sewage will be monitored on a regular basis and at the conclusion of each fiscal year, based on the investigation aforesaid and the audit of the District records, new cost figures will be calculated for use in the above formula. The cost of establishing the monitoring facilities shall be paid by the unusual user. Based on these audited figures, additional billings covering the past fiscal year will be made for payment by each unusual user, or refund given by the District, as the case may be. Such audited figures will then be used for the preliminary billing for the next fiscal year, at the end of which an adjustment will be made as aforesaid.

(N)

SCHEDULE IV

UNMETERED INDUSTRIAL SEWAGE CHARGE.

Where the amount of sanitary sewage discharged into the Culloden Public Service District wastewater collection and/or transmission and/or treatment system by certain industrial plant or plants cannot be accurately determined by the use of the plant's water meter or meters, and said plant cannot install a flow meter to measure such waste, a special formula will be used whereby such plant or plants will pay to the Culloden Public Service District a sewer charge calculated at fifty (50) gallons of water per each employee at the plant each working day.

(N) indicates new schedule

(N)

SCHEDULE V

APPLICABILITY

Applicable in the entire territory served.

AVAILABILITY
Available for wastewater and leachate haulers.

RATES
Commodity Charge - Each hauler shall pay a commodity charge of $21.90 per 1,000 gallons per load. Load will be the actual capacity oft he truck or other transport method delivering wastewater and leachate.

DELAYED PAYMENT PENALTY
The above schedule is net. On all accounts not paid in full when due, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only for each bill where it is appropriate.

RETURNED CHECK CHARGE
A service charge equal to the actual bank fee assessed to the sewer utility up to a maximum of $15.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

(N) Indicates new rates or policies
(I) Indicates increased rates
(C) Indicates change in wording
(D) Indicates decreased rates

Attachment C
Page 1 of 5

EASTERN CABELL COUNTY SEWER PROJECT

CASE NO. 02-0688-PSD-S-CN

CULLODEN PUBLIC SERVICE DISTRICT

STAFF RECOMMENDED PHASE II TARIFF

SCHEDULE I

(C) APPLICABILITY
Applicable in the entire territory served.

(C) AVAILABILITY
Available for general domestic, commercial and industrial service (except unusual industrial waste).

(C,I) RATES (customers with metered water supply)
Usage Charge $11.60 per 1,000 gallons of water usage

(C,I) FLAT RATE CHARGE (customers with non-metered water supply)
Equivalent of 4,500 gallons of water usage, $52.20 per month.

(C,I) MINIMUM CHARGE
Each customer shall pay a minimum charge of $34.80 per month

DELAYED PAYMENT PENALTY
The above schedule is net. On all accounts not paid in full when due (twenty days), ten percent will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

(C,I) DISCONNECT/RECONNECT/ADMINISTRATIVE FEES
Whenever water service has been disconnected for non-payment of sewer bills in conjunction with a water service termination agreement with WV-American Water company, a disconnection fee of $20.00 shall be charged; or in the event the delinquent sewer bill is collected by the water company, am administrative fee of $20.00 shall be charged.

Whenever water service, which has been previously disconnected or otherwise withheld for non-payment of a sewer bill in conjunction with a water service termination agreement with WV-American Water Company, is reconnected, a reconnection fee of $20.00 shall be charged.

(C) RETURNED CHECK CHARGE
A service charge equal to the actual bank fee assessed to the sewer utility up to a maximum of $15.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

(D) TAP FEE
The following charges are to be made whenever a utility installs a new tap to serve an applicant.
$300.00

(N) LEAK ADJUSTMENT
$1.13 per 1,000 gallons of water is to be used when a bill reflects unusual water consumption which can be attributed to eligible leakage on customer's side of meter. This rate shall be applied to all such consumption above the customer's historical average usage.

(N) RETURNED CHECK CHARGE
A service charge equal to the actual bank fee assessed to the District up to a maximum of $15.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

(N)

SCHEDULE II

SURFACE OR GROUND WATER SURCHARGE

An additional amount shall be charged where surface or ground water is introduced into the sanitary system where evidence of a violation exists.

Surcharge formula to be applied in cases where surface drainage is connected to the utility's sewer system.

Applicability

Wherever the utility has discovered that a customer's roof drain, down spouts, storm sewer or other similar facilities conducting surface water have been connected to the District's sewer system, and such customer has failed to take appropriate action, within thirty (30) days of receipt of a demand by the District in accordance with the Rules and Regulations of the Public Service Commission, to eliminate such connection, a surcharge will be imposed upon the customer calculated on the basis of the following formula:

Attachment C
Page 3 of 5

S = AxRx.0006233xC

S = The surcharge in dollars

A = The area under roof and/or the area of any other water collection surface connected to the sanitary sewer, in square feet

R = The measured monthly rainfall, in inches

.000623 = A conversion factor to change inches of rain x square feet of surface to thousands of gallons of water

C = The District's approved rate per thousand gallons of metered water usage

The utility shall not impose the surcharge unless and until the customer has been notified by Certified Mail, Return Receipt Requested, or by hand delivery, that it has been established by smoke testing, dye testing, or on-site inspection that rain or other surface water is being introduced into the sanitary sewer at the customer's location, and that the customer has not acted within thirty (30) days from receipt of such notice to divert the water from the sanitary sewer system.

Said surcharge shall be calculated and imposed for each month that said condition continues to exist. Failure to pay the surcharge and/or correct the situation shall give rise to the possible termination of water service in accordance with the Rules and Regulations of the Public Service Commission of West Virginia.

(N)

SCHEDULE III

SURCHARGE FORMULA TO BE APPLIED TO A CUSTOMER

PRODUCING UNUSUAL WASTE

The charge for the treatment of unusual waste will be calculated on the basis of the following formula:

$$Ci = VoVi+BoBi+SoSi$$

Ci = consumption charge to unusual users.
Vo = average unit cost of transport and treatment chargeable to volume, in dollars per 1,000 gallons.
Vi = volume of waste water from unusual users, in 1,000 gallons.
Bo = average unit of cost of treatment, chargeable to Biochemical Oxygen Demand (BOD), in dollars per pound.
Bi = weight of BOD from unusual users ,in pounds.

Attachment C
Page 4 of 5

So = average unit costs of treatment (including sludge treatment) chargeable to total solids, in dollars per pound.

Si = weight of total solids from unusual users, in pounds.

When an usual user is to be served, a preliminary study of its wastes, and the cost of transport and treatment thereof, will be made. Waste containing material which, in judgement of the District, should not be introduced into the sewer system need not be handled by it. The results of this preliminary study will be used to determine the feasibility of the proposed sewer service and the charge thereof, based upon the formula set out above.

Thereafter, unusual sewage will be monitored on a regular basis and at the conclusion of each fiscal year, based on the investigation aforesaid and the audit of the District records, new cost figures will be calculated for use in the above formula. The cost of establishing the monitoring facilities shall be paid by the unusual user. Based on these audited figures, additional billings covering the past fiscal year will be made for payment by each unusual user, or refund given by the District, as the case may be. Such audited figures will then be used for the preliminary billing for the next fiscal year, at the end of which an adjustment will be made as aforesaid.

(N)

SCHEDULE IV

UNMETERED INDUSTRIAL SEWAGE CHARGE.

Where the amount of sanitary sewage discharged into the Culloden Public Service District wastewater collection and/or transmission and/or treatment system by certain industrial plant

or plants cannot be accurately determined by the use of the plant's water meter or meters, and said plant cannot install a flow meter to measure such waste, a special formula will be used whereby such plant or plants will pay to the Culloden Public Service District a sewer charge calculated at fifty (50) gallons of water per each employee at the plant each working day.

(N) indicates new schedule

Attachment C
Page 5 of 5

(N)

SCHEDULE V

APPLICABILITY
Applicable in the entire territory served.

AVAILABILITY
Available for wastewater and leachate haulers.

RATES
Commodity Charge - Each hauler shall pay a commodity charge of $21.90 per 1,000 gallons per load. Load will be the actual capacity oft he truck or other transport method delivering wastewater and leachate.

DELAYED PAYMENT PENALTY
The above schedule is net. On all accounts not paid in full when due, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only for each bill where it is appropriate.

RETURNED CHECK CHARGE
A service charge equal to the actual bank fee assessed to the sewer utility up to a maximum of $15.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

(N) Indicates new rates or policies
(I) Indicates increased rates
(C) Indicates change in wording
(D) Indicates decreased rates

Attachment D
Page 1 of 5

EASTERN CABELL COUNTY SEWER PROJECT

CASE NO. 02-0688-PSD-S-CN

SALT ROCK SEWER PUBLIC SERVICE DISTRICT

STAFF RECOMMENDED AND PROPOSED TARIFF - PHASE I

(C) APPLICABILITY
Applicable in the entire territory served.

(C) AVAILABILITY
Available for general domestic, commercial and industrial service.

(C,I) RATES (customers with metered water supply)
Customer charge - Each customer shall pay a customer charge of $9.62 per month
Usage Charge $7.68 per 1,000 gallons of water usage per month

(C,I) FLAT RATE CHARGE (customers with non-metered water supply)
Equivalent of 4,500 gallons of water usage, $44.17 per month.

(C,I) MINIMUM CHARGE
Each customer shall pay a minimum charge of 32.65 per month which is the equivalent of 3,000 gallons usage.

DELAYED PAYMENT PENALTY
The above schedule is net. On all accounts not paid in full when due (twenty days), ten percent will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

(C,I) DISCONNECT/RECONNECT/ADMINISTRATIVE FEES
Whenever water service has been disconnected for non-payment of sewer bills in conjunction with a water service termination agreement with WV-American Water company, a disconnection fee of $20.00 shall be charged; or in the event the delinquent sewer bill is collected by the water company, am administrative fee of $20.00 shall be charged.

Whenever water service, which has been previously disconnected or otherwise withheld for non-payment of a sewer bill in conjunction with a water service termination agreement with WV-American Water Company, is reconnected, a reconnection fee of $20.00 shall be charged.

(C) RETURNED CHECK CHARGE
A service charge equal to the actual bank fee assessed to the sewer utility up to a maximum of $15.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

(D) TAP FEE
The following charges are to be made whenever a utility installs a new tap to serve an applicant.
$300.00

(N) LEAK ADJUSTMENT

$0.93 per 1,000 gallons of water is to be used when a bill reflects unusual water consumption which can be attributed to eligible leakage on customer's side of meter. This rate shall be applied to all such consumption above the customer's historical average usage.

(N) RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the District up to a maximum of $15.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

(N)

SCHEDULE II

SURFACE OR GROUND WATER SURCHARGE

An additional amount shall be charged where surface or ground water is introduced into the sanitary system where evidence of a violation exists.

Surcharge formula to be applied in cases where surface drainage is connected to the utility's sewer system.

Applicability

Wherever the utility has discovered that a customer's roof drain, down spouts, storm sewer or other similar facilities conducting surface water have been connected to the District's sewer system, and such customer has failed to take appropriate action, within thirty (30) days of receipt of a demand by the District in accordance with the Rules and Regulations of the Public Service Commission, to eliminate such connection, a surcharge will be imposed upon the customer calculated on the basis of the following formula:

Attachment D
Page 3 of 5

S = AxRx.0006233xC

S = The surcharge in dollars

A = The area under roof and/or the area of any other water collection surface connected to the sanitary sewer, in square feet

R = The measured monthly rainfall, in inches

.000623 = A conversion factor to change inches of rain x square feet of surface to thousands of gallons of water

C = The District's approved rate per thousand gallons of metered water usage

The utility shall not impose the surcharge unless and until the customer has been notified by Certified Mail, Return Receipt Requested, or by hand delivery, that it has been established by smoke testing, dye testing, or on-site inspection that rain or other surface water is being introduced into the sanitary sewer at the customer's location, and that the customer has not acted within thirty (30) days from receipt of such notice to divert the water from the sanitary

sewer system.

Said surcharge shall be calculated and imposed for each month that said condition continues to exist. Failure to pay the surcharge and/or correct the situation shall give rise to the possible termination of water service in accordance with the Rules and Regulations of the Public Service Commission of West Virginia.

(N)

SCHEDULE III

SURCHARGE FORMULA TO BE APPLIED TO A CUSTOMER

PRODUCING UNUSUAL WASTE

The charge for the treatment of unusual waste will be calculated on the basis of the following formula:

$$Ci = VoVi+BoBi+SoSi$$

Ci = consumption charge to unusual users.
Vo = average unit cost of transport and treatment chargeable to volume, in dollars per 1,000 gallons.
Vi = volume of waste water from unusual users, in 1,000 gallons.
Bo = average unit of cost of treatment, chargeable to Biochemical Oxygen Demand (BOD), in dollars per pound.
Bi = weight of BOD from unusual users ,in pounds.

So = average unit costs of treatment (including sludge treatment) chargeable to total solids, in dollars per pound.

Si = weight of total solids from unusual users, in pounds.

When an usual user is to be served, a preliminary study of its wastes, and the cost of transport and treatment thereof, will be made. Waste containing material which, in judgement of the District, should not be introduced into the sewer system need not be handled by it. The results of this preliminary study will be used to determine the feasibility of the proposed sewer service and the charge thereof, based upon the formula set out above.

Thereafter, unusual sewage will be monitored on a regular basis and at the conclusion of each fiscal year, based on the investigation aforesaid and the audit of the District records, new cost figures will be calculated for use in the above formula. The cost of establishing the monitoring facilities shall be paid by the unusual user. Based on these audited figures, additional billings covering the past fiscal year will be made for payment by each unusual

user, or refund given by the District, as the case may be. Such audited figures will then be used for the preliminary billing for the next fiscal year, at the end of which an adjustment will be made as aforesaid.

(N)

SCHEDULE IV

UNMETERED INDUSTRIAL SEWAGE CHARGE.

Where the amount of sanitary sewage discharged into the Culloden Public Service District wastewater collection and/or transmission and/or treatment system by certain industrial plant or plants cannot be accurately determined by the use of the plant's water meter or meters, and said plant cannot install a flow meter to measure such waste, a special formula will be used whereby such plant or plants will pay to the Culloden Public Service District a sewer charge calculated at fifty (50) gallons of water per each employee at the plant each working day.

Attachment D
Page 5 of 5

(N)

SCHEDULE V

APPLICABILITY

Applicable in the entire territory served.

AVAILABILITY

Available for wastewater and leachate haulers.

RATES

Commodity Charge - Each hauler shall pay a commodity charge of $21.90 per 1,000 gallons per load. Load will be the actual capacity of the truck or other transport method delivering wastewater and leachate.

DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full when due, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only for each bill where it is appropriate.

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility up to a maximum of $15.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

(N) Indicates new rates or policies
(I) Indicates increased rates
(C) Indicates change in wording
(D) Indicates decreased rates

Attachment E
Page 1 of 5

EASTERN CABELL COUNTY SEWER PROJECT

CASE NO. 02-0688-PSD-S-CN

SALT ROCK SEWER PUBLIC SERVICE DISTRICT

STAFF RECOMMENDED AND PROPOSED TARIFF - PHASE II

(C) APPLICABILITY
Applicable in the entire territory served.

(C) AVAILABILITY
Available for general domestic, commercial and industrial service.

(C,I) RATES (customers with metered water supply)
Customer charge - Each customer shall pay a customer charge of $10.42 per month
Usage Charge $8.32 per 1,000 gallons of water usage per month

(C,I) FLAT RATE CHARGE (customers with non-metered water supply)
Equivalent of 4,500 gallons of water usage, $47.86 per month.

(C,I) MINIMUM CHARGE
Each customer shall pay a minimum charge of 35.38 per month which is the equivalent of 3,000 gallons usage.

DELAYED PAYMENT PENALTY
The above schedule is net. On all accounts not paid in full when due (twenty days), ten percent will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

(C,I) DISCONNECT/RECONNECT/ADMINISTRATIVE FEES
Whenever water service has been disconnected for non-payment of sewer bills in conjunction with a water service termination agreement with WV-American Water company, a disconnection fee of $20.00 shall be charged; or in the event the delinquent sewer bill is collected by the water company, am administrative fee of $20.00 shall be charged.

Whenever water service, which has been previously disconnected or otherwise withheld for non-payment of a sewer bill in conjunction with a water service termination agreement with WV-American Water Company, is reconnected, a reconnection fee of $20.00 shall be charged.

(C) RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility up to a maximum of $15.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

(D) TAP FEE

The following charges are to be made whenever a utility installs a new tap to serve an applicant.

$300.00

(N) LEAK ADJUSTMENT

$1.23 per 1,000 gallons of water is to be used when a bill reflects unusual water consumption which can be attributed to eligible leakage on customer's side of meter. This rate shall be applied to all such consumption above the customer's historical average usage.

(N) RETURNED CHECK CHARGE

A serv.ce charge equal to the actual bank fee assessed to the District up to a maximum of $15.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

(N)

SCHEDULE II

SURFACE OR GROUND WATER SURCHARGE

An additional amount shall be charged where surface or ground water is introduced into the sanitary system where evidence of a violation exists.

Surcharge formula to be applied in cases where surface drainage is connected to the utility's sewer system.

Applicability

Wherever the utility has discovered that a customer's roof drain, down spouts, storm sewer or other similar facilities conducting surface water have been connected to the District's sewer system, and such customer has failed to take appropriate action, within thirty (30) days of receipt of a demand by the District in accordance with the Rules and Regulations of the Public Service Commission, to eliminate such connection, a surcharge will be imposed upon the customer calculated on the basis of the following formula:

S = AxRx.0006233xC

S = The surcharge in dollars

A = The area under roof and/or the area of any other water collection surface connected to the sanitary sewer, in square feet

R = The measured monthly rainfall, in inches
.000623 = A conversion factor to change inches of rain x square feet of surface to thousands of gallons of water
C = The District's approved rate per thousand gallons of metered water usage

The utility shall not impose the surcharge unless and until the customer has been notified by Certified Mail, Return Receipt Requested, or by hand delivery, that it has been established by smoke testing, dye testing, or on-site inspection that rain or other surface water is being introduced into the sanitary sewer at the customer's location, and that the customer has not acted within thirty (30) days from receipt of such notice to divert the water from the sanitary sewer system.

Said surcharge shall be calculated and imposed for each month that said condition continues to exist. Failure to pay the surcharge and/or correct the situation shall give rise to the possible termination of water service in accordance with the Rules and Regulations of the Public Service Commission of West Virginia.

(N)

SCHEDULE III

SURCHARGE FORMULA TO BE APPLIED TO A CUSTOMER

PRODUCING UNUSUAL WASTE

The charge for the treatment of unusual waste will be calculated on the basis of the following formula:

$$Ci = VoVi+BoBi+SoSi$$

Ci = consumption charge to unusual users.
Vo = average unit cost of transport and treatment chargeable to volume, in dollars per 1,000 gallons.
Vi = volume of waste water from unusual users, in 1,000 gallons.
Bo = average unit of cost of treatment, chargeable to Biochemical Oxygen Demand (BOD), in dollars per pound.
Bi = weight of BOD from unusual users ,in pounds.

Attachment E
Page 4 of 5

So = average unit costs of treatment (including sludge treatment) chargeable to total solids, in dollars per pound.

Si = weight of total solids from unusual users, in pounds.

When an usual user is to be served, a preliminary study of its wastes, and the cost of

transport and treatment thereof, will be made. Waste containing material which, in judgement of the District, should not be introduced into the sewer system need not be handled by it. The results of this preliminary study will be used to determine the feasibility of the proposed sewer service and the charge thereof, based upon the formula set out above.

Thereafter, unusual sewage will be monitored on a regular basis and at the conclusion of each fiscal year, based on the investigation aforesaid and the audit of the District records, new cost figures will be calculated for use in the above formula. The cost of establishing the monitoring facilities shall be paid by the unusual user. Based on these audited figures, additional billings covering the past fiscal year will be made for payment by each unusual user, or refund given by the District, as the case may be. Such audited figures will then be used for the preliminary billing for the next fiscal year, at the end of which an adjustment will be made as aforesaid.

(N)

SCHEDULE IV

UNMETERED INDUSTRIAL SEWAGE CHARGE.

Where the amount of sanitary sewage discharged into the Culloden Public Service District wastewater collection and/or transmission and/or treatment system by certain industrial plant or plants cannot be accurately determined by the use of the plant's water meter or meters, and said plant cannot install a flow meter to measure such waste, a special formula will be used whereby such plant or plants will pay to the Culloden Public Service District a sewer charge calculated at fifty (50) gallons of water per each employee at the plant each working day.

(N)

SCHEDULE V

APPLICABILITY

Applicable in the entire territory served.

AVAILABILITY

Available for wastewater and leachate haulers.

RATES

Commodity Charge - Each hauler shall pay a commodity charge of $21.90 per 1,000 gallons per load. Load will be the actual capacity of the truck or other transport method delivering wastewater and leachate.

DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full when due, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only for each bill where it is appropriate.

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility up to a maximum of $15.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

(N) Indicates new rates or policies
(I) Indicates increased rates
(C) Indicates change in wording
(D) Indicates decreased rates

Attachment F

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 26th day of March, 2003.

CASE NO. 02-0688-PSD-S-CN

SALT ROCK SEWER PUBLIC SERVICE DISTRICT; CITY OF MILTON; CULLODEN PUBLIC SERVICE DISTRICT; and WEST VIRGINIA-AMERICAN WATER COMPANY.

Joint application for certificates of convenience and necessity for construction of a Regional Sewer Project to serve Eastern Cabell County and for the construction of improvements and extensions to each Party's System; for approval of related financing; and for approval of certain agreements related thereto.

NOTICE OF Returned Check Charge

and Leak Adjustment Rate

By Order issued on March 26, 2003, the Public Service Commission authorized Culloden Public Service District to add a returned check charge to its tariff. Accordingly, Culloden will hereafter assess a returned check charge against each customer who pays a utility bill with a bad check in the amount of the bad check charge assessed against Culloden by its applicable bank, but, in any event, the bad check charge shall not exceed $15.00.

The Public Service Commission has also authorized Culloden to change its leak

adjustment increment. For certain line leaks on the customer's side of the meter, Culloden will use $1.00 per thousand gallons to recalculate bills.

Culloden Public Service District

Attachment G

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 26th day of March, 2003.

CASE NO. 02-0688-PSD-S-CN

SALT ROCK SEWER PUBLIC SERVICE DISTRICT; CITY OF MILTON; CULLODEN PUBLIC SERVICE DISTRICT; and WEST VIRGINIA-AMERICAN WATER COMPANY.
Joint application for certificates of convenience and necessity for construction of a Regional Sewer Project to serve Eastern Cabell County and for the construction of improvements and extensions to each Party's System; for approval of related financing; and for approval of certain agreements related thereto.

NOTICE OF Leak Adjustment Rate

By Order issued on March 26, 2003, the Public Service Commission authorized Salt Rock Public Service District to change its leak adjustment increment. For certain line leaks on the customer's side of the meter, Salt Rock will use $0.93 per thousand gallons to recalculate bills.

Salt Rock Public Service District

Footnote: 1 [1] *See Joint Ex. No. 1 (Tr. Sept. 24, 2002).*

Footnote: 2 [2] *Although that deadline has passed, penalties are not being imposed so long as the court finds that "good faith efforts continue to be made by the parties." Order p. 3, Cabell Co. Civil Ac. No. 98-C-901 (Aug. 1, 2002) (filed with the PSC Aug. 27, 2002). The filing of the joint certificate application was one of the primary actions upon which the Cabell County Circuit Court relied in concluding that good faith efforts were being made. Id. p. 2.*

Footnote: 3 [3] *Salt Rock's existing plant will be upgraded to become the regional plant. Tr.*

pp. 15- 16 (Sept. 24, 2002). Salt Rock's facility is farther down the Mud River than Milton's, and is much closer to the larger Guyandotte River. Tr. p. 29 (Oct. 31, 2002).

Footnote: 4 [4] *See Joint Ex. No. 19 (Tr. Oct. 31, 2002).*

Footnote: 5 [5] *The Notice of Filing was published in Cabell County on May 24, 2002, in the the Huntington Herald Dispatch. See Affidavits of Publication (Sept. 4, 2002).*

Footnote: 6 [6] *"Per 1,000 gallons" is abbreviated as "/Mgal".*

Footnote: 7 [7] *There was an inconsistency between Staff's narrative and Staff's proposed tariffs. The narrative set forth the average bill as $40.90. However, the narrative and the proposed tariffs set the usage rate at $7.68/Mgal and the customer charge at $9.62, which equates to an average bill of $44.17 (7.68 x 4.5 = 34.55 rounded; 34.55 + 9.62 = 44.17). Thus, Staff's narrative should have reflected an average bill of $44.17.*

Footnote: 8 [8] *The private use concerns are being addressed so that Culloden, Salt Rock and Milton can access some tax exempt public funds. Tr. p. 14 (Sept. 24, 2002). There were no no substantive problems with the current O&M agreement. Id.*

"And not only did it negatively impact Culloden, . . . it would have impacted Culloden, Salt Rock and Milton," testified John Stump, one of the attorneys working on this project. "So suddenly rather than getting 40 years of zero percent money, we were looking at five percent money, five and a half percent money. And that wasn't acceptable." Tr. p. 118 (Sept. 24, 2002).

Footnote: 9 [9] *Milton enacted a 120.9% rate increase on May 7, 2002, which will take effect effect when Milton has to pay Salt Rock on account of the first SRF Phase I loan payments. The average monthly residential bill will go up $25.20, from $20.84 to $46.04.*

Footnote: 10 [10] *See also WV-AWC's letter dated September 4, 2002, Section B Compliance with Procedural Rule 10.3.d, page 2: "While the City of Milton ("City") has also enacted an ordinance*

increasing its wastewater rates and charges in contemplation of the Project, no timely petition petition protesting the rate increase was filed pursuant to W. Va. Code §24-2-4b(c) and thus the Commission has no jurisdiction over the City's rate increase. Accordingly, only [Salt Rock Sewer Public Service District] and [Culloden Public Service District] were required to comply with Rule 10.3.d."

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PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 17th day of December, 2004.

CASE NO. 02-0688-PSD-S-CN (REOPENED)

SALT ROCK SEWER PUBLIC SERVICE DISTRICT; CITY OF MILTON; CULLODEN PUBLIC SERVICE DISTRICT; and WEST VIRGINIA-AMERICAN WATER COMPANY

Joint application for certificates of convenience and necessity for construction of a Regional Sewer Project to serve Eastern Cabell County and for the construction of improvements and extensions to each Party's System; for approval of related financing; and for approval of certain agreements related thereto.

COMMISSION ORDER

This case was reopened to consider a request to approve revised Phase II rates for Culloden Public Service District and Salt Rock Sewer Public Service District, due to bid overruns. The Commission also was asked to approve revised Phase II financing for Culloden, Salt Rock and the City of Milton. Moreover, the cost overrun also requires design changes for the regional treatment plant, as well as a modification in the scope of Salt Rock's collection system extension.

There have been no protests to notice of the revised rates and financing, and Staff recommends that the revisions be approved. The Commission shall approved the revisions.

BACKGROUND

On March 26, 2003, the Commission granted several certificates, and approved revised rates, for a series of projects to upgrade sewer service in eastern Cabell County and western Putnam County. A regional sewage treatment plant and collection system was approved, and the Commission authorized extensions of service for the entities involved. The Commission also approved a joint service agreement for the regional sewer plant and a management agreement for one of the sewer systems. In addition to the Commission's assessment that the public convenience and necessity required these particular projects, improvements were mandated by two separate Consent Decrees in the Circuit Court of Cabell County, West Virginia.

Bids came in higher than expected for Phase I matters, and Salt Rock needed to become current on the revenue and reserve accounts of its existing bonds before it could close on the bond issue for Phase II. On June 24, 2003, the Commission approved additional funding, to cover the Phase I bid overrun and to correct Salt Rock's bond deficiencies.

Bids have also come in higher than expected for the Phase II matters in this series of projects, and thus, on November 5, 2004, the Commission was asked to approve revised funding and further rate increases in a Petition to Reopen filed jointly by Salt Rock, Culloden and the City of Milton.[1] Petition to Reopen pp. 1-7 & attachments.

Salt Rock Sewer PSD

Salt Rock serves 825 customers in Cabell County. On March 26, 2003, the Commission approved the following Phase II funding for Salt Rock, which would enable the utility to construct the Phase II trunk line from Milton to the Regional Plant, to construct the Regional Plant, to retire Salt Rock's 1998 and 2002 bonds, to construct Salt Rock's system improvements, and to reimburse Milton's design expenses:

WVIJDC[2] grant	$ 1,000,000
WVIJDC loan, 0% interest, 40 years	$ 6,000,000
CWSRF loan, 0% interest, 0.5% administrative fee, 40 years	$10,770,000

The Commission also approved the following Salt Rock rates:

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[1] Milton has enacted an ordinance to increase its rates, as a result of the bid overruns. The Commission's authority to review municipal rates is more limited than its authority to review the rates of other utilities. See W. Va. Code § 24-2-4b. Staff alleged that Milton's notice of increased rates was deficient, and on December 1, 2004, the Commission asserted its jurisdiction and opened Case Number 04-1923-S-MA. Thereafter, Milton asked the Commission to find that Milton had substantially complied with the notice requirements. On December 10, 2004, the Commission agreed with Milton, vacated the order asserting jurisdiction and dismissed the municipal appeal proceeding.

[2] WVIJDC has been used to abbreviate the name West Virginia Infrastructure & Jobs Development Council.

Second step[3] – For the average residential customer, the monthly bill would increase 8.4% or $3.69, to $47.86 from $44.17. The commodity charge was $8.32/Mgal.[4] The customer charge was $10.42. These rates were effective on the earlier of the commencement of Salt Rock's Phase II loan obligations or when the regional plant began operating.

On September 1, 2004, Salt Rock opened bids for the Phase II work, but those bids came in higher than the approved financing. Because the overbid was significant, Salt Rock decided to rebid the regional treatment plant construction. Some design revisions were made to permit Salt Rock to adjust the project to fit within available funding. A copy of the revised design and bid documents were provided to Commission Staff.

To fund the increased cost, Salt Rock said it arranged additional financing from the West Virginia Infrastructure & Jobs Development Council as follows:

WVIJDC Grant	$ 450,000
WVIJDC Loan, 0% interest, 40 years (amortized over 38 years)	$1,500,000

Further, the Clean Water State Revolving Fund (CWSRF) had verbally agreed to commit up to $1,809,002 more, at 0% interest and an 0.5% administrative fee, with a 38-year term. However, this loan would not be available to Salt Rock for up to two years after the start of construction, due to the lack of current funds in the CWSRF program. As a condition for this new loan, Salt Rock would have to reduce the amount of the additional CWSRF loan by any decrease in the total Salt Rock project cost below $8,558,000, as a result of the re-bid of the treatment plant. Salt Rock said it would file the written commitment for this loan when it was received.

Since the additional CWSRF loan would not be available for some time, Salt Rock said it would have to issue a $1,809,002 Bond Anticipation Note at the start of construction. Salt Rock wrote that it was soliciting proposals from financial institutions for this note, with a two-year maturity, including capitalized interest payable during the construction period. Salt Rock believed the interest rate would be at or below 5%, and it said it would file the commitment for this note when it was received.

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[3] The Commission also approved First Step/Phase I rates. Those rates are not at issue in this proceeding.

[4] "/Mgal" is an abbreviation for "per thousand gallons."

As a result of the changes in financing, Salt Rock said its rates would have to be increased. A copy of the following proposed rates and the supporting Tariff Rule 42 financial exhibit were attached to the petition to reopen.

> Second step – For the average residential customer, the monthly bill would increase another 5.78% or $2.74, to $50.60 from $47.86. The commodity charge is $8.80/Mgal, up from $8.32/Mgal. The customer charge is $11.00, up from $10.42. Effective on the earlier of the commencement of its Phase II loan obligations or when the regional plant begins operating.

Salt Rock advised that it was publishing notice of the revised financing and rates, contemporaneously with the filing of the petition to reopen.

An affidavit has been filed reflecting that the notice was published in Cabell County on November 9, 2004. See Affidavit of Publication. The thirty days to protest, then, expired on December 9, 2004. To date, the Commission has not received any protests to the matters proposed in the reopening.[5]

On December 7, 2004, the Commission was advised that on December 6, 2004, the West Virginia Department of Environmental Protection agreed to increase the CWSRF loan to $11,068,062, from $10,770,000. The terms would remain at 0% interest, a 0.5% administrative fee, and 40 years. Salt Rock provided a commitment letter for this financing, which stated that the funds were set aside for a closing to occur within two months. As a result, Salt Rock advised that, through a combination of reduced bids that were opened on November 10, 2004, and this additional CWSRF money, Salt Rock's share of the project would be fully funded by grant and permanent financing, and it would not be necessary to issue a Bond Anticipation Note.

On December 15, 2004, the Commission's Technical Staff advised that the primary cost overruns were experienced at the regional treatment plant. Initial & Final Internal Memorandum p. 2, attached to Initial & Final Joint Staff Memorandum. Consequently, the facility was redesigned and rebid, to bring costs closer to the original budget. However, even after significant redesign, the project requires additional funding. Technical Staff reviewed the revised plans and contract documents, and said it concurred with the overall concept and scope.

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[5] On November 16, 2004, John L. Ford of Ona filed a letter. However, on December 8, 2004, the Commission held that Mr. Ford's concerns did not relate to the limited matters at issue in this reopening. Mr. Ford's letter was the only comment filed with the Commission, following Salt Rock's publication of notice.

In addition, Technical Staff advised that revisions were made to Salt Rock's collection system extension, to reduce costs. Initial & Final Internal Memorandum p. 3, attached to Initial & Final Joint Staff Memorandum. Thirty-six[6] potential customers will be eliminated. Originally, the Salt Rock extension was estimated to serve 714 new customers. However, after revising the project, Salt Rock proposes to add only about 678 customers. Staff advised that the lines to be eliminated are throughout the overall project area. They have relatively low customer density, and consequently there are higher construction costs per customer in the areas to be cut from the project. Id. p. 3.

Technical Staff also advised that Salt Rock has provided a revised WVIJDC commitment letter for the additional grant and loan funds, and a CWSRF commitment letter for the $1,809,002 loan. Id. p. 7. Due to this additional borrowing, Salt Rock needs to increase its Phase II rates and charges 5.7%.

Staff said that the revised project cost and the revised rates were financially feasible and should be approved. Id. p. 9.

Staff provided a revised tariff, which included language modifications so that Salt Rock's tariff provisions would conform to the Commission's Rules for the Construction and Filing of Tariff, 150 C.S.R. Series 2, which became effective December 24, 2002.

Although Salt Rock proposed to increase its Disconnect, Reconnect and Administrative Fees, Staff recommended that these fees remain at $20 because there had been no formal tariff filing or a revision to the current termination agreements. Id. p. 9.

Salt Rock had requested a 37% increase in its wastewater and leachate commodity charges. However, Staff only recommended an increase equal to the 5.7% proposed rate

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[6] These revisions were proposed for Salt Rock's collection system extension:

1. Eliminate the extreme upper end of Line J3, save $78,000, lose 2 customers.
2. Eliminate Line D, save $25,105, lose 2 customers.
3. Eliminate the Kinser Pump Station and Lines B, C and FM1, save $97,730, lose 12 customers.
4. Eliminate the Mud River and Prince Pump Stations and Line FM4A, save $59,390, lose 5 customers.
5. Eliminate the NDS Realty Pump Station and its lines, save $22,150, lose 2 customers.
6. Eliminate a portion of Line E, save $78,000, lose 7 customers.
7. Eliminate the Thornburg Pump Station and its lines, save $57,3000, lose 5 customers.

Initial & Final Internal Memorandum pp. 3-4, attached to Initial & Final Joint Staff Memorandum.

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

increase. Id.

Salt Rock asked that its leak adjustment rate be increased to $2.00/Mgal from 1.13/Mgal. Id. However, Staff advised that an increase consistent with Salt Rock's revised estimate of operation and maintenance expenses would be appropriate. Therefore, Staff recommended a 4% increase, or to $1.28/Mgal.

Finally, Staff recommended that a revised Phase II project cost be approved not to exceed $19,938,062. Id. p. 10.

On December 16, 2004, Salt Rock advised that it agreed with Staff's recommendations and asked the Commission to enter an order adopting Staff's position. Ltr. p. 1.

Milton

Milton serves 1,181 customers in Cabell County. On March 26, 2003, the Commission approved the following funding for Milton's participation in this joint project:

State Revolving Fund Loan, 0% interest, 0.5% administrative fee, 40 years, to construct a portion of Milton system improvements, no real estate related costs	$6,351,371
WVIJDC loan, 0% interest, 40 years, to retire a portion of Milton's 1999 bonds, to construct a portion of Milton system improvements, real estate related costs	$ 485,000

The Commission also approved a $323,373 contribution from Salt Rock to Milton, as part of the Regional Wastewater Treatment Facility and Service agreement.

Milton opened bids for its share of the project on September 8, 2004, and those bids exceeded the estimate by $1,086,903. Milton advised that it has arranged an increase in its WVIJDC loan to cover that amount and provided a commitment letter for the additional funding.

As a result of the revised financing, Milton enacted an ordinance on October 27, 2004, to increase its rates. A copy of those rates, as well as the supporting Tariff Rule 42 financial exhibit were filed with the Commission. Pursuant to the statutory process of W. Va. Code § 24-2-4b, Milton said that its rates would become final if no protests were filed within 30 days of publication of notice. Milton advised that it was in the process of

providing the statutorily required notice.

On December 15, 2004, the Commission's Technical Staff advised that Milton also experienced significantly higher than expected construction costs. Initial & Final Internal Memorandum p. 7, attached to Initial & Final Joint Staff Memorandum. Staff said that Milton had provided the WVIJDC commitment letter for an additional $1,086,903 loan to cover the overrun. Id. p. 8.

Staff also advised that Milton enacted an ordinance to increase its Phase II rates another 4.4%, due to the additional borrowing.

Finally, Staff recommended that a revised Phase II project cost be approved not to exceed $8,246,647. Id. p. 10.

On December 16, 2004, Milton advised that it agreed with Staff's recommendations and asked the Commission to enter an order adopting Staff's position. Ltr. p. 1.

Culloden PSD

Culloden serves 1,180 customers in Cabell and Putnam Counties. On March 26, 2003, the Commission approved the following funding for Culloden's participation in this joint project:

Water Development Authority Loan, same term & rate as Culloden's 1968 bonds	$ 79,000[7]
Water Development Authority Loan, same terms & rate as Culloden's 1980 bonds	$ 87,000[8]
CWSRF Loan, 0% interest, 0.5% administrative fee, not more than 40 years, to refund $542,593 of Culloden's 1999 notes, and payment of Culloden's capital costs	$ 689,000[9]

[7] This funding was not associated with Phase II and has already been closed. Thus, it is not at issue in this reopening.

[8] This funding was not associated with Phase II and has already been closed. Thus, it is not at issue in this reopening.

[9] This funding was not associated with Phase II and has already been closed. Thus, it is not at issue in this reopening.

CWSRF Fund Loan, 0% interest, 0.5% administrative fee, $1,100,000
40 years, to construct Culloden's system improvements

The Commission also approved the following Culloden rates:

Phase II[10] – For the average residential customer, the monthly bill would increase 13.7% or $6.30, to $52.20 from $45.90, commencing with the earlier of its Phase II loan obligations or when the regional plant begins operating. The commodity charge is $11.60/Mgal.

On September 15, 2004, Culloden opened bids for its share of the project, which includes upgrades of Culloden's collection and transmission facilities. These bids were within the cost estimates.

However, Culloden is also required to participate in the cost of the regional treatment plant and in the Phase II transmission line. Since the bids for these matters exceeded projections, Culloden has to increase its rates. Culloden proposed the following rates and filed a supporting Tariff Rule 42 financial exhibit:

Phase II – For the average residential customer, the monthly bill would increase another 4.3% or $2.25, to $54.45 from $52.20, commencing with the earlier of its Phase II loan obligations or when the regional plant begins operating. The commodity charge would be $12.10/Mgal, up from $11.60/Mgal.

Culloden also advised that it was publishing notice of the revised financing and rates, contemporaneously with the filing of the petition to reopen. Affidavits have been filed showing that the notice was published in Kanawha County on November 2 and 9, 2004, and in Cabell County on November 3 and 10, 2004. See Affidavits of Publication.

On December 2, 2004, Culloden's counsel also advised the Commission that the *Charleston Gazette* had represented that the *Gazette* was a paper of general circulation in Putnam County, where 350 of Culloden's customers reside. However, thereafter, counsel was advised that the Secretary of State's office does not recognize the *Charleston Gazette* as a newspaper of general circulation in Putnam County. Accordingly, counsel also submitted notice to the *Hurricane Breeze* in Putnam County and expected publication to be

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[10] The Commission also approved Phase I rates. Those rates are not at issue in this proceeding.

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

made on November 25, 2004.

On November 23, 2004, individual copies of the notice of Culloden's proposed rate increase were mailed to the 350 Culloden customers residing in Putnam County. See Affidavit of Mailing p. 2 (Dec. 2, 2004).

On December 8, 2004, the Commission noted that no protests had been filed within 30 days of Culloden's publication of notice in Cabell and Kanawha Counties. Further, no protest was filed within two weeks of the publication of notice in Putnam County. Under those circumstances, the Commission concluded that Culloden had substantially complied with the requirement to publish notice. Comm'n Order p. 5.

On December 15, 2004, the Commission's Technical Staff advised that bids for Culloden's extension project were within the estimate previously approved by the Commission. Initial & Final Internal Memorandum p. 5, attached to Initial & Final Joint Staff Memorandum. However, Culloden needed to increase its rates 4.3% to meet its increased financial obligations for the regional treatment plant. Id. pp. 8-9.

Staff said that Culloden's revised rates were financially feasible and should be approved. Id. p. 9.

Staff provided a revised tariff, which included language modifications so that Culloden's tariff provisions would conform to the Commission's Rules for the Construction and Filing of Tariff, 150 C.S.R. Series 2, which became effective December 24, 2002.

Although Culloden proposed to increase its Disconnect, Reconnect and Administrative Fees, Staff recommended that these fees remain at $20 because there had been no formal tariff filing or a revision to the current termination agreements. Id. p. 9.

Culloden had requested a 37% increase in its wastewater and leachate commodity charges. However, Staff only recommended an increase equal to the 4.3% proposed rate increase. Id.

Culloden had also asked to increase its tap fee to $350 from $300. Staff recommended no change, though, because Culloden did not provide any financial or operational justification for the increase. Id.

Culloden asked that its leak adjustment rate be increased to $6.05/Mgal from 1.13/Mgal. Id. However, Staff said that an increase consistent with Culloden's revised estimate of operation and maintenance expenses would be appropriate. Therefore, Staff

PUBLIC SERVICE COMMISSION
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recommended an 8% increase, or to $1.22/Mgal.

Finally, Staff recommended that a revised Phase II project cost be approved not to exceed $1,107,500. Id. p. 10.

On December 16, 2004, Culloden advised that it agreed with Staff's recommendations and asked the Commission to enter an order adopting Staff's position. Ltr. p. 1.

DISCUSSION

The public convenience and necessity require these Phase II projects, and additional funding has been secured to cover the bid overruns. Therefore, we agree with the utilities and with Staff that the proposed revisions to Phase II funding should be approved.

Notice has been provided for the revised Phase II rates for Salt Rock and Culloden, and no protests have been filed. Thus, the Commission concludes that the revised rates should be approved, so that the utilities may pay their financial obligations related to these projects.

Staff suggested revisions to Salt Rocks' and Culloden's proposed tariffs. Salt Rock and Culloden have advised that they accept Staff's tariff revisions. The Commission finds Staff's proposed tariffs reasonable and shall adopt them.

The Commission does note, though, that Staff suggested that Salt Rock and Culloden be required to file for rate review within 18 months of substantial completion of the regional treatment plant. The Commission required Salt Rock and Culloden to do this in the Commission's March 26, 2003, order, which remains in effect. Thus, it is not necessary to repeat this requirement in today's order.

FINDINGS OF FACT

1. On March 26, 2003, the Commission granted certificates and approved financing for several related projects to improve sewer service in Cabell and Putnam counties. In connection with these projects, the Commission approved several rate increases for Salt Rock and Culloden.

2. On June 24, 2003, the Commission approved revised financing when Phase I bids came in higher than estimated. The Commission also approved additional funding to cure deficiencies in Salt Rock's existing bonds, so that Salt Rock could close on Phase I

bonds.

3. On November 5, 2004, Salt Rock and Milton petitioned the Commission for approval of revised financing, because bids for the Phase II projects come in over estimates.

4. Salt Rock and Culloden also asked the Commission to approve further rates increases, due to the increased financial obligations required by the Phase II projects.

5. Salt Rock published notice of its revised financing and Phase II rates on November 9, 2004. The thirty-day protest period expired on December 9, 2004. To date, the Commission has not received any protests to the matters proposed in the reopening.

6. Culloden published notice of its revised rates in Kanawha County on November 2, and 9, 2004, and in Putnam County, on November 3 and 10, 2004. Culloden also mailed notice to its customers. On November 25, 2004, Culloden published notice in Putnam County, where 350 of its customers reside.

7. On December 8, 2004, the Commission held that Culloden had substantially complied with the notice requirements.

8. To date, the Commission has not received any protests from Culloden's customers.

9. On December 15, 2004, Commission Staff recommended that the petition to reopen be granted. However, Staff differed with the utilities as to these proposed charges: leak adjustment; wastewater and leachate commodity; disconnect, reconnect and administrative fees; tap fee.

10. On December 16, 2004, Salt Rock, Milton and Culloden advised that they agreed with Staff's recommendations and asked the Commission to enter an order adopting Staff's position. Ltr. p. 1.

CONCLUSIONS OF LAW

1. The public convenience and necessity require these Phase II projects, and additional funding has been secured to cover the bid overruns. Therefore, the proposed revisions to Phase II funding should be approved, as the utilities and Staff have recommended.

2. Notice has been provided for the revised Phase II rates for Salt Rock and Culloden, and no protests have been filed. Thus, the revised rates should be approved, so that the utilities may pay their financial obligations related to these projects.

3. Salt Rocks, Culloden and Staff have agreed to revised tariff provisions, which are consistent with the Commission's Tariff Rules. The Commission should approve those tariff revisions.

ORDER

IT IS THEREFORE ORDERED that the following revised Phase II financing is approved:

Salt Rock

WVIJDC Grant	$ 1,370,000[11]
WVIJDC Loan, 0% interest, 40 years (amortized over 38 years)	$ 7,500,000
CWSRF loan, 0% interest, 0.5% administrative fee, 40 years	$11,068,062
Total Project Cost	$19,938,062

Milton

State Revolving Fund Loan, 0% interest, 0.5% administrative fee, 40 years, to construct a portion of Milton system improvements, no real estate related costs	$ 6,351,371
WVIJDC loan, 0% interest, 40 years, to retire a portion of Milton's 1999 bonds, to construct a portion of Milton system improvements, real estate related costs	$ 1,571,903
Salt Rock Sewer PSD's contribution, pursuant to	

[11] The Commission previously approved a $1 million WVIJDC grant, and in this petition to reopen Salt Rock requested approval of $450,000 more. However, $80,000 of that grant was advanced to Salt Rock in April 2004 to pay for professional real estate services. Therefore, only $1,370,000 remains to be disbursed, and the remaining amount is what the Commission has been requested to approve as part of Salt Rock's revised financing.

previously approved Regional Wastewater Treatment Facility and Service agreement	$ 323,373
Total project cost	$8,246,647

IT IS FURTHER ORDERED that if there are any further changes in the plans, scope, or financing of the Phase II projects, the applicants must petition for the Commission's approval of those changes.

IT IS FURTHER ORDERED that the revised rates for Culloden and Salt Rock are approved, as are fully set forth in the attached tariff sheets. A summary of those rates appears below.

Salt Rock

Second step – For the average residential customer, the monthly bill would increase another 5.78% or $2.74, to $50.60 from $47.86. The commodity charge is $8.80/Mgal, up from $8.32/Mgal. The customer charge is $11.00, up from $10.42. Effective on the earlier of the commencement of its Phase II loan obligations or when the regional plant begins operating.

Culloden

Phase II – For the average residential customer, the monthly bill would increase 4.3% or $2.25, to $54.45 from $52.20, commencing with the earlier of its Phase II loan obligations or when the regional plant begins operating. The commodity charge is increasing to $12.10/Mgal from $11.60/Mgal.

IT IS FURTHER ORDERED that Culloden and Salt Rock shall, respectively, file an original and five copies of revised tariff sheets reflecting these new rates within thirty (30) days of the date of this order.

IT IS FURTHER ORDERED that Salt Rock and Culloden shall begin using the leak adjustment rate on the date of this order as set forth below:

Salt Rock	$1.28 per thousand gallons
Culloden	$1.22 per thousand gallons

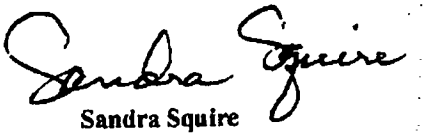
IT IS FURTHER ORDERED that Salt Rock and Culloden shall provide notice of the leak adjustment rate to their customers. They may use the attached notices. Salt Rock and

Culloden shall promptly provide the affidavit(s) of publication.

IT IS FURTHER ORDERED that this proceeding be removed from the Commission's docket of active cases.

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

A True Copy, Teste:



Sandra Squire
Executive Secretary

CLW/sck
020688cj.wpd

EASTERN CABELL COUNTY SEWER PROJECT
CASE NO. 02-0688-PSD-S-CN(REOPENED)
SALT ROCK SEWER PUBLIC SERVICE DISTRICT
STAFF RECOMMENDED TARIFF - PHASE II

(C) APPLICABILITY
Applicable within the entire territory served.

(C) AVAILABILITY
Available for general domestic, commercial and industrial sewer service(except unusual industrial waste).

(C,I) RATES (customers with metered water supply)

Service charge	$11.00 per month
Usage Charge	$8.80 per 1,000 gallons of water usage

(I) FLAT RATE CHARGE (customers with non-metered water supply)
Equivalent of 4,500 gallons of water usage, $50.60 per month.

(C,I) MINIMUM CHARGE
No bill will be rendered for less than $37.40 per month, which is the equivalent of 3,000 gallons of usage.

DELAYED PAYMENT PENALTY
The above schedule is net. On all accounts not paid in full when due, ten percent will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

(C,I) DISCONNECT/RECONNECT/ADMINISTRATIVE FEES
Whenever water service has been disconnected for non-payment of sewer bills in conjunction with a water service termination agreement with WV-American Water Company, a disconnection fee of $20.00 shall be charged; or in the event the delinquent sewer bill is collected by the water company, an administrative fee of $20.00 shall be charged.
Whenever water service, which has been previously disconnected or otherwise withheld for non-payment of a sewer bill in conjunction with a water service termination agreement with WV-American Water Company, is reconnected, a reconnection fee of $20.00 shall be charged.

(I) RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility up to a maximum of $25.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

(C) TAP FEE

The following charges is to be made whenever a utility installs a new tap to serve an applicant.

A tap fee of $300.00 will be charged to customers applying for service outside of a certificate proceeding before the Commission for each new tap to the system.

(I) LEAK ADJUSTMENT

$1.28 per 1,000 gallons of water is to be used when a bill reflects unusual water consumption which can be attributed to eligible leakage on customer's side of meter. This rate shall be applied to all such consumption above the customer's historical average usage.

SCHEDULE II

SURFACE OR GROUND WATER SURCHARGE

An additional amount shall be charged where surface or ground water is introduced into the sanitary system where evidence of a violation exists.

Surcharge formula to be applied in cases where surface drainage is connected to the utility's sewer system.

Applicability

Wherever the utility has discovered that a customer's roof drain, down spouts, storm sewer or other similar facilities conducting surface water have been connected to the District's sewer system, and such customer has failed to take appropriate action, within thirty (30) days of receipt of a demand by the District in accordance with the Rules and Regulations of the Public Service Commission, to eliminate such connection, a surcharge will be imposed upon the customer calculated on the basis of the following formula:

S =	AxRx.0006233xC
S =	The surcharge in dollars
A =	The area under roof and/or the area of any other water collection surface connected to the sanitary sewer, in square feet
R =	The measured monthly rainfall, in inches
.0006233 =	A conversion factor to change inches of rain x square feet of surface to thousands of gallons of water
C =	The District's approved rate per thousand gallons of metered water usage

The utility shall not impose the surcharge unless and until the customer has been notified by Certified Mail, Return Receipt Requested, or by hand delivery, that it has been established by smoke testing, dye testing, or on-site inspection that rain or other surface water is being introduced into the sanitary sewer at the customer's location, and that the customer has not acted within thirty (30) days from receipt of such notice to divert the water from the sanitary sewer system.

Said surcharge shall be calculated and imposed for each month that said condition continues to exist. Failure to pay the surcharge and/or correct the situation shall give rise to the possible termination of water service in accordance with the Rules and Regulations of the Public Service Commission of West Virginia.

SCHEDULE III

SURCHARGE FORMULA TO BE APPLIED TO A CUSTOMER PRODUCING UNUSUAL WASTE

The charge for the treatment of unusual waste will be calculated on the basis of the following formula:

$$Ci = VoVi+BoBi+SoSi$$

Ci =	consumption charge to unusual users.
Vo =	average unit cost of transport and treatment chargeable to volume, in dollars per 1,000 gallons.
Vi =	volume of waste water from unusual users, in 1,000 gallons.
Bo =	average unit of cost of treatment, chargeable to Biochemical Oxygen

Demand (BOD), in dollars per pound.
Bi = weight of BOD from unusual users ,in pounds.
So = average unit costs of treatment (including sludge treatment) chargeable to total solids, in dollars per pound.
Si = weight of total solids from unusual users, in pounds.

When an usual user is to be served, a preliminary study of its wastes, and the cost of transport and treatment thereof, will be made. Waste containing material which, in judgement of the District, should not be introduced into the sewer system need not be handled by it. The results of this preliminary study will be used to determine the feasibility of the proposed sewer service and the charge thereof, based upon the formula set out above.

Thereafter, unusual sewage will be monitored on a regular basis and at the conclusion of each fiscal year, based on the investigation aforesaid and the audit of the District records, new cost figures will be calculated for use in the above formula. The cost of establishing the monitoring facilities shall be paid by the unusual user. Based on these audited figures, additional billings covering the past fiscal year will be made for payment by each unusual user, or refund given by the District, as the case may be. Such audited figures will then be used for the preliminary billing for the next fiscal year, at the end of which an adjustment will be made as aforesaid.

SCHEDULE IV

UNMETERED INDUSTRIAL SEWAGE CHARGE.

Applicability

Inside and outside of the corporate limits of Salt Rock Sewer PSD

Where the amount of sanitary sewage discharged into the Culloden Public Service District wastewater collection and/or transmission and/or treatment system by certain industrial plant or plants cannot be accurately determined by the use of the plant's water meter or meters, and said plant cannot install a flow meter to measure such waste, a special formula will be used whereby such plant or plants will pay to the Culloden Public Service District a sewer charge calculated at fifty (50) gallons of water per each employee at the plant each working day.

SCHEDULE V

(C) APPLICABILITY

Applicable within the entire territory served.

AVAILABILITY

Available for wastewater and leachate haulers.

(I) RATES

Commodity Charge - Each hauler shall pay a commodity charge of $23.13 per 1,000 gallons per load. Load will be the actual capacity oft he truck or other transport method delivering wastewater and leachate.

DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full when due, ten percent will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only for each bill where it is appropriate.

(I) RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility up to a maximum of $25.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

(C) Indicates change in text
(I) Indicates increase

EASTERN CABELL COUNTY SEWER PROJECT
CASE NO. 02-0688-PSD-S-CN(REOPENED)
CULLODEN PUBLIC SERVICE DISTRICT
STAFF RECOMMENDED TARIFF - PHASE II

SCHEDULE I

(C) APPLICABILITY
Applicable within the entire territory served.

(C) AVAILABILITY
Available for general domestic, commercial and industrial sewer service (except unusual industrial waste).

(C,I) RATES (customers with metered water supply)
Usage Charge $12.10 per 1,000 gallons of water usage.

(C,I) FLAT RATE CHARGE (customers with non-metered water supply)
Equivalent of 4,500 gallons of water usage, 54.45 per month.

(C,I) MINIMUM CHARGE
No bill will be rendered for less than $36.30 per month which is equivalent of 3,000 gallons of usage.

DELAYED PAYMENT PENALTY
The above schedule is net. On all accounts not paid in full when due, ten percent will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

(C,I) DISCONNECT/RECONNECT/ADMINISTRATIVE FEES
Whenever water service has been disconnected for non-payment of sewer bills in conjunction with a water service termination agreement with WV-American Water Company, a disconnection fee of $20.00 shall be charged; or in the event the delinquent sewer bill is collected by the water company, an administrative fee of $20.00 shall be charged.
Whenever water service, which has been previously disconnected or otherwise withheld for non-payment of a sewer bill in conjunction with a water service termination agreement with WV-American Water Company, is reconnected, a reconnection fee of $20.00 shall be charged.

(C) RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility up to a maximum of $25.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

(C) TAP FEE

The following charge is to be made whenever a utility installs a new tap to serve an applicant.

A tap fee of $300.00 will be charged to customers applying for service outside of a certificate proceeding before the Commission for each new tap for the system.

(I) LEAK ADJUSTMENT

$1.22 per 1,000 gallons of water is to be used when a bill reflects unusual water consumption which can be attributed to eligible leakage on customer's side of meter. This rate shall be applied to all such consumption above the customer's historical average usage.

SCHEDULE II

(C) SURFACE OR GROUND WATER SURCHARGE

An additional amount shall be charged where surface or ground water is introduced into the sanitary system where evidence of a violation exists.

Surcharge formula to be applied in cases where surface drainage is connected to the utility's sewer system.

Applicability

Whenever the utility has discovered that a customer's roof drain, down spouts, storm sewer or similar facilities conducting surface water have been connected to the utility's sewer system, and such customer has failed to take appropriate action, within thirty (30) days of receipt of a demand by the District in accordance with the Rules of the Public Service Commission, to eliminate such connection, a surcharge will be imposed upon the customer calculated on the basis of the following formula:

S =	AxRx.0006233xC
S =	The surcharge in dollars
A =	The area under roof and/or the area of any other water collection surface connected to the sanitary sewer, in square feet
R =	The measured monthly rainfall, in inches
.0006233 =	A conversion factor to change inches of rain x square feet of surface to thousands of gallons of water
C =	The District's approved rate per thousand gallons of metered water usage

The utility shall not impose the surcharge unless and until the customer has been notified by Certified Mail, Return Receipt Requested, or by hand delivery, that it has been established by smoke testing, dye testing, or on-site inspection that rain or surface water is being introduced into the sanitary sewer system at the customer's location, and that the customer has not acted within thirty (30) days from receipt of such notice to divert the water from the sanitary sewer system.

Said surcharge shall be calculated and imposed for each month that said condition continues to exist. Failure to pay the surcharge and/or correct the situation shall give rise to the possible termination of water service in accordance with the Rules of the Public Service Commission of West Virginia.

SCHEDULE III

SURCHARGE FORMULA TO BE APPLIED TO A CUSTOMER PRODUCING UNUSUAL WASTE

The charge for the treatment of unusual waste will be calculated on the basis of the following formula:

$$Ci = VoVi+BoBi+SoSi$$

Ci =	consumption charge to unusual users.
Vo =	average unit cost of transport and treatment chargeable to volume, in dollars per 1,000 gallons.
Vi =	volume of waste water from unusual users, in 1,000 gallons.
Bo =	average unit of cost of treatment, chargeable to Biochemical Oxygen Demand (BOD), in dollars per pound.

Bi = weight of BOD from unusual users ,in pounds.
So = average unit costs of treatment (including sludge treatment) chargeable to total solids, in dollars per pound.
Si = weight of total solids from unusual users, in pounds.

When an unusual user is to be served, a preliminary study of its wastes, and the cost of transport and treatment thereof, will be made. Waste containing material which, in the judgement of the utility, should not be introduced into the sewer system need not be handled by it. The results of the preliminary study will be used to determine the feasibility of the proposed sewer service and the charge therefore, based upon the formula set out above.

Thereafter, unusual sewage will be monitored on a regular basis and at the conclusion of each fiscal year, based on the investigation aforesaid and audit of the utility records, new cost figures will be calculated for use in the above formula. The cost of establishing the monitoring facilities shall be paid by the unusual user. Based on these audited figures, additional billings covering the past fiscal year will be made for payment by each unusual user, or refund given by the utility, as the case may be. Such audited figures will then be used for the preliminary billing for the next fiscal year, at the end of which an adjustment will be made as aforesaid.

SCHEDULE IV

UNMETERED INDUSTRIAL SEWAGE CHARGE.

Applicability

Inside and outside of the Corporate limits of Culloden PSD

Where the amount of sanitary sewage discharged into the Culloden Public Service District wastewater collection and/or transmission and/or treatment system by certain industrial plant or plants cannot be accurately determined by the use of the plant's water meter or meters, and said plant cannot install a flow meter to measure such waste, a special formula will be used whereby such plant or plants will pay to the Culloden Public Service District a sewer charge calculated at fifty (50) gallons of water per each employee at the plant each working day.

SCHEDULE V

(C) APPLICABILITY

Applicable within the entire territory served.

AVAILABILITY

Available for wastewater and leachate haulers.

(I) RATES

Commodity Charge - Each hauler shall pay a commodity charge of $22.84 per 1,000 gallons per load. Load will be the actual capacity of the truck or other transport method delivering wastewater and leachate.

DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full when due, ten percent will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only for each bill where it is appropriate.

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility up to a maximum of $25.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

(C) Indicates change in text
(I) Indicates increase

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 17th day of December, 2004.

CASE NO. 02-0688-PSD-S-CN (REOPENED)

SALT ROCK SEWER PUBLIC SERVICE DISTRICT; CITY OF MILTON; CULLODEN PUBLIC SERVICE DISTRICT; and WEST VIRGINIA-AMERICAN WATER COMPANY

Joint application for certificates of convenience and necessity for construction of a Regional Sewer Project to serve Eastern Cabell County and for the construction of improvements and extensions to each Party's System; for approval of related financing; and for approval of certain agreements related thereto.

NOTICE OF Leak Adjustment Rate

By Order issued on December 17, 2004, the Public Service Commission authorized Salt Rock Public Service District to change its leak adjustment increment. For certain line leaks on the customer's side of the meter, Salt Rock will use $1.28 per thousand gallons to recalculate bills.

Salt Rock Public Service District

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 17th day of December, 2004.

CASE NO. 02-0688-PSD-S-CN (REOPENED)

SALT ROCK SEWER PUBLIC SERVICE DISTRICT; CITY OF MILTON; CULLODEN PUBLIC SERVICE DISTRICT; and WEST VIRGINIA-AMERICAN WATER COMPANY

Joint application for certificates of convenience and necessity for construction of a Regional Sewer Project to serve Eastern Cabell County and for the construction of improvements and extensions to each Party's System; for approval of related financing; and for approval of certain agreements related thereto.

NOTICE OF Leak Adjustment Rate

By Order issued on December 17, 2004, the Public Service Commission authorized Culloden Public Service District to change its leak adjustment increment. For certain line leaks on the customer's side of the meter, Culloden will use $1.22 per thousand gallons to recalculate bills.

Culloden Public Service District

West Virginia Infrastructure & Jobs Development Council

Public Members:
Russell L. Isaacs, Chairman
Cottageville
Henry Harmon, Vice Chairman
Hurricane
Dwight Calhoun
Petersburg
William P. Stafford, II, Esq.
Princeton

300 Summers Street, Suite 980
Charleston, West Virginia 25301
Telephone: (304) 558-4607
Facsimile: (304) 558-4609

Katy Mallory, PE
Executive Secretary

KMallory@ezwv.com

June 5, 2002

The Honorable Tommy Harbour
Mayor, City of Milton
1139 Smith Street
Milton, WV 25530

Re: City of Milton
Sewer Project 96S-183

Dear Mayor Harbour:

The West Virginia Infrastructure and Jobs Development Council (the "Infrastructure Council") has reviewed the City of Milton's (the "City") revised preliminary application regarding its proposed project to construct a wastewater collection facility for new sewer customers in the City and rehabilitate existing lines (the "Project").

Based on the findings of the Sewer Technical Review Committee, the Infrastructure Council has determined that the Project is technically feasible within the guidelines of the Infrastructure and Jobs Development Act. The City should carefully review the enclosed comments of the Sewer Technical Review Committee as the City may need to address certain issues raised in said comments as it proceeds with the Project.

Upon consideration of the revised preliminary application, the Infrastructure Council recommends that the City utilize a Clean Water State Revolving Fund loan of $6,476,371 and a SRSPSD Regional contribution of $323,373 and voted to offer the City a binding commitment for an Infrastructure Fund loan of $360,000 (0%, 40 years) to finance its $7,159,744 Project.

In order to receive the proposed binding commitment the City must adhere to a certain project schedule. Please contact Katy Mallory at 558-4607 by **July 30, 2002** to establish the necessary schedule and finalize the proposed binding commitment.

Sincerely,

Russell L. Isaacs

Enclosure
cc: Mike Johnson, DEP (w/o enclosure)
Region II Planning & Development Council
Howard K. Bell, Consulting Engineers, Inc.
John Stump, Steptoe & Johnson

SRF-BPA-1
(11/01/04)

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").

TOWN OF MILTON
(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 Recipient As-Built Plans, as defined in the SRF Regulations, to it within 60 days of the completion of the Project. The Local Government shall notify DEP in writing of such receipt. The Local Government shall submit a Performance Certificate, the form of which is attached hereto as Exhibit A, and being incorporated herein by reference, to DEP within 60 days of the end of the first year after the Project is completed.

2.10 The Local Government shall require the Consulting Engineers to submit the final Operation and Maintenance Manual, as defined in the SRF Regulations, to DEP when the Project is 90% completed. The Local Government 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 qualified operating personnel properly certified by the State before the Project is 50% complete and shall retain such a certified operator(s) to operate the System during the entire term of this Bond Purchase Agreement. The Local Government shall notify DEP in writing of the certified operator employed at the 50% completion stage.

2.11 The Local Government hereby covenants and agrees to comply with all applicable laws, rules and regulations issued by the Authority, DEP or other State, federal or local bodies in regard to the construction of the Project and operation, maintenance and use of the System.

2.12 The Local Government, commencing on the date contracts are executed for the 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 10th 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 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." Notwithstanding the foregoing, the Date of Closing shall in no event occur more than ninety (90) days after the date of execution of this Bond Purchase Agreement by the Authority or such later date as is agreed to in writing by DEP.

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.

TOWN OF MILTON

(SEAL)

By: _____
Its: Mayor
Date: December 16, 2004

Attest:

_____
Its: Recorder

WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION, DIVISION OF WATER AND WASTE MANAGEMENT

By: _____
Its: Director
Date: 12-20-04

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

(SEAL)

By: _____
Its: Director
Date: December 16, 2004

Attest:

Barbara B Meadows
Its: Secretary-Treasurer

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** _____

Item	Current Month	Total Year To Date	Budget Year To Date	Budget Year To Date Minus Total Year To Date
1. Gross Revenues	_____	_____	_____	_____
2. Operating Expenses	_____	_____	_____	_____
3. Bond Payments:				
Type of Issue				
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 10th 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 firm[1] 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 thereof[2], 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.

WITNESS my signature and seal on this _____ day of _____, _____.

_____

By _____

West Virginia License No. __

[SEAL]

---

[1]If 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".

[2]If 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. CLOSING IS CONTINGENT upon receipt of final (signed) title opinion, PSC Final Order and Adopted Sewer Use Ordinance to be submitted to later than 30 days after closing.

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

Principal Amount of Local Bonds	$6,351,371
Purchase Price of Local Bonds	$6,351,371

The Local Bonds shall bear no interest. Commencing December 1, 2006, principal of the Local Bonds is payable quarterly, with an administrative fee of ½%. 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.

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:

1. Sewer Revenue Bonds, Series 2004 B (West Virginia Infrastructure Fund), December 29, 2004, issued in the original principal amount of $1,571,903.

SCHEDULE Y

$6,351,371

Town of Milton

40 Years, 0% Interest Rate, 0.5% Administrative Fee

Closing Date: December 29, 2004

Debt Service Schedule

Date	Principal	Coupon	Total P+I
03/01/2005	-	-	-
06/01/2005	-	-	-
09/01/2005	-	-	-
12/01/2005	-	-	-
03/01/2006	-	-	-
06/01/2006	-	-	-
09/01/2006	-	-	-
12/01/2006	41,512.23	-	41,512.23
03/01/2007	41,512.23	-	41,512.23
06/01/2007	41,512.23	-	41,512.23
09/01/2007	41,512.23	-	41,512.23
12/01/2007	41,512.23	-	41,512.23
03/01/2008	41,512.23	-	41,512.23
06/01/2008	41,512.23	-	41,512.23
09/01/2008	41,512.23	-	41,512.23
12/01/2008	41,512.23	-	41,512.23
03/01/2009	41,512.23	-	41,512.23
06/01/2009	41,512.23	-	41,512.23
09/01/2009	41,512.23	-	41,512.23
12/01/2009	41,512.23	-	41,512.23
03/01/2010	41,512.23	-	41,512.23
06/01/2010	41,512.23	-	41,512.23
09/01/2010	41,512.23	-	41,512.23
12/01/2010	41,512.23	-	41,512.23
03/01/2011	41,512.23	-	41,512.23
06/01/2011	41,512.23	-	41,512.23
09/01/2011	41,512.23	-	41,512.23
12/01/2011	41,512.23	-	41,512.23
03/01/2012	41,512.23	-	41,512.23
06/01/2012	41,512.23	-	41,512.23
09/01/2012	41,512.23	-	41,512.23
12/01/2012	41,512.23	-	41,512.23
03/01/2013	41,512.23	-	41,512.23
06/01/2013	41,512.23	-	41,512.23
09/01/2013	41,512.23	-	41,512.23
12/01/2013	41,512.23	-	41,512.23
03/01/2014	41,512.23	-	41,512.23
06/01/2014	41,512.23	-	41,512.23
09/01/2014	41,512.23	-	41,512.23
12/01/2014	41,512.23	-	41,512.23
03/01/2015	41,512.23	-	41,512.23
06/01/2015	41,512.23	-	41,512.23
09/01/2015	41,512.23	-	41,512.23
12/01/2015	41,512.23	-	41,512.23

$6,351,371

Town of Milton

40 Years, 0% Interest Rate, 0.5% Administrative Fee

Closing Date: December 29, 2004

Debt Service Schedule

Date	Principal	Coupon	Total P+I
03/01/2016	41,512.23	-	41,512.23
06/01/2016	41,512.23	-	41,512.23
09/01/2016	41,512.23	-	41,512.23
12/01/2016	41,512.23	-	41,512.23
03/01/2017	41,512.23	-	41,512.23
06/01/2017	41,512.23	-	41,512.23
09/01/2017	41,512.23	-	41,512.23
12/01/2017	41,512.23	-	41,512.23
03/01/2018	41,512.23	-	41,512.23
06/01/2018	41,512.23	-	41,512.23
09/01/2018	41,512.23	-	41,512.23
12/01/2018	41,512.23	-	41,512.23
03/01/2019	41,512.23	-	41,512.23
06/01/2019	41,512.23	-	41,512.23
09/01/2019	41,512.23	-	41,512.23
12/01/2019	41,512.23	-	41,512.23
03/01/2020	41,512.23	-	41,512.23
06/01/2020	41,512.23	-	41,512.23
09/01/2020	41,512.23	-	41,512.23
12/01/2020	41,512.23	-	41,512.23
03/01/2021	41,512.23	-	41,512.23
06/01/2021	41,512.23	-	41,512.23
09/01/2021	41,512.23	-	41,512.23
12/01/2021	41,512.23	-	41,512.23
03/01/2022	41,512.23	-	41,512.23
06/01/2022	41,512.23	-	41,512.23
09/01/2022	41,512.23	-	41,512.23
12/01/2022	41,512.23	-	41,512.23
03/01/2023	41,512.23	-	41,512.23
06/01/2023	41,512.23	-	41,512.23
09/01/2023	41,512.23	-	41,512.23
12/01/2023	41,512.23	-	41,512.23
03/01/2024	41,512.23	-	41,512.23
06/01/2024	41,512.23	-	41,512.23
09/01/2024	41,512.23	-	41,512.23
12/01/2024	41,512.23	-	41,512.23
03/01/2025	41,512.23	-	41,512.23
06/01/2025	41,512.23	-	41,512.23
09/01/2025	41,512.23	-	41,512.23
12/01/2025	41,512.23	-	41,512.23
03/01/2026	41,512.23	-	41,512.23
06/01/2026	41,512.23	-	41,512.23
09/01/2026	41,512.23	-	41,512.23
12/01/2026	41,512.23	-	41,512.23

$6,351,371

Town of Milton

40 Years, 0% Interest Rate, 0.5% Administrative Fee

Closing Date: December 29, 2004

Debt Service Schedule

Date	Principal	Coupon	Total P+I
03/01/2027	41,512.23	-	41,512.23
06/01/2027	41,512.23	-	41,512.23
09/01/2027	41,512.23	-	41,512.23
12/01/2027	41,512.23	-	41,512.23
03/01/2028	41,512.23	-	41,512.23
06/01/2028	41,512.23	-	41,512.23
09/01/2028	41,512.23	-	41,512.23
12/01/2028	41,512.23	-	41,512.23
03/01/2029	41,512.23	-	41,512.23
06/01/2029	41,512.23	-	41,512.23
09/01/2029	41,512.23	-	41,512.23
12/01/2029	41,512.23	-	41,512.23
03/01/2030	41,512.23	-	41,512.23
06/01/2030	41,512.23	-	41,512.23
09/01/2030	41,512.23	-	41,512.23
12/01/2030	41,512.23	-	41,512.23
03/01/2031	41,512.23	-	41,512.23
06/01/2031	41,512.23	-	41,512.23
09/01/2031	41,512.23	-	41,512.23
12/01/2031	41,512.23	-	41,512.23
03/01/2032	41,512.23	-	41,512.23
06/01/2032	41,512.23	-	41,512.23
09/01/2032	41,512.23	-	41,512.23
12/01/2032	41,512.23	-	41,512.23
03/01/2033	41,512.23	-	41,512.23
06/01/2033	41,512.23	-	41,512.23
09/01/2033	41,512.23	-	41,512.23
12/01/2033	41,512.23	-	41,512.23
03/01/2034	41,512.23	-	41,512.23
06/01/2034	41,512.23	-	41,512.23
09/01/2034	41,512.23	-	41,512.23
12/01/2034	41,512.23	-	41,512.23
03/01/2035	41,512.23	-	41,512.23
06/01/2035	41,512.23	-	41,512.23
09/01/2035	41,512.23	-	41,512.23
12/01/2035	41,512.23	-	41,512.23
03/01/2036	41,512.23	-	41,512.23
06/01/2036	41,512.23	-	41,512.23
09/01/2036	41,512.23	-	41,512.23
12/01/2036	41,512.23	-	41,512.23
03/01/2037	41,512.23	-	41,512.23
06/01/2037	41,512.23	-	41,512.23
09/01/2037	41,512.23	-	41,512.23
12/01/2037	41,512.23	-	41,512.23

$6,351,371

Town of Milton

40 Years, 0% Interest Rate, 0.5% Administrative Fee

Closing Date: December 29, 2004

Debt Service Schedule

Date	Principal	Coupon	Total P+I
03/01/2038	41,512.23	-	41,512.23
06/01/2038	41,512.23	-	41,512.23
09/01/2038	41,512.23	-	41,512.23
12/01/2038	41,512.23	-	41,512.23
03/01/2039	41,512.23	-	41,512.23
06/01/2039	41,512.23	-	41,512.23
09/01/2039	41,512.23	-	41,512.23
12/01/2039	41,512.23	-	41,512.23
03/01/2040	41,512.23	-	41,512.23
06/01/2040	41,512.22	-	41,512.22
09/01/2040	41,512.22	-	41,512.22
12/01/2040	41,512.22	-	41,512.22
03/01/2041	41,512.22	-	41,512.22
06/01/2041	41,512.22	-	41,512.22
09/01/2041	41,512.22	-	41,512.22
12/01/2041	41,512.22	-	41,512.22
03/01/2042	41,512.22	-	41,512.22
06/01/2042	41,512.22	-	41,512.22
09/01/2042	41,512.22	-	41,512.22
12/01/2042	41,512.22	-	41,512.22
03/01/2043	41,512.22	-	41,512.22
06/01/2043	41,512.22	-	41,512.22
09/01/2043	41,512.22	-	41,512.22
12/01/2043	41,512.22	-	41,512.22
03/01/2044	41,512.22	-	41,512.22
06/01/2044	41,512.22	-	41,512.22
09/01/2044	41,512.22	-	41,512.22
12/01/2044	41,512.22	-	41,512.22
Total	**$6,351,371.00**	**-**	**$6,351,371.00** *

***Plus $3,995.56 one-half percent administrative fee paid quarterly. Total fee over life of loan is $611,320.68.**

Yield Statistics

Bond Year Dollars	$132,884.79
Average Life	20.922 Years
Average Coupon	-
Net Interest Cost (NIC)	-
True Interest Cost (TIC)	1.67E-10
Bond Yield for Arbitrage Purposes	1.67E-10
All Inclusive Cost (AIC)	0.4579794%

IRS Form 8038

Net Interest Cost	-
Weighted Average Maturity	20.922 Years

IC-1
(11/01/04)

LOAN AGREEMENT

THIS LOAN AGREEMENT, made and entered into in several counterparts, by and between the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY, a governmental instrumentality and body corporate of the State of West Virginia (the "Authority"), acting on behalf of the WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL (the "Council"), and the governmental agency designated below (the "Governmental Agency").

TOWN OF MILTON
(Governmental Agency)

W I T N E S S E T H:

WHEREAS, pursuant to the provisions of Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended (the "Act"), the Authority is empowered upon request of the Council to make loans to governmental agencies for the acquisition or construction of projects by such governmental agencies, subject to such provisions and limitations as are contained in the Act;

WHEREAS, the Governmental Agency constitutes a governmental agency as defined by the Act;

WHEREAS, the Governmental Agency is authorized and empowered by the statutes of the State to acquire, construct, improve, operate and maintain a project, as defined by the Act, and to finance the cost of acquisition and construction of the same by borrowing money to be evidenced by revenue bonds issued by the Governmental Agency;

WHEREAS, the Governmental Agency intends to construct, is constructing or has constructed such a project at the location and as more particularly described and set forth in the Application, as hereinafter defined (the "Project");

WHEREAS, the Governmental Agency has completed and filed with the Authority an Application for a Construction Loan with attachments and exhibits and an Amended Application for a Construction Loan also with attachments and exhibits (together,

as further revised and supplemented, the "Application"), which Application is incorporated herein by this reference; and

WHEREAS, having reviewed the Application and made all findings required by the Act and having available sufficient funds therefor, the Council has authorized the Authority to lend the Governmental Agency the amount set forth on Schedule X attached hereto and incorporated herein by reference, through the purchase of revenue bonds of the Governmental Agency with money in the Infrastructure Fund, subject to the Governmental Agency's satisfaction of certain legal and other requirements of the Council's loan program (the "Program") as hereinafter set forth.

NOW, THEREFORE, in consideration of the premises and the mutual agreements hereinafter contained, the Governmental Agency and the Authority hereby agree as follows:

ARTICLE I

Definitions

1.1 Except where the context clearly indicates otherwise, the terms "Authority," "cost," "Council," "governmental agency," "project," "waste water facility" and "water facility" have the definitions and meanings ascribed to them in the Act.

1.2 "Authority" means the West Virginia Water Development Authority, which is expected to be the original purchaser of the Bonds, acting in its administrative capacity pursuant to Section 10 of the Act and upon authorization from the Council.

1.3 "Consulting Engineers" means the professional engineer, licensed by the State, designated in the Application and any qualified successor thereto; provided, however, when a Loan is made for a Project financed, in part, by the Office of Abandoned Mine Lands, "Consulting Engineers" shall mean the West Virginia Department of Environmental Protection, or any successor thereto.

1.4 "Infrastructure Fund" means the West Virginia Infrastructure Fund established in accordance with Section 9 of the Act.

1.5 "Loan" means the loan to be made by the Authority to the Governmental Agency through the purchase of Local Bonds, as hereinafter defined, pursuant to this Loan Agreement.

1.6 "Local Act" means the official action of the Governmental Agency required by Section 4.1 hereof, authorizing the Local Bonds.

1.7 "Local Bonds" means the revenue bonds to be issued by the Governmental Agency pursuant to the provisions of the Local Statute, as hereinafter defined, to evidence the Loan and to be purchased by the Authority, all in accordance with the provisions of this Loan Agreement.

1.8 "Local Statute" means the specific provisions of the Code of West Virginia, 1931, as amended, pursuant to which the Local Bonds are issued.

1.9 "Operating Expenses" means the reasonable, proper and necessary costs of operation and maintenance of the System, as hereinafter defined, as should normally and regularly be included as such under generally accepted accounting principles.

1.10 "Project" means the project hereinabove referred to, to be constructed or being constructed by the Governmental Agency in whole or in part with the net proceeds of the Local Bonds.

1.11 "System" means the project owned by the Governmental Agency, of which the Project constitutes all or to which the Project constitutes an improvement, and any improvements thereto hereafter constructed or acquired from any sources whatsoever.

1.12 Additional terms and phrases are defined in this Loan Agreement as they are used.

ARTICLE II

The Project and the System

2.1 The Project shall generally consist of the construction and acquisition of the facilities described in the Application, to be, being or having been constructed in accordance with plans, specifications and designs prepared for the Governmental Agency by the Consulting Engineers, the Authority and Council having found, to the extent applicable, that the Project is consistent with the Act.

2.2 Subject to the terms, conditions and provisions of this Loan Agreement and the Local Act, the Governmental Agency has acquired, or shall do all things necessary to acquire, the proposed site of the Project and shall do, is doing or has done all things necessary to construct the Project in accordance with the plans, specifications and designs prepared for the Governmental Agency by the Consulting Engineers.

2.3 All real estate and interests in real estate and all personal property constituting the Project and the Project site heretofore or hereafter acquired shall at all times be and remain the property of the Governmental Agency, subject to any mortgage lien or other security interest as is provided for in the Local Statute unless a sale or transfer of all or a portion of said property or any interest therein is approved by the Authority and Council.

2.4 The Governmental Agency agrees that the Authority and the Council and their duly authorized agents shall have the right at all reasonable times to enter upon the Project site and Project facilities and to examine and inspect the same. The Governmental Agency further agrees that the Authority and the Council and their duly authorized agents and representatives 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 the Council with respect to the System pursuant to the pertinent provisions of the Act.

2.5 The Governmental Agency shall keep complete and accurate records of the cost of acquiring the Project site and the costs of constructing, acquiring and installing the Project. The Governmental Agency shall permit the Authority and the Council, acting by and through their directors or their duly authorized agents and representatives, to inspect all books, documents, papers and records relating to the Project and the System at any and all reasonable times for the purpose of audit and examination, and the Governmental Agency shall submit to the Authority and the Council such documents and information as they may reasonably require in connection with the construction, acquisition and installation of the Project, the operation and maintenance of the System and the administration of the Loan or of any State and federal grants or other sources of financing for the Project.

2.6 The Governmental Agency agrees that it will permit the Authority and the Council and their agents and representatives to have access to the records of the Governmental Agency pertaining to the operation and maintenance of the System at any reasonable time following completion of construction of the Project and commencement of operation thereof or if the Project is an improvement to an existing system at any reasonable time following commencement of construction.

2.7 The Governmental Agency shall require that each construction contractor furnish a performance bond and a payment bond, each in an amount at least equal to one hundred percent (100%) of the contract price of the portion of the Project covered by the particular contract as security for the faithful performance of such contract and shall verify or have verified such bonds prior to commencement of construction.

2.8 The Governmental Agency shall require that each of its contractors and all subcontractors maintain, during the life of the construction contract, workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Council and the Authority and shall verify or have verified such insurance prior to commencement of construction. Until the Project facilities are completed and accepted by the Governmental Agency, the Governmental Agency or (at the option of the Governmental Agency) the contractor shall maintain builder's risk insurance (fire and extended coverage) on a one hundred percent (100%) basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Governmental Agency, the prime contractor and all subcontractors, as their interests may appear. If facilities of the System

which are detrimentally affected by flooding are or will be located in designated special flood or mudslide-prone areas and if flood insurance is available at a reasonable cost, a flood insurance policy must be obtained by the Governmental Agency on or before the Date of Loan Closing, as hereinafter defined, and maintained so long as any of the Local Bonds is outstanding. Prior to commencing operation of the Project, the Governmental Agency must also obtain, and maintain so long as any of the Local Bonds are outstanding, business interruption insurance if available at a reasonable cost.

2.9 The Governmental Agency 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 Authority, the Council and the Governmental Agency at the completion of construction that construction is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies.

2.10 The Governmental Agency shall at all times provide operation and maintenance of the System in compliance with any and all State and federal standards. The Governmental Agency shall employ qualified operating personnel properly certified by the State to operate the System during the entire term of this Loan Agreement.

2.11 The Governmental Agency hereby covenants and agrees to comply with all applicable laws, rules and regulations issued by the Council, the Authority or other State, federal or local bodies in regard to the construction of the Project and operation, maintenance and use of the System.

2.12 The Governmental Agency, commencing on the date contracts are executed for the 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 C and incorporated herein by reference, and forward a copy by the 10th of each month to the Authority and Council.

ARTICLE III

Conditions to Loan;
Issuance of Local Bonds

3.1 The agreement of the Authority and Council to make the Loan is subject to the Governmental Agency's fulfillment, to the satisfaction of the Authority and the Council, of each and all of those certain conditions precedent on or before the delivery date

for the Local Bonds, which shall be the date established pursuant to Section 3.4 hereof. Said conditions precedent are as follows:

(a) The Governmental Agency shall have performed and satisfied all of the terms and conditions to be performed and satisfied by it in this Loan Agreement;

(b) The Governmental Agency shall have authorized the issuance of and delivery to the Authority of the Local Bonds described in this Article III and in Article IV hereof;

(c) The Governmental Agency shall either have received bids or entered into contracts for the construction of the Project which are in an amount and otherwise compatible with the plan of financing described in the Application; provided that, if the Loan will refund an interim construction financing, the Governmental Agency must either be constructing or have constructed its Project for a cost and as otherwise compatible with the plan of financing described in the Application; and, in either case, the Authority and the Council shall have received a certificate of the Consulting Engineers to such effect, the form of which certificate is attached hereto as Exhibit A;

(d) The Governmental Agency shall have obtained all permits required by the laws of the State and the federal government necessary for the construction of the Project, and the Authority and the Council shall have received a certificate of the Consulting Engineers to such effect;

(e) The Governmental Agency shall have obtained all requisite orders of and approvals from the Public Service Commission of West Virginia (the "PSC") and the 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 the Council shall have received an opinion of counsel to the Governmental Agency, which may be local counsel to the Governmental Agency, bond counsel or special PSC counsel but must be satisfactory to the Authority and the Council, to such effect;

(f) The Governmental Agency shall have obtained any and all approvals for the issuance of the Local Bonds required by State law, and the Authority and the Council shall have received an opinion of counsel to the Governmental Agency, which may be local counsel to the Governmental Agency, bond counsel or special PSC counsel but must be satisfactory to the Authority, to such effect;

(g) The Governmental Agency shall have obtained any and all approvals of rates and charges required by State law and shall have taken any other action required to establish and impose such rates and charges (imposition of such rates and charges is not, however, required to be effective until completion of construction of the Project), with all requisite appeal periods having expired without successful appeal, and the Authority and the Council shall have received an opinion of counsel to the Governmental Agency, which

may be local counsel to the Governmental Agency, bond counsel or special PSC counsel but must be satisfactory to the Authority and the Council, to such effect;

(h) Such rates and charges for the System shall be sufficient to comply with the provisions of Subsections 4.1(a) and 4.1(b)(ii) hereof, and the Authority and the Council shall have received a certificate of the accountant for the Governmental Agency, or such other person or firm experienced in the finances of governmental agencies and satisfactory to the Authority and the Council, to such effect; and

(i) The net proceeds of the Local Bonds, together with all moneys on deposit or to be simultaneously deposited (or, with respect to proceeds of grant anticipation notes or other indebtedness for which a binding purchase contract has been entered, to be deposited on a date certain) and irrevocably pledged thereto and the proceeds of grants irrevocably committed therefor, shall be sufficient to pay the costs of construction and acquisition of the Project as set forth in the Application, and the Authority shall have received a certificate of the Consulting Engineers, or such other person or firm experienced in the financing of projects and satisfactory to the Authority and the Council, to such effect, such certificate to be in form and substance satisfactory to the Authority and the Council, and evidence satisfactory to the Authority and the Council of such irrevocably committed grants.

3.2 Subject to the terms and provisions of this Loan Agreement, the rules and regulations promulgated by the Authority, the Council or any other appropriate State agency and any applicable rules, regulations and procedures promulgated from time to time by the federal government, it is hereby agreed that the Authority shall make the Loan to the Governmental Agency and the Governmental Agency shall accept the Loan from the Authority, and in furtherance thereof it is agreed that the Governmental Agency shall sell to the Authority and the Authority shall make the Loan by purchasing the Local Bonds in the principal amount and at the price set forth in Schedule X hereto. The Local Bonds shall have such further terms and provisions as described in Article IV hereof.

3.3 The Loan shall be secured and shall be repaid in the manner hereinafter provided in this Loan Agreement.

3.4 The Local Bonds shall be delivered to the Authority, at the offices of the Authority, on a date designated by the Governmental Agency by written notice to the Authority, which written notice shall be given not less than ten (10) business days prior to the date designated; provided, however, that if the Authority is unable to accept delivery on the date designated, the Local Bonds shall be delivered to the Authority on a date as close as possible to the designated date and mutually agreeable to the Authority, the Council and the Governmental Agency. The date of delivery so designated or agreed upon is hereinafter referred to as the "Date of Loan Closing." Notwithstanding the foregoing, the Date of Loan Closing shall in no event occur more than ninety (90) days after the date of execution of this Loan Agreement by the Authority or such later date as is agreed to in writing by the Council.

3.5 The Governmental Agency understands and acknowledges that it is one of several governmental agencies which have applied to the Council for loans from the Infrastructure Fund to finance projects and that the obligation of the Authority to make any such loan is subject to the Council's authorization and the Governmental Agency's fulfilling all of the terms and conditions of this Loan Agreement on or prior to the Date of Loan Closing. The Governmental Agency specifically recognizes that the Authority will not purchase the Local Bonds unless and until sufficient funds are available in the Infrastructure Fund to purchase all the Local Bonds and that, prior to execution of this Loan Agreement, the Authority may commit to and purchase the revenue bonds of other governmental agencies for which it has sufficient funds available.

ARTICLE IV

Local Bonds; Security for Loan; Repayment of Loan; Interest on Loan; Fees and Charges

4.1 The Governmental Agency shall, as one of the conditions of the Authority to make the Loan, authorize the issuance of and issue the Local Bonds pursuant to an official action of the Governmental Agency in accordance with the Local Statute, which shall, as adopted or enacted, contain provisions and covenants in substantially the form as follows, unless the specific provision or covenant is modified or waived by the Council:

(a) That the gross revenues of the System shall always be used for purposes of the System. Such gross revenues shall 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 (which, with an approving opinion of bond counsel to the Governmental Agency, may be with a letter of credit or surety) 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 Governmental Agency has existing outstanding indebtedness which has greater coverage or renewal and replacement fund requirements, then the greater requirements will prevail until said existing indebtedness is paid in full.

(b) Covenants substantially as follows:

(i) That the Local Bonds shall be secured by a pledge of either the gross or net revenues of the System, as more fully set forth in Schedule X attached hereto and 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 Governmental Agency shall complete the Project and operate and maintain the System in good condition;

(iv) That, except as otherwise required by State law or with the written consent of the Council and the Authority, the System may not be sold, mortgaged, leased or otherwise disposed of, except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to pay fully all the Local Bonds outstanding, with further restrictions on the disposition of portions of the System as are normally contained in such covenants;

(v) That the Governmental Agency shall not issue any other obligations payable from the revenues of the System which rank prior to, or equally, as to lien and security with the Local Bonds, except parity bonds which shall only be issued if net revenues of the System prior to issuance of such parity bonds, plus reasonably projected

revenues from rate increases and the improvements to be financed by such parity bonds, 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 the Council; provided, however, that additional parity bonds may be issued to complete the Project, as described in the Application as of the date hereof, without regard to the foregoing;

(vi) That the Governmental Agency will carry such insurance as is customarily carried with respect to works and properties similar to the System, including those specified by Section 2.8 hereof;

(vii) That the Governmental Agency will not render any free services of the System;

(viii) That the Authority may, by proper legal action, compel the performance of the duties of the Governmental Agency under the Local Act, including the making and collection of sufficient rates or charges for services rendered by the System, and shall also have, in the event of a default in payment of principal of or interest on the Local Bonds, the right to obtain the appointment of a receiver to administer the System or construction of the Project, or both, as provided by law;

(ix) That, to the extent authorized by the laws of the State and the rules and regulations of the PSC, all delinquent rates and charges, if not paid when due, shall become a lien on the premises served by the System;

(x) That, to the extent legally allowable, the Governmental Agency will not grant any franchise to provide any services which would compete with the System;

(xi) That the Governmental Agency shall annually cause the records of the System to be audited by an independent certified public accountant or independent public accountant and shall submit the report of said audit to the Authority and the Council, 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 Governmental Agency's revenues are adequate to meet its Operating Expenses and debt service and reserve requirements;

(xii) That the Governmental Agency 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 the Council 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, must (a) be deposited in a construction fund, which, except as otherwise agreed to in writing by the Authority, shall be held separate and apart from all other funds of the Governmental Agency and on which the owners of the Local Bonds shall have a lien until such proceeds are applied to the construction of the Project (including the repayment of any incidental interim financing) and/or (b) be used to pay (or redeem) bond anticipation notes or other interim financing of such Governmental Agency, the proceeds of which were used to finance the construction of the Project; provided that, with the prior written consent of the Authority and the Council, the proceeds of the Local Bonds may be used to fund all or a portion of the Reserve Account, on which the owner of the Local Bonds shall have a lien as provided herein;

(xv) That, as long as the Authority is the owner of any of the Local Bonds, the Governmental Agency may not redeem any Local Bonds by it without the written consent of the Authority and the Council and otherwise in compliance with this Loan Agreement;

(xvi) That the West Virginia Municipal Bond Commission (the "Commission") shall serve as paying agent for the Local Bonds;

(xvii) That the Governmental Agency 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 Governmental Agency shall complete the Monthly Payment Form, attached hereto as Exhibit D 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 Governmental Agency 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 Governmental Agency shall take any and all action, or shall refrain from taking any action regarding the use of the proceeds of the Local Bonds, as shall be deemed necessary by the Authority to maintain the exclusion from gross income for federal income tax purposes of interest on the State's general obligation bonds or any bonds secured by the Local Bonds;

(xx) That the Governmental Agency shall have obtained the certificate of the Consulting Engineer in the form attached hereto as Exhibit A, 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 the Council, the Project is adequate for the purposes for which it was designed, the funding plan as submitted to the Authority and the Council 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;

(xxi) That the Governmental Agency 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 Governmental Agency, then the Governmental Agency shall enter into a termination agreement with the water provider;

(xxii) That the Governmental Agency shall furnish to the Authority such information with respect to earnings on all funds constituting "gross proceeds" of the Local Bonds (as that term is defined in the Internal Revenue Code of 1986, as amended) from time to time as the Authority may request;

(xxiii) That the Governmental Agency shall submit all proposed change orders to the Council for written approval. The Governmental Agency shall obtain the written approval of the Council before expending any proceeds of the Local Bonds held in "contingency" as set forth in the final Schedule B attached to the certificate of the Consulting Engineer. The Governmental Agency shall obtain the written approval of the Council before expending any proceeds of the Local Bonds available due to bid/construction/project underruns;

(xxiv) That the Governmental Agency shall list the funding 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; and

(xxv) That, unless it qualifies for an exception, the Governmental Agency shall comply with all the requirements of Chapter 21, Article 1C of the Code of West Virginia, 1931, as amended (the "West Virginia Jobs Act") and shall require its contractors and subcontractors to comply with the West Virginia Jobs Act. The Governmental Agency shall provide the Council and the Authority with a certificate stating that (I) the Governmental Agency will comply with all the requirements of the West Virginia Jobs Act; (II) the Governmental Agency has included the provisions of the West Virginia Jobs Act in each contract and subcontract for the Project; (III) the Governmental Agency has received or will receive, prior to entering into contracts or subcontracts, from each contractor or subcontractor a certificate demonstrating compliance with Section 4 of the West Virginia

Jobs Act or waiver certificates from the West Virginia Division of Labor ("DOL"); and (IV) the Governmental Agency will file with the DOL and the Council copies of the waiver certificates and certified payrolls or comparable documents that include the number of employees, the county and state wherein the employees reside and their occupation, following the procedures established by the DOL. The monthly requisitions submitted to the Council shall also certify that the Governmental Agency is monitoring compliance by its contractors and subcontractors and that the required information has been submitted.

The Governmental Agency hereby represents and warrants that the Local Act has been or shall be duly adopted in compliance with all necessary corporate and other action and in accordance with applicable provisions of law. All legal matters incident to the authorization, issuance, validity, sale and delivery of the Local Bonds shall be approved without qualification by recognized bond counsel acceptable to the Authority in substantially the form of legal opinion attached hereto as Exhibit B.

4.2 The Loan shall be secured by the pledge and assignment by the Governmental Agency, as effected by the Local Act, of the fees, charges and other revenues of the Governmental Agency from the System as further set forth by and subject only to such reservations and exceptions as are described in Schedules X and Y hereto or are otherwise expressly permitted in writing by the Authority and the Council.

4.3 The principal of the Loan shall be repaid by the Governmental Agency on the days and in the years provided in Schedule X hereto. Interest payments on the Loan shall be made by the Governmental Agency on a quarterly basis as provided in said Schedule X.

4.4 The Loan shall bear interest from the date and at the rate or rates per annum set forth on Schedule X hereto. In no event shall the interest rate on or the net interest cost of the Local Bonds exceed any statutory limitation with regard thereto.

4.5 The Local Bonds shall be delivered to the Authority in fully registered form, transferable and exchangeable as provided in the Local Act at the expense of the Governmental Agency. Anything to the contrary herein notwithstanding, the Local Bonds may be issued in one or more series, as reflected by Schedule X hereto.

4.6 The Governmental Agency agrees to expend the net proceeds of the Local Bonds for the Project within 3 years of the issuance of the bonds which are the source of money used to purchase the Local Bonds, unless otherwise agreed to by the Council.

ARTICLE V

Certain Covenants of the Governmental Agency; Imposition and Collection of User Charges; Payments To Be Made by Governmental Agency to the Authority

5.1 The Governmental Agency hereby irrevocably covenants and agrees to comply with all of the terms, conditions and requirements of this Loan Agreement and the Local Act. The Governmental Agency hereby further irrevocably covenants and agrees that, as one of the conditions of the Authority to make the Loan, it has fixed and collected, or will fix and collect, the rates, fees and other charges for the use of the System 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 Loan Agreement, the Governmental Agency hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates, fees and charges (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 Loan Agreement.

5.3 In the event the Governmental Agency defaults in the payment due to the Authority pursuant to this Loan Agreement, the amount of such default shall bear interest at the interest rate of the installment of the Loan next due, from the date of the default until the date of the payment thereof.

5.4 The Governmental Agency hereby irrevocably covenants and agrees with the Authority that, in the event of any default hereunder by the Governmental Agency, the Authority may exercise any or all of the rights and powers granted under the Act and State law, including, without limitation, the right to an appointment of a receiver.

ARTICLE VI

Other Agreements of the Governmental Agency

6.1 The Governmental Agency hereby warrants and represents that all information provided to the Authority and the Council in this Loan Agreement, in the Application or in any other application or documentation with respect to financing the Project was at the time, and now is, true, correct and complete, and such information does not omit

any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. Prior to the Authority's making the Loan and receiving the Local Bonds, the Authority and the Council shall have the right to cancel all or any of their obligations under this Loan Agreement if (a) any representation made to the Authority and the Council by the Governmental Agency in connection with the Loan shall be incorrect or incomplete in any material respect or (b) the Governmental Agency has violated any commitment made by it in its Application or in any supporting documentation or has violated any of the terms of the Act or this Loan Agreement.

6.2 The Governmental Agency hereby covenants that it will rebate any amounts required by Section 148 of the Internal Revenue Code of 1986, as amended, and will take all steps necessary to make any such rebates. In the event the Governmental Agency fails to make any such rebates as required, then the Governmental Agency shall pay any and all penalties, obtain a waiver from the Internal Revenue Service and take any other actions necessary or desirable to preserve the exclusion from gross income for federal income tax purposes of interest on the Local Bonds.

6.3 Notwithstanding Section 6.2, the Authority may at any time, in its sole discretion, cause the rebate calculations prepared by or on behalf of the Governmental Agency to be monitored or cause the rebate calculations for the Governmental Agency to be prepared, in either case at the expense of the Governmental Agency.

6.4 The Governmental Agency hereby agrees to give the Authority and the Council 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.

6.5 The Governmental Agency hereby agrees to file with the Authority and the Council upon completion of acquisition and construction of the Project a schedule in substantially the form of Amended Schedule B to the Application, setting forth the actual costs of the Project and sources of funds therefor.

ARTICLE VII

Miscellaneous

7.1 Additional definitions, additional terms and provisions of the Loan and additional covenants and agreements of the Governmental Agency, if any, may be set forth in Schedule Z attached hereto and incorporated herein by reference, with the same effect as if contained in the text of this Loan Agreement.

7.2 Schedules X and Y shall be attached to this Loan Agreement by the Authority as soon as practicable after the Date of Loan Closing is established and shall be

approved by an official action of the Governmental Agency supplementing the Local Act, a certified copy of which official action shall be submitted to the Authority and the Council.

7.3 The Authority shall take all actions required by the Council in making and enforcing this Loan Agreement.

7.4 If any provision of this Loan Agreement shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not affect any of the remaining provisions of this Loan Agreement, and this Loan Agreement shall be construed and enforced as if such invalid or unenforceable provision had not been contained herein.

7.5 This Loan Agreement may be executed in one or more counterparts, any of which shall be regarded for all purposes as an original and all of which constitute but one and the same instrument. Each party agrees that it will execute any and all documents or other instruments and take such other actions as may be necessary to give effect to the terms of this Loan Agreement.

7.6 No waiver by either party of any term or condition of this Loan Agreement shall be deemed or construed as a waiver of any other terms or conditions, nor shall a waiver of any breach be deemed to constitute a waiver of any subsequent breach, whether of the same or of a different section, subsection, paragraph, clause, phrase or other provision of this Loan Agreement.

7.7 This Loan Agreement supersedes all prior negotiations, representations and agreements between the parties hereto relating to the Loan and constitutes the entire agreement between the parties hereto in respect thereof.

7.8 The Authority acknowledges that certain terms and requirements in this Loan Agreement may not be applicable when the Project is financed in part by the West Virginia Department of Environmental Protection, Office of Abandoned Mine Lands and under that circumstance those terms and requirements are specifically waived or modified as agreed to by the Authority and set forth in the Local Act.

7.9 By execution and delivery of this Loan Agreement, notwithstanding the date hereof, the Governmental Agency specifically recognizes that it is hereby agreeing to sell its Local Bonds to the Authority and that such obligation may be specifically enforced or subject to a similar equitable remedy by the Authority.

7.10 This Loan Agreement shall terminate upon the earlier of:

(i) the end of ninety (90) days after the date of execution hereof by the Authority or such later date as is agreed to in writing by the Council if the Governmental Agency has failed to deliver the Local Bonds to the Authority;

(ii) termination by the Authority and the Council pursuant to Section 6.1 hereof; or

(iii) payment in full of the principal of and interest on the Loan and of any fees and charges owed by the Governmental Agency to the Authority, acting on behalf of the Council.

IN WITNESS WHEREOF, the parties hereto have caused this Loan Agreement to be executed by their respective duly authorized officers as of the date executed below by the Authority.

TOWN OF MILTON

(SEAL)

By: _____
Its: Mayor
Date: December 29, 2004

Attest:

_____
Its: Recorder

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

(SEAL)

By: _____
Its: Director
Date: December 29, 2004

Attest:

Barbara B. Meadows
Its: Secretary-Treasurer

000832/00466
11/01/04

M0310341.1

EXHIBIT A

FORM OF CERTIFICATE OF CONSULTING ENGINEER

_____
(Issuer)

_____
(Name of Bonds)

I, _____, Registered Professional Engineer, West Virginia License No. _____, of _____, Consulting Engineers,_____, _____ hereby certify 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 meanings set forth in the bond _____ adopted or enacted by the Issuer on _____, and 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"), 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 [DEP/BPH/PSC] and any change orders approved by the Issuer, the Council 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 the Schedule B attached hereto as Exhibit A and my firm[1] 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/BPH/PSC] 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 thereof, [2]the rates and charges for the System as adopted by the Issuer will be sufficient to comply with the provisions of the Loan Agreement; (x) the net proceeds of the Bonds, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants, if any, irrevocably committed therefor, are sufficient to pay the costs of acquisition and construction of the Project set forth in the Schedule B attached hereto and approved by the Council; and (xi) attached hereto as Exhibit A is the final amended "Schedule B - Final Total Cost of Project, Sources of Funds and Costs of Financing" for the Project.

WITNESS my signature and seal on this ____ day of _____, ___.

[SEAL]

_____

By: _____
West Virginia License No. _____

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[1]If 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".

[2]If 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 B

OPINION OF BOND COUNSEL FOR GOVERNMENTAL AGENCY

[To Be Dated as of Date of Loan Closing]

West Virginia Infrastructure and
Jobs Development Council
300 Summers Street, Suite 980
Charleston, West Virginia 25301

West Virginia Water Development Authority
180 Association Drive
Charleston, West Virginia 25311

Ladies and Gentlemen:

We are bond counsel to _____ (the "Governmental Agency"), a _____.

We have examined a certified copy of proceedings and other papers relating to the authorization of (i) a loan agreement dated _____, _____, including all schedules and exhibits attached thereto (the "Loan Agreement"), between the Governmental Agency and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council"), and (ii) the issue of a series of revenue bonds of the Governmental Agency, dated _____, _____ (the "Local Bonds"), to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Local Bonds are issued in the principal amount of $_____, in the form of one bond, registered as to principal and interest to the Authority, with interest and principal payable quarterly on March 1, June 1, September 1 and December 1 of each year, beginning _____, 1, _____, and ending _____, 1, _____, as set forth in the "Schedule Y" attached to the Loan Agreement and incorporated in and made a part of the Local Bonds.

The Local Bonds are issued for the 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 Governmental Agency on _____, as supplemented by the supplemental resolution duly adopted by the Governmental Agency on _____ (collectively, the "Local Act"), pursuant to and under which Local Statute and Local Act the Local Bonds are authorized and issued, and the Loan Agreement has been undertaken. The Local Bonds are subject to redemption prior

to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Local Act and the Loan Agreement.

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

1. The Loan Agreement has been duly authorized by and executed on behalf of the Governmental Agency and is a valid and binding special obligation of the Governmental Agency, enforceable in accordance with the terms thereof.

2. The Loan Agreement inures to the benefit of the Authority and the Council and cannot be amended so as to affect adversely the rights of the Authority or the Council or diminish the obligations of the Governmental Agency without the consent of the Authority and the Council.

3. The Governmental Agency 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 Governmental Agency and constitute valid and binding obligations of the Governmental Agency, enforceable against the Governmental Agency 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 Loan Agreement.

5. The Local Bonds have been duly authorized, issued, executed and delivered by the Governmental Agency to the Authority and are valid, legally enforceable and binding special obligations of the Governmental Agency, 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,

EXHIBIT C

MONTHLY FINANCIAL REPORT

Name of Governmental Agency _____
Name of Bond Issue(s)_____
Type of Project _____**Water**_____**Wastewater**
Fiscal Year _____**Report Month**_____

Item	Current Month	Total Year To Date	Budget Year To Date	Budget Year To Date Minus Total Year To Date
1. Gross Revenues	_____	_____	_____	_____
2. Operating Expenses	_____	_____	_____	_____
3. Bond Payments:				
Type of Issue				
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

M0310341.1

INSTRUCTIONS FOR COMPLETING MONTHLY FINANCIAL REPORT

Item 1 You will need a copy of the current fiscal year budget adopted by the Governmental Agency 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 Governmental Agency 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 Governmental Agency.

The Governmental Agency must complete the Monthly Financial Report and forward it to the Water Development Authority by the 10th 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 D

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 Governmental Agency] on [Date].

Sinking Fund:

Interest	$____
Principal	$____
Total:	$____
Reserve Account:	$____

Witness my signature this ___ day of_____.

[Name of Governmental Agency]

By: _____
Authorized Officer

Enclosure: copy of check(s)

SCHEDULE X

DESCRIPTION OF LOCAL BONDS

Principal Amount of Local Bonds	$1,571,903
Purchase Price of Local Bonds	$1,571,903

The Local Bonds shall bear no interest. Commencing December 1, 2006, principal of the Local Bonds is payable quarterly. 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 Governmental Agency shall submit its payments monthly to the Commission which will make quarterly payments to the Authority at such address as is given to the Commission in writing by the Authority.

The Local Bonds are fully registered in the name of the Authority as to interest, if any, and principal and the Local Bonds shall grant the Authority a first lien on the gross or net revenues of the Governmental Agency's system as provided in the Local Act.

The Governmental Agency may prepay the Local Bonds in full at any time at the price of par but only with the Council's written consent. The Governmental Agency shall request approval from the Authority and Council in writing of any proposed debt which will be issued by the Governmental Agency on a parity with the Local Bonds which request must be filed at least 60 days prior to the intended date of issuance.

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 Governmental Agency:

1. Sewer Revenue Bonds, Series 2004 A (West Virginia SRF Program), dated December 29, 2004, issued in the original principal amount of $6,351,371.

SCHEDULE Y

$1,571,903

Town of Milton
40 Years, 0% Interest Rate
Closing Date: December 29, 2004

Debt Service Schedule

Date	Principal	Coupon	Total P+I
03/01/2005	-	-	-
06/01/2005	-	-	-
09/01/2005	-	-	-
12/01/2005	-	-	-
03/01/2006	-	-	-
06/01/2006	-	-	-
09/01/2006	-	-	-
12/01/2006	10,273.88	-	10,273.88
03/01/2007	10,273.88	-	10,273.88
06/01/2007	10,273.88	-	10,273.88
09/01/2007	10,273.88	-	10,273.88
12/01/2007	10,273.88	-	10,273.88
03/01/2008	10,273.88	-	10,273.88
06/01/2008	10,273.88	-	10,273.88
09/01/2008	10,273.88	-	10,273.88
12/01/2008	10,273.88	-	10,273.88
03/01/2009	10,273.88	-	10,273.88
06/01/2009	10,273.88	-	10,273.88
09/01/2009	10,273.88	-	10,273.88
12/01/2009	10,273.88	-	10,273.88
03/01/2010	10,273.88	-	10,273.88
06/01/2010	10,273.88	-	10,273.88
09/01/2010	10,273.88	-	10,273.88
12/01/2010	10,273.88	-	10,273.88
03/01/2011	10,273.88	-	10,273.88
06/01/2011	10,273.88	-	10,273.88
09/01/2011	10,273.88	-	10,273.88
12/01/2011	10,273.88	-	10,273.88
03/01/2012	10,273.88	-	10,273.88
06/01/2012	10,273.88	-	10,273.88
09/01/2012	10,273.88	-	10,273.88
12/01/2012	10,273.88	-	10,273.88
03/01/2013	10,273.88	-	10,273.88
06/01/2013	10,273.88	-	10,273.88
09/01/2013	10,273.88	-	10,273.88
12/01/2013	10,273.88	-	10,273.88
03/01/2014	10,273.88	-	10,273.88
06/01/2014	10,273.88	-	10,273.88
09/01/2014	10,273.88	-	10,273.88
12/01/2014	10,273.88	-	10,273.88
03/01/2015	10,273.88	-	10,273.88
06/01/2015	10,273.88	-	10,273.88
09/01/2015	10,273.88	-	10,273.88
12/01/2015	10,273.88	-	10,273.88

$1,571,903

Town of Milton

40 Years, 0% Interest Rate

Closing Date: December 29, 2004

Debt Service Schedule

Date	Principal	Coupon	Total P+I
03/01/2016	10,273.88	-	10,273.88
06/01/2016	10,273.88	-	10,273.88
09/01/2016	10,273.88	-	10,273.88
12/01/2016	10,273.88	-	10,273.88
03/01/2017	10,273.88	-	10,273.88
06/01/2017	10,273.88	-	10,273.88
09/01/2017	10,273.88	-	10,273.88
12/01/2017	10,273.88	-	10,273.88
03/01/2018	10,273.88	-	10,273.88
06/01/2018	10,273.88	-	10,273.88
09/01/2018	10,273.88	-	10,273.88
12/01/2018	10,273.88	-	10,273.88
03/01/2019	10,273.88	-	10,273.88
06/01/2019	10,273.88	-	10,273.88
09/01/2019	10,273.88	-	10,273.88
12/01/2019	10,273.88	-	10,273.88
03/01/2020	10,273.88	-	10,273.88
06/01/2020	10,273.88	-	10,273.88
09/01/2020	10,273.88	-	10,273.88
12/01/2020	10,273.88	-	10,273.88
03/01/2021	10,273.88	-	10,273.88
06/01/2021	10,273.88	-	10,273.88
09/01/2021	10,273.88	-	10,273.88
12/01/2021	10,273.88	-	10,273.88
03/01/2022	10,273.88	-	10,273.88
06/01/2022	10,273.88	-	10,273.88
09/01/2022	10,273.88	-	10,273.88
12/01/2022	10,273.88	-	10,273.88
03/01/2023	10,273.88	-	10,273.88
06/01/2023	10,273.88	-	10,273.88
09/01/2023	10,273.88	-	10,273.88
12/01/2023	10,273.88	-	10,273.88
03/01/2024	10,273.88	-	10,273.88
06/01/2024	10,273.88	-	10,273.88
09/01/2024	10,273.88	-	10,273.88
12/01/2024	10,273.88	-	10,273.88
03/01/2025	10,273.88	-	10,273.88
06/01/2025	10,273.88	-	10,273.88
09/01/2025	10,273.88	-	10,273.88
12/01/2025	10,273.88	-	10,273.88
03/01/2026	10,273.88	-	10,273.88
06/01/2026	10,273.88	-	10,273.88
09/01/2026	10,273.88	-	10,273.88
12/01/2026	10,273.88	-	10,273.88

$1,571,903

Town of Milton

40 Years, 0% Interest Rate

Closing Date: December 29, 2004

Debt Service Schedule

Date	Principal	Coupon	Total P+I
03/01/2027	10,273.88	-	10,273.88
06/01/2027	10,273.88	-	10,273.88
09/01/2027	10,273.88	-	10,273.88
12/01/2027	10,273.88	-	10,273.88
03/01/2028	10,273.88	-	10,273.88
06/01/2028	10,273.88	-	10,273.88
09/01/2028	10,273.88	-	10,273.88
12/01/2028	10,273.88	-	10,273.88
03/01/2029	10,273.87	-	10,273.87
06/01/2029	10,273.87	-	10,273.87
09/01/2029	10,273.87	-	10,273.87
12/01/2029	10,273.87	-	10,273.87
03/01/2030	10,273.87	-	10,273.87
06/01/2030	10,273.87	-	10,273.87
09/01/2030	10,273.87	-	10,273.87
12/01/2030	10,273.87	-	10,273.87
03/01/2031	10,273.87	-	10,273.87
06/01/2031	10,273.87	-	10,273.87
09/01/2031	10,273.87	-	10,273.87
12/01/2031	10,273.87	-	10,273.87
03/01/2032	10,273.87	-	10,273.87
06/01/2032	10,273.87	-	10,273.87
09/01/2032	10,273.87	-	10,273.87
12/01/2032	10,273.87	-	10,273.87
03/01/2033	10,273.87	-	10,273.87
06/01/2033	10,273.87	-	10,273.87
09/01/2033	10,273.87	-	10,273.87
12/01/2033	10,273.87	-	10,273.87
03/01/2034	10,273.87	-	10,273.87
06/01/2034	10,273.87	-	10,273.87
09/01/2034	10,273.87	-	10,273.87
12/01/2034	10,273.87	-	10,273.87
03/01/2035	10,273.87	-	10,273.87
06/01/2035	10,273.87	-	10,273.87
09/01/2035	10,273.87	-	10,273.87
12/01/2035	10,273.87	-	10,273.87
03/01/2036	10,273.87	-	10,273.87
06/01/2036	10,273.87	-	10,273.87
09/01/2036	10,273.87	-	10,273.87
12/01/2036	10,273.87	-	10,273.87
03/01/2037	10,273.87	-	10,273.87
06/01/2037	10,273.87	-	10,273.87
09/01/2037	10,273.87	-	10,273.87
12/01/2037	10,273.87	-	10,273.87

$1,571,903

Town of Milton

40 Years, 0% Interest Rate

Closing Date: December 29, 2004

Debt Service Schedule

Date	Principal	Coupon	Total P+I
03/01/2038	10,273.87	-	10,273.87
06/01/2038	10,273.87	-	10,273.87
09/01/2038	10,273.87	-	10,273.87
12/01/2038	10,273.87	-	10,273.87
03/01/2039	10,273.87	-	10,273.87
06/01/2039	10,273.87	-	10,273.87
09/01/2039	10,273.87	-	10,273.87
12/01/2039	10,273.87	-	10,273.87
03/01/2040	10,273.87	-	10,273.87
06/01/2040	10,273.87	-	10,273.87
09/01/2040	10,273.87	-	10,273.87
12/01/2040	10,273.87	-	10,273.87
03/01/2041	10,273.87	-	10,273.87
06/01/2041	10,273.87	-	10,273.87
09/01/2041	10,273.87	-	10,273.87
12/01/2041	10,273.87	-	10,273.87
03/01/2042	10,273.87	-	10,273.87
06/01/2042	10,273.87	-	10,273.87
09/01/2042	10,273.87	-	10,273.87
12/01/2042	10,273.87	-	10,273.87
03/01/2043	10,273.87	-	10,273.87
06/01/2043	10,273.87	-	10,273.87
09/01/2043	10,273.87	-	10,273.87
12/01/2043	10,273.87	-	10,273.87
03/01/2044	10,273.87	-	10,273.87
06/01/2044	10,273.87	-	10,273.87
09/01/2044	10,273.87	-	10,273.87
12/01/2044	10,273.87	-	10,273.87
Total	**$1,571,903.00**	**-**	**$1,571,903.00**

Yield Statistics

Bond Year Dollars	$32,887.70
Average Life	20.922 Years
Average Coupon	-
Net Interest Cost (NIC)	-
True Interest Cost (TIC)	1.67E-10
Bond Yield for Arbitrage Purposes	1.67E-10
All Inclusive Cost (AIC)	1.67E-10

IRS Form 8038

Net Interest Cost	-
Weighted Average Maturity	20.922 Years

SCHEDULE Z

None.

CITY OF MILTON, WEST VIRGINIA

ORDINANCE NO. 937.03

AN ORDINANCE ESTABLISHING AND FIXING RATES, FEES, AND CHARGES THE CITY OF MILTON WILL CHARGE ITS CITIZENS AND ITS CUSTOMERS LOCATED OUTSIDE OF ITS CORPORATE LIMITS, FOR THE COLLECTION AND TREATMENT OF SANITARY SEWAGE.

. WHEREAS, bids that were received by the City of Milton for the City's proposed improvement project and by Salt Rock Sewer Public Service District for the Regional Wastewater Treatment Plant at Salt Rock came in much higher than anticipated due to recent increases in the cost of steel and concrete; and

WHEREAS, the City Council of the City of Milton deems it advisable and necessary that its present sewer rates and charges for service provided to customers of its sewer system be increased in order that the City may cover the cost of necessary upgrades to its collection system and to pay its share of the cost of the regional wastewater treatment plant located at Salt Rock, Cabell County, West Virginia, in order to meet State and Federal regulatory requirements and the terms of a consent decree entered into by the City with the Division of Environmental Protection, and

WHEREAS, the City Council of the City of Milton finds that the following rates are just and equitable for the service provided to its sewer customers through the use of its sewerage collection system and that such rates will be sufficient to meet its going-level expenses and for the upgrading, maintenance and operation of its sewerage collection and connection to the regional treatment plant at Salt Rock.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MILTON as follows:

The following schedule of rates, fees and charges are hereby fixed and determined as the rates, fees and charges to be charged to customers of the sewerage system of the City of Milton throughout the entire territory served:

SECTION 1. RULES AND REGULATIONS

I. Rules and Regulations for the Government of Sewerage Utilities, adopted by the Public Service Commission of West Virginia, and now in effect, and all amendments thereto and modifications thereof hereafter made by said Commission.

(N) II. WATER METERS

Each meter shall be considered a separate billing unit in applying the rates. The registration of water on two or more meters shall be combined and billed to each user as though registered on one meter **in the event that the meters are located in only one facility with one sanitary sewer connection** subject to the approval of the Milton Municipal Utilities Commission (MUC).

In the event any person, form or corporation discharging sanitary sewage, industrial waste, water or other liquid in the City's POTW, either directly or indirectly, obtains part or all of the water used by him from sources other than the MUC and/or West Virginia-American Water Company, such user of other water shall, at his own expenses, install and maintain water meters satisfactory to the MUC for measuring all water usage other than that obtained from the MUC and/or West Virginia-American Water Company, and the quantity of water used to determine the sewerage service charge, as above set forth, shall be the sum of the quantity measured by all such meters plus the quantity of water obtained from the MUC and/or West Virginia-American Water Company.

(N) III. WATER NOT ENTERING THE POTW

In the event it is established to the satisfaction of the MUC that a portion of the water measured by the above-named meter or meters does not and cannot enter the public sanitary sewerage system, and in the event that the total water used by such person, firm or corporation exceeds 250,000 gallons per month, then the MUC may determine, in such manner and by such method as it may deem practical, the percentage of the metered water entering the sanitary sewerage system, or the MUC may require or permit the installation of additional meters in such a manner as to determine either the quantity of the water excluded from the sewerage system of the quantity of water, sewerage or industrial waste actually entering the sewerage system, exclusive of storm water runoff. The sewerage service charge shall be based upon the quantity of water estimated, measured or computed by the MUC to be actually entering the sewerage system, exclusive of storm water runoff, subject to the minimum charge provision.

Persons, industries or corporations requesting consideration for a reduction in the sewerage service charge because of water not entering the POTW shall make written application to the MUC for such consideration, giving the name of the firm, industry or business, address, MUC and/or West Virginia-American Water account number and supporting data fully describing other sources entering the POTW. Upon request by the MUC, the application shall be accompanied by a sketch to approximate scale showing the plan of the property, water distribution system, sewer layout, existing meters and any proposed meters in sufficient detail to determine the quantity of flow entering, or not entering, the sewerage system. The cost of furnishing, installing and maintaining any meters other than those utilized to measure water purchased from the MUC and/or West Virginia-American Water Company shall be borne by the applicant. The type, size, location, arrangement and maintenance of such meters shall be subject to the approval of the MUC.

SECTION 2. RATES

SCHEDULE I

APPLICABILITY

Applicable within the entire territory served.

AVAILABILITY OF SERVICE

Available for domestic, commercial, industrial sewer service (except unusual industrial waste).

(C,I) **RATES:**

First	100,000 gallons of water used per month	**$11.10** per 1,000 gallons
All Over	100,000 gallons of water used per month	**10.25** per 1,000 gallons

(N) **FLAT RATE CHARGE** (non metered water supply)

Equivalent of 4,500 gallons of water usage, **$49.95** per month.

(C,I) **MINIMUM CHARGE**

No bill will be rendered for less than **$24.98** per month which is the equivalent 2,250 gallons of water per customer per month

(C,I) **RETURNED CHECK CHARGE**

A service charge of **$25.00** will be imposed upon any customer whose check for payment of charges is returned by the bank due to any reason.

(C,I) **DISCONNECT/RECONNECT/ADMINISTRATIVE FEES**

Whenever water service has been disconnected for non-payment of sewer bills, a disconnection fee of $25.00 shall be charged: or in the event the delinquent sewer bill is collected to avoid termination (after workers have gone to the property to terminate), an administrative fee of **$25.00** will be charged.

Whenever water service, which has been previously disconnected or otherwise withheld for non-payment of a sewer bill reconnected a reconnection fee of **$25.00** shall be charged.

DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full when due, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

SERVICE CONNECTION CHARGE

$300.00

(I) **LEAK ADJUSTMENT**

$5.60 per 1,000 gallons of water is to be used when a bill reflects unusual water consumption which can be attributed to eligible leakage on customer's side of meter. This rate shall be applied to all such consumption above the customer's historical average usage.

SCHEDULE II

(C) **SURFACE OR GROUND WATER SURCHARGE**

An additional amount shall be charged where surface or ground water is introduced into the sanitary system where evidence of a violation exists.

Surcharge formula to be applied in cases where surface drainage is connected to the utility's sewer system.

APPLICABILITY

Whenever the utility has discovered that a customer's roof drain, down spout, storm sewer or similar facilities conducting surface water have been connected to the utility's sewer system, and such customer has failed to take appropriate action, within thirty (30) days of receipt of a demand by the utility in accordance with the Rules of the Public Service Commission to eliminate such connection, a surcharge will be imposed upon the customer calculated on the basis of the following formula:

$$S = A \times R \times .0006233 \times C$$

S	=	The surcharge in dollars
A	=	The area under roof and/or the area of any other water collection surface connected to the sanitary sewer, in square feet
R	=	The measured monthly rainfall, in inches
.0006233	=	A conversion factor to change inches of rain z square feet of surface to thousands of gallons of water
.0008333	=	A conversion factor to change inches of rain x square feet of surface water to $ per 100 cubic feet
C	=	The utility's approved rate per thousand gallons of metered water usage

The Utility shall not impose the surcharge unless and until the customer has been notified by certified mail, return receipt requested, or by hand delivery, that it has been established by smoke testing, dye testing, or on-site inspection that rain or other surface water is being introduced into the sanitary sewer system at the customer's location, and that the customer has not acted within thirty (30) days from receipt of such notice to divert the water from the sanitary sewer system.

Said surcharge shall be calculated and imposed for each month that said condition continues to exist. Failure to pay the surcharge and/or correct the situation shall give rise to the possible termination of water service in accordance with the Rules and Regulations of the Public Service Commission of West Virginia.

SCHEDULE III

SURCHARGE FORMULA TO BE APPLIED IN THE CASE OF USERS PRODUCING UNUSUAL WASTE

The charge for the treatment of unusual waste will be calculated on the basis of the following formula:

$$Ci = VoVi + BoBi + SoSi$$

Ci = charge to unusual users per year

Vo = average unit cost of transport and treatment chargeable to volume, in dollars per gallon

Vi = volume of waste water from unusual users, in gallons per year

Bo = average unit cost of treatment, chargeable to Biochemical Oxygen Demand (BOD) in dollars per year

Bi = weight of BOD from unusual users, in pounds per year

So = average unit costs of treatment (including sludge treatment chargeable to total solids, in dollars per pound

Si = weight of total solids from unusual users, in pounds per year

When an unusual user is to be served, a preliminary study of its wastes, and the cost of transport and treatment thereof, will be made. Waste containing material which, in the judgement of the Milton Municipal Utilities Commission, should not be introduced into the sewer system need not be handled by it. The results of this preliminary study will be used to determine the feasibility of the proposed sewer service and the charge thereof, based upon the formula set out above.

Thereafter, unusual sewage will be monitored on a regular basis and at the conclusion of each fiscal year, based on the investigation aforesaid and audit of the Milton Municipal Utilities Commission records, new cost figures will be calculated for use in the above formula. The cost of establishing the monitoring facilities shall be paid by the unusual user. Based on these audited figures, additional billings covering the past fiscal year will be made for payment by each unusual user, or refund given by the Milton Municipal Utilities Commission, as the case may be. Such audited figures will then be used for the preliminary billing for the next fiscal year, at the end of which an adjustment will be made as aforesaid.

SCHEDULE IV

APPLICABLE INSIDE AND OUTSIDE OF THE CORPORATE LIMITS OF MILTON

Where the amount of sanitary sewage discharged into the Milton waste treatment system by certain industrial plant or plants cannot be accurately determined by the use of the plant's water meter or meters, and said plant cannot install a flow meter to measure such waste, a special formula will be used whereby

such plant or plants will pay to the Milton Municipal Utilities Commission a sewer charge calculated at fifty (50) gallons of water per each employee at the plant each working day.

SCHEDULE V

APPLICABILITY

Applicable in entire territory served.

AVAILABILITY OF SERVICE

Available for wastewater and leachate haulers.

(I) **RATES**

Commodity Charge – Each hauler shall pay a commodity charge of **$44.00** per 1,000 gallons per load. Load will be the actual capacity of the truck or other transport method delivering wastewater and leachate. Actual capacity shall be determined or verified by the City.

(I) **RETURNED CHECK CHARGE**

A service charge of **$25.00** will be imposed upon any customer whose check for payment of charges is returned by the bank for any reason.

(C) **DELAYED PAYMENT PENALTY**

The above schedule is net. On all accounts not paid in full when due, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

SCHEDULE VI

(N) **MUNICIPAL EXCISE TAX SURCHARGE**

The municipality listed below, having imposed public utility tax computed on the basis of two percent of revenues from sewer service sales by the sewer utility within the corporate limits of such municipalities, shall be billed as a "surcharge" to the customers receiving service within said corporate limits.

The sewer utility is required to collect the utility tax pursuant to West Virginia Code Section 8-13-5a.

Customers receiving sewer service within the corporate limits of the specified municipality shall pay a surcharge at the following surcharge rates.

Utility Excise Tax

Municipality	Local Tax Rate	Surcharge Rate
Milton	2%	2%

(I) Indicates Increase (C) Indicates change in wording (N) Indicates New

SECTION 3. EFFECTIVE DATE

The rates, fees and charges provided herein shall be effective June 1, 2005.

DATE OF FIRST READING: 10/12/04
PASSED: ✓
FAILED: _____

Mayor

Recorder

DATE OF SECOND READING: 10/27/04
PASSED: ✓
FAILED: _____

Mayor

Recorder

Special Council Meeting
October 12, 2004

Meeting called to order by Mayor Sargent October 12, 2004 at 6:10 p.m.

Those present were: Mayor Sargent, Recorder Sayre, Council Members Leedy, Holbert, Bledsoe and Mullins, Mr. Robert Roedecker, and Leo Merrimee.

Mayor Sargent stated the purpose of this special meeting is for the first reading of Ordinance 937.03 regarding sewer rate increase. Mayor Sargent read the following: "An ordinance establishing and fixing rates, fees, and charges the City of Milton will charge its citizens and its customers located outside of its corporate limits, for the collection and treatment of sanitary sewage." Recorder Sayre asked if Council Members has any questions to address to Mr. Rodecker. After much discussion by Council and comments from Mr. Rodecker Council Member Mullins moved to adopt. Seconded by Council Member Holbert.

Mayor Sargent brought up the second item which is the purchase of drain pipe from Abbott Lane to the river. Council Member Holbert presented Council with a map of the area that needs this drain pipe and questioned how this will be paid for. Prices for the purchase of this 18" pipe per foot is $8.25 from Hughes and $7.80 from C.I. Thornburg. Mayor Sargent suggested we check with Rt. 60 Hardware also. It was decided to table until the next meeting which will also allow time to see if the Utilities Commission will cover half the cost.

Recorder Sayre moved to adjourn at 6:23 p.m. Seconded by Council Member Mullins. Motion carried.

Betty P. Sargent, Mayor

Attest
Jack Sayre, Recorder/ Treasurer

13

Sewer Rate Increase
Public Hearing
October 27, 2004

Hearing called to order by Mayor Sargent October 27, 2004 at 5:30 p.m.

Those present were: Mayor Sargent, Recorder Sayre, Council Members Leedy, Holbert, Bledsoe, Mullins, and Mr. Robert Roedecker.

After a period of 30 minutes, with no members from the public present, the hearing was adjourned at 5:30 p.m.

Betty P. Sargent, Mayor

Attest_____
Jack Sayre, Recorder/ Treasurer

Special Council Meeting
October 27, 2004

Meeting called to order by Mayor Sargent October 27, 2004 at 6:00 p.m.

Those present were: Mayor Sargent, Recorder Sayre, Council Members Leedy, Holbert, Bledsoe, Mullins, and Mr. Robert Roedecker.

Mayor Sargent stated the purpose of this special meeting is for the second reading of Ordinance 937.03 regarding sewer rate increase. Mayor Sargent read the following: "An ordinance establishing and fixing rates, fees, and charges the City of Milton will charge its citizens and its customers located outside of its corporate limits, for the collection and treatment of sanitary sewage." Council Member Mullins moved to adopt. Seconded by Council Member Holbert.

Recorder Sayre moved to adjourn at 6:05 p.m. Seconded by Council Member Mullins. Motion carried.

Betty P. Sargent, Mayor

Attest
Jack Sayre, Recorder/ Treasurer

AFFIDAVIT OF PUBLICATION

#031279

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

I, **Bryant, Kathie** being first duly sworn, depose and say that I am Legal Clerk for The Herald-Dispatch, a corporation, who publishes at Huntington, Cabell County, West Virginia, the newspaper: The Herald-Dispatch, an independent newspaper, in the morning seven days each week, Monday through Sunday including New Year's Day, Memorial Day, the Fourth of July, Labor Day, Thanksgiving and Christmas; that I have been duly authorized by the Board of Directors of such corporation to execute this affidavit of publication for and on behalf of such corporation and the newspaper mentioned herein; that the legal advertisement attached in the left margin of this affidavit and made a part hereof and bearing number **LH- 497494** was duly published in

The Herald-Dispatch

one time, once a week for 2 successive weeks, commencing with its issue of the **15** day of **10**, **2004** and ending with the issue of the **22** day of **10**, **2004** and was posted at the **East door of the Cabell County Courthouse on 15** day of **10**, **2004**: that said legal advertisement was published on the following dates: 10-15-22-04

that the cost of publishing said annexed advertisement as aforesaid was **$** 1467.38, that such newspaper in which such legal advertisement was published has been and is now published regularly, at least as frequently as once a week for at least fifty weeks during the calendar year as prescribed by its mailing permit, and has been so published in the municipality of Huntington, Cabell County, West Virginia, for at least one year immediately preceding the date on which the legal advertisement set forth herein was delivered to such newspaper for publication; that such newspaper is a newspaper of "general circulation" as defined in Article 3, Chapter 59, of the West Virginia Code, within the publication area or areas of the municipality of Huntington, Cabell and Wayne Counties, West Virginia, and that such newspaper is circulated to the general public at a definite price or consideration, that such newspaper on each date published consists of not less than four pages without a cover; and that it is a newspaper to which the general public resorts for passing events of a political, religious, commercial and social nature, and for current happenings, announcements, miscellaneous reading matters, advertisements and other notices.

Kathie Bryant

Taken, subscribed and sworn to before me in my said county this **13** day of **10**, **2004**

My commission expires June 4, 2012

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
CONSTANCE S. RAPPOLD
4807 MAGAZINE AVENUE
HUNTINGTON, WV 25704
My commission expires June 4, 2012

Constance S. Rappold

Notary Public
Cabell County
West Virginia

14

NOTICE
CITY OF MILTON

Notice is hereby given that the City of Milton, a municipal corporation, will hold a hearing before the final vote on a proposed ordinance, the principle object of which is the increase of sewer rates for all customers of the sewer system operated by the City of Milton. The title of such ordinance is "An Ordinance Establishing and Fixing Rates, Fees, and Charges the City of Milton Will Charge its Citizens and its Customers Located Outside of its Corporate Limits, for the Collection and Treatment of Sanitary Sewage". The final vote on adoption of said proposed ordinance shall be held in Council Chambers of the City of Milton, City Hall, 1139 Smith Street, Milton, West Virginia, on October 27, 2004, after the hearing scheduled for 5:30 p.m. interested parties may appear and be heard at such time with respect to the passage of the proposed ordinance. Copies of the proposed ordinance are available at the Office of the Clerk, City Hall, 1139 Smith Street, Milton, West Virginia.

CITY OF MILTON, WEST VIRGINIA
ORDINANCE NO. 937.03

AN ORDINANCE ESTABLISHING AND FIXING RATES, FEES, AND CHARGES THE CITY OF MILTON WILL CHARGE ITS CITIZENS AND ITS CUSTOMERS LOCATED OUTSIDE OF ITS CORPORATE LIMITS, FOR THE COLLECTION AND TREATMENT OF SANITARY SEWAGE.

WHEREAS, bids that were received by the City of Milton for the City's proposed improvement project and by Salt Rock Sewer Public Service District for the Regional Wastewater Treatment Plant at Salt Rock came in much higher than anticipated due to recent increases in the cost of steel and concrete; and

WHEREAS, the City Council of the City of Milton deems it advisable and necessary that its present sewer rates and charges for service provided to customers of its sewer system be increased in order that the City may cover the cost of necessary upgrades to its collection system and to pay its share of the cost of the regional wastewater treatment plant located at Salt Rock, Cabell County, West Virginia, in order to meet State and Federal regulatory requirements and the terms of a consent decree entered into by the City with the Division of Environmental Protection, and

WHEREAS, the City Council of the City of Milton finds that the following rates are just and equitable for the service provided to its sewer customers through the use of its sewerage collection system and that such rates will be sufficient to meet its going-level expenses and for the upgrading, maintenance and operation of its sewerage collection and connection to the regional treatment plant at Salt Rock.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MILTON as follows:

The following schedule of rates, fees and charges are hereby fixed and determined as the rates, fees and charges to be charged to customers of the sewerage system of the City of Milton throughout the entire territory served:

SECTION 1. RULES AND REGULATIONS

I. Rules and Regulations for the Government of Sewerage Utilities, adopted by the Public Service Commission of West Virginia, and now in effect, and all amendments thereto and modifications thereof hereafter made by said Commission.

(N) II. WATER METERS

Each meter shall be considered a separate billing unit in applying the rates. The registration of water on two or more meters shall be combined and billed to each user as though registered on one meter in the event that the meters are located in only one facility with one sanitary sewer connection subject to the approval of the Milton Municipal Utilities Commission (MUC).

In the event any person, form or corporation discharging sanitary sewage, industrial waste, water or other liquid in the City's POTW, either directly or indirectly, obtains part or all of the water used by him from sources other than the MUC and/or West Virginia-American Water Company, such user of other water shall, at his own expenses, install and maintain water meters satisfactory to the MUC for measuring all water usage other than that obtained from the MUC and/or West Virginia-American Water Company, and the quantity of water used to determine the sewerage service charge, as above set forth, shall be the sum of the quantity measured by all such meters plus the quantity of water obtained from the MUC and/or West Virginia-American Water Company.

(N) III. WATER NOT ENTERING THE POTW

In the event it is established to the satisfaction of the MUC that a portion of the water measured by the above-named meter or meters does not and cannot enter the public sanitary sewerage system, and in the event that the total water used by such person, firm or corporation exceeds 250,000 gallons per month, then the MUC may determine, in such manner and by such method as it may deem practical, the percentage of the metered water entering the sanitary sewerage system, or the MUC may require or permit the installation of additional meters in such a manner as to determine either the quantity of the water excluded from the sewerage system of the quantity of water, sewerage or industrial waste actually entering the sewerage system, exclusive of storm water runoff. The sewerage service charge shall be based upon the quantity of water estimated, measured or computed by the MUC to be actually entering the sewerage system, exclusive of storm water runoff, subject to the minimum charge provision.

Persons, industries or corporations requesting consideration for a reduction in the sewerage service charge because of water not entering the POTW shall make written application to the MUC for such consideration, giving the name of the firm, industry or business, address, MUC and/or West Virginia-American Water account number and supporting data fully describing other sources entering the POTW. Upon request by the MUC, the application shall be accompanied by a sketch to approximate scale showing the plan of the property, water distribution system, sewer layout, existing meters and any proposed meters in sufficient detail to determine the quantity of flow entering, or not entering, the sewerage system. The cost of furnishing, installing and maintaining any meters other than those utilized to measure water purchased from the MUC and/or West Virginia-American Water Company shall be borne by the applicant. The type, size, location, arrangement and maintenance of such meters shall be subject to the approval of the MUC.

SECTION 2. RATES
SCHEDULE I

APPLICABILITY
Applicable within the entire territory served.

AVAILABILITY OF SERVICE
Available for domestic, commercial, industrial sewer service (except unusual industrial waste).

(C,I) **RATES:**

First	100,000 gallons of water used per month	$11.10 per 1,000 gallons
All Over	100,000 gallons of water used per month	10.25 per 1,000 gallons

(N) FLAT RATE CHARGE (non metered water supply)
Equivalent of 4,500 gallons of water usage, $49.95 per month.

(C,I) MINIMUM CHARGE
No bill will be rendered for less than $24.98 per month which is the equivalent 2,250 gallons of water per customer per month

(C,I) RETURNED CHECK CHARGE
A service charge of $25.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to any reason.

(C,I) DISCONNECT/RECONNECT/ADMINISTRATIVE FEES
Whenever water service has been disconnected for non-payment of sewer bills, a disconnection fee of $25.00 shall be charged: or in the event the delinquent sewer bill is collected to avoid termination (after workers have gone to the property to terminate), an administrative fee of $25.00 will be charged.

Whenever water service, which has been previously disconnected or otherwise withheld for non-payment of a sewer bill reconnected a reconnection fee of $25.00 shall be charged.

DELAYED PAYMENT PENALTY
The above schedule is net. On all accounts not paid in full when due, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

SERVICE CONNECTION CHARGE
$300.00

(I) LEAK ADJUSTMENT
$5.60 per 1,000 gallons of water is to be used when a bill reflects unusual water consumption which can be attributed to eligible leakage on customer's side of meter. This rate shall be applied to all such consumption above the customer's historical average usage.

SCHEDULE II

(C) SURFACE OR GROUND WATER SURCHARGE
An additional amount shall be charged where surface or ground water is introduced into the sanitary system where evidence of a violation exists.

Surcharge formula to be applied in cases where surface drainage is connected to the utility's sewer system.

APPLICABILITY

Whenever the utility has discovered that a customer's roof drain, down spout, storm sewer or similar facilities conducting surface water have been connected to the utility's sewer system, and such customer has failed to take appropriate action, within thirty (30) days of receipt of a demand by the utility in accordance with the Rules of the Public Service Commission to eliminate such connection, a surcharge will be imposed upon the customer calculated on the basis of the following formula:

$$S = A \times R \times .0006233 \times C$$

S	=	The surcharge in dollars
A	=	The area under roof and/or the area of any other water collection surface connected to the sanitary sewer, in square feet
R	=	The measured monthly rainfall, in inches
.0006233	=	A conversion factor to change inches of rain z square feet of surface to thousands of gallons of water
.0008333	=	A conversion factor to change inches of rain x square feet of surface water to $ per 100 cubic feet
C	=	The utility's approved rate per thousand gallons of metered water usage

The Utility shall not impose the surcharge unless and until the customer has been notified by certified mail, return receipt requested, or by hand delivery, that it has been established by smoke testing, dye testing, or on-site inspection that rain or other surface water is being introduced into the sanitary sewer system at the customer=s location, and that the customer has not acted within thirty (30) days from receipt of such notice to divert the water from the sanitary sewer system.

Said surcharge shall be calculated and imposed for each month that said condition continues to exist. Failure to pay the surcharge and/or correct the situation shall give rise to the possible termination of water service in accordance with the Rules and Regulations of the Public Service Commission of West Virginia.

SCHEDULE III

SURCHARGE FORMULA TO BE APPLIED IN THE CASE OF USERS PRODUCING UNUSUAL WASTE

The charge for the treatment of unusual waste will be calculated on the basis of the following formula:

$$Ci = VoVi + BoBi + SoSi$$

Ci = charge to unusual users per year
Vo = average unit cost of transport and treatment chargeable to volume, in dollars per gallon
Vi = volume of waste water from unusual users, in gallons per year
Bo = average unit cost of treatment, chargeable to Biochemical Oxygen Demand (BOD) in dollars per year
Bi = weight of BOD from unusual users, in pounds per year
So = average unit costs of treatment (including sludge treatment chargeable to total solids, in dollars per pound
Si = weight of total solids from unusual users, in pounds per year

When an unusual user is to be served, a preliminary study of its wastes, and the cost of transport and treatment thereof, will be made. Waste containing material which, in the judgement of the Milton Municipal Utilities Commission, should not be introduced into the sewer system need not be handled by it. The results of this preliminary study will be used to determine the feasibility of the proposed sewer service and the charge thereof, based upon the formula set out above.

Thereafter, unusual sewage will be monitored on a regular basis and at the conclusion of each fiscal year, based on the investigation aforesaid and audit of the Milton Municipal Utilities Commission records, new cost figures will be calculated for use in the above formula. The cost of establishing the monitoring facilities shall be paid by the unusual user. Based on these audited figures, additional billings covering the past fiscal year will be made for payment by each unusual user, or refund given by the Milton Municipal Utilities Commission, as the case may be. Such audited figures will then be used for the preliminary billing for the next fiscal year, at the end of which an adjustment will be made as aforesaid.

SCHEDULE IV

APPLICABLE INSIDE AND OUTSIDE OF THE CORPORATE LIMITS OF MILTON

Where the amount of sanitary sewage discharged into the Milton waste treatment system by certain industrial plant or plants cannot be accurately determined by the use of the plant's water meter or meters, and said plant cannot install a flow meter to measure such waste, a special formula will be used whereby such plant or plants will pay to the Milton Municipal Utilities Commission a sewer charge calculated at fifty (50) gallons of water per each employee at the plant each working day.

SCHEDULE V

APPLICABILITY

Applicable in entire territory served.

AVAILABILITY OF SERVICE

Available for wastewater and leachate haulers.

(I) RATES
Commodity Charge – Each hauler shall pay a commodity charge of $44.00 per 1,000 gallons per load. Load will be the actual capacity of the truck or other transport method delivering wastewater and leachate. Actual capacity shall be determined or verified by the City.

(I) RETURNED CHECK CHARGE
A service charge of $25.00 will be imposed upon any customer whose check for payment of charges is returned by the bank for any reason.

(C) DELAYED PAYMENT PENALTY
The above schedule is net. On all accounts not paid in full when due, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty s not interest and is to be collected only once for each bill where it is appropriate.

SCHEDULE VI

(N) MUNICIPAL EXCISE TAX SURCHARGE
The municipality listed below, having imposed public utility tax computed on the basis of two percent of revenues from sewer service sales by the sewer utility within the corporate limits of such municipalities, shall be billed as a "surcharge" to the customers receiving service within said corporate limits.

The sewer utility is required to collect the utility tax pursuant to West Virginia Code Section 8-13-5a.

Customers receiving sewer service within the corporate limits of the specified municipality shall pay a surcharge at the following surcharge rates.

Utility Excise Tax

Municipality	Local Tax Rate	Surcharge Rate
Milton	2%	2%

(I) Indicates Increase (C) Indicates change in wording (N) Indicates New

SECTION 3. EFFECTIVE DATE

The rates, fees and charges provided herein shall be effective June 1, 2005.

SECTION 4. STATUTORY NOTICE AND PUBLIC HEARING

Upon introduction hereof, the City Clerk shall publish a copy of this Ordinance once a week for 2 successive weeks within a period of 14 consecutive days, with at least 6 full days intervening between each publication, in a newspaper published and of general circulation in The City of Milton and said notice shall state that this Ordinance has been introduced, and that any person interested may appear before Council in Council Chambers at City Hall on the 27th day of October, 2004, at 5:30 p.m., which date is not less than 10 days subsequent to the date of the first publication of the Ordinance and notice, and present protests. At such hearing all objections and suggestions shall be heard and the Council shall take such action as it shall deem proper on the premises.

The above Ordinance has been introduced at a meeting of Council held on October 12, 2004.

s/s
RECORDER

AFFIDAVIT OF PUBLICATION

STATE OF WEST VIRGINIA,

COUNTY OF CABELL, TO-WIT:

I, **Bryant, Kathie** being first duly sworn, depose and say that I am Legal Clerk for The Herald-Dispatch, a corporation, who publishes at Huntington, Cabell County, West Virginia, the newspaper: The Herald-Dispatch, an independent newspaper, in the morning seven days each week, Monday through Sunday including New Year's Day, Memorial Day, the Fourth of July, Labor Day, Thanksgiving and Christmas; that I have been duly authorized by the Board of Directors of such corporation to execute this affidavit of publication for and on behalf of such corporation and the newspaper mentioned herein; that the legal advertisement attached in the left margin of this affidavit and made a part hereof and bearing number **LH- 502372** was duly published in

The Herald-Dispatch

one time, once a week for 2 successive weeks, commencing with its issue of the **30** day of **10**, **2004** and ending with the issue of the **06** day of **11**, **2004** and was posted at the **East door of the Cabell County Courthouse on 30** day of **10**, **2004**: that said legal advertisement was published on the following dates:

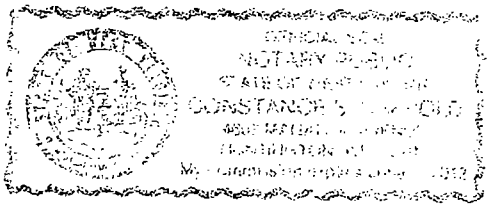
10-30-04 / 11-6-04

that the cost of publishing said annexed advertisement as aforesaid was **$268.45**; that such newspaper in which such legal advertisement was published has been and is now published regularly, at least as frequently as once a week for at least fifty weeks during the calendar year as prescribed by its mailing permit, and has been so published in the municipality of Huntington, Cabell County, West Virginia, for at least one year immediately preceding the date on which the legal advertisement set forth herein was delivered to such newspaper for publication; that such newspaper is a newspaper of "general circulation" as defined in Article 3, Chapter 59, of the West Virginia Code, within the publication area or areas of the municipality of Huntington, Cabell and Wayne Counties, West Virginia, and that such newspaper is circulated to the general public at a definite price or consideration, that such newspaper on each date published consists of not less than four pages without a cover; and that it is a newspaper to which the general public resorts for passing events of a political, religious, commercial and social nature, and for current happenings, announcements, miscellaneous reading matters, advertisements and other notices.

Kathie Bryant

Taken, subscribed and sworn to before me in my said county this **10** day of **11**, **2004**

My commission expires June 6, 2012



Constance S. Rappold

Notary Public
Cabell County
West Virginia

TARIFF FORM NO. 12

PUBLIC NOTICE OF CHANGE IN SEWER RATES BY CITY OF MILTON

NOTICE is hereby given that the City of Milton has adopted by ordinance, on October 27, 2004, a tariff containing increased rates, tolls and charges for furnishing sewer service to all of the sewer customers of the City of Milton in Cabell County.

The proposed increased rates and charges will become effective June 1, 2005, unless otherwise ordered by the Public Service Commission, and will produce approximately $480,777.00 annually in additional revenue, an increase of 148%. The average monthly bill for the various classes of customers will be changed as follows:

CLASS	($) INCREASE	INCREASE (%)
Residential (4,000 gallons)	$25.88	140%
Commercial (8,400 gallons)	$38.89	140%
Industrial	$ N/A	N/A%
Resale	$ N/A	N/A%
Large (Over 1,000,000)	$ N/A	N/A%

The increases shown are based on averages of all customers in the indicated class. Individual customers may receive increases that are greater or less than average. Furthermore the requested rates and charges are only a proposal and are subject to change (increases or decreases) by the Public Service Commission in its review of this filing. The Commission shall review and approve or modify the increased rates only upon the filing of a petition within thirty (30) days of the adoption of the ordinance changing said rates or charges, by:

1. Any customer aggrieved by the changed rates or charges who presents to the Commission a petition signed by not less than twenty-five percent of the customers served by such municipally operated public utility; or

2. Any customer who is served by a municipally operated public utility and who resides outside the corporate limits and who is affected by the change in said rates or charges and who presents to the Commission a petition alleging discrimination between customers within and without the municipal boundaries. Said petition shall be accompanied by evidence of discrimination; or

3. Any customer or group of customers who are affected by said change in rates who reside within the municipal boundaries and who present a petition to the Commission alleging discrimination between said customer or group of customers and other customers of the municipal utility. Said petition shall be accompanied by evidence of discrimination.

All petitions should be addressed to the Executive Secretary, Public Service Commission of West Virginia, 201 Brooks Street, P. O. Box 812, Charleston, West Virginia 25323.

A complete copy of the proposed rates, as well as a representative of the utility to provide any information requested concerning it, is available to all customers, prospective customers, or their agents at any of the following offices of the utility.

City of Milton
City Hall
1139 Smith Street
Milton,
West Virginia 25541

A copy of the proposed rates is available for public inspection at the office of the Executive Secretary of the Public Service Commission at 201 Brooks Street, P. O. Box 812, Charleston, West Virginia 25323.

LH-502372
10-30-04, 11-6-04

PETITION OF THE MUNICIPAL UTILITIES COMMISSION
OF THE TOWN OF MILTON

TO THE COUNCIL OF THE TOWN OF MILTON, WEST VIRGINIA:

Pursuant to the provisions of Chapter 16, Article 13, Section 5 of the Code of West Virginia, 1931, as amended, the Municipal Utilities Commission (the "Municipal Utilities Commission") of the Town of Milton, West Virginia (the "Issuer"), hereby petitions the Council of the Issuer to enact an ordinance which shall:

(a) authorize (i) the prepayment of the Issuer's Sewerage System Revenue Refunding Bonds, Series 1996 A, from funds received from Salt Rock Sewer Public Service District ("SRSPSD"); (ii) the refunding of the Issuer's Sewerage System Design Revenue Bonds, Series 1999 A (the "Series 1999 A Bonds"), from funds received from SRSPSD and bond proceeds; and (iii)the payment of all interim financing incurred for design and other costs of the Project from bond proceeds;

(b) set forth a brief and general description of the additions, betterments and improvements to the existing public sewerage system (the "System") of the Issuer, consisting of construction of extensions and improvements to the existing sanitary sewer collection system of the Issuer, which will add approximately 400 new customers to the System, together with all appurtenant facilities (the "Project"), in accordance with plans and specifications prepared and filed by the engineers chosen by the Municipal Utilities Commission (the "Consulting Engineers");

(c) set forth the costs of the Project estimated by the Consulting Engineers;

(d) order the construction or acquisition of the Project;

(e) direct that sewer revenue bonds of the Issuer be issued pursuant to Chapter 16, Article 13 of the Code of West Virginia, 1931, as amended, in an aggregate principal amount not to exceed $9,000,000, or in such other amount as is necessary to acquire and construct the Project, to refund the Series 1999 A Bonds and to pay all interim financing incurred for design and other costs of the Project; and

(f) contain such other provisions as may be necessary in the premises.

This Petition was duly approved and authorized at a meeting of the Municipal Utilities Commission duly called and held on the 4th day of November, 2004.

WITNESS our signatures on this 4th day of November, 2004

MUNICIPAL UTILITIES COMMISSION OF
TOWN OF MILTON

Chairman

11/04/04
004201/00304

M0387673.1

TOWN OF MILTON
SEWER REVENUE BONDS,
SERIES 2004 A (WEST VIRGINIA SRF PROGRAM) AND
SERIES 2004 B (WEST VIRGINIA INFRASTRUCTURE FUND)

BOND ORDINANCE

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TOWN OF MILTON

ORDINANCE AUTHORIZING THE PREPAYMENT OF THE SEWERAGE SYSTEM REVENUE REFUNDING BONDS, SERIES 1996 A, OF THE TOWN OF MILTON, FROM FUNDS AVAILABLE TO THE TOWN, THE REFUNDING OF THE SEWERAGE SYSTEM DESIGN REVENUE BONDS, SERIES 1999 A, OF THE TOWN OF MILTON, THE PAYMENT OF INTERIM FINANCING FOR DESIGN AND OTHER COSTS AND THE ACQUISITION AND CONSTRUCTION OF CERTAIN ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC SEWERAGE SYSTEM OF THE TOWN OF MILTON AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE TOWN OF NOT MORE THAN $7,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2004 A (WEST VIRGINIA SRF PROGRAM) AND NOT MORE THAN $2,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2004 B (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 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 ORDAINED AND ENACTED BY THE COUNCIL OF THE TOWN OF MILTON:

ARTICLE I

STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01. Authority for this Ordinance. This Ordinance (together with any ordinance, order or resolution supplemental hereto or amendatory hereof, the "Bond Legislation") is enacted pursuant to the provisions of Chapter 16, Article 13, Chapter 22C, Article 2 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. The Town of Milton (the "Issuer") is a municipal corporation and political subdivision of the State of West Virginia in Cabell County of said State.

B. The Issuer presently owns and operates a public sewerage system. However, it is deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer that there be acquired and constructed certain additions, betterments and improvements to the existing public sewerage system of the Issuer, consisting of construction of extensions and improvements to the existing sanitary sewer collection system of the Issuer, which will add approximately 400 new customers to the System, together with all appurtenant facilities (collectively, the "Project"), which constitute properties for the collection, transportation, treatment, purification and disposal of liquid or solid wastes, sewage or industrial wastes (the existing public sewerage system of the Issuer, the Project and any further additions, betterments and improvements are herein called the "System"), in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have heretofore been filed with the Recorder of the Issuer. The Project is part of a larger project in collaboration with Salt Rock Sewer Public Service District ("SRSPSD") and Culloden Public Service District ("CPSD"). Pursuant to the Regional Wastewater Treatment Facility and Service Agreement (the "Agreement") by and among SRSPSD, CPSD and the Issuer, SRSPSD will modify and expand its existing treatment plant into a regional treatment facility that would serve the wastewater treatment needs of all 3 parties. After the construction of the regional treatment facility and the transmission line thereto, the Issuer and CPSD will cease to operate their respective treatment facilities and will transport all of their wastewater to the regional treatment facility.

C. The Issuer has determined that by prepaying its Sewerage System Revenue Refunding Bonds, Series 1996 A, dated November 4, 1996, issued in the original principal amount of $325,000 (the "Series 1996 A Bonds"), and refunding its Sewerage System Design Revenue Bonds, Series 1999 A, dated May 19, 1999, issued in the original principal amount of $535,000 (the "Series 1999 A Bonds"), it can achieve significant savings in debt service. The entire principal of and all interest accrued on the Series 1996 A Bonds will be paid in full with funds contributed to the Issuer by SRSPSD. The entire principal of and all interest and administrative fees on the Series 1999 A Bonds will be paid in full with funds contributed to the Issuer by SRSPSD and with a portion of the proceeds of the Series 2004 B Bonds on the date of issuance thereof.

D. The Issuer intends to permanently finance a portion of the costs of design, acquisition and construction of the Project and a portion of the costs of refunding the Series 1999 A Bonds 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 and the West Virginia Infrastructure Fund pursuant to the Act.

E. It is deemed necessary for the Issuer to issue its Sewer Revenue Bonds in the total aggregate principal amount of not more than $9,000,000 in two series (collectively, the "Series 2004 Bonds"), being the Sewer Revenue Bonds, Series 2004 A (West Virginia SRF Program), in the aggregate principal amount of not more than $7,000,000 (the "Series 2004 A Bonds"), and the Sewer Revenue Bonds, Series 2004 B (West Virginia Infrastructure Fund), in the aggregate principal amount of not more than $2,000,000 (the "Series 2004 B Bonds"), to permanently finance a portion of the costs of design, acquisition and construction of the Project, to refund the Series 1999 A Bonds and to pay all interim financing incurred for design and other costs of the Project. The remaining costs of the Project shall be funded from the sources set forth in Section 2.01 hereof. Said costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor; interest upon the Series 2004 Bonds prior to and during acquisition and construction of the Project and for a period not exceeding 6 months after completion of acquisition and construction of the Project; amounts which may be deposited in the Reserve Accounts (as hereinafter defined); amounts used to refund the Series 1999 A Bonds and to pay interim financing for design and other costs of the Project; 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 2004 Bonds and such other expenses as may be necessary or incidental to the financing herein authorized, the acquisition or construction of the Project and the placing of same in operation, the refunding of the Series 1999 A Bonds 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 2004 Bonds or the repayment of indebtedness incurred by the Issuer for such purposes shall be deemed Costs of the Project, as hereinafter defined.

F. The period of usefulness of the System after completion of the Project is not less than 40 years.

G. It is in the best interests of the Issuer that its Series 2004 A 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 West Virginia Department of Environmental Protection (the "DEP"), and its Series 2004 B Bonds be sold to the Authority pursuant to the terms and provisions of a loan agreement by and between the Issuer and the Authority, on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Infrastructure Council"), both loan agreements in form satisfactory to the respective parties (collectively, the "Loan Agreement"), approved hereby if not previously approved by resolution of the Issuer.

H. The Series 2004 A Bonds and the Series 2004 B Bonds shall be issued on a parity with each other, with respect to liens, pledge and source of and security for payment and in all other respects. Following the prepayment and refunding of the Prior Bonds, there are no other 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 after completion of the Project from the operation of the System will be sufficient to pay all Operating Expenses of the System, the principal of and interest, if any, on the Series 2004 Bonds and all funds and accounts and other payments provided for herein.

J. The Issuer has complied with all requirements of West Virginia law and the Loan Agreement relating to authorization of the acquisition, construction and operation of the Project and the System, the refunding of the Series 1999 A Bonds and the issuance of the Series 2004 Bonds, or will have so complied prior to issuance of any thereof, including, among other things, the approval of the Project and the financing thereof, by the Infrastructure Council and obtaining of a certificate of public convenience and necessity from the Public Service Commission of West Virginia (the "PSC") by final order, the time for rehearing and appeal of which will either have expired prior to the issuance of the Series 2004 Bonds or such final order will not be subject to appeal.

K. Pursuant to the Act, the Issuer has heretofore established the Municipal Utility Commission, which has petitioned the Governing Body to issue the Series 2004 Bonds for the purposes set forth herein.

L. The Project has been reviewed and determined to be technically and financially feasible by the Infrastructure 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 2004 Bonds by 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 2004 Bonds, all of which shall be of equal rank and without preference, priority or distinction between any one Bond and any other Bonds and 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 13, Chapter 22C, Article 2 and Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended and in effect on the date of enactment hereof.

"Agreement" means the Regional Wastewater Treatment Facility and Service Agreement by and among Salt Rock Sewer Public Service District, Culloden Public Service District and the Issuer, as amended or supplemented from time to time and as approved by the PSC, the form of which shall be approved, and the execution and delivery by the Issuer authorized and directed or ratified, by the Supplemental Resolution.

"Authority" means the West Virginia Water Development Authority, which is expected to be the original purchaser and Registered Owner of the Series 2004 Bonds, or any other agency, board or department of the State that succeeds to the functions of the Authority, acting in its administrative capacity and upon authorization from the DEP and the Infrastructure Council under the Act.

"Authorized Officer" means the Mayor of the Issuer, or any other officer of the Issuer specifically designated by resolution of the Governing Body.

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

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

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

"Bonds" means, collectively, the Series 2004 Bonds and, where appropriate, any bonds on a parity therewith subsequently authorized to be issued hereunder or by another ordinance of the Issuer.

"Closing Date" means the date upon which there is an exchange of the Series 2004 Bonds for all or a portion of the proceeds of the Series 2004 Bonds from the Authority.

"Code" means the Internal Revenue Code of 1986, as amended, and the Regulations.

"Commission" means the West Virginia Municipal Bond Commission or any

other agency of the State of West Virginia that succeeds to the functions of the Commission.

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

"Consulting Engineers" means Howard K. Bell, Consulting Engineers, Inc., Scott Depot, 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 Code of West Virginia, 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 1.02 E hereof to be a part of the costs of acquisition and construction of the Project, including the cost of refunding the Series 1999 A Bonds and the cost of paying interim financing for design and other costs of the Project.

"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" means the council 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) or any Tap Fees (as hereinafter defined).

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

"Independent Certified Public Accountant" 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.

"Infrastructure 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 Infrastructure Council.

"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 the Town of Milton, a municipal corporation and political subdivision of the State of West Virginia, in Cabell County, West Virginia, and, unless the context clearly indicates otherwise, includes the Governing Body of the Issuer.

"Loan Agreement" means, collectively, 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 2004 A Bonds from the Issuer by the Authority, and the Loan Agreement heretofore entered, or to be entered, into by and between the Issuer and the Authority, on behalf of the Infrastructure Council, providing for the purchase of the Series 2004 B Bonds from the Issuer by the Authority, the forms of which shall be approved, and the execution and delivery by the Issuer authorized and directed or ratified, by the Supplemental Resolution.

"Mayor" means the Mayor of the Issuer.

"Net Proceeds" means the face amount of the Series 2004 Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds, if any, deposited in the 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 2004 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.

"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 Paying Agent (all as hereinafter 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 Prior Bonds and as of any particular date, describes all Bonds or Prior Bonds theretofore and thereupon being authenticated and delivered, except (i) any Bond or Prior Bond canceled by the Bond Registrar

or Registrar for Prior Bonds, at or prior to said date; (ii) any Bond or Prior Bonds, for the payment of which moneys, equal to its principal amount and redemption premium, if applicable, with interest to the date of maturity or redemption shall be in trust hereunder, and set aside for such payment (whether upon or prior to maturity); (iii) any Bond deemed to have been paid as provided in Article X hereof; (iv) any Prior Bond deemed to have been paid; and (v) for purposes of consents, notices or other action by a specified percentage of Registered Owners, any Bonds or Prior Bonds registered to the Issuer.

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

"Paying Agent" means the Commission or other entity designated as such for the Series 2004 Bonds in the Supplemental Resolution.

"Prior Bonds" means, collectively, the Issuer's Sewerage System Revenue Refunding Bonds, Series 1996 A, dated November 4, 1996, issued in the original principal amount of $325,000, and Sewerage System Design Revenue Bonds, Series 1999 A, dated May 19, 1999, issued in the original principal amount of $535,000.

"Prior Ordinance" means, collectively, the ordinances of the Issuer enacted on October 22, 1996, and May 6, 1999, as supplemented, 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, all as determined by the Code.

"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, granting the Issuer a certificate of convenience and necessity to construct the Project and approving the financing for the Project.

"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, shall be secured by a pledge of Government Obligations, provided, that said Government Obligations pledged either must mature as nearly as practicable coincident with the maturity of said time accounts or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said time accounts;

(f) Money market funds or similar funds whose only assets are investments of the type described in paragraphs (a) through (e) above;

(g) Repurchase agreements, fully secured by investments of the types described in paragraphs (a) through (e) above, with banks or national banking associations which are members of FDIC or with government bond dealers recognized as primary dealers by the Federal Reserve Bank of New York, provided, that said investments securing said repurchase agreements either must mature as nearly as practicable coincident with the maturity of said repurchase agreements or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said repurchase agreements, and provided further that the holder of such repurchase agreement shall have a prior perfected security interest in the collateral therefor; must have (or its agent must have) possession of such collateral; and such collateral must be free of all claims by third parties;

(h) The West Virginia "consolidated fund" managed by the West Virginia Investment Management Board pursuant to Chapter 12, Article 6 of the 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 Investors Service, Inc. or Standard & Poor's Corporation.

"Recorder" means the Recorder of the Issuer.

"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 Bond Registrar.

"Regulations" means temporary and permanent regulations promulgated under the Code, or any predecessor thereto.

"Renewal and Replacement Fund" means the Renewal and Replacement Fund created by Section 5.01 hereof.

"Reserve Accounts" means, collectively, the respective Reserve Accounts created for the Series 2004 Bonds.

"Reserve Requirement" means, collectively, the respective amounts required to be on deposit in any Reserve Account for the Series 2004 Bonds.

"Revenue Fund" means the Revenue Fund created by Section 5.01 hereof.

"Series 2004 Bonds" means, collectively, the Series 2004 A Bonds and the Series 2004 B Bonds.

"Series 2004 Bonds Construction Trust Fund" means the Series 2004 Bonds Construction Trust Fund created by Section 5.01 hereof.

"Series 2004 A Bonds" means the Sewer Revenue Bonds, Series 2004 A (West Virginia SRF Program), of the Issuer, authorized by this Bond Legislation.

"Series 2004 A Bonds Reserve Account" means the Series 2004 A Bonds Reserve Account created by Section 5.02 hereof.

"Series 2004 A Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 2004 A Bonds in the then current or any succeeding year.

"Series 2004 A Bonds Sinking Fund" means the Series 2004 A Bonds Sinking Fund created by Section 5.02 hereof.

"Series 2004 B Bonds" means the Sewer Revenue Bonds, Series 2004 B (West Virginia Infrastructure Fund), of the Issuer, authorized by this Bond Legislation.

"Series 2004 B Bonds Reserve Account" means the Series 2004 B Bonds Reserve Account created by Section 5.02 hereof.

"Series 2004 B Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 2004 B Bonds in the then current or any succeeding year.

"Series 2004 B Bonds Sinking Fund" means the Series 2004 B Bonds Sinking Fund created by Section 5.02 hereof.

"Sinking Funds" means, collectively, the respective Sinking Funds created for the Series 2004 Bonds.

"SRF Administrative Fee" means any administrative fee required to be paid under the Loan Agreement for the Series 2004 A Bonds.

"SRF Program" means the West Virginia 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.

"SRSPSD" means Salt Rock Sewer Public Service District, a public service district in Cabell County, West Virginia.

"State" means the State of West Virginia.

"Supplemental Resolution" means any resolution, ordinance or order of the Issuer supplementing or amending this Ordinance and, when preceded by the article "the," refers specifically to the supplemental resolution authorizing the sale of the Series 2004 Bonds; provided, that any matter intended by this Ordinance to be included in the Supplemental

Resolution with respect to the Series 2004 Bonds, and not so included may be included in another Supplemental Resolution.

"Surplus Revenues" means the Net Revenues not required by the Bond Legislation to be set aside and held for the payment of or security for the Series 2004 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, collectively, the complete existing municipal sewage treatment and collection system of the Issuer, as presently existing in its entirety or any integral part thereof, and shall include the Project and any additions, betterments and improvements thereto hereafter acquired or constructed for the System from any sources whatsoever, both within and without the Issuer.

"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 of enactment hereof.

Words importing singular number shall include the plural number in each case and vice versa; words importing persons shall include firms and corporations; and words importing the masculine, feminine or neutral gender shall include any other gender.

ARTICLE II

AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF THE PROJECT AND PREPAYMENT AND REFUNDING OF THE PRIOR BONDS

Section 2.01. Authorization of Acquisition and Construction of the Project and Prepayment and Refunding of the Prior Bonds. There are hereby authorized and ordered the prepayment of the Series 1996 A Bonds, the refunding of the Series 1999 A Bonds, the payment of all interim financing incurred by the Issuer for design and other costs of the Project, and the acquisition and construction of the Project, at an estimated cost of $9,323,373, 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 2004 Bonds shall be applied as provided in Article VI hereof. The Issuer has received bids and will enter into contracts for the acquisition and construction of the Project, in an amount and otherwise compatible with the financing plan submitted to the DEP, the Infrastructure Council and the Authority.

The costs of the Project, including the prepayment of the Series 1996 A Bonds, the refunding of the Series 1996 A Bonds and the payment of all interim financing for design and other costs, are estimated not to exceed $9,323,373, of which approximately $7,000,000 will be obtained from proceeds of the Series 2004 A Bonds, approximately $2,000,000 will be obtained from proceeds of the Series 2004 B Bonds, and approximately $323,373 from funds contributed by SRSPSD.

The prepayment of the Series 1996 A Bonds will be made from funds contributed to the Issuer by SRSPSD and the refunding of the Series 1999 A Bonds will be made from funds contributed to the Issuer by SRSPSD and proceeds of the Series 2004 B Bonds.

ARTICLE III

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

Section 3.01. Authorization of Bonds. For the purposes of capitalizing interest on the Series 2004 Bonds, funding the respective Reserve Accounts for the Series 2004 Bonds, refunding the Series 1999 A Bonds, paying all interim financing incurred by the Issuer for design and other costs of the Project, paying Costs of the Project not otherwise provided for and paying certain costs of issuance of the Series 2004 Bonds and related costs, or any or all of such purposes, as determined by the Supplemental Resolution, there shall be and hereby are authorized to be issued the negotiable Series 2004 Bonds of the Issuer. The Series 2004 Bonds shall be issued in two series, each as a single bond, designated respectively as "Sewer Revenue Bonds, Series 2004 A (West Virginia SRF Program)," in the principal amount of not more than $7,000,000, and "Sewer Revenue Bonds, Series 2004 B (West Virginia Infrastructure Fund)," in the principal amount of not more than $2,000,000, and both shall have such terms as set forth hereinafter and in the Supplemental Resolution. The proceeds of the Series 2004 Bonds remaining after funding of the Reserve Accounts (if funded from Bond proceeds) and capitalization of interest, if any, shall be deposited in or credited to the Series 2004 Bonds Construction Trust Fund established by Section 5.01 hereof and applied as set forth in Article VI hereof.

Section 3.02. Terms of Bonds. The Series 2004 Bonds shall be issued in such principal amounts; shall bear interest, if any, at such rate or rates, not exceeding the then legal maximum rate, payable quarterly on such dates; shall mature on such dates and in such amounts; and shall be redeemable, in whole or in part, all as the Issuer shall prescribe in a Supplemental Resolution or as specifically provided in the Loan Agreement. The Series 2004 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 2004 Bonds, if any, shall be paid by check or draft of the Paying Agent or its agent, mailed to the Registered Owner thereof at the address as it appears on the books of the Bond Registrar, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner thereof.

Unless otherwise provided by the Supplemental Resolution, the Series 2004 Bonds shall initially 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 each series of the Series 2004 Bonds. The Series 2004 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 items as set forth in a Supplemental Resolution.

Section 3.03. Execution of Bonds. The Series 2004 Bonds shall be executed in the name of the Issuer by the Mayor, and the seal of the Issuer shall be affixed thereto or imprinted thereon and attested by the Recorder. In case any one or more of the officers who shall have signed or sealed the Series 2004 Bonds shall cease to be such officer of the Issuer before the Series 2004 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 2004 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 2004 Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Bond Legislation unless and until the Certificate of Authentication and Registration on such Bond, substantially in the form set forth in Section 3.10 hereof, shall have been manually executed by the Bond Registrar. Any such executed Certificate of Authentication and Registration upon any such Bond shall be conclusive evidence that such Bond has been authenticated, registered and delivered under this Bond Legislation. The Certificate of Authentication and Registration on any Series 2004 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 2004 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 2004 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 said Bonds shall be incontestable in the hands of a bona fide registered owner for value.

So long as the Series 2004 Bonds remain outstanding, the Issuer, through the Bond Registrar or its agent, shall keep and maintain books for the registration and transfer of such Bonds.

The registered Series 2004 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 2004 Bonds or transferring the registered Series 2004 Bonds are exercised, all Series 2004 Bonds shall be delivered in accordance with the provisions of this Bond Legislation. All Series 2004 Bonds surrendered in any such exchanges or transfers shall forthwith be canceled by the Bond Registrar. For every such exchange or transfer of Series 2004 Bonds, the Bond Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer and the cost of preparing each new Bond upon each exchange or transfer, and any other expenses of the Bond Registrar incurred in connection therewith, which sum or sums shall be paid by the Issuer. The Bond Registrar shall not be obliged to make any such exchange or transfer of Series 2004 Bonds during the period commencing on the 15th day of the month next preceding an interest payment date on the Series 2004 Bonds or, in the case of any proposed redemption of Series 2004 Bonds, next preceding the date of the selection of Bonds to be redeemed, and ending on such interest payment date or redemption date.

Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Series 2004 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 Registered Owner'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 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 2004 Bonds shall not, in any event, be or constitute a corporate 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 System as herein provided. No Registered Owner of the Series 2004 Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 2004 Bonds or the interest, if any, thereon.

Section 3.08. Bonds Secured by Pledge of Net Revenues. The payment of debt service of the Series 2004 A Bonds and the Series 2004 B Bonds shall be secured 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 the Series 2004 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 2004 Bonds to the Registrar, and the Registrar shall authenticate, register and deliver the Series 2004 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 and deliver the Series 2004 Bonds to the original purchasers.

Section 3.10. Form of Bonds. The text of the Series 2004 Bonds shall be in substantially the following forms, 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 2004 A BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
TOWN OF MILTON
SEWER REVENUE BOND, SERIES 2004 A
(WEST VIRGINIA SRF PROGRAM)

No. AR-____ $_____

KNOW ALL MEN BY THESE PRESENTS: That on this ____day of _____, 200__, the TOWN OF MILTON, a municipal corporation and political subdivision of the State of West Virginia in Cabell County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority") or registered assigns, the sum of _____ DOLLARS ($_____), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the Record of Advances attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing _____ 1, _____, as set forth on the Debt Service Schedule attached as EXHIBIT B hereto and incorporated herein by reference. The SRF Administrative Fee (as defined in the hereinafter described Bond Legislation) on this Bond shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing _____ 1, _____, as set forth on EXHIBIT B attached hereto.

This Bond shall bear no interest. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent").

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Department of Environmental Protection (the "DEP"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the Bond Purchase Agreement by and among the Issuer, the Authority and the DEP, dated _____, 200__.

This Bond is issued (i) to pay all interim financing incurred by the Issuer for design and other costs of certain additions, betterments and improvements to the existing public sewerage system of the Issuer; (ii) to pay a portion of the costs of acquisition and construction of certain additions, betterments and improvements to the existing public sewerage system of the Issuer (the "Project"); and (iii) to pay certain costs of issuance of this Bond and related costs. The existing public sewerage system of the Issuer, the Project, and any further additions, betterments or improvements 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 13 and Chapter 22C, Article 2 of the Code of West Virginia, 1931, as amended (collectively, the "Act"), a Bond Ordinance duly enacted by the Issuer on _____, 200_, and a Supplemental Resolution duly adopted by the Issuer on _____, 200_ (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 SEWER REVENUE BONDS, SERIES 2004 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED _____, 2004, ISSUED CONCURRENTLY HEREWITH IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $_____ (THE "SERIES 2004 B 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 System, on a parity with the pledge of Net Revenues in favor of the registered owners of the Series 2004 B Bonds and from moneys in the reserve account created under the Bond Legislation for this Bond (the "Series 2004 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 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, if any, hereon, except from said special fund provided from the Net Revenues, the moneys in the Series 2004 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 of

principal of and interest, if any, on this Bond, payable in any year and all other obligations secured by a lien on or payable from such revenues on a parity with this Bond, including the Series 2004 B Bonds; provided however, that so long as there exists in the Series 2004 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 Series 2004 B Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of 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 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 interim financing, the costs of the Project and the costs of issuance hereof as described in the Bond Legislation, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the registered owner of this Bond.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and at the issuance of this Bond do exist, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the Net Revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of this Bond.

All provisions of the Bond Legislation, resolutions and statutes under which this Bond is issued shall be deemed to be a part of the contract evidenced by this Bond to the same extent as if written fully herein.

IN WITNESS WHEREOF, the TOWN OF MILTON has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed and attested by its Recorder, and has caused this Bond to be dated the date first written above.

[SEAL]

_____
Mayor

ATTEST:

_____
Recorder

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2004 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: _____, 200_.

_____, as Registrar

_____
Authorized Officer

EXHIBIT A

RECORD OF ADVANCES

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

TOTAL $_____

EXHIBIT B

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 2004 B BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
TOWN OF MILTON
SEWER REVENUE BOND, SERIES 2004 B
(WEST VIRGINIA INFRASTRUCTURE FUND)

No. BR-____ $_____

KNOW ALL MEN BY THESE PRESENTS: That on this __ day of _____, 200_, the TOWN OF MILTON, a municipal corporation and political subdivision of the State of West Virginia in Cabell County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority") or registered assigns the sum of _____ _____ DOLLARS ($_____), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the Record of Advances attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing _____ 1, _____, as set forth on the Debt Service Schedule attached as EXHIBIT B 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 "Infrastructure 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 Infrastructure Council, dated _____, 200_.

This Bond is issued (i) to pay, together with other funds of the Issuer, the entire outstanding principal of and all interest and administrative fees on the Issuer's Sewerage System Design Revenue Bonds, Series 1999 A (the "Series 1999 A Bonds"); (ii) to pay a

portion of the costs of acquisition and construction of certain additions, betterments and improvements to the existing public sewerage system of the Issuer (the "Project"); and (iii) to pay certain costs of issuance of this Bond and related costs. The existing public sewerage system of the Issuer, the Project, and any further additions, betterments or improvements 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 13 and Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended (collectively, the "Act"), a Bond Ordinance duly enacted by the Issuer on _____, 200__, and a Supplemental Resolution duly adopted by the Issuer on _____, 200__ (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 SEWER REVENUE BONDS, SERIES 2004 A (WEST VIRGINIA SRF PROGRAM), DATED _____, 200__, ISSUED CONCURRENTLY HEREWITH IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $_____ (THE "SERIES 2004 A 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 System, on a parity with the pledge of Net Revenues in favor of the registered owners of the Series 2004 A Bonds and from moneys in the reserve account created under the Bond Legislation for this Bond (the "Series 2004 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 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, if any, hereon, except from said special fund provided from the Net Revenues, the moneys in the Series 2004 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 of principal of and interest, if any, on this Bond, payable in any year and all other obligations secured by a lien on or payable from such revenues on a parity with this Bond, including the Series 2004 A Bonds; provided however, that so long as there exists in the Series 2004 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 Series 2004 A 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 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 refunding the Series 1999 A Bonds, the costs of the Project and the costs of issuance hereof as described in the Bond Legislation, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the registered owner of this Bond.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and at the issuance of this Bond do exist, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the Net Revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of this Bond.

All provisions of the Bond Legislation, resolutions and statutes under which this Bond is issued shall be deemed to be a part of the contract evidenced by this Bond to the same extent as if written fully herein.

IN WITNESS WHEREOF, the TOWN OF MILTON has caused this Bond to be signed by its Mayor, and its corporate seal to be hereunto affixed and attested by its Recorder, and has caused this Bond to be dated the date first written above.

[SEAL]

_____
Mayor

ATTEST:

_____
Recorder

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2004 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: _____, 200_.

_____, as
Registrar

_____
Authorized Officer

EXHIBIT A

RECORD OF ADVANCES

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

TOTAL $_____

EXHIBIT B

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:

_____

Section 3.11. Sale of Bonds; Approval and Ratification of Execution of Loan Agreement. The Loan Agreement, including all schedules and exhibits attached thereto, are hereby approved and incorporated into this Bond Legislation. The Series 2004 Bonds shall be sold to the Authority, pursuant to the terms and conditions of the Loan Agreement. If not so authorized by previous ordinance or resolution, the Mayor is specifically authorized and directed to execute the Loan Agreement and the Recorder 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. Upon completion of the acquisition and construction of the Project, the Issuer will file with the Authority, the DEP and the Infrastructure Council, the respective schedules, the forms of which will be provided by the DEP and the Infrastructure Council, setting forth the actual costs of the Project and sources of funds therefor.

ARTICLE IV

[RESERVED]

ARTICLE V

FUNDS AND ACCOUNTS; SYSTEM REVENUES AND APPLICATION THEREOF

Section 5.01. Establishment of Funds and Accounts with Depository Bank. The following special funds or accounts are hereby created with and shall be held by the Depository Bank, separate and apart from all other funds or accounts of the Depository Bank or the Issuer and from each other:

(1) Revenue Fund;

(2) Renewal and Replacement Fund; and

(3) Series 2004 Bonds Construction Trust Fund.

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 or the Issuer and from each other:

(1) Series 2004 A Bonds Sinking Fund;

(2) Series 2004 A Bonds Reserve Account;

(3) Series 2004 B Bonds Sinking Fund; and

(4) Series 2004 B Bonds Reserve Account.

Section 5.03. System Revenues; Flow of Funds. A. The entire Gross Revenues derived from the operation of the System and all parts thereof shall be deposited upon receipt by the Issuer 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 provided in and this Bond Legislation. All moneys 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 the current 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) commencing 3 months prior to the first date of payment of principal of the Series 2004 A Bonds, for deposit in the Series 2004 A Bonds Sinking Fund, an amount equal to 1/3rd of the amount of principal which will mature and become due on the Series 2004 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 2004 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 (ii) commencing 3 months prior to the first date of payment of principal of the Series 2004 B Bonds, for deposit in the Series 2004 B Bonds Sinking Fund, an amount equal to 1/3rd of the amount of principal which will mature and become due on the Series 2004 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 2004 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, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Commission, (i) commencing 3 months prior to the first date of payment of principal of the Series 2004 A Bonds, if not fully funded upon issuance of the Series 2004 A Bonds, for deposit in the Series 2004 A Bonds Reserve Account, an amount equal to 1/120th of the Series 2004 A Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 2004 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 2004 A Bonds Reserve Requirement; and (ii) commencing 3 months prior to the first date of payment of principal of the Series 2004 B Bonds, if not fully funded upon issuance of the Series 2004 B Bonds, for deposit in the Series 2004 B Bonds Reserve Account, an amount equal to 1/120th of the Series 2004 B Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 2004 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 2004 B 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, an amount equal to 2 1/2% of the Gross Revenues each month (as previously set forth in the Prior Ordinance 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, repairs, improvements or extensions to the System; provided that, any deficiencies in any Reserve Account, except to the extent such deficiency exists because the required payments into such account have not, as of the date of determination of a deficiency, funded such account to the maximum extent required hereof, shall be promptly eliminated with moneys from the Renewal and Replacement Fund.

Moneys in the Series 2004 A Bonds Sinking Fund and the Series 2004 B Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest, if any, on the Series 2004 A Bonds and the Series 2004 B Bonds, respectively, as the same shall become due. Moneys in the Series 2004 A Bonds Reserve Account and the Series 2004 B Bonds Reserve Account shall be used only for the purposes of paying principal of and interest, if any, on the Series 2004 A Bonds and the Series 2004 B Bonds, respectively, as the same shall come due, when other moneys in the Series 2004 A Bonds Sinking Fund and the Series 2004 B Bonds Sinking Fund are insufficient therefor, and for no other purpose.

All investment earnings on moneys in the Series 2004 A Bonds Sinking Fund, the Series 2004 A Bonds Reserve Account, the Series 2004 B Bonds Sinking Fund and the Series 2004 B Bonds Reserve Account shall be returned, not less than once each year, by the Commission to the Issuer, and such amounts shall, during construction of the Project, be deposited in the Series 2004 Bonds Construction Trust Fund, and following completion of construction of the Project, shall be deposited in the Revenue Fund and applied in full, first to the next ensuing interest payment, if any, due on the Series 2004 A Bonds and the Series 2004 B Bonds, respectively, and then to the next ensuing principal payment due thereon, all on a pro rata basis.

Any withdrawals from the Series 2004 A Bonds Reserve Account or the Series 2004 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 2004 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 Series 2004 A Bonds Sinking Fund, the Series 2004 A Bonds Reserve Account, the Series 2004 B Bonds Sinking Fund or the Series 2004 B Bonds Reserve Account when the aggregate amount of funds therein are at least equal to the respective aggregate principal amount of the

Series 2004 A Bonds and the Series 2004 B Bonds issued pursuant to this Bond Legislation then Outstanding and all interest, if any, to accrue until the maturity thereof.

Interest, principal or reserve payments, whether made for a deficiency or otherwise, shall be made on a parity and pro rata, with respect to the Series 2004 A Bonds and the Series 2004 B Bonds, in accordance with the respective principal amounts then Outstanding.

The Commission is hereby designated as the fiscal agent for the administration of the Series 2004 A Bonds Sinking Fund, the Series 2004 A Bonds Reserve Account, the Series 2004 B Bonds Sinking Fund and the Series 2004 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.

Moneys in the Series 2004 A Bonds Sinking Fund, the Series 2004 A Bonds Reserve Account, the Series 2004 B Bonds Sinking Fund and the Series 2004 B Bonds Reserve Account shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

The Series 2004 A Bonds Sinking Fund, the Series 2004 A Bonds Reserve Account, the Series 2004 B Bonds Sinking Fund and the Series 2004 B Bonds Reserve Account shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Series 2004 A Bonds and the Series 2004 B Bonds, respectively, under the conditions and restrictions set forth herein.

B. 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 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 the Act, such excess shall be considered as surplus revenues (the "Surplus Revenues"). Surplus Revenues may be used for any lawful purpose of the System.

C. 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 interest, principal and reserve account payments 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 Loan Agreement for the Series 2004 A Bonds.

D. The Issuer shall complete the "Monthly Payment Form," a form of which is attached to the Loan 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.

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

ARTICLE VI

BOND PROCEEDS; CONSTRUCTION DISBURSEMENTS

Section 6.01. Application of Bond Proceeds. From the moneys received from the sale of the Series 2004 Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. From the proceeds of the Series 2004 A Bonds, there shall first be deposited with the Commission in the Series 2004 A Bonds Sinking Fund, the amount, if any, set forth in the Supplemental Resolution as capitalized interest.

B. From the proceeds of the Series 2004 B Bonds, there shall first be deposited with the Commission in the Series 2004 B Bonds Sinking Fund, the amount, if any, set forth in the Supplemental Resolution as capitalized interest.

C. Next, from the proceeds of the Series 2004 A Bonds, there shall be deposited with the Commission in the Series 2004 A Bonds Reserve Account, the amount, if any, set forth in the Supplemental Resolution for funding of the Series 2004 A Bonds Reserve Account.

D. Next, from the proceeds of the Series 2004 B Bonds, there shall be deposited with the Commission in the Series 2004 B Bonds Reserve Account, the amount, if any, set forth in the Supplemental Resolution for funding of the Series 2004 B Bonds Reserve Account.

E. Next, from the proceeds of the Series 2004 A Bonds, there shall be paid the amount set forth in the Supplemental Resolution for paying in full the entire outstanding principal of and all interest accrued on the interim financing loan incurred for design and other costs of the Project.

F. Next, from the proceeds of the Series 2004 B Bonds, there shall be deposited with the Commission, together with funds contributed to the Issuer by SRSPSD, the amount set forth in the Supplemental Resolution for paying in full the entire outstanding principal of and all interest and administrative fees on the Series 1999 A Bonds.

G. As the Issuer receives advances of the remaining moneys derived from the sale of the Series 2004 A Bonds, such moneys shall be deposited with the Depository Bank in the Series 2004 Bonds Construction Trust Fund and applied solely to payment of the costs

of the Project in the manner set forth in Section 6.02 hereof and until so expended, are hereby pledged as additional security for the Series 2004 A Bonds.

H. As the Issuer receives advances of the remaining moneys derived from the sale of the Series 2004 B Bonds, such moneys shall be deposited with the Depository Bank in the Series 2004 Bonds Construction Trust Fund and applied solely to payment of the costs of the Project in the manner set forth in Section 6.02 hereof and until so expended are hereby pledged as additional security for the Series 2004 B Bonds.

I. 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 2004 A Bonds shall be expended as approved by the DEP and any remaining proceeds of the Series 2004 B Bonds shall be expended as approved by the Infrastructure Council.

Section 6.02. Disbursements From Bond Construction Trust Fund. A. On or before the Closing Date, the Issuer shall have delivered to the DEP and the Authority a report listing the specific purposes for which the proceeds of the Series 2004 A Bonds will be expended and the disbursement procedures for such proceeds, including an estimated monthly draw schedule. Payments for the costs of the Project shall be made monthly.

Except as provided in Section 6.01 hereof, disbursements of proceeds of the Series 2004 A Bonds from the Series 2004 Bonds Construction Trust Fund shall be made only after submission to and approval from the DEP of the following:

(1) a completed and signed "Payment Requisition Form," a form of which is attached to the Loan Agreement for the Series 2004 A Bonds, in compliance with the Issuer's construction schedule, and

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

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

(b) Each item for which the payment is proposed to be made is or was necessary in connection with the Project and constitutes a Cost of the Project;

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

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

B. The Issuer shall each month provide the Infrastructure Council with a requisition for the costs incurred for the Project, together with such documentation as the Infrastructure Council shall require. Payments of all Costs of the Project shall be made monthly.

Except as provided in Section 6.01 hereof, disbursements of proceeds of the Series 2004 B Bonds from the Series 2004 Bonds Construction Trust Fund shall be made only after submission to and approval from the Council of a certificate, signed by an Authorized Officer and the Consulting Engineers, stating that:

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

(b) Each item for which the payment is proposed to be made is or was necessary in connection with the Project and constitutes a Cost of the Project;

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

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

The Issuer shall expend all proceeds of the Series 2004 B Bonds within 3 years of the date of issuance of the State's general obligation bonds, the proceeds of which were used to make the loan to the Issuer.

Pending such application, moneys in the Series 2004 Bonds Construction Trust Fund, shall be invested and reinvested in Qualified Investments at the written direction of the Issuer.

ARTICLE VII

ADDITIONAL COVENANTS OF THE ISSUER

Section 7.01. General Covenants of the Issuer. All the covenants, agreements and provisions of this Bond Legislation shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any Registered Owner of the Series 2004 Bonds. In addition to the other covenants, agreements and provisions of this Bond Legislation, the Issuer hereby covenants and agrees with the Registered Owner of the Series 2004 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 2004 Bonds or the interest, if any, thereon is Outstanding and unpaid.

Section 7.02. Bonds not to be Indebtedness of the Issuer. The Series 2004 Bonds shall not be nor constitute a corporate 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 2004 Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 2004 Bonds or the interest, if any, thereon.

Section 7.03. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of the Series 2004 A Bonds and the Series 2004 B Bonds shall be secured equally and ratably with each other by a first lien on the Net Revenues derived from the System. The Net Revenues in an amount sufficient to pay the principal of and interest, if any, on the Series 2004 Bonds and to make the payments into all funds and accounts and all other payments provided for in the Bond Legislation are hereby irrevocably pledged, in the manner provided herein, to such payments as they become due, and for the other purposes provided in the Bond Legislation.

Section 7.04. 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 Agreement. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth in the sewer rate ordinance of the Issuer duly enacted on October 27, 2004.

So long as the Series 2004 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 Agreement. In the event the schedule of rates, fees and charges initially established for the System in connection with the Series 2004 Bonds shall prove to be insufficient to produce the required sums set forth in this Bond Legislation and the Loan Agreement, the Issuer hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates, 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 Loan Agreement.

Section 7.05. Sale of the System. So long as the Series 2004 Bonds are outstanding and except as otherwise required by law or with the written consent of the DEP, the Infrastructure Council and the Authority, the System may not be sold, mortgaged, leased or otherwise disposed of, except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to fully pay all the Bonds then 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 2004 Bonds, immediately be remitted to the Commission for deposit in the Sinking Funds, and, with the written permission of the DEP, the Infrastructure Council and the Authority, or in the event the Authority is no longer a Registered Owner, the Issuer shall direct the Commission to apply such proceeds to the payment of principal of and interest, if any, on the Series 2004 Bonds. Any balance remaining after the payment of the Series 2004 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 a professional engineer, 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 such account 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 for in Section 7.06 and Section 7.07 hereof, the Issuer shall not issue any other obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Series 2004 Bonds. All obligations issued by the Issuer after the issuance of the Series 2004 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 2004 Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into all funds and accounts established by this Bond Legislation 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 2004 Bonds, and the interest, if any, thereon, upon any of the income and revenues of the System pledged for payment of the Series 2004 Bonds and the interest, if any, thereon in this Bond Legislation, or upon the System or any part thereof.

The Issuer shall give the Authority, the DEP and the Infrastructure 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 for the Project, or any other obligations related to the Project or the System.

Section 7.07. Parity Bonds. No Parity Bonds, payable out of the revenues of the System, shall be issued after the issuance of the Series 2004 Bonds pursuant to this Bond Legislation, without the prior written consent of the Authority, the DEP and the Infrastructure Council 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 2004 Bonds.

No such Parity Bonds shall be issued, except for the purposes of financing the costs of the design, acquisition or construction of additions, extensions, improvements or betterments to the System or refunding any Bonds outstanding, 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 Recorder 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 expected to be received in each of the 3 succeeding years after the completion of the improvements to be financed by such Parity Bonds, if any, shall be not less than 115% of the largest aggregate amount that will mature and become due in any succeeding Fiscal Year for principal of and interest on the following:

(1) The Bonds then Outstanding;

(2) Any Parity Bonds theretofore issued pursuant to the provisions contained in this Bond Legislation 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 enacted by the Issuer, the time for appeal of which shall have expired (without successful appeal) prior to the date of issuance of such Parity Bonds, and shall not exceed the amount to be stated in a certificate of the Independent Certified Public Accountants, which shall be filed in the office of the Recorder 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, as stated in a certificate, 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 (without successful appeal) 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. All Parity Bonds, regardless of the time or times of their issuance, shall rank equally with respect to their respective liens on the Net Revenues of the System, and their source of and security for payment from the Net 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 lien of the Series 2004 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 2004 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 Authority, the DEP and the Infrastructure 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, the DEP and the Infrastructure Council such documents and information as they may reasonably require in connection with the acquisition, construction and installation of the Project, the operation and maintenance of the System and the administration of the loan or any grants or other sources of financing for the Project.

The Issuer shall permit the Authority, the DEP and the Infrastructure Council, 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 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 Series 2004 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 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 Issuer shall direct.

The Issuer shall file with the Authority, the DEP and the Infrastructure Council, or any Registered Owner of the Series 2004 Bonds, 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 the Independent Certified Public Accountant in compliance with the applicable OMB Circular, or any successor thereof, and the Single Audit Act, or any successor thereof, to the extent legally required, and shall mail upon request, and make available generally, the report of the Independent Certified Public Accountant, or a summary thereof, to any Registered Owner of the Series 2004 Bonds and shall submit said report to the Authority, the DEP and the Infrastructure Council, or any other original purchaser of the Series 2004 Bonds. Such audit report submitted to the Authority, the DEP and the Infrastructure Council 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 Agreement and the Act, the Issuer has acquired, or shall do all things necessary to acquire, the proposed site of the Project and shall do, is doing or has done all things necessary to construct the Project in accordance with the plans, specifications and designs prepared by the Consulting Engineers. All real estate and interests in real estate and all personal property constituting the Project and the Project site heretofore or hereafter acquired shall at all times be and remain the property of the Issuer.

The Issuer shall permit the Authority, the DEP and the Infrastructure Council, 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 and commencement of operation of the Project, the Issuer shall also provide the Authority, the DEP and the Infrastructure Council, 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 DEP and the Infrastructure Council with respect to the System pursuant to the Act.

The Issuer shall provide the DEP with all appropriate documentation to comply with any special conditions established by federal and/or state regulations as set forth in Exhibit E of the Loan Agreement for the Series 2004 A Bonds or as promulgated from time to time.

Section 7.09. Rates. Prior to the issuance of the Series 2004 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 Recorder, 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 Fiscal Year equal to at least 115% of the maximum amount required in any succeeding Fiscal Year for payment of principal of and interest, if any, on the Series 2004 Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2004 Bonds;

provided that, in the event that amounts equal to or in excess of the Reserve Requirements are on deposit respectively in the Series 2004 A Bonds Reserve Account, the Series 2004 B Bonds Reserve Account and the Reserve Accounts for obligations on a parity with the Series 2004 Bonds are funded at least at the requirement therefor, such balance each Fiscal Year need only equal at least 110% of the maximum amount required in any Fiscal Year for payment of principal of and interest, if any, on the Series 2004 Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2004 Bonds. In any event, the Issuer shall not reduce the rates or charges for services set forth in the rate ordinance described in Section 7.04.

Section 7.10. Operating Budget and Monthly Financial Report. The Issuer shall annually, at least 45 days preceding the beginning of each Fiscal Year, prepare and adopt by resolution a detailed, balanced budget of the estimated revenues and expenditures for operation and maintenance of the System during the succeeding Fiscal Year and shall submit a copy of such budget to the Authority, the DEP and the Infrastructure Council 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 within 30 days of adoption thereof mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the Authority, the DEP, the Infrastructure Council and any Registered Owner of the Series 2004 Bonds and shall make available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to the Authority, the DEP, the Infrastructure Council and any Registered Owner of the Series 2004 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 2 years following the completion of the Project, the Issuer shall each month complete a "Monthly Financial Report," a form of which is attached to the Loan Agreement, and forward a copy of such report to the Authority, the DEP and the Infrastructure Council by the 10th day of each month.

Section 7.11. Engineering Services and Operating Personnel. The Issuer shall obtain a certificate of the Consulting Engineers in the form attached to the Loan Agreement, stating, among other things, that the Project has been or will be constructed in accordance with the approved plans, specifications and designs as submitted to the Authority, the DEP and the

Infrastructure Council, the Project is adequate for the purposes for which it was designed, the funding plan as submitted to the Authority, the DEP and the Infrastructure Council 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 Authority, the DEP and the Infrastructure Council 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, the DEP, the Infrastructure Council and the Issuer at the completion of construction that construction of the Project is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies.

The Issuer shall require the Consulting Engineers to submit Recipient As-Built Plans, as defined in the SRF Regulations, to it within 60 days of the completion of the Project. The Issuer shall notify the DEP in writing of such receipt. The Issuer shall submit a "Performance Certificate," a form of which is attached to the Loan Agreement for the Series 2004 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 SRF 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 Loan Agreement. The Issuer shall notify the DEP in writing of the certified operator employed at the 50% completion stage.

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

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

Whenever any fees, rates, rentals or other charges for the services and facilities of the System shall remain unpaid for a period of 30 days after the same shall become due and payable, the property and the owner thereof, as well as the user of the services and facilities, shall be delinquent until such time as all such rates and charges are fully paid. To the extent authorized by the laws of the State and the rules and regulations of the 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, 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 waterworks facilities are not owned by the Issuer, the Issuer will, to the extent allowed by law, 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 rules, regulations and orders of the PSC.

Section 7.14. No Free Services. The Issuer will not render or cause to be rendered any free services of any nature by the System, nor will any preferential rates be established for users of the same class; and in the event the Issuer, or any department, agency, instrumentality, officer or employee of either shall avail itself or themselves of the facilities or services provided by the System, or any part thereof, the same rates, fees or charges applicable to other customers receiving like services under similar circumstances shall be charged the Issuer, and any such department, agency, instrumentality, officer or employee. The revenues so received shall be deemed to be revenues derived from the operation of the System, and shall be deposited and accounted for in the same manner as other revenues derived from such operation of the System.

Section 7.15. Insurance and Construction Bonds. A. The Issuer hereby covenants and agrees that so long as the Series 2004 Bonds remain Outstanding, the Issuer will, as an Operating Expense, procure, carry and maintain insurance with a reputable insurance carrier or carriers as is customarily covered with respect to works and properties similar to the System. Such insurance shall initially cover the following risks and be in the following amounts:

(1) FIRE, LIGHTNING, VANDALISM, MALICIOUS MISCHIEF AND EXTENDED COVERAGE INSURANCE, on all above-ground insurable portions of the System in an amount equal to the actual cost thereof. In time of war the Issuer will also carry and maintain insurance to the extent available against the risks and hazards of war. The proceeds of all such insurance policies shall be placed in the Renewal and Replacement Fund and used only for the repairs and restoration of the damaged or destroyed properties or for the other

purposes provided herein for the Renewal and Replacement Fund. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance (fire and extended coverage) to protect the interests of the Issuer, the Authority, the prime contractor and all subcontractors as their respective interests may appear, in accordance with the Loan Agreement, during construction of the Project on a 100% basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Issuer, the contractors and subcontractors, as their interests may appear.

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

(3) WORKER'S COMPENSATION COVERAGE FOR ALL EMPLOYEES OF OR FOR THE SYSTEM ELIGIBLE THEREFOR; AND PERFORMANCE AND PAYMENT OR COMPLETION BONDS, such bonds to be in the amounts of not less than 100% of the amount of any construction contract and to be required of each contractor dealing 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, Section 38-2-39.

(4) FIDELITY BONDS will be provided as to every officer and employee of the Issuer 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.

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

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

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 Authority, the DEP and the Infrastructure Council. In the event the Loan Agreement so requires, such insurance shall be made payable to the order of the Authority, the Issuer, the prime contractor and all subcontractors, as their interests may appear. 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 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 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 sewerage facilities portion 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 Infrastructure Council necessary for the acquisition and construction of the Project and the operation of the System and all approvals for issuance of the Series 2004 Bonds required by State law, with all requisite appeal periods having expired without successful appeal.

Section 7.18. Compliance with Loan Agreement and Law. The Issuer shall perform, satisfy and comply with all the terms and conditions of the Loan Agreement and the Act. Notwithstanding anything herein to the contrary, the Issuer shall provide the DEP and the Infrastructure 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 Authority, the DEP, the Infrastructure Council or other State, federal or local bodies in regard to the acquisition and construction of the Project and the operation, maintenance and use of the System.

Section 7.19. Tax Covenants. The Issuer hereby further covenants and agrees as follows:

A. PRIVATE BUSINESS USE LIMITATION. The Issuer shall assure that (i) not in excess of 10% of the Net Proceeds of the Series 2004 Bonds are used for Private Business Use if, in addition, the payment of more than 10% of the principal or 10% of the interest due on the Series 2004 Bonds during the term thereof is, under the terms of the Series 2004 Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for a Private Business Use or in payments in respect of property used or to be used for a Private Business Use or is to be derived from payments, whether or not to the Issuer, in respect of property or borrowed money used or to be used for a Private Business Use; and (ii) and that, in the event that both (A) in excess of 5% of the Net Proceeds of the Series 2004 Bonds are used for a Private Business Use, and (B) an amount in excess of 5% of the principal or 5% of the interest due on the Series 2004 Bonds during the term thereof is, under the terms of the Series 2004 Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for said Private Business Use or in payments in respect of property used or to be used for said Private Business Use or is to be derived from payments, whether or not to the Issuer, in respect of property or borrowed money used or to be used for said Private Business Use, then said excess over said 5% of Net Proceeds of the Series 2004 Bonds used for a Private Business Use shall be used for a Private Business Use related to the governmental use of the Project, or if the Series 2004 Bonds are for the purpose of financing more than one project, a portion of the Project, and shall not exceed the proceeds used for the governmental use of that portion of the Project to which such Private Business Use is related, all of the foregoing to be determined in accordance with the Code.

B. PRIVATE LOAN LIMITATION. The Issuer shall assure that not in excess of the lesser of 5% or $5,000,000 of the Net Proceeds of the Series 2004 Bonds are used, directly or indirectly, to make or finance a loan (other than loans constituting Nonpurpose Investments) to persons other than state or local government units.

C. FEDERAL GUARANTEE PROHIBITION. The Issuer shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Series 2004 Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

D. INFORMATION RETURN. If required, the Issuer shall file all statements, instruments and returns necessary to assure the tax-exempt status of the Series 2004 Bonds and the interest, if any, thereon, including, without limitation, the information return required under Section 149(e) of the Code.

E. FURTHER ACTIONS. The Issuer shall take any and all actions that may be required of it (including, without limitation, those deemed necessary by the Authority) so that the interest, if any, on the Series 2004 Bonds will be and remain excludable from gross income for federal income tax purposes, and shall not take any actions, or fail to take any actions (including, without limitation, those deemed necessary by the Authority), the result of which would adversely affect such exclusion.

Section 7.20. Securities Laws Compliance. The Issuer shall provide the Authority, in a timely manner, with any and all information that may be requested of it (including its annual audit report, financial statements, related information and notices of changes in usage and customer base) so that the Authority may comply with the provisions of SEC Rule 15c2-12 (17 CFR Part 240).

Section 7.21. Contracts; Public Releases. A. The Issuer shall, simultaneously with the delivery of the Series 2004 Bonds or immediately thereafter, enter into written contracts for the immediate acquisition or construction of the Project.

B. The Issuer shall submit all proposed change orders to the DEP and the Infrastructure Council for written approval. The Issuer shall obtain the written approval of the DEP and the Infrastructure Council before expending any proceeds of the Series 2004 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 and the Infrastructure Council before expending any proceeds of the Series 2004 Bonds made available due to bid or construction or project underruns.

C. The Issuer shall list the funding as being provided by the Authority, the DEP and the Infrastructure 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 ground breaking or dedication of the Project.

ARTICLE VIII

INVESTMENTS

Section 8.01. Investments. Any moneys held as a part of the funds and accounts created by this Bond Legislation other than the Revenue Fund, shall be invested and reinvested by the Commission, the Depository Bank, or such other bank or national banking association holding such fund or account, as the case may be, at the written direction of the Issuer in any Qualified Investments to the fullest extent possible under applicable laws, this Bond Legislation, the need for such moneys for the purposes set forth herein and the specific restrictions and provisions set forth in this Section 8.01.

Any investment shall be held in and at all times deemed a part of the fund or account in which such moneys were originally held, and the interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. The investments held for any fund or account shall be valued at the lower of cost or then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including the value of accrued interest and giving effect to the amortization of discount, or at par if such investment is held in the "Consolidated Fund." The Commission shall sell and reduce to cash a sufficient amount of such investments whenever the cash balance in any fund or account is insufficient to make the payments required from such fund or account, regardless of the loss on such liquidation. The Depository Bank may make any and all investments permitted by this section through its own investment or trust department and shall not be responsible for any losses from such investments, other than for its own negligence or willful misconduct.

The Depository Bank shall keep complete and accurate records of all funds, accounts and investments, and shall distribute to the Issuer, at least once each year (or more often if reasonably requested by the Issuer), a summary of such funds, accounts and investment earnings. The Issuer shall retain all such records and any additional records with respect to such funds, accounts and investment earnings so long as any of the Series 2004 Bonds are Outstanding and as long thereafter as necessary to comply with the Code and assure the exclusion of interest, if any, on the Series 2004 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 2004 Bonds as a condition to issuance of the Series 2004 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 2004 Bonds as may be necessary in order to maintain the status of the Series 2004

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 2004 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, the Infrastructure Council or the DEP, as the case may be, from which the proceeds of the Series 2004 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, the Infrastructure Council or the DEP, to ensure compliance with the covenants and agreements set forth in this Section 8.02, regardless of whether such actions may be contrary to any of the provisions of this Bond Legislation.

The Issuer shall annually furnish to the Authority information with respect to the Issuer's use of the proceeds of the Series 2004 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 2004 Bonds:

(1) If default occurs in the due and punctual payment of the principal of or interest, if any, on any Series 2004 Bonds; or

(2) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on their respective parts relating to the Series 2004 Bonds set forth in this Bond Legislation, any supplemental resolution or in the Series 2004 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 Authority, the Depository Bank, the Registrar, the Paying Agent or the Registered Owner of the Series 2004 Bonds; 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.

Section 9.02. Remedies. Upon the happening and continuance of any Event of Default, any Registered Owner of the Series 2004 Bonds 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, the Loan Agreement 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 2004 Bonds; (iv) by action at law or bill in equity require the Issuer to account as if it were the trustee of an express trust for the Registered Owners of the Series 2004 Bonds, and (v) by action or bill in equity, enjoin any acts in violation of the Bond Legislation with respect to the Series 2004 Bonds, or the rights of such Registered Owners.

Section 9.03. Appointment of Receiver. Any Registered Owner of the Series 2004 Bonds 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, any Registered Owner shall, in addition to all other remedies or rights, have the right by appropriate legal proceedings to obtain the appointment of a receiver to administer the System or to complete the acquisition and

construction of the Project on behalf of the Issuer, with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of Operating Expenses of the System, the payment of the Bonds and interest and the deposits into the funds and accounts hereby established, and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of this Bond Legislation and the Act.

The receiver so appointed shall forthwith, directly or by his or her or its agents and attorneys, enter into and upon and take possession of all facilities of the System and shall hold, operate and maintain, manage and control the System, 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 the System as the Issuer itself might do.

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 the Registered Owners 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 Registered Owners of the Series 2004 Bonds, the principal of and interest, if any, due or to become due thereon, at the times and in the manner stipulated therein and in this Bond Legislation, then the pledge of Net Revenues and other moneys and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series 2004 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 2004 Bonds from gross income for federal income tax purposes.

ARTICLE XI

MISCELLANEOUS

Section 11.01. Amendment or Modification of Bond Legislation. Prior to the issuance of the Series 2004 Bonds, this Ordinance may be amended or supplemented in any way by the Supplemental Resolution. Following issuance of the Series 2004 Bonds, no material modification or amendment of this Ordinance, or of any ordinance, resolution or order amendatory or supplemental hereto, that would materially and adversely affect the rights of Registered Owners of the Series 2004 Bonds shall be made without the consent in writing of the Registered Owners of the Series 2004 Bonds so affected and then Outstanding; provided, that no change shall be made in the maturity of any Series 2004 Bonds or the rate 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, out of the funds herein pledged therefor without the consent of the Registered Owners thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of the Series 2004 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 excludability of interest, if any, on the Series 2004 Bonds from gross income of the Registered Owners thereof.

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

Section 11.03. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Ordinance 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 Ordinance, the Supplemental Resolution or the Series 2004 Bonds.

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

Section 11.05. Conflicting Provisions Repealed. All ordinances, orders or resolutions and or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

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 Ordinance 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 Mayor, the Recorder and members of the Governing Body were at all times when any actions in connection with this Ordinance occurred and are duly in office and duly qualified for such office.

Section 11.07. Statutory Notice and Public Hearing. Upon adoption hereof, an abstract of this Ordinance in the form set forth in Exhibit A attached hereto and incorporated herein by reference, shall be published once a week for 2 successive weeks within a period of fourteen consecutive days, with at least 6 full days intervening between each publication, in The Cabell Record and The Herald-Dispatch, 2 newspapers of general circulation in the Town of Milton, there being no newspaper published therein, together with a notice stating that this Ordinance has been adopted and that the Issuer contemplates the issuance of the Series 2004 Bonds, and that any person interested may appear before the Governing Body upon a date certain, not less than 10 days subsequent to the date of the first publication of such abstract of this Ordinance and notice, and present protests, and that a certified copy of this Ordinance is on file with the Governing Body for review by interested persons during office hours of the Governing Body. The Governing Body hereby determines that the abstract of this Ordinance as set forth in Exhibit A contains sufficient information as to give notice of the contents hereof. At such hearing, all objections and suggestions shall be heard and the Governing Body shall take such action as it shall deem proper in the premises.

Section 11.08. Effective Date. This Ordinance shall take effect immediately following public hearing and final reading hereof.

Passed on First Reading: November 4, 2004

Passed on Second Reading: November 16, 2004

Passed on Final Reading
Following Public
Hearing: December 7, 2004

Mayor

CERTIFICATION

Certified a true copy of an Ordinance duly enacted by the Council of the Town of Milton on the 7th day of December, 2004.

Dated this 17th day of December, 2004.

[SEAL]

Recorder

12/01/04
004201/00304

EXHIBIT A

TOWN OF MILTON

NOTICE OF PUBLIC HEARING AND ABSTRACT OF BOND ORDINANCE

Notice is hereby given to any person interested that on November 16, 2004, the Council of the Town of Milton (the "Issuer"), adopted an ordinance which, among other things:

1. Authorized the prepayment of the Issuer's Sewerage System Revenue Refunding Bonds, Series 1996 A, from funds available to the Issuer, and the refunding of the Issuer's Sewerage System Design Revenue Bonds, Series 1999 A, the payment of interim financing for design and other costs and the acquisition and construction of certain additions, betterments and improvements (the "Project") to the Issuer's existing public sewerage system (the "System") and the financing of the cost, not otherwise provided, thereof through the issuance of not more than $7,000,000 in aggregate principal amount of Sewer Revenue Bonds, Series 2004 A (West Virginia SRF Program) and not more than $2,000,00 in aggregate principal amount of Sewer Revenue Bonds, Series 2004 B (West Virginia Infrastructure Fund) (collectively, the "Bonds").

2. Directed that the Bonds be issued in such principal amounts, bear interest, if any, at such rate or rates, not exceeding the then legal maximum rate, payable quarterly on such dates, mature on such dates and in such amounts and redeemable, in whole or in part, as prescribed in a supplemental resolution or in the respective Loan Agreements for the Bonds.

3. Directed the creation of a revenue fund and the disposition of the revenues of the System; provided for the payment of operating expenses and debt service; directed the creation of the sinking funds, reserve accounts and a renewal and replacement fund; directed the creation of a bond construction trust fund and the disbursement of Bond proceeds.

4. Provided that the Bonds shall not be or constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Net Revenues of the System; pledged the Net Revenues of the System to payment of the Bonds and established the rights of the registered owners of the Bonds to the Net Revenues of the System; provided certain conditions for the issuance of additional bonds.

5. Provided for insurance coverage on the Project, enforcement of collection of rates and other charges for the System, and other covenants of the Issuer in favor of the registered owners of the Bonds.

6. Established the events of default and the remedies of the registered owners of the Bonds.

7. Provided for the modification or amendment of the Ordinance upon the terms and conditions set forth in the Ordinance.

The Issuer contemplates the issuance of the Bonds described in and under the conditions set forth in the Ordinance abstracted above. Any person interested may appear before the Council of the Town of Milton at a regular meeting on December 7, 2004, at 7:00 p.m., in the Council Chambers, Town Hall, Milton, West Virginia, and present protests and be heard as to whether the above-described Ordinance shall be put into effect.

A certified copy of the Ordinance as adopted by the Council is on file with the Recorder for review by interested persons during the office hours of the Town Hall.

Jack Sayre
Recorder

TOWN OF MILTON
SEWER REVENUE BONDS,
SERIES 2004 A (WEST VIRGINIA SRF PROGRAM) AND
SERIES 2004 B (WEST VIRGINIA INFRASTRUCTURE FUND)

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO THE PRINCIPAL AMOUNTS, DATES, MATURITY DATES, INTEREST RATES, PAYMENT SCHEDULES, SALE PRICES AND OTHER TERMS OF THE TOWN OF MILTON SEWER REVENUE BONDS, SERIES 2004 A (WEST VIRGINIA SRF PROGRAM) AND SERIES 2004 B (WEST VIRGINIA INFRASTRUCTURE FUND); AUTHORIZING AND APPROVING THE LOAN AGREEMENTS RELATING TO SUCH BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; AUTHORIZING AND APPROVING THE REGIONAL WASTEWATER TREATMENT FACILITY AND SERVICE AGREEMENT; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the Council (the "Governing Body") of the Town of Milton (the "Issuer") has duly and officially passed a Bond Ordinance on November 16, 2004, effective December 7, 2004 (the "Bond Ordinance"), entitled:

ORDINANCE AUTHORIZING THE PREPAYMENT OF THE SEWERAGE SYSTEM REVENUE REFUNDING BONDS, SERIES 1996 A, OF THE TOWN OF MILTON, FROM FUNDS AVAILABLE TO THE TOWN, THE REFUNDING OF THE SEWERAGE SYSTEM DESIGN REVENUE BONDS, SERIES 1999 A, OF THE TOWN OF MILTON, THE PAYMENT OF INTERIM FINANCING FOR DESIGN AND OTHER COSTS AND THE ACQUISITION AND CONSTRUCTION OF CERTAIN ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC SEWERAGE SYSTEM OF THE TOWN OF MILTON AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE TOWN OF NOT MORE THAN $7,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS,

SERIES 2004 A (WEST VIRGINIA SRF PROGRAM) AND NOT MORE THAN $2,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2004 B (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 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 Bond Ordinance when used herein;

WHEREAS, the Bond Ordinance provides for the issuance of the Sewer Revenue Bonds, Series 2004 A (West Virginia SRF Program) and Series 2004 B (West Virginia Infrastructure Fund), of the Issuer, in the respective aggregate principal amounts not to exceed $7,000,000 and $2,000,000 (collectively, the "Bonds" and individually, the "Series 2004 A Bonds" and "Series 2004 B Bonds"), and has authorized the execution and delivery of a bond purchase agreement relating to the Series 2004 A Bonds, including all schedules and exhibits attached thereto, by and among the Issuer, the West Virginia Water Development Authority (the "Authority") and the West Virginia Department of Environmental Protection (the "DEP"), and a loan agreement relating to the Series 2004 B Bonds, including all schedules and exhibits attached thereto, by and between the Issuer and the Authority, on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Infrastructure Council") (collectively, the "Loan Agreement"), all in accordance with Chapter 16, Article 13 and Chapter 22C, Article 2 and Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended (collectively, the "Act"); and in the Bond Ordinance it is provided that the exact principal amounts, dates, maturity dates, interest rates, payment schedules, sale prices and other terms of the Bonds should be established by a supplemental resolution, and that other matters relating to the Bonds be herein provided for;

WHEREAS, the Loan Agreement has been presented to the Issuer at this meeting;

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

WHEREAS, the Regional Wastewater Treatment Facility and Service Agreement, by and among Salt Rock Sewer Public Service District, Culloden Public Service District and the Issuer (the "Agreement"), has been presented to the Issuer at this meeting; and

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted, that the Loan Agreement and the Agreement be approved and ratified by the Issuer, that the exact principal amounts, dates, maturity dates, interest rates, payment schedules, sale prices 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.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE TOWN OF MILTON, WEST VIRGINIA, AS FOLLOWS:

Section 1. It is hereby found and determined that:

(A) The Notice of Public Hearing and Abstract of Bond Ordinance (the "Notice") was duly published in The Cabell Record and The Herald-Dispatch, 2 qualified newspapers of general circulation in the Town of Milton, with the first publication thereof being not less than 10 days before the day set by the Bond Ordinance and the Notice for the public hearing at which interested persons may appear before the Council and present protests and suggestions and with the last publication thereof being prior to said date set by the Bond Ordinance and the Notice for the public hearing, and a copy of the Affidavit of Publication reflecting such publications is incorporated herein by reference;

(B) In accordance with the Bond Ordinance and the Notice, the Recorder has maintained in his or her office a certified copy of the Bond Ordinance for review by interested persons during the regular office hours of such office;

(C) In council chambers, Town Hall, Milton, West Virginia, on December 7, 2004, at 7:00 p.m., prevailing time, in accordance with the Bond Ordinance and the Notice, the Council met for the purpose of hearing protests and suggestions regarding whether the Bond Ordinance should be put into effect and heard all protests and suggestions with regard thereto;

(D) At the public hearing, no significant reasons were presented that would require modification or amendment of the Bond Ordinance and no written protest with regard thereto was filed by 30 percent or more of the freeholders of the Issuer; and

(E) The Bond Ordinance shall be put into effect as of the date hereof and

the Bonds contemplated thereby shall be issued, all as provided in the Bond Ordinance and this Supplemental Resolution.

Section 2. Pursuant to the Bond Ordinance and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the following bonds of the Issuer:

(A) Sewer Revenue Bonds, Series 2004 A (West Virginia SRF Program), of the Issuer, originally represented by a single Bond, numbered AR-1, in the original principal amount of $6,351,371. The Series 2004 A Bonds shall be dated the date of delivery, shall finally mature December 1, 2044, and shall bear no interest. The principal of the Series 2004 A Bonds shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing December 1, 2006, in the amounts as set forth in the Schedule Y attached to the Loan Agreement and incorporated in and made a part of the Series 2004 A Bonds. The Issuer hereby approves and shall pay the SRF Administrative Fee equal to 0.5% of the principal amount of the Series 2004 A Bonds set forth in the Schedule Y attached to the Loan Agreement. The Series 2004 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 Loan Agreement, so long as the Authority shall be the Registered Owner of the Series 2004 A Bonds.

(B) Sewer Revenue Bonds, Series 2004 B (West Virginia Infrastructure Fund), of the Issuer, originally represented by a single Bond, numbered BR-1, in the original principal amount of $1,571,903. The Series 2004 B Bonds shall be dated the date of delivery, shall finally mature December 1, 2044, and shall bear no interest. The principal of the Series 2004 B Bonds shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing December 1, 2006, in the amounts as set forth in the Schedule Y attached to the Loan Agreement and incorporated in and made a part of the Series 2004 B Bonds. The Series 2004 B Bonds shall be subject to redemption upon the written consent of the Authority and the Infrastructure 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 2004 B Bonds.

Section 3. All other provisions relating to the Bonds and the text of the Bonds shall be in substantially the forms provided in the Bond Ordinance.

Section 4. 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 Mayor, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, directed, ratified and approved. The Issuer hereby affirms all covenants and

representations made in the Loan Agreement and in the application to the DEP, the Infrastructure Council and the Authority. The price of the Bonds shall be 100% of par value, there being no interest accrued thereon, provided that the proceeds of the Bonds shall be advanced from time to time as requisitioned by the Issuer.

Section 5. The Issuer hereby ratifies, approves and accepts the Agreement, a copy of which is incorporated herein by reference, and the execution and delivery of the Agreement by the Mayor, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, directed, ratified and approved.

Section 6. The Issuer hereby appoints and designates Putnam County Bank, Hurricane, West Virginia, to serve as Registrar (the "Registrar") for the Bonds under the Bond Ordinance 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 Mayor, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, directed and approved.

Section 7. 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 under the Bond Ordinance.

Section 8. The Issuer hereby appoints and designates Putnam County Bank, Hurricane, West Virginia, to serve as Depository Bank for the Series 2004 Bonds Construction Trust Fund. The Issuer hereby appoints and designates JP Morgan Chase Bank, N.A., Milton, West Virginia, to serve as Depository Bank for the Revenue Fund and the Renewal and Replacement Fund.

Section 9. Series 2004 A Bonds proceeds in the amount of $-0- shall be deposited in the Series 2004 A Bonds Sinking Fund as capitalized interest.

Section 10. Series 2004 A Bonds proceeds in the amount of $-0- shall be deposited in the Series 2004 A Bonds Reserve Account.

Section 11. Series 2004 A Bonds proceeds in the amount of $994,525 shall be used to pay in full the entire outstanding principal of and all interest accrued on the interim financing loan incurred for design and other costs of the Project.

Section 12. Series 2004 B Bonds proceeds in the amount of $-0- shall be deposited in the Series 2004 B Bonds Sinking Fund as capitalized interest.

Section 13. Series 2004 B Bonds proceeds in the amount of $-0- shall be deposited in the Series 2004 B Bonds Reserve Account.

Section 14. Series 2004 B Bonds proceeds in the amount of $159,585, together with the other funds set forth in Section 17 below, shall be used to pay in full the entire outstanding principal of and all interest and administrative fees on the Issuer's Sewerage System Design Revenue Bonds, Series 1999 A.

Section 15. The remaining proceeds of the Bonds, as advanced from time to time, shall be deposited in or credited to the Series 2004 Bonds Construction Trust Fund, as received from time to time for payment of costs of the Project, including costs of issuance of the Bonds.

Section 16. The Issuer hereby approves the prepayment of the entire outstanding principal of and all interest and administrative fees on its Sewerage System Revenue Refunding Bonds, Series 1996 A, in the amount of $126,901, with the following funds: (1) $49,003 from funds in the Series 1996 A Bonds Sinking Fund and the Series 1996 A Bonds Reserve Account; and (2) $77,898 from funds contributed by Salt Rock Sewer Public Service District.

Section 17. The Issuer hereby approves the prepayment of the entire outstanding principal of and all interest and administrative fees on its Sewerage System Design Revenue Bonds, Series 1999 A, in the amount of $428,538, with the following funds: (1) $23,478 from funds in the Series 1999 A Bonds Sinking Fund and the Series 1999 A Bonds Reserve Account; (2) $245,475 from funds contributed by Salt Rock Sewer Public Service District; and (3) $159,585 from proceeds of the Series 2004 B Bonds.

Section 18. The Mayor and Recorder are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Bonds hereby and by the Bond Ordinance approved and provided for, to the end that the Bonds may be delivered to the Authority pursuant to the Loan Agreement on or about December 29, 2004.

Section 19. The prepayment of the Series 1996 A Bonds and the Series 1999 A Bonds, the acquisition and construction of the Project and the financing thereof in part with proceeds of the Bonds are in the public interest, serve a public purpose of the Issuer and will promote the health, welfare and safety of the residents of the Issuer.

Section 20. The Issuer hereby determines to invest all moneys in the funds and accounts established by the Bond Ordinance 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 2004 A Bonds Sinking Fund, the Series 2004 B Bonds Sinking Fund, the Series 2004 A Bonds Reserve Account and the Series 2004 B Bonds Reserve Account shall be invested by the Commission in the West Virginia Consolidated Fund.

Section 21. The Issuer hereby approves and accepts all contracts relating to the financing, acquisition and construction of the Project.

Section 22. The Issuer hereby approves the costs of issuance and authorizes the payment of the same.

Section 23. This Supplemental Resolution shall be effective immediately following adoption hereof.

Adopted this 21st day of December, 2004.

Mayor

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Council of the Town of Milton on the 21st day of December, 2004.

Dated this 29th day of December, 2004.

[SEAL]

Recorder

12/17/04
004201/00304

Council Minutes
November 4, 2004

Meeting called to order by Mayor Sargent November 4, 2004 at 7:00 p.m.

Council Members present were: Mayor Sargent, Recorder Sayre, Council Members Bledsoe, Leedy, Mullins, and Holbert.

Invocation by Council Member Leedy.

Pledge of Allegiance said in unison.

Approval of the Agenda. Council Member Holbert moved to accept. Seconded by Council Member Mullins. Motion carried.

Approval of previous minutes from Council Meeting October 19 and Special Council Meeting October 27. Moved by Council Member Bledsoe. Seconded by Council Member Mullins. Motion carried.

Recorder Sayre presented the City bills for approval. Council Member Bledsoe moved to approve. Seconded by Council Member Leedy. Motion carried.

Old Business

Mayor Sargent tabled purchasing drainpipe from Abbott Lane to the river until the next meeting.

Council Member Holbert informed Council of meeting with Mr. Braley from the State and they reviewed the water backup problem on Heck Street by Cecil Taylor's house. The State is also going to take care of the ditch on Rt. 15 (Radar Hill).

Mayor Sargent asked Council to review the ordinance on the Building Commission and see if any modifications need to be made and report back at the next meeting. If modifications need to be made it should be done before we form the Building Commission.

Recorder Sayre gave an update on business licenses and B&O taxes. The City only has 7 businesses without license at this time. He still needs to go over the list of delinquent B&O taxes with the Finance Clerk.

New Business

Mayor Sargent presented the following application for a Business License.
Izabelle's Antique & Gifts, 1697 West Main Street, Milton, WV
E Dennis White, Jr. Owner, Antiques and Collectables
Council Member Bledsoe moved. Seconded by Council Member Mullins. Motion carried.

Mayor Sargent presented the following applications for Building Permits.
Jim Clagg, 1137 Newman's Branch, Milton, WV
Dwayne Carter, Contractor, Demolition of House

Carl Rolfe, 1802 US Rt. 60 West, Milton, WV
Carl Rolfe, Owner, Garage Storage Building

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Jimmy Smith, 1501 Glenwood Street, Milton, WV
Jimmy Smith, Owner, Siding and New Windows

Charles & Juanita Wise, 1032 Brickyard Street, Milton, WV
Charles Wise, Owner, Build Garage

Eugene & Rosemary Bailey, 39 Stone Creek Court, Milton, WV
Eugene Bailey, Builder, Speck Home

Council Member Holbert moved to approve. Seconded by Council Member Leedy. Motion carried.

Mayor Sargent introduced Samme Gee who informed Council of revised rules of procedure for Council. After much discussion Recorder Sayre moved to accept. Seconded by Council Member Mullins. Motion carried.

Mayor Sargent announced the first reading of Bond Ordinance authorizing the City of Milton Sewer Revenue Bonds which was presented by Samme Gee. Recorder Sayre moved to approve. Seconded by Council Member Bledsoe. Motion carried.

Mayor Sargent asked for Council's permission to install 2 lights in the City – one on Washington Avenue and one at Lawhorn Street Park. Council Member Bledsoe moved. Seconded by Council Member Mullins. Motion carried.

Mayor Sargent asked for Council's approval to purchase and install new lights in the entry way of City Hall and to put vinyl siding on the old Police Department. Recorder Sayre moved to table until next meeting to allow time to get some prices. Seconded by Council Member Bledsoe. Motion carried.

A citizen, Mike Bragg, who approached Council at the last meeting about helping the City with grants, updated Council on his progress. He constructed a letter and has been asking local businesses for donations. He presented donations from the Resource Management Group in the amount of $200.00 and from Gin Long Buffet in the amount of $10.00. These donations will go first toward the bullet proof vest grant. Any funds received above the amount needed to purchase the vests will go to the next item that is needed by the department at the discretion of the Chief.

Mayor Sargent read a proclamation for "Click It or Ticket Challenge". Chief Mullins introduced Larry Kendall from the Governor's Highway Safety Program, who reported police statistics during routine traffic stops. Recorder Sayre moved to adopt. Seconded by Council Member Mullins. Motion carried.

Mayor Sargent asked for Council's approval for the Brother's of the Wheel Annual Christmas Drive on December 4, 2004 from 9:00 a.m. to 3:00 p.m. at the intersection of Smith Street and Rt. 60. Mr. Clyde Albright was present to answer questions and he also informed the City they had 2 tents if we ever needed to use them for a function. Council Member Bledsoe moved to approve. Seconded by Recorder Sayre. Motion carried.

Mayor Sargent read an email from Chuck Whitlow, Secretary of the Milton Rotary Club, asking for permission to erect 2 signs one at each end of town. The signs will be mounted on treated 4x4 posts and will be 30" in diameter with an 8" information tag mounted below. Council Member Leedy moved to approve. Seconded by Council Member Mullins. Motion carried.

Mayor Sargent informed Council she is waiting on completion of the sign before the dedication service for the park on Lawhorn Street. Notification will be given when a date is set for the dedication service.

Recorder Sayre moved to go into Executive Session at 7:32 p.m. Seconded by Council Member Holbert. Motion carried.

Meeting called back to order at 7:45 p.m. Recorder Sayre moved to give Finance Clerk Cameron Ernst a pay increase of $1.00 per hour. Seconded by Council Member Bledsoe. Motion carried.

Mayor Sargent asked Council to look over the section of our ordinance regarding vacancy on Council.

Recorder Sayre moved to adjourn at 7:50 p.m. Seconded by Council Member Mullins. Motion carried.

Betty P. Sargent, Mayor

Attest

Jack Sayre, Recorder/ Treasurer

Council Minutes
November 16, 2004

Meeting called to order by Mayor Sargent November 16, 2004 at 7:00 p.m.

Council Members present were: Mayor Sargent, Recorder Sayre, Council Members Leedy, Mullins, and Holbert. Council Member Bledsoe was absent.

Invocation by Mayor Sargent.

Pledge of Allegiance said in unison.

Approval of the Agenda. Council Member Holbert moved to accept. Seconded by Council Member Mullins. Motion carried.

Approval of previous minutes from Council Meeting November 4, Special Council Meeting November 4, and Public Hearing, October 27, 2004. Moved by Council Member Leedy. Seconded by Council Member Mullins. Motion carried.

Recorder Sayre presented the City bills for approval. Council Member Mullins moved to approve. Seconded by Council Member Leedy. Motion carried.

Old Business

Mayor Sargent asked for discussion on a Building Commission to be tabled until the next meeting. Council Member Leedy moved. Seconded by Recorder Sayre. Motion carried.

Mayor Sargent asked for Council's approval to purchase 3 new light fixtures and vinyl siding for the old Police Department. Mayor Sargent priced lights at $29, $43 and $62 depending on the style. Council Member Holbert priced siding from 84 Lumber $158.00 and Lowe's $154.00. Recorder Sayre moved to purchase the 3 - $43 lights and the vinyl siding from 84 Lumber. Seconded by Council Member Mullins. Motion carried.

New Business

Mayor Sargent presented the following application for a Business License.

WV Foods LLC, DBA Tudor's Biscuit World, 872 Main Street, Milton, WV 25541
WV Foods LLC, Owner

Council Member Leedy moved to approve. Seconded by Recorder Sayre. Motion carried.

Mayor Sargent presented the following applications for Building Permits.

Denver C. Rolfe, 1802 US Rt. 60 West, Milton, WV 25541
Denver C. Rolfe, Contractor – move in mobile home

Lee Ann Black, 1045 Heck Street, Milton, WV 25541
Lee Ann Black, Owner – demolish old home

Dorothy Rowsey, 1507 2nd Street, Milton, WV 25541
Tri State Roofing, Contractor, - replace roof and siding

Council Member Mullins moved to approve. Seconded by Council Member Holbert. Motion carried.

Mayor Sargent introduced Samme Gee who gave the second reading of the Bond Ordinance authorizing the City of Milton Sewer Revenue Bonds. Mayor Sargent asked for a roll call vote. Council Member Leedy – yes, Recorder Sayre – yes, Council Member Mullins – yes, Council Member Holbert - yes. Motion carried.

Mayor Sargent read the Police Report for October 2004. Council Member Leedy moved. Seconded by Council Member Holbert. Motion carried.

Recorder Sayre read the Financial Statement for October 2004. Council Member Mullins moved to accept. Seconded by Council Member Mullins. Motion carried.

Mayor Sargent read a resolution to approve financing by the Milton Volunteer Fire Department. Recorder Sayre moved to approve. Seconded by Council Member Mullins. Motion carried.

Mayor Sargent asked the City Engineer to explain the sidewalk and curb cut in front of the former NAPA building. He stated the building is divided up into 2 businesses and if this is done it will allow easier entrance and more parking. This has to be approved by the State but they are asking for the City's approval first. Recorder Sayre moved to grant permission. Seconded by Council Member Leedy. Motion carried.

Council Member Holbert explained a letter to the Department of Environmental Protection regarding MS4 (storm water) and the City of Milton wavier request. Recorder Sayre moved to approve. Seconded by Council Member Mullins. Motion carried.

Mayor Sargent tabled discussion on Public Works Director. Recorder Sayre moved. Seconded by Council Member Holbert. Motion carried.

Mayor Sargent presented a quote from Riley's Outdoor Décor to purchase 16 snowflake banners. Council Member Mullins moved to approve. Seconded by Council Member Holbert. Motion carried.

Mayor Sargent read a letter of resignation from Chris Carter. Recorder Sayre moved to accept. Seconded by Council Member Mullins. Motion carried.

Mayor Sargent received an envelope from Mike Bragg, who is collecting donations from local businesses to go toward the bullet proof vest grant. Any funds received above the amount needed to purchase the vests will go to the next item that is needed by the department at the discretion of the Chief. Donations were received from the following: Vicky's Candy Craft $50.00, Kipling Shoe Company $50.00, Morris Memorial $100.00, Russ McCray - State Farm $100.00, New Image Computer $40.00, James Peterson $100.00, waitresses at Jin Long $10.00, and an anonymous donation of $5.00.

Mayor Sargent announced the "Police/Citizens Against Crime Walk" scheduled for Tuesday, November 23 at 6:00 p.m. The walk will begin at April Dawn Park. After walking there will be food at the park for everyone.

Mayor Sargent announced and invited everyone to attend a dedication for the "Jarrell Sargent Memorial Park" Friday, November 19 at 1:30 p.m. at the corner of Lawhorn and Mason Streets.

Recorder Sayre gave Council copies to review of changes our insurance company is requesting we make.

Mayor Sargent asked everyone to watch the newspapers for some letters of explanation and providing facts regarding the sewer system.

Recorder Sayre moved to adjourn at 7:35 p.m. Seconded by Council Member Mullins. Motion carried.

Betty P. Sargent, Mayor

Attest

Jack Sayre, Recorder/ Treasurer

Council Minutes
December 7, 2004

Meeting called to order by Mayor Sargent December 7, 2004 at 7:00 p.m.

Council Members present were: Mayor Sargent, Recorder Sayre, Council Members Bledsoe, Leedy, Mullins, and Holbert.

Invocation by Mayor Sargent.

Pledge of Allegiance said in unison.

Approval of the Agenda. Council Member Leedy moved to accept. Seconded by Council Member Mullins. Motion carried.

Approval of previous minutes from Council Meeting held November 16, 2004. Moved by Council Member Bledsoe. Seconded by Council Member Leedy. Motion carried.

Recorder Sayre presented the City bills for approval. Council Member Bledsoe moved to approve. Seconded by Council Member Mullins. Motion carried.

Old Business

Mayor Sargent asked for Council's input regarding the ordinance on a Building Commission. Council Member Leedy asked the purpose of this commission. Mayor Sargent stated the main focus will be abandoned or unsafe structures. Council Member Bledsoe suggested the statement "There shall be no more than two of the three commissioners from the same political party" be removed. Mayor Sargent stated she does not know the political affiliation of the 3 people she would like to recommend as appointments to the commission – Bob Legg, Fire Chief, Leo Merrimee, City Engineer, and Mark Kitchen. This will be tabled until we check with the City Attorney regarding removing this statement.

Mayor Sargent informed Council she has nothing new on a Public Works Director. The Utilities Commission suggested hiring a Public Works Director with the Utilities covering 85% of the salary and the City paying 15%. The purpose for the Public Works Director would be to put the Street and Water/Sewer Department under one supervisor trained in that field to allow the City to function more effectively regardless of the City administration change overs. Nothing further has been decided at this time.

New Business

Mayor Sargent presented the following application for a Business License.

Marty Johnson, 1706 Midland Trail, Milton, WV 25541
Dwayne Carter, Contractor, Develop Subdivision

Recorder Sayre moved to approve. Seconded by Council Member Holbert. Motion carried.

Mayor Sargent introduced Frankie Parsons, with Jackson Kelly Law Firm, who gave the final reading of the Bond Ordinance authorizing the City of Milton Sewer Revenue Bonds. Mayor Sargent asked any one wishing to object to please step forward, sign your name, and you will be allowed 3 minutes to speak. No one objected. Recorder Sayre moved to approve. Seconded by Council Member Holbert. Motion carried.

Mayor Sargent presented bids to purchase ammunition for Police qualifications. Bids are as follows: Mountain State Firearms $426.92 and Milton Gun and Pawn $444.96. Chief Mullins informed Council that Mountain State could not guarantee arrival but Milton Gun and Pawn could guaranteed in 3 days. Recorder Sayre moved to purchase from Milton Gun and Pawn. Seconded by Council Member Bledsoe. Motion carried.

Mayor Sargent introduced Corey Ciccarelli, a Criminal Justice Student from Marshall and part time employee for the Cabell County Sheriff's Department, who requested to work/ride along with the Police for a total of 135 hours. The Mayor stated our Attorney advised we would be covered but there are certain risks if there is an accident. Council Member Mullins questioned how much ride along time he would need. Mr. Ciccarelli said there is no set amount. Council Member Bledsoe asked what the difference would be between riding with the Sheriff's Department or our department, here he would be putting the City at a liability and our attorney tells us no. Mr. Ciccarelli stated he knew this area and the residents. Mayor Sargent stated for the record the City Attorney did not say no, he said there would be a risk factor. Council Member Holbert moved to approve this internship. Mayor Sargent commented of the great credentials Mr. Ciccarelli has and that he was a familiar face having worked at the local Foodland. With the inability to obtain a second Council moved on to next item on agenda.

Mayor Sargent presented bids for removal of a tree of Lawhorn Street. The bids were as follows: Steve's Tree Service $550.00 to remove tree and $150.00 to remove a limb on Summers Street and Davey's Tree Service $960.00 to remove tree only. Recorder Sayre moved to go with Steve's Tree Service. Seconded by Council Member Holbert. Motion carried.

Mayor Sargent asked for Council's approval of a Committee to establish rules and be responsible for changing the sign at Wendy's. Recorder Sayre suggested 3 people. Council Member Leedy moved to form a committee consisting of 3 members. Seconded by Council Member Holbert. Motion carried.

Mayor Sargent asked for Council's suggestions on forming a Christmas Committee to work along with whoever is in administration to continue to raise funds for additional Christmas lights and coordinate other City activities such as "Christmas in the Park." She tabled this asking Council to consider and bring their ideas to the next meeting.

Mayor Sargent brought up Council Member Appointment and changing the ordinance for a time frame on filling a vacancy. Our current ordinance does not say how long we have to replace or appoint a Council Member when they vacate a position. It is left opened ended. Recorder Sayre questioned is this the way state code reads and can we supersede state code. Mayor Sargent stated the City Attorney said we can word it properly to give a time frame. Council Member Bledsoe moved to let the City Attorney phrase a change in our ordinance putting the shortest period of time on filling a vacancy. Seconded by Council Member Mullins. Motion carried.

Recorder Sayre stated in a past work session Council decided employees would be evaluated on their anniversary date which would determine if they are eligible for a merit raise. This was not officially voted on by Council. Recorder Sayre moved. Seconded by Council Member Leedy. Motion carried. Recorder Sayre moved to give City employees the customary Christmas bonus giving supervisors $100.00 and all other employees $50.00. Seconded by Council Member Bledsoe. Motion carried.

Recorder Sayre informed Council that our Insurance Company is pursuing the City to develop a sidewalk ordinance, safe driving standards, and driver selection procedures. He suggested we send the samples they sent to the City Attorney to look over prior to the next meeting.

Recorder Sayre asked for Council's approval to purchase 3 lateral filing cabinets for the City Hall Annex offices. Several prices were provided from various locations. Council Member Bledsoe moved to purchase from Staples. Seconded by Council Member Mullins. Motion carried.

Mayor Sargent informed Council that Donnie C's has received a Video Lottery license from the State. In as much as the establishment currently works under state guidelines no other action was necessary.

Mayor Sargent asked Chief Mullins to introduce Kenneth Larry Jividen to fill the position of Prevention Resource Officer at Milton Middle School. Mr. Jividen gave a brief bio stating he is currently employed by the City of Winfield. The City is operating under a grant for this Prevention Resource Officer.

Mike Bragg presented Council with additional donations from Milton Housing Milton Manor $25.00, Milton Housing Sunrise Apartments $25.00, Milton Wrecker $100.00, Dr. Saxe $50.00, City National Bank $100.00, and Mayor Betty Sargent $100.00. This brings the present balance to $1065.00 towards the vests.

Council Member Bledsoe moved to go into Executive Session at 7:55 p.m. Seconded by Council Member Leedy. Motion carried.

Curtis Johnson from the Herald Dispatch asked to please state the reason for the executive session as per state law. Recorder Sayre stated we are not allowed to it is against state law for us to discuss executive session. Mayor Sargent stated it is a personnel issue. Mr. Johnson thanked the mayor and informed Council they do have to state the reason for going into Executive session.

Meeting called back to order at 8:12 p.m.

Mayor Sargent informed Executive Session was concerning the Prevention Resource Officer. Council Member Bledsoe moved to hire Mr. Jividen. Seconded by Council Member Holbert. Motion carried. Mr. Jividen has passed the necessary psychological and polygraph tests.

Mayor Sargent informed Council of attending a meeting where Larry Kendall of the Governor's Highway Program presented our Police Department with an in car Camera costing approximately $4000.00.

A citizen thanked the Mayor for the old fashioned Christmas party in the park stating it was very nice.

Chief Mullins and the Mayor thanked Mike Bragg for all that he is doing for the Police Department.

Council Member Bledsoe moved to adjourn at 8:18 p.m. Seconded by Council Member Mullins. Motion carried.

Betty P. Sargent, Mayor

Attest

Jack Sayre, Recorder/ Treasurer

AFFIDAVIT OF PUBLICATION

ATTN Franca

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

I, Bryant, Kathie being first duly sworn, depose and say that I am Legal Clerk for The Herald-Dispatch, a corporation, who publishes at Huntington, Cabell County, West Virginia, the newspaper: The Herald-Dispatch, an independent newspaper, in the morning seven days each week, Monday through Sunday including New Year's Day, Memorial Day, the Fourth of July, Labor Day, Thanksgiving and Christmas; that I have been duly authorized by the Board of Directors of such corporation to execute this affidavit of publication for and on behalf of such corporation and the newspaper mentioned herein; that the legal advertisement attached in the left margin of this affidavit and made a part hereof and bearing number LH- 507286 was duly published in

The Herald-Dispatch

one time, once a week for 2 successive weeks, commencing with its issue of the 23 day of 11, 2004 and ending with the issue of the 30 day of 11, 2004 and was posted at the East door of the Cabell County Courthouse on 23 day of 11, 2004: that said legal advertisement was published on the following dates:

11-23-30

that the cost of publishing said annexed advertisement as aforesaid was $262.76; that such newspaper in which such legal advertisement was published has been and is now published regularly, at least as frequently as once a week for at least fifty weeks during the calendar year as prescribed by its mailing permit, and has been so published in the municipality of Huntington, Cabell County, West Virginia, for at least one year immediately preceding the date on which the legal advertisement set forth herein was delivered to such newspaper for publication; that such newspaper is a newspaper of "general circulation" as defined in Article 3, Chapter 59, of the West Virginia Code, within the publication area or areas of the municipality of Huntington, Cabell and Wayne Counties, West Virginia, and that such newspaper is circulated to the general public at a definite price or consideration, that such newspaper on each date published consists of not less than four pages without a cover; and that it is a newspaper to which the general public resorts for passing events of a political, religious, commercial and social nature, and for current happenings, announcements, miscellaneous reading matters, advertisements and other notices.

Kathie Bryant

Taken, subscribed and sworn to before me in my said county this 17 day of 11, 2004

My commission expires June 6, 2012

Christina D. Rappold

Notary Public
Cabell County

19

TOWN OF MILTON

NOTICE OF PUBLIC HEARING AND ABSTRACT OF BOND ORDINANCE

Notice is hereby given to any person interested that on November 16, 2004, the Council of the Town of Milton (the "Issuer"), adopted an ordinance which, among other things:

1. Authorized the prepayment of the Issuer's Sewerage System Revenue Refunding Bonds, Series 1996 A, from funds available to the Issuer, and the refunding of the Issuer's Sewerage System Design Revenue Bonds, Series 1999 A, the payment of interim financing for design and other costs and the acquisition and construction of certain additions, betterments and improvements (the "Project") to the Issuer's existing public sewerage system (the "System") and the financing of the cost, not otherwise provided, thereof through the issuance of not more than $7,000,000 in aggregate principal amount of Sewer Revenue Bonds, Series 2004 A (West Virginia SRF Program) and not more than $2,000,000 in aggregate principal amount of Sewer Revenue Bonds, Series 2004 B (West Virginia Infrastructure Fund) (collectively, the "Bonds").

2. Directed that the Bonds be issued in such principal amounts, bear interest, if any, at such rate or rates, not exceeding the then legal maximum rate, payable quarterly on such dates, mature on such dates and in such amounts and redeemable, in whole or in part, as prescribed in a supplemental resolution or in the respective Loan Agreements for the Bonds.

3. Directed the creation of a revenue fund and the disposition of the revenues of the System; provided for the payment of operating expenses and debt service; directed the creation of the sinking funds, reserve accounts and a renewal and replacement fund; directed the creation of a bond construction trust fund and the disbursement of Bond proceeds.

4. Provided that the Bonds shall not be or constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Net Revenues of the System; pledged the Net Revenues of the System to payment of the Bonds and established the rights of the registered owners of the Bonds to the Net Revenues of the System; provided certain conditions for the issuance of additional bonds.

5. Provided for insurance coverage on the Project, enforcement of collection of rates and other charges for the System, and other covenants of the Issuer in favor of the registered owners of the Bonds.

6. Established the events of default and the remedies of the registered owners of the Bonds.

7. Provided for the modification or amendment of the Ordinance upon the terms and conditions set forth in the Ordinance.

The Issuer contemplates the issuance of the Bonds described in and under the conditions set forth in the Ordinance abstracted above. Any person interested may appear before the Council of the Town of Milton at a regular meeting on December 7, 2004, at 7:00 p.m., in the Council Chambers, Town Hall, Milton, West Virginia, and present protests and be heard as to whether the above-described Ordinance shall be put into effect.

A certified copy of the Ordinance as adopted by the Council is on file with the Recorder for review by interested persons during the office hours of the Town Hall.

Jack Sayre
Recorder

LH-507286
11-23-30-04

LEGAL NOTICE

TOWN OF MILTON
NOTICE OF PUBLIC HEARING AND
ABSTRACT OF BOND ORDINANCE

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2. Directed that the Bonds be issued in such principal amounts, bear interest, if any, at such rate or rates, not exceeding the then legal maximum rate, payable quarterly on such dates, mature on such dates and in such amounts and redeemable, in whole or in part, as prescribed in a supplemental resolution or in the respective Loan Agreements for the Bonds.

3. Directed the creation of a revenue fund and the disposition of the revenues of the System; provided for the payment of operating expenses and debt service; directed the creation of the sinking funds, reserve accounts and a renewal and replacement fund; directed the creation of a bond construction trust fund and the disbursement of Bond proceeds.

4. Provided that the Bonds shall not be or constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Net Revenues of the System; pledged the Net Revenues of the System to payment of the Bonds and established the rights of the registered owners of the Bonds to the Net Revenues of the System; provided certain conditions for the issuance of additional bonds.

5. Provided for insurance coverage on the Project, enforcement of collection of rates and other charges for the System, and other covenants of the Issuer in favor of the registered owners of the Bonds.

6. Established the events of default and the remedies of the registered owners of the Bonds.

7. Provided for the modification or amendment of the Ordinance upon the terms and conditions set forth in the Ordinance.

The Issuer contemplates the issuance of the Bonds described in and under the conditions set forth in the Ordinance abstracted above. Any person interested may appear before the Council of the Town of Milton at a regular meeting on December 7, 2004, at 7:00 p.m., in the Council Chambers, Town Hall, Milton, West Virginia, and present protests and be heard as to whether the above-described Ordinance shall be put into effect.

A certified copy of the Ordinance as adopted by the Council is on file with the Recorder for review by interested persons during the office hours of the Town Hall.

Jack Sayre
Recorder
2t 11-25, 12-2

AFFIDAVIT OF PUBLICATION — Cost of Publication 118.21

State of West Virginia, County of Cabell, to wit:

I, Phyllis Robinson, being first sworn upon my oath, do depose and say that I am Publisher of the newspaper entitled THE CABELL RECORD, a Democratic newspaper; that I have been duly authorized to execute all affidavits of publication; that such newspaper has been published for more than one year prior to publication of the annexed notice described below; that such newspaper is regularly published weekly on Thursday, for at least fifty weeks during the calendar year, in Culloden, Cabell County, West Virginia; that such newspaper is a newspaper of "general circulation," as that term is defined in article three, chapter fifty-nine of the Code of West Virginia, 1931, as amended, within the publication area or areas of the aforesaid municipality and county; that such newspaper averages in length four or more pages, exclusive of any cover, per issue; that such newspaper is circulated to the general public at a definite price or consideration; that such newspaper is a newspaper to which the general public resorts for passing events of a political, religious, commercial and social nature, and for current happenings, announcements, miscellaneous reading matters, that the annexed

notice of Public Hearing

was duly published in said newspaper once a week for 2 (successive) week(s), commencing with the issue of the 25th day of Nov 20 04, and ending with issue of the 2nd day of Dec 20 04, (and was posted, if required, at the _____ on the _____ day of _____, 20_____).

/s/ Phyllis Robinson
Phyllis Robinson, Publisher
The Cabell Record

Taken, subscribed and sworn to before me in my said county this 2nd day of Dec, 20 04.

My commission expires
March 8, 2005

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
TRUDY I. BLACK
324 SUMMERS ADDITION
MILTON, WV 25541
My Commission Expires MARCH 8, 2005

/s/ Trudy I. Black
Notary Public of Cabell County, West Virginia

NUMBER

AR-1

SPECIMEN

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
TOWN OF MILTON
SEWER REVENUE BOND, SERIES 2004 A
(WEST VIRGINIA SRF PROGRAM)

No. AR-1 $6,351,371

KNOW ALL MEN BY THESE PRESENTS: That on this 29th day of December, 2004, the TOWN OF MILTON, a municipal corporation and political subdivision of the State of West Virginia in Cabell 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 SIX MILLION THREE HUNDRED FIFTY ONE THOUSAND THREE HUNDRED SEVENTY ONE DOLLARS ($6,351,371), 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 December 1, 2006, as set forth on the Debt Service Schedule attached as EXHIBIT B hereto and incorporated herein by reference. The SRF Administrative Fee (as defined in the hereinafter described Bond Legislation) on this Bond shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing December 1, 2006, as set forth on EXHIBIT B attached hereto.

This Bond shall bear no interest. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent").

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Department of Environmental Protection (the "DEP"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the Bond Purchase Agreement by and among the Issuer, the Authority and the DEP, dated December 16, 2004.

This Bond is issued (i) to pay all interim financing incurred by the Issuer for design and other costs of certain additions, betterments and improvements

to the existing public sewerage system of the Issuer; (ii) to pay a portion of the costs of acquisition and construction of certain additions, betterments and improvements to the existing public sewerage system of the Issuer (the "Project"); and (iii) to pay certain costs of issuance of this Bond and related costs. The existing public sewerage system of the Issuer, the Project, and any further additions, betterments or improvements 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 13 and Chapter 22C, Article 2 of the Code of West Virginia, 1931, as amended (collectively, the "Act"), a Bond Ordinance duly enacted by the Issuer on December 7, 2004, and a Supplemental Resolution duly adopted by the Issuer on December 21, 2004 (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 SEWER REVENUE BONDS, SERIES 2004 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED DECEMBER 29, 2004, ISSUED CONCURRENTLY HEREWITH IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,571,903 (THE "SERIES 2004 B 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 System, on a parity with the pledge of Net Revenues in favor of the registered owners of the Series 2004 B Bonds and from moneys in the reserve account created under the Bond Legislation for this Bond (the "Series 2004 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 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, if any, hereon, except from said special fund provided from the Net Revenues, the moneys in the Series 2004 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 of principal of and interest, if any, on this Bond, payable in any year and all other obligations secured by a lien on or payable from such revenues on a parity with this Bond, including the Series 2004 B Bonds; provided however, that so long as there exists in the Series 2004 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 Series 2004 B Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of 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 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 interim financing, the costs of the Project and the costs of issuance hereof as described in the Bond Legislation, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the registered owner of this Bond.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and at the issuance of this Bond do exist, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the Net Revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of this Bond.

All provisions of the Bond Legislation, resolutions and statutes under which this Bond is issued shall be deemed to be a part of the contract evidenced by this Bond to the same extent as if written fully herein.

NUMBER

AR-1

IN WITNESS WHEREOF, the TOWN OF MILTON has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed and attested by its Recorder, and has caused this Bond to be dated the date first written above.

[SEAL]

Mayor

SPECIMEN

ATTEST:

Recorder

NUMBER

AR-1

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2004 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: December 29, 2004.

PUTNAM COUNTY BANK, as Registrar

SPECIMEN

Authorized Officer

NUMBER

AR-1

EXHIBIT A

RECORD OF ADVANCES

	AMOUNT	DATE		AMOUNT	DATE
(1)	$1,025,525	12/29/04	(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 $_____

NUMBER

AR-1
EXHIBIT B

$6,351,371

Town of Milton

40 Years, 0% Interest Rate, 0.5% Administrative Fee

Closing Date: December 29, 2004

Debt Service Schedule

Date	Principal	Coupon	Total P+I
03/01/2005	-	-	-
06/01/2005	-	-	-
09/01/2005	-	-	-
12/01/2005	-	-	-
03/01/2006	-	-	-
06/01/2006	-	-	-
09/01/2006	-	-	-
12/01/2006	41,512.23	-	41,512.23
03/01/2007	41,512.23	-	41,512.23
06/01/2007	41,512.23	-	41,512.23
09/01/2007	41,512.23	-	41,512.23
12/01/2007	41,512.23	-	41,512.23
03/01/2008	41,512.23	-	41,512.23
06/01/2008	41,512.23	-	41,512.23
09/01/2008	41,512.23	-	41,512.23
12/01/2008	41,512.23	-	41,512.23
03/01/2009	41,512.23	-	41,512.23
06/01/2009	41,512.23	-	41,512.23
09/01/2009	41,512.23	-	41,512.23
12/01/2009	41,512.23	-	41,512.23
03/01/2010	41,512.23	-	41,512.23
06/01/2010	41,512.23	-	41,512.23
09/01/2010	41,512.23	-	41,512.23
12/01/2010	41,512.23	-	41,512.23
03/01/2011	41,512.23	-	41,512.23
06/01/2011	41,512.23	-	41,512.23
09/01/2011	41,512.23	-	41,512.23
12/01/2011	41,512.23	-	41,512.23
03/01/2012	41,512.23	-	41,512.23
06/01/2012	41,512.23	-	41,512.23
09/01/2012	41,512.23	-	41,512.23
12/01/2012	41,512.23	-	41,512.23
03/01/2013	41,512.23	-	41,512.23
06/01/2013	41,512.23	-	41,512.23
09/01/2013	41,512.23	-	41,512.23
12/01/2013	41,512.23	-	41,512.23
03/01/2014	41,512.23	-	41,512.23
06/01/2014	41,512.23	-	41,512.23
09/01/2014	41,512.23	-	41,512.23
12/01/2014	41,512.23	-	41,512.23
03/01/2015	41,512.23	-	41,512.23
06/01/2015	41,512.23	-	41,512.23
09/01/2015	41,512.23	-	41,512.23
12/01/2015	41,512.23	-	41,512.23

$6,351,371

Town of Milton

40 Years, 0% Interest Rate, 0.5% Administrative Fee

Closing Date: December 29, 2004

Debt Service Schedule

Date	Principal	Coupon	Total P+I
03/01/2016	41,512.23	-	41,512.23
06/01/2016	41,512.23	-	41,512.23
09/01/2016	41,512.23	-	41,512.23
12/01/2016	41,512.23	-	41,512.23
03/01/2017	41,512.23	-	41,512.23
06/01/2017	41,512.23	-	41,512.23
09/01/2017	41,512.23	-	41,512.23
12/01/2017	41,512.23	-	41,512.23
03/01/2018	41,512.23	-	41,512.23
06/01/2018	41,512.23	-	41,512.23
09/01/2018	41,512.23	-	41,512.23
12/01/2018	41,512.23	-	41,512.23
03/01/2019	41,512.23	-	41,512.23
06/01/2019	41,512.23	-	41,512.23
09/01/2019	41,512.23	-	41,512.23
12/01/2019	41,512.23	-	41,512.23
03/01/2020	41,512.23	-	41,512.23
06/01/2020	41,512.23	-	41,512.23
09/01/2020	41,512.23	-	41,512.23
12/01/2020	41,512.23	-	41,512.23
03/01/2021	41,512.23	-	41,512.23
06/01/2021	41,512.23	-	41,512.23
09/01/2021	41,512.23	-	41,512.23
12/01/2021	41,512.23	-	41,512.23
03/01/2022	41,512.23	-	41,512.23
06/01/2022	41,512.23	-	41,512.23
09/01/2022	41,512.23	-	41,512.23
12/01/2022	41,512.23	-	41,512.23
03/01/2023	41,512.23	-	41,512.23
06/01/2023	41,512.23	-	41,512.23
09/01/2023	41,512.23	-	41,512.23
12/01/2023	41,512.23	-	41,512.23
03/01/2024	41,512.23	-	41,512.23
06/01/2024	41,512.23	-	41,512.23
09/01/2024	41,512.23	-	41,512.23
12/01/2024	41,512.23	-	41,512.23
03/01/2025	41,512.23	-	41,512.23
06/01/2025	41,512.23	-	41,512.23
09/01/2025	41,512.23	-	41,512.23
12/01/2025	41,512.23	-	41,512.23
03/01/2026	41,512.23	-	41,512.23
06/01/2026	41,512.23	-	41,512.23
09/01/2026	41,512.23	-	41,512.23
12/01/2026	41,512.23	-	41,512.23

$6,351,371

Town of Milton

40 Years, 0% Interest Rate, 0.5% Administrative Fee

Closing Date: December 29, 2004

Debt Service Schedule

Date	Principal	Coupon	Total P+I
03/01/2027	41,512.23	-	41,512.23
06/01/2027	41,512.23	-	41,512.23
09/01/2027	41,512.23	-	41,512.23
12/01/2027	41,512.23	-	41,512.23
03/01/2028	41,512.23	-	41,512.23
06/01/2028	41,512.23	-	41,512.23
09/01/2028	41,512.23	-	41,512.23
12/01/2028	41,512.23	-	41,512.23
03/01/2029	41,512.23	-	41,512.23
06/01/2029	41,512.23	-	41,512.23
09/01/2029	41,512.23	-	41,512.23
12/01/2029	41,512.23	-	41,512.23
03/01/2030	41,512.23	-	41,512.23
06/01/2030	41,512.23	-	41,512.23
09/01/2030	41,512.23	-	41,512.23
12/01/2030	41,512.23	-	41,512.23
03/01/2031	41,512.23	-	41,512.23
06/01/2031	41,512.23	-	41,512.23
09/01/2031	41,512.23	-	41,512.23
12/01/2031	41,512.23	-	41,512.23
03/01/2032	41,512.23	-	41,512.23
06/01/2032	41,512.23	-	41,512.23
09/01/2032	41,512.23	-	41,512.23
12/01/2032	41,512.23	-	41,512.23
03/01/2033	41,512.23	-	41,512.23
06/01/2033	41,512.23	-	41,512.23
09/01/2033	41,512.23	-	41,512.23
12/01/2033	41,512.23	-	41,512.23
03/01/2034	41,512.23	-	41,512.23
06/01/2034	41,512.23	-	41,512.23
09/01/2034	41,512.23	-	41,512.23
12/01/2034	41,512.23	-	41,512.23
03/01/2035	41,512.23	-	41,512.23
06/01/2035	41,512.23	-	41,512.23
09/01/2035	41,512.23	-	41,512.23
12/01/2035	41,512.23	-	41,512.23
03/01/2036	41,512.23	-	41,512.23
06/01/2036	41,512.23	-	41,512.23
09/01/2036	41,512.23	-	41,512.23
12/01/2036	41,512.23	-	41,512.23
03/01/2037	41,512.23	-	41,512.23
06/01/2037	41,512.23	-	41,512.23
09/01/2037	41,512.23	-	41,512.23
12/01/2037	41,512.23	-	41,512.23

$6,351,371

Town of Milton

40 Years, 0% Interest Rate, 0.5% Administrative Fee

Closing Date: December 29, 2004

Debt Service Schedule

Date	Principal	Coupon	Total P+I
03/01/2038	41,512.23	-	41,512.23
06/01/2038	41,512.23	-	41,512.23
09/01/2038	41,512.23	-	41,512.23
12/01/2038	41,512.23	-	41,512.23
03/01/2039	41,512.23	-	41,512.23
06/01/2039	41,512.23	-	41,512.23
09/01/2039	41,512.23	-	41,512.23
12/01/2039	41,512.23	-	41,512.23
03/01/2040	41,512.23	-	41,512.23
06/01/2040	41,512.22	-	41,512.22
09/01/2040	41,512.22	-	41,512.22
12/01/2040	41,512.22	-	41,512.22
03/01/2041	41,512.22	-	41,512.22
06/01/2041	41,512.22	-	41,512.22
09/01/2041	41,512.22	-	41,512.22
12/01/2041	41,512.22	-	41,512.22
03/01/2042	41,512.22	-	41,512.22
06/01/2042	41,512.22	-	41,512.22
09/01/2042	41,512.22	-	41,512.22
12/01/2042	41,512.22	-	41,512.22
03/01/2043	41,512.22	-	41,512.22
06/01/2043	41,512.22	-	41,512.22
09/01/2043	41,512.22	-	41,512.22
12/01/2043	41,512.22	-	41,512.22
03/01/2044	41,512.22	-	41,512.22
06/01/2044	41,512.22	-	41,512.22
09/01/2044	41,512.22	-	41,512.22
12/01/2044	41,512.22	-	41,512.22
Total	**$6,351,371.00**	**-**	**$6,351,371.00**

***Plus $3,995.56 one-half percent administrative fee paid quarterly. Total fee over life of loan is $611,320.68.**

Yield Statistics

Bond Year Dollars	$132,884.79
Average Life	20.922 Years
Average Coupon	-
Net Interest Cost (NIC)	-
True Interest Cost (TIC)	1.67E-10
Bond Yield for Arbitrage Purposes	1.67E-10
All Inclusive Cost (AIC)	0.4579794%

IRS Form 8038

Net Interest Cost	-
Weighted Average Maturity	20.922 Years

NUMBER

AR-1

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: _____, _____.

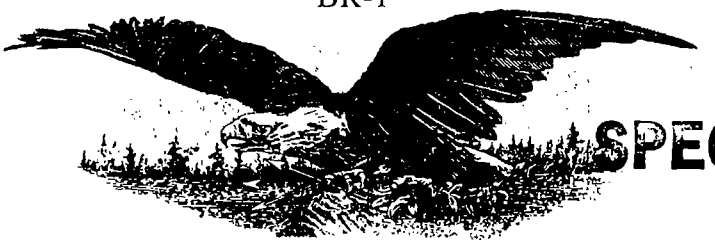
_____

In the presence of:

_____

NUMBER

BR-1



SPECIMEN

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
TOWN OF MILTON
SEWER REVENUE BOND, SERIES 2004 B
(WEST VIRGINIA INFRASTRUCTURE FUND)

No. BR-1 $1,571,903

KNOW ALL MEN BY THESE PRESENTS: That on this 29th day of December, 2004, the TOWN OF MILTON, a municipal corporation and political subdivision of the State of West Virginia in Cabell 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 ONE MILLION FIVE HUNDRED SEVENTY ONE THOUSAND NINE HUNDRED THREE DOLLARS ($1,571,903), 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 December 1, 2006, as set forth on the Debt Service Schedule attached as EXHIBIT B 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 "Infrastructure 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 Infrastructure Council, dated December 29, 2004.

This Bond is issued (i) to pay, together with other funds of the Issuer, the entire outstanding principal of and all interest and administrative fees on the Issuer's Sewerage System Design Revenue Bonds, Series 1999 A (the "Series 1999 A Bonds"); (ii) to pay a

portion of the costs of acquisition and construction of certain additions, betterments and improvements to the existing public sewerage system of the Issuer (the "Project"); and (iii) to pay certain costs of issuance of this Bond and related costs. The existing public sewerage system of the Issuer, the Project, and any further additions, betterments or improvements 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 13 and Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended (collectively, the "Act"), a Bond Ordinance duly enacted by the Issuer on December 7, 2004, and a Supplemental Resolution duly adopted by the Issuer on December 21, 2004 (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 SEWER REVENUE BONDS, SERIES 2004 A (WEST VIRGINIA SRF PROGRAM), DATED DECEMBER 29, 2004, ISSUED CONCURRENTLY HEREWITH IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $6,351,371(THE "SERIES 2004 A 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 System, on a parity with the pledge of Net Revenues in favor of the registered owners of the Series 2004 A Bonds and from moneys in the reserve account created under the Bond Legislation for this Bond (the "Series 2004 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 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, if any, hereon, except from said special fund provided from the Net Revenues, the moneys in the Series 2004 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 of principal of and interest, if any, on this Bond, payable in any year and all other obligations secured by a lien on or payable from such revenues on a parity with this Bond, including the Series 2004 A Bonds; provided however, that so long as there exists in the Series 2004 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 Series 2004 A 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 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 refunding the Series 1999 A Bonds, the costs of the Project and the costs of issuance hereof as described in the Bond Legislation, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the registered owner of this Bond.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and at the issuance of this Bond do exist, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the Net Revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of this Bond.

All provisions of the Bond Legislation, resolutions and statutes under which this Bond is issued shall be deemed to be a part of the contract evidenced by this Bond to the same extent as if written fully herein.

IN WITNESS WHEREOF, the TOWN OF MILTON has caused this Bond to be signed by its Mayor, and its corporate seal to be hereunto affixed and attested by its Recorder, and has caused this Bond to be dated the date first written above.

[SEAL]

Mayor

SPECIMEN

ATTEST:

Recorder

NUMBER

BR-1

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2004 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: December 29, 2004.

PUTNAM COUNTY BANK, as
Registrar

SPECIMEN

Authorized Officer

EXHIBIT A

RECORD OF ADVANCES

	AMOUNT	DATE		AMOUNT	DATE
(1)	$211,168	12/29/04	(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 $_____

NUMBER

BR-1

EXHIBIT B

$1,571,903

Town of Milton (West Virginia)
40 Years, 0% Interest Rate
Closing Date: December 29, 2004

Debt Service Schedule

Part 1 of 4

Date	Principal	Coupon	Total P+I
03/01/2005	-	-	-
06/01/2005	-	-	-
09/01/2005	-	-	-
12/01/2005	-	-	-
03/01/2006	-	-	-
06/01/2006	-	-	-
09/01/2006	-	-	-
12/01/2006	10,273.88	-	10,273.88
03/01/2007	10,273.88	-	10,273.88
06/01/2007	10,273.88	-	10,273.88
09/01/2007	10,273.88	-	10,273.88
12/01/2007	10,273.88	-	10,273.88
03/01/2008	10,273.88	-	10,273.88
06/01/2008	10,273.88	-	10,273.88
09/01/2008	10,273.88	-	10,273.88
12/01/2008	10,273.88	-	10,273.88
03/01/2009	10,273.88	-	10,273.88
06/01/2009	10,273.88	-	10,273.88
09/01/2009	10,273.88	-	10,273.88
12/01/2009	10,273.88	-	10,273.88
03/01/2010	10,273.88	-	10,273.88
06/01/2010	10,273.88	-	10,273.88
09/01/2010	10,273.88	-	10,273.88
12/01/2010	10,273.88	-	10,273.88
03/01/2011	10,273.88	-	10,273.88
06/01/2011	10,273.88	-	10,273.88
09/01/2011	10,273.88	-	10,273.88
12/01/2011	10,273.88	-	10,273.88
03/01/2012	10,273.88	-	10,273.88
06/01/2012	10,273.88	-	10,273.88
09/01/2012	10,273.88	-	10,273.88
12/01/2012	10,273.88	-	10,273.88
03/01/2013	10,273.88	-	10,273.88
06/01/2013	10,273.88	-	10,273.88
09/01/2013	10,273.88	-	10,273.88
12/01/2013	10,273.88	-	10,273.88
03/01/2014	10,273.88	-	10,273.88
06/01/2014	10,273.88	-	10,273.88
09/01/2014	10,273.88	-	10,273.88
12/01/2014	10,273.88	-	10,273.88
03/01/2015	10,273.88	-	10,273.88
06/01/2015	10,273.88	-	10,273.88
09/01/2015	10,273.88	-	10,273.88
12/01/2015	10,273.88	-	10,273.88

$1,571,903

Town of Milton (West Virginia)
40 Years, 0% Interest Rate
Closing Date: December 29, 2004

Debt Service Schedule

Date	Principal	Coupon	Total P+I
03/01/2016	10,273.88	-	10,273.88
06/01/2016	10,273.88	-	10,273.88
09/01/2016	10,273.88	-	10,273.88
12/01/2016	10,273.88	-	10,273.88
03/01/2017	10,273.88	-	10,273.88
06/01/2017	10,273.88	-	10,273.88
09/01/2017	10,273.88	-	10,273.88
12/01/2017	10,273.88	-	10,273.88
03/01/2018	10,273.88	-	10,273.88
06/01/2018	10,273.88	-	10,273.88
09/01/2018	10,273.88	-	10,273.88
12/01/2018	10,273.88	-	10,273.88
03/01/2019	10,273.88	-	10,273.88
06/01/2019	10,273.88	-	10,273.88
09/01/2019	10,273.88	-	10,273.88
12/01/2019	10,273.88	-	10,273.88
03/01/2020	10,273.88	-	10,273.88
06/01/2020	10,273.88	-	10,273.88
09/01/2020	10,273.88	-	10,273.88
12/01/2020	10,273.88	-	10,273.88
03/01/2021	10,273.88	-	10,273.88
06/01/2021	10,273.88	-	10,273.88
09/01/2021	10,273.88	-	10,273.88
12/01/2021	10,273.88	-	10,273.88
03/01/2022	10,273.88	-	10,273.88
06/01/2022	10,273.88	-	10,273.88
09/01/2022	10,273.88	-	10,273.88
12/01/2022	10,273.88	-	10,273.88
03/01/2023	10,273.88	-	10,273.88
06/01/2023	10,273.88	-	10,273.88
09/01/2023	10,273.88	-	10,273.88
12/01/2023	10,273.88	-	10,273.88
03/01/2024	10,273.88	-	10,273.88
06/01/2024	10,273.88	-	10,273.88
09/01/2024	10,273.88	-	10,273.88
12/01/2024	10,273.88	-	10,273.88
03/01/2025	10,273.88	-	10,273.88
06/01/2025	10,273.88	-	10,273.88
09/01/2025	10,273.88	-	10,273.88
12/01/2025	10,273.88	-	10,273.88
03/01/2026	10,273.88	-	10,273.88
06/01/2026	10,273.88	-	10,273.88
09/01/2026	10,273.88	-	10,273.88
12/01/2026	10,273.88	-	10,273.88

$1,571,903

Town of Milton (West Virginia)
40 Years, 0% Interest Rate
Closing Date: December 29, 2004

Debt Service Schedule

Date	Principal	Coupon	Total P+I
03/01/2027	10,273.88	-	10,273.88
06/01/2027	10,273.88	-	10,273.88
09/01/2027	10,273.88	-	10,273.88
12/01/2027	10,273.88	-	10,273.88
03/01/2028	10,273.88	-	10,273.88
06/01/2028	10,273.88	-	10,273.88
09/01/2028	10,273.88	-	10,273.88
12/01/2028	10,273.88	-	10,273.88
03/01/2029	10,273.87	-	10,273.87
06/01/2029	10,273.87	-	10,273.87
09/01/2029	10,273.87	-	10,273.87
12/01/2029	10,273.87	-	10,273.87
03/01/2030	10,273.87	-	10,273.87
06/01/2030	10,273.87	-	10,273.87
09/01/2030	10,273.87	-	10,273.87
12/01/2030	10,273.87	-	10,273.87
03/01/2031	10,273.87	-	10,273.87
06/01/2031	10,273.87	-	10,273.87
09/01/2031	10,273.87	-	10,273.87
12/01/2031	10,273.87	-	10,273.87
03/01/2032	10,273.87	-	10,273.87
06/01/2032	10,273.87	-	10,273.87
09/01/2032	10,273.87	-	10,273.87
12/01/2032	10,273.87	-	10,273.87
03/01/2033	10,273.87	-	10,273.87
06/01/2033	10,273.87	-	10,273.87
09/01/2033	10,273.87	-	10,273.87
12/01/2033	10,273.87	-	10,273.87
03/01/2034	10,273.87	-	10,273.87
06/01/2034	10,273.87	-	10,273.87
09/01/2034	10,273.87	-	10,273.87
12/01/2034	10,273.87	-	10,273.87
03/01/2035	10,273.87	-	10,273.87
06/01/2035	10,273.87	-	10,273.87
09/01/2035	10,273.87	-	10,273.87
12/01/2035	10,273.87	-	10,273.87
03/01/2036	10,273.87	-	10,273.87
06/01/2036	10,273.87	-	10,273.87
09/01/2036	10,273.87	-	10,273.87
12/01/2036	10,273.87	-	10,273.87
03/01/2037	10,273.87	-	10,273.87
06/01/2037	10,273.87	-	10,273.87
09/01/2037	10,273.87	-	10,273.87
12/01/2037	10,273.87	-	10,273.87

$1,571,903

Town of Milton (West Virginia)
40 Years, 0% Interest Rate
Closing Date: December 29, 2004

Debt Service Schedule

Date	Principal	Coupon	Total P+I
03/01/2038	10,273.87	-	10,273.87
06/01/2038	10,273.87	-	10,273.87
09/01/2038	10,273.87	-	10,273.87
12/01/2038	10,273.87	-	10,273.87
03/01/2039	10,273.87	-	10,273.87
06/01/2039	10,273.87	-	10,273.87
09/01/2039	10,273.87	-	10,273.87
12/01/2039	10,273.87	-	10,273.87
03/01/2040	10,273.87	-	10,273.87
06/01/2040	10,273.87	-	10,273.87
09/01/2040	10,273.87	-	10,273.87
12/01/2040	10,273.87	-	10,273.87
03/01/2041	10,273.87	-	10,273.87
06/01/2041	10,273.87	-	10,273.87
09/01/2041	10,273.87	-	10,273.87
12/01/2041	10,273.87	-	10,273.87
03/01/2042	10,273.87	-	10,273.87
06/01/2042	10,273.87	-	10,273.87
09/01/2042	10,273.87	-	10,273.87
12/01/2042	10,273.87	-	10,273.87
03/01/2043	10,273.87	-	10,273.87
06/01/2043	10,273.87	-	10,273.87
09/01/2043	10,273.87	-	10,273.87
12/01/2043	10,273.87	-	10,273.87
03/01/2044	10,273.87	-	10,273.87
06/01/2044	10,273.87	-	10,273.87
09/01/2044	10,273.87	-	10,273.87
12/01/2044	10,273.87	-	10,273.87
Total	**$1,571,903.00**	**-**	**$1,571,903.00**

Yield Statistics

Bond Year Dollars	$32,887.70
Average Life	20.922 Years
Average Coupon	-
Net Interest Cost (NIC)	-
True Interest Cost (TIC)	1.67E-10
Bond Yield for Arbitrage Purposes	1.67E-10
All Inclusive Cost (AIC)	1.67E-10

IRS Form 8038

Net Interest Cost	-
Weighted Average Maturity	20.922 Years

NUMBER

BR-1

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:

_____

SPECIMEN

BOND REGISTER 2.15 (A)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
TOWN OF MILTON
SEWER REVENUE BONDS, SERIES 2004 A
(WEST VIRGINIA SRF PROGRAM)

Bond Number	Principal Amount	Date of Bond
No. AR-1	$6,351,371	December 29, 2004

NO WRITING ON THIS BOND REGISTER EXCEPT BY THE REGISTRAR

Name of Registered Owner:

West Virginia Water Development Authority
180 Association Drive
Charleston, WV 25311

Signature of Registrar:

Putnam County Bank

Authorized Representative

12/10/04
004201/00304

M0387833.1

BOND REGISTER 2.15(B)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
TOWN OF MILTON
SEWER REVENUE BONDS, SERIES 2004 B
(WEST VIRGINIA INFRASTRUCTURE FUND)

Bond Number	Principal Amount	Date of Bond
No. BR-1	$1,571,903	December 29, 2004

NO WRITING ON THIS BOND REGISTER EXCEPT BY THE REGISTRAR

Name of Registered Owner:	Signature of Registrar:
West Virginia Water Development Authority 180 Association Drive Charleston, WV 25311	Putnam County Bank Authorized Representative

12/10/04
004201/00304

M0387835.1

TOWN OF MILTON
SEWER REVENUE BONDS,
SERIES 2004 A (WEST VIRGINIA SRF PROGRAM) AND
SERIES 2004 B (WEST VIRGINIA INFRASTRUCTURE FUND)

GENERAL CERTIFICATE ON:

1. TERMS
2. NO LITIGATION
3. GOVERNMENTAL APPROVALS AND BIDDING
4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS
5. SIGNATURES AND DELIVERY
6. RATES
7. INCUMBENCY AND OFFICIAL NAME
8. MEETINGS
9. INSURANCE
10. LOAN AGREEMENT
11. SPECIMEN BONDS
12. BOND PROCEEDS AND OTHER FUNDS
13. PUBLICATION AND PUBLIC HEARING ON BOND ORDINANCE
14. LAND AND RIGHTS-OF-WAY
15. PUBLIC SERVICE COMMISSION ORDER
16. CONFLICTS OF INTEREST
17. PROCUREMENT OF ENGINEERING SERVICES
18. VERIFICATION OF SCHEDULE
19. CLEAN WATER ACT
20. COUNTERPARTS

On this 29th day of December, 2004, the undersigned MAYOR and the undersigned Recorder of the Town of Milton in Cabell County, West Virginia (the "Issuer"), and the undersigned ATTORNEY for the Issuer, hereby certify in connection with the Town of Milton Sewer Revenue Bonds, Series 2004 A (West Virginia SRF Program) and Series 2004 B (West Virginia Infrastructure Fund), both dated the date hereof (collectively, the "Bonds" or individually, the "Series 2004 A Bonds" and the "Series 2004 B 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 Bond Ordinance duly passed by the Issuer on November 16, 2004, effective December 7, 2004, the Supplemental Resolution duly adopted by the Issuer on December 21, 2004 (collectively, the

"Ordinance"), 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 December 16, 2004, and the Loan Agreement by and between the Issuer and the Authority, on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Infrastructure Council"), dated December 29, 2004 (collectively, the "Loan 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 Gross Revenues, 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 Governing Body 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 Gross Revenues, or the pledge and security of the Net Revenues for the Bonds.

3. GOVERNMENTAL APPROVALS AND BIDDING: All applicable and necessary approvals, permits, exemptions, consents, authorizations, registrations and certificates required by law for the acquisition and construction of the Project, the operation of the System and the issuance of the Bonds have been duly and timely obtained and remain in full force and effect. Competitive bids for the acquisition and construction of the Project have been solicited in accordance with Chapter 5, Article 22, Section 1 of the Code of West Virginia, 1931, as amended, which bids remain in full force and effect.

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

The Series 2004 A Bonds and the Series 2004 B Bonds shall be issued on a parity with each other, with respect to liens, pledge and source of and security for payment and in all other respects. Following the prepayment and refunding of the Prior Bonds, there are no other outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System.

5. SIGNATURES AND DELIVERY: The undersigned Mayor and Recorder 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 Mayor did officially sign all of the Bonds, consisting upon original issuance of a single Bond for each series of the Bonds, dated the date hereof, by his or her manual signature; the undersigned Recorder did officially cause the seal of the Issuer to be affixed upon the Bonds and to be attested by his or her manual signature; and 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 Loan Agreement.

6. RATES: The Issuer has duly enacted a sewer rate ordinance on October 27, 2004, setting forth the rates and charges for the services of the System. The Issuer has complied with all requirements of the Act and the Public Service Commission of West Virginia (the "PSC") to make the rates valid and effective. On November 23, 2004, petitions for review of the rate ordinance were filed with the PSC containing the signatures of 88 persons. On November 30, 2004, the Staff of the PSC recommended that the petitions be docketed as a municipal appeal of the rate ordinance. On December 1, 2004, the PSC docketed the petitions as Case No. 04-1932-S-MA, asserting jurisdiction and suspending the rate ordinance. On December 10, 2004, the PSC entered an Order in Case No. 04-1932-S-MA, finding that the number of customers who signed the petitions was not sufficient to invoke the PSC's jurisdiction. As a result of its lack of jurisdiction, the PSC vacated its December 1, 2004 Order and dismissed the case. The time for appeal of the PSC Order entered December 10, 2004, has not expired on the date hereof. However, with the vacation of the December 1, 2004 Order, the only party with the right to appeal would be the Issuer. The Issuer hereby certifies that it will not appeal such Order. Such Order remains in full force and effect.

7. INCUMBENCY AND OFFICIAL NAME: The proper corporate title of the Issuer is the "Town of Milton." The Issuer is a municipal corporation and political subdivision of the State of West Virginia in Cabell County of said State. The Governing Body of the Issuer is its Council, consisting of 5 Council members and the Mayor. The Recorder is an ex-officio member of the Council. The names and dates of commencement and termination of terms of office for all such officials are listed below:

Office	Name	Date Of Commencement Of Office	Date Of Termination Of Office
Mayor	Betty P. Sargent	July 1, 2003	June 30, 2005
Recorder	Jack Sayre	July 1, 2003	June 30, 2005

Council Member	John Bledsoe	July 1, 2003	June 30, 2005
Council Member	Chris Carter	July 1, 2003	June 30, 2005
Council Member	Gary Holbert	July 1, 2003	June 30, 2005
Council Member	Brian Leedy	July 1, 2003	June 30, 2005
Council Member	Kelly Mullins	July 1, 2003	June 30, 2005

The names of the duly appointed, qualified and acting members of the Municipal Utility Commission of the Issuer are as follows:

Chairman: Betty P. Sargent
Member: Boyd Meadows
Member: Randie Lawson
Member: Robert Legg
Member: Carl Grover

The duly appointed and acting Attorney for the Issuer is Robert R. Rodecker, Esquire, Charleston, West Virginia. The duly appointed and acting Attorney for the Issuer with respect to real estate matters is Sean K. Hammers, Esquire, Huntington, West Virginia.

8. MEETINGS: All actions, ordinances, resolutions, orders and agreements taken, adopted and entered into by or on behalf of the Issuer in any way connected with the 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 Governing Body duly and regularly or specifically called and held pursuant to the Rules of Procedure of the Governing Body and all applicable statutes including Chapter 6, Article 9A of the Code of West Virginia, 1931, as amended, and a quorum of duly elected or appointed, qualified and acting members of the Governing Body was present and acting at all times during all such meetings. All notices required to be posted and/or published were so posted and/or published.

9. INSURANCE: The Issuer will maintain or, as appropriate, will require all contractors to maintain worker's compensation, public liability and property damage insurance, standard hazard insurance, builder's risk insurance, flood insurance and business interruption insurance, where applicable, in accordance with the Ordinance and the Loan Agreement. All insurance for the System required by the Ordinance and the Loan Agreement is in full force and effect.

10. LOAN AGREEMENT: As of the date hereof, (i) the representations of the Issuer contained in the Loan Agreement are true and correct in all material respects as if made on the date hereof; (ii) the Loan Agreement does not contain any untrue statements of material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; (iii) to the best

knowledge of the undersigned, no event affecting the Issuer has occurred since the date of the Loan Agreement, which should be disclosed for the purpose for which it is to be used or which it is necessary to disclose therein in order to make the statements and information therein not misleading; and (iv) the Issuer is in compliance with the Loan Agreement.

11. SPECIMEN BONDS: Attached hereto as Exhibit A are specimens of the Bonds which are identical in all respects with the Bonds this day delivered to the Authority and being substantially in the form prescribed in the Ordinance.

12. BOND PROCEEDS AND OTHER FUNDS: On the date hereof, the Issuer received $1,025,525 from the Authority and the DEP, being a portion of the principal amount of the Series 2004 A Bonds and $211,168 from the Authority and the Council, being a portion of the principal amount of the Series 2004 B Bonds. The balance of the respective principal amounts of the Bonds will be advanced to the Issuer from time to time as acquisition and construction of the Project progresses. The Issuer has also received a contribution of $323,373 from Salt Rock Sewer Public Service District ("SRSPSD"). The Issuer has used $77,898 from the SRSPSD contribution and $49,003 from the Series 1996 A Bonds Sinking Fund and Reserve Account to prepay the Series 1996 A Bonds in full on the date hereof. The Issuer has used $245,475 from the SRSPSD contribution, together with $159,585 from the proceeds of the Series 2004 B Bonds and $23,478 from the Series 1999 A Bonds Sinking Fund and Reserve Account, to prepay the Series 1999 A Bonds in full on the date hereof.

13. PUBLICATION AND PUBLIC HEARING ON BOND ORDINANCE: Upon adoption of the Bond Ordinance, an abstract thereof, determined by the Governing Body to contain sufficient information as to give notice of the contents thereof, was published once each week for 2 successive weeks, with not less than 6 full days between each publication, the first such publication occurring not less than 10 days before the date stated below for the public hearing, in The Cabell Record and The Herald-Dispatch, 2 newspapers of general circulation in the Town of Milton, together with a notice to all persons concerned, stating that the Bond Ordinance had been adopted and that the Issuer contemplated the issuance of the Bonds described in the Bond Ordinance, stating that any person interested may appear before the Governing Body at the public hearing held at a public meeting of the Governing Body on December 7, 2004, at 7:00 p.m., prevailing time, in the council chambers of the Town Hall, in Milton, West Virginia, and present protests, and stating that a certified copy of the Bond Ordinance was on file at the office of the Recorder of the Issuer for review by interested parties during the office hours of the Issuer. At such hearing all objections and suggestions were heard by the Governing Body and the Bond Ordinance became finally adopted, enacted and effective as of the date of such public hearing and remains in full force and effect.

14. LAND AND RIGHTS-OF-WAY: All land in fee simple and all rights-of-way and easements necessary for the acquisition and construction of the Project and the

operation and maintenance of the System have been acquired or can and will be acquired by purchase, or, if necessary, by condemnation by the Issuer and are adequate for such purposes and are not or will not be subject to any liens, encumbrances, reservations or exceptions which would adversely affect or interfere in any way with the use thereof for such purposes. The costs thereof, including costs of any properties which may have to be acquired by condemnation, are, in the opinion of all the undersigned, within the ability of the Issuer to pay for the same without jeopardizing the security of or payments on the Bonds.

15. PUBLIC SERVICE COMMISSION ORDER: The Issuer has received the PSC Orders entered on March 26, 2003, and December 17, 2004, in Case No. 02-0688-PSD-S-CN, among other things, granting to the Issuer a certificate of public convenience and necessity for the Project and approving the financing for the Project. The time for appeal of the PSC Order entered March 26, 2003, has expired prior to the date hereof. The time for appeal of the PSC Order entered December 17, 2004, has not expired on the date hereof. However, the parties to such Order have stated that they do not intend to appeal such Order. The Issuer hereby certifies that it will not appeal such Order. Both Orders remain in full force and effect.

16. CONFLICTS OF INTEREST: No member, officer or employee of the Governing Body or the Municipal Utilities Commission of the Issuer has a substantial financial interest, direct, indirect or by reason of ownership of stock in any corporation, in any contract with the Issuer or in the sale of any land, materials, supplies or services to the Issuer or to any contractor supplying the Issuer, relating to the Bonds, the Ordinance, 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.

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. VERIFICATION OF SCHEDULE: The final amended Schedules A and B attached to the Certificate of Consulting Engineer, with the signature of the Mayor 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.

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

20. 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 the Town of Milton, West Virginia, as of the date first written above.

[SEAL]

Signature	Official Title
	Mayor
	Recorder
	Attorney

EXHIBIT A

See Specimen 2004 A Bond (Tab No. 20) and Specimen 2004 B Bond (Tab No. 21)

12/20/04
004201/00304

TOWN OF MILTON
SEWER REVENUE BONDS,
SERIES 2004 A (WEST VIRGINIA SRF PROGRAM) AND
SERIES 2004 B (WEST VIRGINIA INFRASTRUCTURE FUND)

CERTIFICATE AS TO USE OF PROCEEDS

On this 29th day of December, 2004, the undersigned Mayor of the Town of Milton in Cabell County, West Virginia (the "Issuer"), being one of the officials of the Issuer duly charged with the responsibility for the issuance of $6,351,371 Sewer Revenue Bonds, Series 2004 A (West Virginia SRF Program) and $1,571,903 Sewer Revenue Bonds, Series 2004 B (West Virginia Infrastructure Fund), of the Issuer, both dated December 29, 2004 (collectively, the "Bonds" and individually, the "Series 2004 A Bonds" and "Series 2004 B Bonds"), hereby certify as follows:

1. I am the officer 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 Bond Ordinance duly passed by the Issuer on November 16, 2004, effective December 7, 2004 (the "Bond Ordinance"), 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 December 29, 2004, the date on which the Bonds are being physically delivered in exchange for a portion of the principal amount of the Series 2004 A Bonds and the Series 2004 B Bonds, and to the best of my knowledge and belief, the expectations of the Issuer set forth herein are reasonable.

4. In the Bond Ordinance 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") or the West Virginia Infrastructure and Jobs Development Council (the "Infrastructure Council"), 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 2004 A Bonds were sold on December 29, 2004, to the Authority, pursuant to a bond purchase agreement dated December 16, 2004, by and among the Issuer, the Authority and the DEP, for an aggregate purchase price of $6,351,371 (100% of par), at which time, the Issuer received $1,025,525 from the Authority and the DEP, being the first advance of the principal amount of the Series 2004 A Bonds. The Series 2004 B Bonds were sold on December 29, 2004, to the Authority, pursuant to a loan agreement dated December 29, 2004, by and between the Issuer and the Authority, on behalf of the Infrastructure Council, for an aggregate purchase price of $1,571,903 (100% of par), at which time, the Issuer received $211,168 from the Authority and the Infrastructure Council, being the first advance of the principal amount of the Series 2004 B Bonds. No accrued interest has been or will be paid on the Bonds. The balance of the respective principal amounts of the Bonds will be advanced to the Issuer as acquisition and construction of the Project progresses. The Issuer has also received a contribution of $323,373 from Salt Rock Sewer Public Service District ("SRSPSD").

6. The Series 2004 A Bonds are being delivered simultaneously with the delivery of this certificate and are issued for the purposes of (i) paying all interim financing incurred by the Issuer for design and other costs of certain additions, betterments and improvements to the existing public sewerage system of the Issuer; (ii) paying a portion of the costs of acquisition and construction of certain additions, betterments and improvements to the existing public sewerage system of the Issuer (the "Project"); and (iii) paying certain costs of issuance of the Series 2004 A Bonds. The Series 2004 B Bonds are being delivered simultaneously with the delivery of this certificate and are issued for the purposes of (i) paying, together with other funds of the Issuer, the entire outstanding principal of and all interest and administrative fees on the Issuer's Sewerage System Design Revenue Bonds, Series 1999 A (the "Series 1999 A Bonds"); (ii) paying a portion of the costs of acquisition and construction of the Project; and (iii) paying certain costs of issuance of the Bonds and related costs.

7. The Issuer shall on the date hereof 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 net sale proceeds of the Bonds to expenditures of the Project shall commence immediately and shall proceed with due diligence to completion, and with the exception of proceeds constituting capitalized interest, if any, and proceeds deposited in the Reserve Accounts 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 the Project on or before March, 2006. The acquisition and construction of the Project is expected to be completed by December, 2005.

8. The total cost of the Project is estimated at $8,246,647. Sources and uses of funds for the Project are as follows:

SOURCES

Proceeds of Series 2004 A Bonds	$6,351,371
Proceeds of Series 2004 B Bonds	1,571,903
Contribution from Salt Rock Sewer PSD	323,373
Total Sources	$8,246,647

USES

Costs of the Project	$6,656,683
Capitalized Interest	-0-
Fund Reserve Account	-0-
Payoff Interim Financing	994,525
Payoff Series 1996 A Bonds	126,901
Payoff Series 1999 A Bonds	428,538
Costs of Issuance	40,000
Total Uses	$8,246,647

9. Pursuant to Article V of the Bond Ordinance, the following special funds or accounts have been created or continued:

(1) Revenue Fund;

(2) Renewal and Replacement Fund;

(3) Series 2004 Bonds Construction Trust Fund;

(4) Series 2004 A Bonds Sinking Fund;

(5) Series 2004 A Bonds Reserve Account;

(6) Series 2004 B Bonds Sinking Fund; and

(7) Series 2004 B Bonds Reserve Account.

10. Pursuant to Article VI of the Bond Ordinance, the proceeds of the Bonds will be deposited as follows:

(1) Series 2004 A Bonds proceeds in the amount of $-0- will be deposited in the Series 2004 A Bonds Sinking Fund as capitalized interest and applied to payment of interest on the Series 2004 A Bonds during acquisition and construction of the Project and for a period not to exceed six months following completion thereof.

(2) Series 2004 B Bonds proceeds in the amount of $-0- will be deposited in the Series 2004 B Bonds Sinking Fund as capitalized interest and applied to payment of interest on the Series 2004 B Bonds during acquisition and construction of the Project and for a period not to exceed six months following completion thereof.

(3) Series 2004 A Bonds proceeds in the amount of $-0- will be deposited in the Series 2004 A Bonds Reserve Account.

(4) Series 2004 B Bonds proceeds in the amount of $-0- will be deposited in the Series 2004 B Bonds Reserve Account.

(5) Series 2004 A Bonds proceeds in the amount of $994,525 will be used to pay in full the entire outstanding principal of and all interest accrued on the interim financing loan incurred for design and other costs of the Project.

(6) Series 2004 B Bonds proceeds in the amount of $159,585 will be used to pay, together with $245,475 from the SRSPSD contribution and $23,478 from the Series 1999 A Bonds Sinking Fund and Reserve Account, the entire outstanding principal of and all interest and administrative fees on the Series 1999 A Bonds.

(7) The balance of the proceeds of the Bonds will be deposited in the Series 2004 Bonds Construction Trust Fund as received from time to time and applied solely to payment of costs of the Project, including costs of issuance of the Bonds and related costs.

(8) The Issuer shall use $77,898 from the SRSPSD contribution and $49,003 from the Series 1996 A Bonds Sinking Fund and Reserve Account to prepay the Series 1996 A Bonds. No proceeds of the Bonds will be used to prepay the Series 1996 A Bonds.

11. Moneys held in the Series 2004 A Bonds Sinking Fund will be used solely to pay principal of and interest, if any, on the Series 2004 A Bonds and will not be available to meet costs of acquisition and construction of the Project. All investment earnings on moneys in the Series 2004 A Bonds Sinking Fund and Series 2004 A Bonds Reserve Account, if any, will be withdrawn therefrom and deposited into the Series 2004 Bonds Construction Trust Fund during construction of the Project, and following completion of the Project, will be deposited, not less than once each year, in the Revenue Fund, and such amounts will be applied as set forth in the Bond Ordinance.

12. Moneys held in the Series 2004 B Bonds Sinking Fund will be used solely to pay principal of and interest, if any, on the Series 2004 B Bonds and will not be available to meet costs of acquisition and construction of the Project. All investment earnings on moneys in the Series 2004 B Bonds Sinking Fund and Series 2004 B Bonds Reserve Account, if any, will be withdrawn therefrom and deposited into the Series 2004 Bonds Construction Trust Fund during construction of the Project, and following completion of the Project, will be deposited, not less than once each year, in the Revenue Fund, and such amounts will be applied as set forth in the Bond Ordinance.

13. Work with respect to the acquisition and construction of the Project will proceed with due diligence to completion. The acquisition and construction of the Project is expected to be completed within 12 months of the date hereof.

14. The Issuer will take such steps as requested by the Authority to ensure that the Authority's bonds meet the requirements of the Code.

15. With the exception of the amount deposited in the Series 2004 A Bonds Sinking Fund for payment of interest, if any, on the Series 2004 A Bonds and the amount deposited in the Series 2004 A Bonds Reserve Account, if any, all of the proceeds of the Series 2004 A Bonds will be expended on the Project within 15 months from the date of issuance thereof.

16. With the exception of the amount deposited in the Series 2004 B Bonds Sinking Fund for payment of interest, if any, on the Series 2004 B Bonds and the amount deposited in the Series 2004 B Bonds Reserve Account, if any, all of the proceeds of the Series 2004 B Bonds will be expended on the Project within 15 months from the date of issuance thereof.

17. The Issuer does not expect to sell or otherwise dispose of the Project in whole or in part prior to the last maturity date of the Bonds.

18. 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.

19. All property financed with the proceeds of the Bonds will be owned and held by (or on behalf of) a qualified governmental unit.

20. No proceeds of the Bonds will be used, directly or indirectly, in any trade or business carried on by any person who is not a governmental unit.

21. The original proceeds of the Bonds will not exceed the amount necessary for the purposes of the issue. The Issuer covenants that it shall maintain thorough and accurate accounting records, in conformance with generally accepted accounting principles, relative to the proceeds of the Bonds so that use of proceeds from each series of the Bonds can be accounted for.

22. The Issuer shall use the Bond proceeds solely for the costs of the Project, and the Project will be operated solely for a public purpose as a local governmental activity of the Issuer.

23. The Bonds are not federally guaranteed.

24. The Issuer has retained the right to amend the Bond Ordinance authorizing the issuance of the Bonds if such amendment is necessary to assure that the Bonds remain governmental or public purpose bonds.

25. The Issuer has either (a) funded the Series 2004 A Bonds Reserve Account at the maximum amount of principal and interest which will mature and become due on the Series 2004 A Bonds in the then current or any succeeding year with the proceeds of the Series 2004 A Bonds, or (b) created the Series 2004 A Bonds Reserve Account which will be funded with equal payments made on a monthly basis over a 10-year period until such Series 2004 A Bonds Reserve Account hold an amount equal to the maximum amount of principal and interest which will mature and become due on the Series 2004 A Bonds in the then current or any succeeding year. Moneys in the Series 2004 A Bonds Reserve Account and the Series 2004 A Bonds Sinking Fund will be used solely to pay principal of and interest on the Series 2004 A Bonds and will not be available to pay costs of the Project.

26. The Issuer has either (a) funded the Series 2004 B Bonds Reserve Account at the maximum amount of principal and interest which will mature and become due on the Series 2004 B Bonds in the then current or any succeeding year with the proceeds of the Series 2004 B Bonds, or (b) created the Series 2004 B Bonds Reserve Account which will be funded with equal payments made on a monthly basis over a 10-year period until such Series 2004 B

Bonds Reserve Account hold an amount equal to the maximum amount of principal and interest which will mature and become due on the Series 2004 B Bonds in the then current or any succeeding year. Moneys in the Series 2004 B Bonds Reserve Account and the Series 2004 B Bonds Sinking Fund will be used solely to pay principal of and interest on the Series 2004 B Bonds and will not be available to pay costs of the Project.

27. 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 of funds or will have substantially the same claim to be paid out of substantially the same sources of funds as the Bonds.

28. 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.

29. 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.

30. To the best of my knowledge, information and belief, the foregoing expectations are reasonable.

WITNESS my signature as of the date first written above.

TOWN OF MILTON

Mayor

12/16/04
004201/00304

TOWN OF MILTON
SEWER REVENUE BONDS,
SERIES 2004 A (WEST VIRGINIA SRF PROGRAM) AND
SERIES 2004 B (WEST VIRGINIA INFRASTRUCTURE FUND)

CERTIFICATE OF RECORDER AS TO TRUTH
AND ACCURACY OF DOCUMENTS DELIVERED

The undersigned duly elected Recorder of the Town of Milton (the "Issuer"), on this 29th day of December, 2004, hereby certifies that the copies of the following documents being delivered in connection with the closing of the sale of the Town of Milton Sewer Revenue Bonds, Series 2004 A (West Virginia SRF Program) and Series 2004 B (West Virginia Infrastructure Fund) (collectively, the "Bonds") are, as of the date hereof, true, complete 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, enacted or entered by the Council 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. Charter.

2. Oaths of Office of Mayor, Recorder and Council Members.

3. Rules of Procedure of Council.

4. Ordinance Creating Municipal Utility Commission.

5. Oaths of Office of Members of Municipal Utility Commission.

6. Rules of Procedure of Municipal Utility Commission.

7. Public Service Commission Orders.

8. Infrastructure Council Approval Letter.

9. SRF Bond Purchase Agreement.

10. Infrastructure Council Loan Agreement.

11. Rate Ordinance.

12. Minutes of Council Meetings regarding All Readings and Public Hearing of the Rate Ordinance.

13. Affidavit of Publication of the Rate Ordinance and Notice of Public Hearing.

14. Petition of Municipal Utility Commission.

15. Bond Ordinance.

16. Supplemental Resolution.

17. Minutes of Council Meetings regarding All Readings and Public Hearing of the Bond Ordinance and Adoption of the Supplemental Resolution.

18. Affidavit of Publication of the Notice of Public Hearing and Abstract of Bond Ordinance.

19. NPDES Permit.

20. Defeasance Certificate for Prior Bonds.

21. Receipt of Payment of Interim Financing.

22. Evidence of Insurance

WITNESS my signature and the official seal of the Town of Milton as of the date first written above.

Recorder

[SEAL]

12/10/04
004201/00304

TOWN OF MILTON
SEWER REVENUE BONDS,
SERIES 2004 A (WEST VIRGINIA SRF PROGRAM) AND
SERIES 2004 B (WEST VIRGINIA INFRASTRUCTURE FUND)

CERTIFICATE OF CONSULTING ENGINEER

I, Ronald E. Rogers, Registered Professional Engineer, West Virginia License No. 14125, of Howard K. Bell, Consulting Engineers, Inc., Hurricane, West Virginia, on this 29th day of December, 2004, hereby certify as follows:

1. My firm is engineer for the acquisition and construction of certain additions, betterments and improvements (the "Project") to the existing public sewerage system (the "System") of the Town of Milton (the "Issuer"), to be constructed primarily in Cabell County, West Virginia, which acquisition and construction are being permanently financed in part by the above-captioned bonds (collectively, the "Bonds" or individually, the "Series 2004 A Bonds" and the "Series 2004 B Bonds") of the Issuer. All capitalized words defined herein and not defined herein shall have the same meaning set forth in the Bond Ordinance passed by the Issuer on November 16, 2004, effective December 7, 2004, the Bond Purchase Agreement for the Series 2004 A Bonds, by and among the Issuer, the West Virginia Water Development Authority (the "Authority") and the West Virginia Department of Environmental Protection ("DEP"), dated December 16, 2004, and the Loan Agreement for the Series 2004 B Bonds, by and between the Issuer and the Authority, on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Infrastructure Council"), dated December 29, 2004 (collectively, the "Loan Agreement").

2. The Series 2004 A Bonds are being issued for the purposes of (i) paying all interim financing incurred by the Issuer for design and other costs of the Project; (ii) paying a portion of the costs of acquisition and construction of the Project; and (iii) paying costs of issuance and related costs.

3. The Series 2004 B Bonds are being issued for the purposes of (i) paying, together with other funds of the Issuer, the entire outstanding principal of and all interest and administrative fees on the Issuer's Sewerage System Design Revenue Bonds, Series 1999 A; (ii) paying a portion of the costs of acquisition and construction of the Project; and (iii) paying costs of issuance and related costs.

4. 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, the Infrastructure Council 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 Schedules A and B attached hereto as Exhibit A, and in reliance upon the opinion of Issuer's counsel, Robert R. Rodecker, Esquire, 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 and operation of the System; (ix) in reliance upon the certificate of Michael Griffith, 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 Loan Agreement; (x) the net proceeds of the Bonds, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants, if any, irrevocably committed therefor, are sufficient to pay the costs of acquisition and construction of the Project approved by the DEP and the Infrastructure Council; and (xi) attached hereto as Exhibit A are the final amended "Schedule A - Total Cost of Project, Sources of Funds and Cost of Financing" and "Schedule B - Final Total Cost of Project, Sources of Funds and Cost of Financing" for the Project.

WITNESS my signature and seal as of the date first written above.

[SEAL]

RONALD E. ROGERS
REGISTERED
14125
STATE OF
WEST VIRGINIA
PROFESSIONAL ENGINEER

HOWARD K. BELL, CONSULTING ENGINEERS, INC.

Ronald E. Rogers, P.E.
West Virginia License No. 14125

12/16/04
004201/00304

Town of Milton

A. COST OF PROJECT	TOTAL	Salt Rock Sewer Aid	CWSRF	IJDC loan
1 Construction				
Contract 2 Enyart	1,799,406.00	0.00	1,799,406.00	0.00
Contract 3 Enyart	1,705,454.00	0.00	1,705,454.00	0.00
Contract 4 Enyart	1,738,935.00	0.00	610,617.00	1,128,318.00
Equipment / Lagoon closure	49,000.00	0.00	49,000.00	0.00
2 Technical Services - Howard K Bell				
Design				
a. Design loan (CWSRF 1999A) payoff 12/29/04	405,060.00	245,475.00	0.00	159,585.00
b Construction phase	372,500.00	0.00	372,500.00	0.00
c Special Services				
3 Legal & Fiscal				
a Legal	75,000.00	0.00	0.00	75,000.00
b Accounting	25,000.00	0.00	0.00	25,000.00
4 Administrative	50,000.00	0.00	0.00	50,000.00
5 Sites & Other Lands	125,000.00	0.00	0.00	125,000.00
6 Interim Financing				
a. Refund 96A bond (payoff 12/29/04)	77,898.00	77,898.00	0.00	0.00
b Bridge Loan PC Bank (payoff 12/29/04)	610,820.00	0.00	610,820.00	0.00
c. Phase II - PC Bank (payoff 12/29/04)	383,705.00	0.00	383,705.00	0.00
7 Contingency (5.0 %)	252,634.00	0.00	252,634.00	0.00
Rehab / SSES (not bid)	536,235.00	0.00	536,235.00	0.00
9 TOTAL of Lines 1 through 8	8,206,647.00	323,373.00	6,320,371.00	1,562,903.00
B. COST OF FINANCING				
10 Funded Reserve				
11 Other Costs				
a. Registrar fees	1,000.00		500.00	500.00
b Bond Counsel	39,000.00		30,500.00	8,500.00
12 Cost of Issuance Lines 10 through 11)	40,000.00	0.00	31,000.00	9,000.00
13 TOTAL PROJECT COST (line 9 plus line 12)	8,246,647.00	323,373.00	6,351,371.00	1,571,903.00
C. SOURCES OF FUNDS				
14 Federal Grants				
15 State Grants (IJDC)				
16 Other Grants (Salt Rock Aid)	323,373.00	323,373.00		
17 Any Other Source				
18 TOTAL Lines 13 trough 16	323,373.00	323,373.00	0.00	0.00
19 Size of Bond Issue (line 13 minus line 18)	7,923,274.00	0.00	6,351,371.00	1,571,903.00

Town of Milton

Engineer

12/21/04

Date

12/20/04

Date

Griffith & Associates Certified Public Accountants & Consultants

December 29, 2004

TOWN OF MILTON
SEWER REVENUE BONDS,
SERIES 2004 A (WEST VIRGINIA SRF PROGRAM) AND
SERIES 2004 B (WEST SVIRGINIA INFRASTRUCTURE FUND)

Town of Milton
Milton, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

West Virginia Department of Environmental Protection
Charleston, West Virginia

West Virginia Infrastructure and Jobs Development Council
Charleston, West Virginia

Ladies and Gentlemen:

I have reviewed the sewer service rates of the Town of Milton (the "Issuer"), enacted by the Issuer on October 27, 2004, and the projected operating expenses and Anticipated customer usage provided by Howard K. Bell, Consulting Engineers, Inc. It is my opinion that such rates are sufficient, together with other revenues of the System (i) to provide for all operating expenses of the sewerage system of the Issuer (the "System"), 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 the payment of principal of and interest on the Issuer's Sewer Revenue Bonds, Series 2004 A (West Virginia SRF Program) and Sewer Revenue Bonds, Series 2004 B (West Virginia Infrastructure Fund).

Very truly yours,

Michael Griffith, CPA

Michael D. Griffith, CPA
michaelgriffithcpa@verizon.net
950 Little Coal River Road Alum Creek, WV 25003
Phone: (304) 756.3600 Facsimile: (304) 756.2911

TOWN OF MILTON
SEWER REVENUE BONDS,
SERIES 2004 A (WEST VIRGINIA SRF PROGRAM) AND
SERIES 2004 B (WEST VIRGINIA INFRASTRUCTURE FUND)

RECEIPT FOR BONDS

On this 29th day of December, 2004, 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 the Sewer Revenue Bonds, Series 2004 A (West Virginia SRF Program), of the Town of Milton (the "Issuer"), in the principal amount of $6,351,371, numbered AR-1, and the Sewer Revenue Bonds, Series 2004 B (West Virginia Infrastructure Fund), of the Issuer, in the principal amount of $1,571,903, numbered BR-1, both issued in the form of one bond, fully registered to the Authority, and both dated December 29, 2004 (collectively, the "Bonds").

2. At the time of such receipt of the Bonds, they had been executed by the Mayor of the Issuer and attested by the Recorder of the Issuer, by their respective manual signatures, and the official seal of the Issuer had been impressed upon the Bonds.

WITNESS my signature on this 29th day of December, 2004.

WEST VIRGINIA WATER DEVELOPMENT
AUTHORITY

Barbara B Meadows
Authorized Representative

12/10/04
004201/00304

M0387298.1

TOWN OF MILTON
SEWER REVENUE BONDS,
SERIES 2004 A (WEST VIRGINIA SRF PROGRAM) AND
SERIES 2004 B (WEST VIRGINIA INFRASTRUCTURE FUND)

RECEIPT FOR BOND PROCEEDS

On this 29th day of December, 2004, the undersigned Mayor of the Town of Milton (the "Issuer"), for and on behalf of the Issuer, hereby certifies as follows:

1. On the date hereof, the Issuer received and hereby acknowledges receipt from the West Virginia Water Development Authority (the "Authority"), as the original purchaser of the $6,351,371 Town of Milton Sewer Revenue Bonds, Series 2004 A (West Virginia SRF Program), dated December 29, 2004 (the "Series 2004 A Bonds"), of the sum of $1,025,525, being a portion of the principal amount of the Series 2004 A Bonds. The Issuer understands that the remaining proceeds of the Series 2004 A Bonds will be advanced to the Issuer by the Authority and the West Virginia Department of Environmental Protection from time to time as construction proceeds to completion.

2. On the date hereof, the Issuer received and hereby acknowledges receipt from the Authority, as the original purchaser of the $1,571,903 Town of Milton Sewer Revenue Bonds, Series 2004 B (West Virginia Infrastructure Fund), dated December 29, 2004 (the "Series 2004 B Bonds"), of the sum of $211,168, being a portion of the principal amount of the Series 2004 B Bonds. The Issuer understands that the remaining process of the Series 2004 B Bonds will be advanced to the Issuer by the Authority and the West Virginia Infrastructure and Jobs Development Council from time to time as construction proceeds to completion.

WITNESS my signature on this 29th day of December, 2004.

TOWN OF MILTON

Mayor

12/16/04
004201/00304

M0387301.1

TOWN OF MILTON
SEWER REVENUE BONDS,
SERIES 2004 A (WEST VIRGINIA SRF PROGRAM) AND
SERIES 2004 B (WEST VIRGINIA INFRASTRUCTURE FUND)

REQUEST AND AUTHORIZATION TO
AUTHENTICATE AND DELIVER THE BONDS

Putnam County Bank, as Registrar
Hurricane, West Virginia

Ladies and Gentlemen:

We herewith hand to you, duly executed, the (i) $6,351,371 Sewer Revenue Bonds, Series 2004 A (West Virginia SRF Program), in the form of one bond, numbered AR-1, dated December 29, 2004, and (ii) $1,571,903 Sewer Revenue Bonds, Series 2004 B (West Virginia Infrastructure Fund), in the form of one bond, numbered BR-1, dated December 29, 2004 (collectively, the "Bonds"), of the Town of Milton (the "Issuer"), authorized to be issued under and pursuant to a Bond Ordinance duly passed by the Issuer on November 16, 2004, effective December 7, 2004, and a Supplemental Resolution duly adopted by the Issuer on December 21, 2004.

You are hereby requested and authorized to register, authenticate and deliver the Bonds on behalf of the Issuer to the West Virginia Water Development Authority.

WITNESS my signature this 29th day of December, 2004.

TOWN OF MILTON

Mayor

(SEAL)

Attest:

Recorder

12/10/04
004201/00304

M0387319.1

TOWN OF MILTON
SEWER REVENUE BONDS,
SERIES 2004 A (WEST VIRGINIA SRF PROGRAM) AND
SERIES 2004 B (WEST VIRGINIA INFRASTRUCTURE FUND)

REGISTRAR'S AGREEMENT

THIS REGISTRAR'S AGREEMENT, dated as of the 29th day of December, 2004, by and between the TOWN OF MILTON, a municipal corporation (the "Issuer"), and PUTNAM COUNTY BANK, Hurricane, West Virginia (the "Registrar").

WHEREAS, the Issuer has, contemporaneously with the execution hereof, issued and sold its $6,351,371 Sewer Revenue Bonds, Series 2004 A (West Virginia SRF Program), and its $1,571,903 Sewer Revenue Bonds, Series 2004 B (West Virginia Infrastructure Fund) (collectively, the "Bonds"), each in the form of one bond and in fully registered form, pursuant to a Bond Ordinance duly passed by the Issuer on November 16, 2004, effective December 7, 2004, and a Supplemental Resolution duly adopted December 21, 2004 (collectively, the "Ordinance");

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 Ordinance, a copy of which is attached as Exhibit A hereto and incorporated herein by reference;

WHEREAS, the Ordinance provides for an appointment by the Issuer of a Registrar for the Bonds; and

WHEREAS, the Issuer desires to appoint, and by the Ordinance and this Registrar's Agreement does appoint, the Registrar to act as Registrar under the Ordinance 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 Ordinance, 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 for services rendered as provided in the annexed schedule.

5. It is intended that this Registrar's Agreement shall carry out and implement provisions of the Ordinance with respect to the Registrar. In the event of any conflict between the terms of this Registrar's Agreement and the Ordinance, the terms of the Ordinance 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 Ordinance 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:

Town of Milton
1139 Smith Street
Milton, WV 25541
Attention: Mayor

REGISTRAR:

Putnam County Bank
2761 Main Street
Hurricane, WV 25526
Attention: President

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 Ordinance.

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.

TOWN OF MILTON

Mayor

PUTNAM COUNTY BANK

Authorized Officer

12/16/04
004201/00304

EXHIBIT A

See Bond Ordinance (Tab No. 16) and
Supplemental Resolution (Tab No. 17)

TOWN OF MILTON
SEWER REVENUE BONDS,
SERIES 2004 A (WEST VIRGINIA SRF PROGRAM) AND
SERIES 2004 B (WEST VIRGINIA INFRASTRUCTURE FUND)

3.10

CERTIFICATE OF REGISTRATION OF BONDS

PUTNAM COUNTY BANK, Hurricane, West Virginia, as Registrar (the "Registrar"), hereby certifies that on the date hereof, the single, fully registered Sewer Revenue Bonds, Series 2004 A (West Virginia SRF Program), of the Town of Milton (the "Issuer"), dated December 29, 2004, in the principal amount of $6,351,371, and numbered AR-1, and the single, fully registered Sewer Revenue Bonds, Series 2004 B (West Virginia Infrastructure Fund), of the Issuer, dated December 29, 2004, in the principal amount of $1,571,903, and 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 29th day of December, 2004.

PUTNAM COUNTY BANK,
as Registrar

Authorized Officer

12/10/04
004201/00304

M0387327.1

TOWN OF MILTON 3.11(A)
SEWER REVENUE BONDS,
SERIES 2004 A (WEST VIRGINIA SRF PROGRAM) AND
SERIES 2004 B (WEST VIRGINIA INFRASTRUCTURE FUND)

ACCEPTANCE OF APPOINTMENT AS DEPOSITORY BANK

PUTNAM COUNTY BANK, Hurricane, West Virginia, hereby accepts appointment as Depository Bank in connection with a Bond Ordinance of the Town of Milton (the "Issuer"), passed by the Issuer on November 16, 2004, effective December 7, 2004, and a Supplemental Resolution adopted by the Issuer on December 21, 2004 (collectively, the "Ordinance"), authorizing the issuance of its Sewer Revenue Bonds, Series 2004 A (West Virginia SRF Program), in the principal amount of $6,351,371, and Sewer Revenue Bonds, Series 2004 B (West Virginia Infrastructure Fund), in the principal amount of $1,571,903, both dated December 29, 2004, and agrees to serve as Depository Bank for the Series 2004 Bonds Construction Trust Fund, all as set forth in the Ordinance.

WITNESS my signature on this 29th day of December, 2004.

PUTNAM COUNTY BANK

Authorized Officer

12/10/04
004201/00304

M0387340.1

TOWN OF MILTON
SEWER REVENUE BONDS,
SERIES 2004 A (WEST VIRGINIA SRF PROGRAM) AND
SERIES 2004 B (WEST VIRGINIA INFRASTRUCTURE FUND)

3.11(B)

ACCEPTANCE OF APPOINTMENT AS DEPOSITORY BANK

JP MORGAN CHASE BANK, N.A., Milton, West Virginia, hereby accepts appointment as Depository Bank in connection with a Bond Ordinance of the Town of Milton (the "Issuer"), passed by the Issuer on November 16, 2004, effective December 7, 2004, and a Supplemental Resolution adopted by the Issuer on December 21, 2004 (collectively, the "Ordinance"), authorizing the issuance of its Sewer Revenue Bonds, Series 2004 A (West Virginia SRF Program), in the principal amount of $6,351,371, and Sewer Revenue Bonds, Series 2004 B (West Virginia Infrastructure Fund), in the principal amount of $1,571,903, both dated December 29, 2004, and agrees to serve as Depository Bank for the Revenue Fund and the Renewal and Replacement Fund, all as set forth in the Ordinance.

WITNESS my signature on this 29th day of December, 2004.

JP MORGAN CHASE BANK, N.A.

Authorized Officer

12/17/04
004201/00304

M0442887.1

WEST VIRGINIA MUNICIPAL BOND COMMISSION
Suite 500
8 Capitol Street, Charleston, WV 25301
(304) 558-3971

3.12(A)
NEW ISSUE REPORT FORM
Date of Report: December 29, 2004

ISSUE: Town of Milton Sewer Revenue Bonds, Series 2004 A (West Virginia SRF Program)
ADDRESS: 1139 Smith Street, Milton, WV 25541 COUNTY: Cabell

PURPOSE OF ISSUE: New Money X
Refunding ___ Refunds issue(s) dated: _____

ISSUE DATE: December 29, 2004 CLOSING DATE: December 29, 2004

ISSUE AMOUNT: $6,351,371 RATE: 0%; Administrative Fee: 0.5%

1st DEBT SERVICE DUE: December 1, 2006 1st PRINCIPAL DUE: December 1, 2006

1st DEBT SERVICE AMOUNT: $41,512.23 PAYING AGENT: Municipal Bond Commission

BOND COUNSEL: Jackson Kelly PLLC
Contact Person: Samme L. Gee, Esquire
Phone: (304) 340-1318

UNDERWRITERS COUNSEL: _____
Contact Person: _____
Phone: _____

CLOSING BANK: Putnam County Bank
Contact Person: Daniel Roberts
Phone: (304) 562-5055

ESCROW TRUSTEE: _____
Contact Person: _____
Phone: _____

KNOWLEDGEABLE ISSUER CONTACT:
Contact Person: Betty Sargent
Position: Mayor
Phone: (304)743-3032

OTHER: WVDEP
Contact Person: Rosalie Brodersen
Function: Program Manager
Phone: (304) 926-0449

DEPOSITS TO MBC AT CLOSE: _____
By _____ Wire
_____ Check

Accrued Interest: $_____
Capitalized Interest: $_____
Reserve Account: $_____
Other: _____ $_____

REFUNDS & TRANSFERS BY MBC AT CLOSE:
By _____ Wire
_____ Check
_____ IGT

To Escrow Trustee: $_____
To Issuer: $_____
To Cons. Invest. Fund $_____
To Other: _____ $_____

NOTES: _____

FOR MUNICIPAL BOND COMMISSION USE ONLY:
Documents Required: _____
Transfers Required: _____

12/16/04
004201/00304

M0387346.1

WEST VIRGINIA MUNICIPAL BOND COMMISSION
Suite 500
8 Capitol Street, Charleston, WV 25301
(304) 558-3971

3.12(B)
NEW ISSUE REPORT FORM
Date of Report: December 29, 2004

ISSUE: Town of Milton Sewer Revenue Bonds, Series 2004 B (West Virginia Infrastructure Fund)

ADDRESS: 1139 Smith Street, Milton, WV 25541 COUNTY: Cabell

PURPOSE OF ISSUE: New Money X
Refunding X Refunds issue(s) dated: 5/19/99

ISSUE DATE: December 29, 2004 CLOSING DATE: December 29, 2004

ISSUE AMOUNT: $1,571,903 RATE: 0%

1st DEBT SERVICE DUE: December 1, 2006 1st PRINCIPAL DUE: December 1, 2006

1st DEBT SERVICE AMOUNT: $10,273.88 PAYING AGENT: Municipal Bond Commission

BOND COUNSEL: Jackson Kelly PLLC
Contact Person: Samme L. Gee, Esquire
Phone: (304) 340-1318

UNDERWRITERS COUNSEL: _____
Contact Person: _____
Phone: _____

CLOSING BANK: Putnam County Bank
Contact Person: Daniel Roberts
Phone: (304) 562-5055

ESCROW TRUSTEE: _____
Contact Person: _____
Phone: _____

KNOWLEDGEABLE ISSUER CONTACT:
Contact Person: Betty Sargent
Position: Mayor
Phone: (304) 743-3032

OTHER: WV Infrastructure & Jobs Development Council
Contact Person: Katy Mallory, P.E.
Function: Executive Director
Phone: (304) 558-4607

DEPOSITS TO MBC AT CLOSE: _____
By X Wire
_____ Check

_____
_____
X

Accrued Interest: $_____
Capitalized Interest: $_____
Reserve Account: $_____
Other: * $159,585

REFUNDS & TRANSFERS BY MBC AT CLOSE:
By _____ Wire
_____ Check
_____ IGT

_____ To Escrow Trustee: $_____
_____ To Issuer: $_____
_____ To Cons. Invest. Fund $_____
_____ To Other: _____ $_____

NOTES: * Bond proceeds of $159,585, Salt Rock's contribution of $245,475 and funds in the 1999 A Sinking Fund and Reserve Account of $23,478 will pay the entire outstanding principal of and all interest and administrative fees on the Town of Milton Sewerage System Design Revenue Bonds, Series 1999 A.

FOR MUNICIPAL BOND COMMISSION USE ONLY:
Documents Required: _____
Transfers Required: _____

12/16/04
004201/00304

M0387353.1

File

Division of Water and Waste Management
1201 Greenbrier Street
Charleston, West Virginia 25311
Phone (304) 558-4085
Fax (304)-558-5900

West Virginia Department of Environmental Protection

Bob Wise
Governor

Stephanie R. Timmermeyer
Cabinet Secretary

May 30, 2003

HONORABLE TOMMY HARBOUR
MILTON CITY OF
1139 SMITH ST
MUNICIPAL BLDG
MILTON, WV 25541

CERTIFIED RETURN RECEIPT REQUESTED

Dear Permittee:

Enclosed please find WV/NPDES Permit Number WV0024538 dated May 30, 2003.

Please find enclosed the Order Discharge Monitoring Report forms that contain the Consent Decree No. 99-C-0796 effluent discharge limits. Also, these are the DMR forms that should be used for reporting.

Please note that a Discharge Monitoring Report (DMR) is to be completed and submitted to this Division each month. It is suggested that several copies of the enclosed DMR forms be made for your future use, as this Division does not supply permittees with DMR forms.

Finally note that copies of all future correspondence regarding the permit including copies of DMRs must be forwarded to the Field Inspector and Field Supervisor at the following address:

Department of Environmental Protection
Environmental Enforcement
PO Box 662
Teays, WV 25569

Also, please note the attachment to this permit which describes the annual permit fee requirement. Reissuance of your permit does not change the annual fee billing cycle.

35

If you have any questions, please contact Bhupinder Gill of this Division at (304) 558-4086 or our TDD number (304) 558-2751.

Sincerely,

Allyn G. Turner
Director

AGT:bg

Enclosures

Permit Number: WV0024538

Permittee: MILTON CITY OF

cc: Bureau of Public Health
Construction Assistance
Env. Insp. Supv.
Env. Insp.
Environmental Enforcement
Public Service Commission
WV Soil Conservation

STATE OF WEST VIRGINIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF WATER AND WASTE MANAGEMENT
1201 GREENBRIER STREET
CHARLESTON, WV 25311

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
WATER POLLUTION CONTROL PERMIT

NPDES PERMIT NO.: WV0024538
SUBJECT: Sewage

ISSUE DATE: May 30, 2003
EFFECTIVE DATE: June 29, 2003
EXPIRATION DATE: May 29, 2008
SUPERSEDES: Permit No. WV0024538 dated May 12, 1995

LOCATION: MILTON (City) Cabell (County) Lower Guyandotte River (Drainage Basin)

See the next page for a list of Outlets.

TO WHOM IT MAY CONCERN:

This is to certify that: MILTON CITY OF
1139 SMITH ST
MUNICIPAL BLDG
MILTON, WV 25541

is hereby granted a West Virginia NPDES Water Pollution Control Permit to:
operate and maintain an existing wastewater collection system and an existing aerated lagoon wastewater treatment facility which is further described as follows:

The wastewater collection system is comprised of approximately 4,600 linear feet of four(4) inch diameter gravity sewer line, 5,600 linear feet of six(6) inch diameter gravity sewer line, 8,400 linear feet of eight(8) inch diameter gravity sewer line, 28,100 linear feet of gravity sewer line ranging from eight(8) inches to 16 inches in diameter, 183 manholes, 27 cleanouts, seven(7) lift stations, 150 linear feet of three(3) inch diameter force main line, 915 linear feet of four(4) inch diameter force main line, 2,530 linear feet of six(6) inch diameter force main line, and all requisite appurtenances.

The 0.244 million gallon per day [MGD] wastewater treatment facility is comprised of a 2.66 acre aerated lagoon, a 5.92 acre settling pond, a chlorine contact chamber with a volume of 8,600 gallons, a combination of dechlorination and post aeration chamber with a volume of 5,500 gallons, and all necessary appurtenances.

Facilities are to serve approximately 1,300 customers [a population equivalent of approximately 3,250 persons] in the City of Milton and its environs and discharge treated wastewater to Mud River (15 miles from its mouth) of the Guyandotte River.

This permit is subject to the following terms and conditions:
The information submitted on and with Permit Application No. WV0024538, dated the 13th day of January 2003, are all hereby made terms and conditions of this Permit with like effect as if such permit application information was set forth herein, and with other conditions set forth in Sections A, B, C, and Appendix A.

The validity of this permit is contingent upon the payment of the applicable annual permit fee, as required by Chapter 22, Article 11, Section 10 of the Code of West Virginia.

TOWN OF MILTON
SEWER REVENUE BONDS,
SERIES 2004 A (WEST VIRGINIA SRF PROGRAM) AND
SERIES 2004 B (WEST VIRGINIA INFRASTRUCTURE FUND)

DEFEASANCE CERTIFICATE FOR PRIOR BONDS

The undersigned authorized representative of the West Virginia Municipal Bond Commission (the "Commission"), as paying agent for the Town of Milton Sewerage System Revenue Refunding Bonds, Series 1996 A (the "Series 1996 A Bonds") and the Town of Milton Sewerage System Design Revenue Bonds, Series 1999 A (the "Series 1999 A Bonds"), hereby certifies as follows:

1. With respect to the Series 1996 A Bonds, the Commission received $77,898 from Salt Rock Sewer Public Service District ("SRSPSD") and that such funds, together with $49,003 in the Series 1996 A Bonds Sinking Fund and the Series 1996 A Bonds Reserve Account, are sufficient to pay the entire outstanding principal of and all interest and administrative fees on the Series 1996 A Bonds on the date hereof and discharge the liens, pledges and encumbrances securing the Series 1996 A Bonds.

2. With respect to the Series 1999 A Bonds, the Commission received $245,475 from SRSPSD and $159,585 from proceeds of the Town of Milton Sewer Revenue Bonds, Series 2004 B (West Virginia Infrastructure Fund) and that such funds, together with $23,478 in the Series 1999 A Bonds Sinking Fund and the Series 1999 A Bonds Reserve Account, are sufficient to pay the entire outstanding principal of and all interest and administrative fees on the Series 1999 A Bonds on the date hereof and discharge the liens, pledges and encumbrances securing the Series 1999 A Bonds.

WITNESS my signature this 29th day of December, 2004.

WEST VIRGINIA MUNICIPAL
BOND COMMISSION

Authorized Representative

12/10/04
004201/C0304

M0388285.1

TOWN OF MILTON
SEWER REVENUE BONDS,
SERIES 2004 A (WEST VIRGINIA SRF PROGRAM) AND
SERIES 2004 B (WEST VIRGINIA INFRASTRUCTURE FUND)

3.15

RECEIPT OF PAYMENT OF INTERIM FINANCING

The undersigned duly authorized representative of Putnam County Bank, the holder of certain notes (collectively, the "Notes") of the Town of Milton (the "Issuer"), hereby certifies that it has received the sum of $994,525 from the Issuer and that such sum is sufficient to pay the entire outstanding principal amount of the Notes and all interest accrued thereon to the date hereof and discharge the liens, pledges and encumbrances securing the Notes.

Dated this 29th day of December, 2004.

PUTNAM COUNTY BANK

Authorized Representative

12/10/04
004201/00304

M0440781.1

GREAT AMERICAN INSURANCE GROUP
Administrative Offices
580 Walnut Street
Cincinnati, OH 45202
513.369.5000 ph

IL 70 01 (Ed. 02 89)

Policy No. MAC 6-99-43-43 - 00
Renewal Of NEW -

BUSINESSPRO POLICY COMMON DECLARATIONS

NAMED INSURED AND ADDRESS:
CITY OF MILTON
1595 US ROUTE 60, PO BOX 98
MILTON, WV
25541

POLICY PERIOD:
12:01 A.M. Standard Time at the address of the Named Insured shown at left.
From: 07/01/04 To: 07/01/05

IN RETURN FOR PAYMENT OF THE PREMIUM, AND SUBJECT TO ALL TERMS OF THIS POLICY, WE AGREE WITH YOU TO PROVIDE THE INSURANCE AS STATED IN THIS POLICY.

AGENT'S NAME AND ADDRESS:
Commercial Insurance Services
340 MacCorkle Avenue SE, Suite 200
Charleston, WV 25314

Insurance is afforded by company indicated below:

GREAT AMERICAN INSURANCE COMPANY OF NEW YORK

(A capital stock corporation)

BUSINESS DESCRIPTION MUNICIPALITY

This policy consists of the following Coverage parts for which a premium is indicated. This premium may be subject to adjustment

	Premium
Commercial Property	$ 3,079.00
Commercial General Liability	$
Commercial Crime	$
Commercial Inland Marine	$ 1,329.00
Commercial Boiler and Machinery	$ 157.00
Commercial Auto	$
Commercial Umbrella	$
TERRORISM	82.00
WEST VIRGINIA FIRE AND CASUALTY SURCHARGE	33.18
TOTAL	$ 4,680.18

Premium shown is payable: $ PER SCHEDULE at inception;
$

FORMS AND ENDORSEMENTS applicable to all Coverage Forms and made part of this policy at time of issue are listed on the attached Forms and Endorsements Schedule IL 88 01 (11/85).

Countersigned _____ By _____
Date Authorized Representative

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CLOSING MEMORANDUM

To: **Jack Sayre**
Rosalie Brodersen
John Rogers
Katy Mallory
Barbara Meadows
Sara Boardman
Samme Gee
Daniel Roberts
Kathy Elliott

From: **Francesca Tan**

Date: **December 29, 2004**

Re: **Town of Milton Sewer Revenue Bonds,**
Series 2004 A (West Virginia SRF Program) and
Series 2004 B (West Virginia Infrastructure Fund)

---

1. DISBURSEMENTS TO TOWN

A.

Payor:	West Virginia Department of Environmental Protection
Source:	Series 2004 A Bonds Proceeds
Amount:	$1,025,525
Date:	December 29, 2004
Form:	Check
Payee:	Town of Milton
Bank:	Putnam County Bank, Hurricane, West Virginia
Account:	Series 2004 Bonds Construction Trust Fund

B.

Payor:	West Virginia Infrastructure Council
Source:	Series 2004 B Bonds Proceeds
Amount:	$51,583
Date:	December 29, 2004
Form:	Wire Transfer
Payee:	Town of Milton
Bank:	Putnam County Bank, Hurricane, West Virginia
Routing #:	051502858
Account #:	1488044
Account:	Series 2004 Bonds Construction Trust Fund

2. DISBURSEMENTS TO MUNICIPAL BOND COMMISSION

A.

Payor:	Infrastructure Council on behalf of Salt Rock Sewer Public Service District
Source:	District's grant proceeds
Amount:	$323,373
Date:	December 29, 2004
Form:	Wire Transfer
Payee:	West Virginia Municipal Bond Commission
Bank:	Branch Banking and Trust Company
Routing #:	051503394
Account #:	5270517317
Contact:	West Virginia State Treasurer for West Virginia Municipal Bond Commission
Purposes:	(1) $77,898 to pay in full the Town of Milton Sewerage System Revenue Refunding Bonds, Series 1996 A, together with $49,003 from funds in the Series 1996 A Bonds Sinking Fund and Reserve Account held by the Commission. (2) $245,475 to pay in full the Town of Milton Sewerage System Design Revenue Bonds, Series 1999 A (the "Series 1999 A Bonds"), together with $23,478 from funds in the Series 1999 A Bonds Sinking Fund and Reserve Account held by the Commission and $159,585 from Series 2004 B Bonds proceeds.

B.

Payor:	Infrastructure Council on behalf of Town of Milton
Source:	Series 2004 B Bonds Proceeds
Amount:	$159,585
Date:	December 29, 2004
Form:	Wire Transfer
Payee:	West Virginia Municipal Bond Commission
Bank:	Branch Banking and Trust Company
Routing #:	051503394
Account #:	5270517317
Contact:	West Virginia State Treasurer for West Virginia Municipal Bond Commission
Purpose:	To pay in full the Series 1999 A Bonds, together with $245,475 from Salt Rock Sewer Public Service District and $23,478 from funds in the Series 1999 A Bonds Sinking Fund and Reserve Account held by the Commission.

3. DISBURSEMENTS TO PUTNAM COUNTY BANK

Payor:	Town of Milton
Source:	Series 2004 A Bonds Proceeds
Amount:	$994,525
Date:	December 29, 2004
Form:	Check
Payee:	Putnam County Bank
Purpose:	To pay in full the interim financing loan incurred to pay design and other costs of the Project.

12/17/04
004201/00304

JACKSONKELLY
ATTORNEYS AT LAW PLLC
1600 LAIDLEY TOWER • P.O. BOX 553 • CHARLESTON, WEST VIRGINIA 25322 • TELEPHONE: 304-340-1000 • TELECOPIER: 304-340-1130
www.jacksonkelly.com

December 29, 2004

Town of Milton
Milton, West Virginia

West Virginia Department of Environmental Protection
Charleston, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

Re: Town of Milton Sewer Revenue Bonds,
Series 2004 A (West Virginia SRF Program)

Ladies and Gentlemen:

We have served as bond counsel to the Town of Milton ("the Issuer"), a municipal corporation, in connection with the issuance of its Sewer Revenue Bonds, Series 2004 A (West Virginia 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 December 16, 2004, including all schedules and exhibits attached thereto (the "Loan Agreement"), by and among the Issuer, the West Virginia Water Development Authority (the "Authority") and the West Virginia Department of Environmental Protection (the "DEP"), and (ii) the Bonds to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Bonds are issued in the principal amount of $6,351,371, 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 December 1, 2006, as set forth in the Schedule Y attached to the Loan Agreement and incorporated in and made a part of the Bonds. The Bonds are subject to the SRF Administrative Fee equal to 0.5% of the principal amount of the Bonds as set forth in the Schedule Y attached to the Loan Agreement.

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 13 and Chapter 22C, Article 2 of the Code of West Virginia, 1931, as amended (collectively, the "Act"), for the purposes of (i) paying all interim financing incurred by the Issuer for design and

Fairmont, WV • Martinsburg, WV • Wheeling, WV • Morgantown, WV • New Martinsville, WV • Parkersburg, WV
Washington, D.C. • Denver, CO • Lexington, KY • Pittsburgh, PA

other costs of certain additions, betterments and improvements to the existing public sewerage system of the Issuer; (ii) paying a portion of the costs of acquisition and construction of certain additions, betterments and improvements to the existing public sewerage system of the Issuer (the "Project"); and (iii) paying certain costs of issuance and related costs.

We have also examined the applicable provisions of the Act and a Bond Ordinance duly passed by the Issuer on November 16, 2004, effective December 7, 2004, as supplemented by a Supplemental Resolution duly adopted by the Issuer on December 21, 2004 (collectively, the "Ordinance"), pursuant to and under which Act and Ordinance the Bonds are authorized and issued, and the Loan 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 Ordinance and the Loan Agreement. All capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Ordinance and in the Loan Agreement when used herein.

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

1. The Issuer is a duly created and presently existing municipal 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 enact the Ordinance and to issue and sell the Bonds, all under the Act and other applicable provisions of law.

2. The Loan Agreement has been duly authorized by and executed on behalf of the Issuer and is a valid and binding special obligation of the Issuer, enforceable in accordance with the terms thereof.

3. The Loan Agreement inures to the benefit of the Authority and the DEP and cannot be amended so as to affect adversely the rights of the Authority or the DEP or diminish the obligations of the Issuer without the written consent of the Authority and the DEP.

4. The Issuer has legally and effectively enacted the Ordinance and adopted all other necessary resolutions in connection with the issuance and sale of the Bonds. The

Ordinance 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 Loan 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 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 Sewer Revenue Bonds, Series 2004 B (West Virginia Infrastructure Fund), issued concurrently herewith, all in accordance with the terms of the Bonds and the Ordinance.

6. Under the Act, the Bonds and any interest thereon are exempt from all taxation by the State of West Virginia, or any county, municipality, political subdivision or agency thereof.

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 from the gross income of the owners thereof for federal income tax purposes or other federal tax consequences arising with respect to the Bonds.

8. The Prior Bonds have been paid within the meaning and with the effect expressed in the Prior Ordinance, and the covenants, agreements and other obligations of the Issuer to the owners of the Prior Bonds have been satisfied and discharged. In rendering the opinion set forth in this paragraph, we have relied upon the certificate of the West Virginia Municipal Bond Commission, the paying agent of the Prior Bonds, that it has received payment for the entire outstanding principal of the Prior Bonds and all interest accrued thereon on the date hereof and that the Prior Bonds have been paid in full.

No opinion is given herein as to the effect upon enforceability of the Bonds under any applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights or in the exercise of judicial discretion or principles of equity in appropriate cases.

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,

Jackson Kelly PLLC

JACKSONKELLY
ATTORNEYS AT LAW PLLC
1600 LAIDLEY TOWER • P.O. BOX 553 • CHARLESTON, WEST VIRGINIA 25322 • TELEPHONE: 304-340-1000 • TELECOPIER: 304-340-1130
www.jacksonkelly.com

4.2

December 29, 2004

Town of Milton
Milton, West Virginia

West Virginia Infrastructure and Jobs Development Council
Charleston, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

Re: Town of Milton Sewer Revenue Bonds,
Series 2004 B (West Virginia Infrastructure Fund)

Ladies and Gentlemen:

We have served as bond counsel to the Town of Milton ("the Issuer"), a municipal corporation, in connection with the issuance of its Sewer Revenue Bonds, Series 2004 B (West Virginia Infrastructure Fund), dated the date hereof (the "Bonds").

We have examined certified copies of proceedings and other papers relating to the authorization of (i) a loan agreement for the Bonds dated December 29, 2004, including all schedules and exhibits attached thereto (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 "Infrastructure Council"), and (ii) the Bonds to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Bonds are issued in the principal amount of $1,571,903, 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 December 1, 2006, as set forth in the Schedule Y attached to the Loan Agreement and incorporated in and made a part of the Bonds.

The Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly, Chapter 16, Article 13 and Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended (collectively, the "Act"), for the purposes of (i) paying, together with other funds of the Issuer, the entire outstanding principal of and all interest and administrative fees on the Issuer's

M0387389.1

Sewerage System Design Revenue Bonds, Series 1999 A; (ii) paying a portion of the costs of acquisition and construction of certain additions, betterments and improvements to the existing public sewerage system of the Issuer (the "Project"); and (iii) paying certain costs of issuance and related costs.

We have also examined the applicable provisions of the Act and a Bond Ordinance duly passed by the Issuer on November 16, 2004, effective December 7, 2004, as supplemented by a Supplemental Resolution duly adopted by the Issuer on December 21, 2004 (collectively, the "Ordinance"), pursuant to and under which Act and Ordinance the Bonds are authorized and issued, and the Loan 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 Ordinance and the Loan Agreement. All capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Ordinance and in the Loan Agreement when used herein.

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

1. The Issuer is a duly created and presently existing municipal 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 enact the Ordinance and to issue and sell the Bonds, all under the Act and other applicable provisions of law.

2. The Loan Agreement has been duly authorized by and executed on behalf of the Issuer and is a valid and binding special obligation of the Issuer, enforceable in accordance with the terms thereof.

3. The Loan Agreement inures to the benefit of the Authority and the Infrastructure Council and cannot be amended so as to affect adversely the rights of the Authority or the Infrastructure Council or diminish the obligations of the Issuer without the written consent of the Authority and the Infrastructure Council.

4. The Issuer has legally and effectively enacted the Ordinance and adopted all other necessary resolutions in connection with the issuance and sale of the Bonds. The

Ordinance 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 Loan 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 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 Sewer Revenue Bonds, Series 2004 A (West Virginia SRF Program), issued concurrently herewith, all in accordance with the terms of the Bonds and the Ordinance.

6. Under the Act, the Bonds and any interest thereon are exempt from all taxation by the State of West Virginia, or any county, municipality, political subdivision or agency thereof.

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 from the gross income of the owners thereof for federal income tax purposes or other federal tax consequences arising with respect to the Bonds.

8. The Prior Bonds have been paid within the meaning and with the effect expressed in the Prior Ordinance, and the covenants, agreements and other obligations of the Issuer to the owners of the Prior Bonds have been satisfied and discharged. In rendering the opinion set forth in this paragraph, we have relied upon the certificate of the West Virginia Municipal Bond Commission, the paying agent of the Prior Bonds, that it has received payment for the entire outstanding principal of the Prior Bonds and all interest accrued thereon on the date hereof and that the Prior Bonds have been paid in full.

No opinion is given herein as to the effect upon enforceability of the Bonds under any applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights or in the exercise of judicial discretion or principles of equity 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,

Jackson Kelly PLLC

LAW OFFICES
ROBERT R. RODECKER
BB&T SQUARE
300 SUMMERS STREET, SUITE 1230
POST OFFICE BOX 3713
CHARLESTON, WEST VIRGINIA 25337

ROBERT R. RODECKER
rodecker@wvdsl.net

JAMES V. KELSH
OF COUNSEL
kelshlaw@yahoo.com

AREA CODE 304
343-1654

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343-1657

December 29, 2004

Town of Milton
Milton, West Virginia

West Virginia Department of Environmental Protection
Charleston, West Virginia

West Virginia Infrastructure and Jobs Development Council
Charleston, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

Jackson Kelly PLLC
Charleston, West Virginia

Re: Town of Milton Sewer Revenue Bonds,
Series 2004 A (West Virginia SRF Program) and
Series 2004 B (West Virginia Infrastructure Fund)

Ladies and Gentlemen:

I am counsel to the Town of Milton in Cabell County, West Virginia (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 (the "Bonds"), a bond purchase agreement for the Series 2004 A Bonds, dated December 16, 2004, including all schedules and exhibits attached thereto, by and among the Issuer, the West Virginia Water Development Authority (the "Authority") and the West Virginia Department of Environmental Protection (the "DEP"), a loan agreement for the Series 2004 B Bonds, dated December 29, 2004, including all schedules and exhibits attached thereto, by and between the Issuer and the Authority, on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Infrastructure Council") (collectively, the "Loan Agreement"), a Bond Ordinance duly passed by the Issuer on November 16, 2004, effective December 7, 2004, as supplemented by a Supplemental Resolution duly adopted

by the Issuer on December 21, 2004 (collectively, the "Ordinance"), a Petition of the Municipal Utility Commission duly adopted on November 4, 2004, and other documents relating to the Bonds and the Issuer. All capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Loan Agreement and the Ordinance when used herein.

I am of the opinion that:

1. The Issuer is a duly created and presently existing municipal 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 enact the Ordinance, all under the Act and other applicable provisions of law. The Municipal Utility Commission has been duly created by the Issuer and is presently existing as a sanitary board under the Act.

2. The Loan Agreement has been duly authorized, executed and delivered by the Issuer and, assuming due authorization, execution and delivery by the DEP and the Authority, constitutes a valid and binding agreement of the Issuer, enforceable in accordance with its terms.

3. The Mayor, Recorder and members of the Council and the Municipal Utilities Commission of the Issuer have been duly, lawfully and properly elected or appointed, as applicable, have taken the requisite oaths, and are authorized to act in their respective capacities on behalf of the Issuer.

4. The Ordinance has been duly adopted and enacted by the Issuer and is in full force and effect.

5. The execution and delivery of the Bonds and the Loan Agreement and the consummation of the transactions contemplated by the Bonds, the Loan Agreement and the Ordinance, 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 or default under any ordinance, resolution, order, agreement, document or instrument to which the Issuer is a party

or by which the Issuer or its properties are bound or any existing law, regulation, rule, order or decree to which the Issuer is subject.

6. The Issuer has received all permits, licenses, approvals, consents, exemptions, orders, certificates and authorizations necessary for the creation and existence of the Issuer, the issuance of the Bonds, the acquisition and construction of the Project, the operation of the System and the imposition of rates and charges, including, without limitation, all requisite permits, orders, consents, certificates and approvals from the DEP, the Infrastructure Council and the Public Service Commission of West Virginia (the "PSC"). The Issuer has taken any other action required for the imposition of such rates and charges, including, without limitation, the enactment of an ordinance prescribing such rates and charges. The Issuer has received the PSC Orders entered on March 26, 2003, and December 17, 2004, in Case No. 02-0688-PSD-S-CN, among other things, granting to the Issuer a certificate of public convenience and necessity for the Project and approving the financing for the Project. The time for appeal of the PSC Order entered March 26, 2003, has expired prior to the date. The time for appeal of the PSC Order entered December 17, 2004, has not expired on the date hereof. However, the parties to such Order have stated that they do not intend to appeal such Order. Both Orders remain in full force and effect.

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 body, pending or threatened, wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by the Loan Agreement, the Bonds and the Ordinance, the acquisition and construction of the Project, the operation of the System, or the validity of the Bonds or the collection or pledge of the Net Revenues therefor.

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.

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

Very truly yours,

Robert R. Rodecker, Esquire

12/20/04
004201/00304

SEAN K. HAMMERS
Attorney at Law
731 Fifth Avenue, Suite 200
Huntington, WV 25701
304-529-4509 • Fax 304-529-2030

December 29, 2004

Town of Milton
Milton, WV

West Virginia Department of Environmental Protection
Charleston, WV

West Virginia Infrastructure and Jobs Development Council
Charleston, WV

West Virginia Water Development Authority
Charleston, WV

Jackson Kelly PLLC
Charleston, WV

Re: Final Title Opinion for Town of Milton

Ladies and Gentlemen:

I am counsel for the Town of Milton, hereinafter referred to as "Issuer", in connection with a proposed project to construct certain additions, betterments and improvements to the existing public sewerage system, hereinafter referred to as the "Project", of the Issuer. Pursuant to the requirements of the West Virginia Department of Environmental Protection (the "DEP") and the West Virginia Infrastructure and Jobs Development Council for the Project, I am providing the following final title opinion on behalf of the Issuer:

1. The Issuer is a duly created and presently existing municipality possessed with all the powers and authority granted to municipalities 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 been provided with the location of and 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 Howard K. Bell, Consulting Engineers, Inc., the consulting engineers for the Project.

4. I have examined the records on file in the Office of the Clerk of the County Commission of Cabell County, West Virginia, the county in which the Project is 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, with the exception of those listed in paragraph 5 below, sufficient to assure undisturbed use and possession for the purpose of construction, operation and maintenance for the estimated life of the Project.

5. The following listed properties are to be acquired by eminent domain, and the necessary filings have been made in the Office of the Circuit Clerk of Cabell County, West Virginia, to permit the Issuer a right-of-entry for the purpose of construction, operation and maintenance of the Project on the subject properties. The Issuer's title thereto is defeasible in the event the Issuer does not satisfy any resulting judgment and/or award in the proceedings for acquisition of said property, and my certification is subject to the pending litigation:

   Berezo, John J. Tax Map 20M Parcel 93

6. All deeds, easements and rights of way that have been acquired to date by the Issuer have been duly recorded in the Office of the Clerk of the County Commission of Cabell County to protect the legal title to and interest of the Issuer.

Sincerely,

Sean K. Hammers, City Attorney

Cc: Samme L. Gee, Esquire (6 originals)
Francesca Tan, Esquire (by facsimile only)